

**M. Pearson
CLERK TO THE AUTHORITY**

**To: The Chairman and Members of the
Devon & Somerset Fire & Rescue
Authority**

(see below)

**SERVICE HEADQUARTERS
THE KNOWLE
CLYST ST GEORGE
EXETER
DEVON
EX3 0NW**

Your ref :
Our ref :
Website : www.dsfire.gov.uk

Date : 17 March 2010
Please ask for : Steve Yates
Email : syates@dsfire.gov.uk

Telephone : 01392 872200
Fax : 01392 872300
Direct Telephone : 01392 872329

DEVON & SOMERSET FIRE & RESCUE AUTHORITY
(Extraordinary Meeting)

Thursday 25 March 2010

An extraordinary meeting of the Devon & Somerset Fire & Rescue Authority will be held on the above date, **commencing at 10.45 hours (or on the conclusion of the preceding meeting of the Community Safety & Corporate Planning Committee, whichever is the later) in the Conference Rooms in Somerset House, Service Headquarters** to consider the following matters.

M. Pearson
Clerk to the Authority

A G E N D A

1. Apologies

2. Items Requiring Urgent Attention

Items which, in the opinion of the Chairman, should be considered at the meeting as matters of urgency.

3. Declarations of Interest

Members are asked to consider whether they have any **personal/personal and prejudicial interests** in items as set out on the agenda for this meeting and declare any such interests at this time. *Please refer to the Note 2 at the end of this agenda for guidance on interests.*

PART 1 – OPEN COMMITTEE

4. Transfer of New Dimensions Assets

Report of the Director of Service Support (DSFRA/10/8) attached (Page 1).

5. Firefighters' Pensions Scheme: Internal Dispute Resolution Procedure

Report of the Director of Human Resources (DSFRA/10/9) attached (Page 13)

6. Exclusion of the Press and Public

RECOMMENDATION that, in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in the following Paragraphs of Part 1 of Schedule 12A (as amended) to the Act:

- Paragraph 1, namely information relating to an individual;
- Paragraph 2, namely information likely to reveal the identity of an individual; and
- Paragraph 3, namely information relating to the financial and business affairs of an individual and the Authority.

PART 2 – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC

7. Firefighters' Pensions Considerations - Officers On Gold Book Terms And Conditions Of Employment

Joint report of the Clerk to the Authority and the Authority Legal Advisor (DSFRA/10/10)
TO FOLLOW

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Hughes OBE (Chairman), Healey (Vice Chair), Boyd, BurrIDGE-Clayton, Cann, Dyke, Eastman, Foggin, Fry, Gordon, Gribble, Horsfall, Leaves, Manning, Mills, Mrs. Nicholson, Radford, Randall Johnson, Smith, Turner, Viney, Wallace, Way, Woodman, Yeomans

NOTES

1. ACCESS TO INFORMATION

Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact Steve Yates on the telephone number shown at the top of this agenda.

2. DECLARATIONS OF INTERESTS BY MEMBERS

What Interests do I need to declare in a meeting?

As a first step you need to declare any personal interests you have in a matter. You will then need to decide if you have a prejudicial interest in a matter.

What is a personal interest?

You have a personal interest in a matter if it relates to any interests which you must register, as defined in Paragraph 8(1) of the Code.

You also have a personal interest in any matter likely to affect the well-being or financial position of:-

- (a) you, members of your family, or people with whom you have a close association;
- (b) any person/body who employs/has employed the persons referred to in (a) above, or any firm in which they are a partner or company of which they are a director;
- (c) any person/body in whom the persons referred to in (a) above have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are a Member or in a position of general control or management and which:-
 - you have been appointed or nominated to by the Authority; or
 - exercises functions of a public nature (e.g. a constituent authority; a Police Authority); or
 - is directed to charitable purposes; or
 - one of the principal purposes includes the influence of public opinion or policy (including any political party or trade union)

more than it would affect **the majority** of other people in the Authority's area.

Anything that could affect the quality of your life (or that of those persons/bodies listed in (b) to (d) above) either positively or negatively, is likely to affect your/their "well being". If you (or any of those persons/bodies listed in (b) to (d) above) have the potential to gain or lose from a matter under consideration – to a **greater extent** than **the majority** of other people in the Authority's area - you should declare a personal interest.

What do I need to do if I have a personal interest in a matter?

Where you are aware of, **or ought reasonably to be aware of**, a personal interest in a matter you must declare it when you get to the item headed "Declarations of Interest" on the agenda, or otherwise as soon as the personal interest becomes apparent to you, **UNLESS** the matter relates to or is likely to affect:-

- (a) any other body to which you were appointed or nominated by the Authority; or
- (b) any other body exercising functions of a public nature (e.g. membership of a constituent authority; other Authority such as a Police Authority);

of which you are a Member or in a position of general control or management. In such cases, provided you do not have a prejudicial interest, you need only declare your personal interest if and when you speak on the matter.

Can I stay in a meeting if I have a personal interest?

You can still take part in the meeting and vote on the matter unless your personal interest is also a prejudicial interest.

What is a prejudicial interest?

Your personal interest will also be a **prejudicial** interest if **all** of the following conditions are met:-

- (a) the matter is not covered by one of the following exemptions to prejudicial interests in relation to the following functions of the Authority:-
 - statutory sick pay (if you are receiving or entitled to this);
 - an allowance, payment or indemnity for members;
 - any ceremonial honour given to members;

- setting council tax or a precept; **AND**
- (b) the matter affects your financial position (or that of any of the persons/bodies as described in Paragraph 8 of the Code) or concerns a regulatory/licensing matter relating to you or any of the persons/bodies as described in Paragraph 8 of the Code); **AND**
- (c) a member of the public who knows the relevant facts would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest in a matter being discussed at a meeting, you must declare that you have a prejudicial interest (and the nature of that interest) as soon as it becomes apparent to you. You should then leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose.

You must, however, leave the room **immediately after you have finished speaking (or sooner if the meeting so decides)** and you cannot remain in the public gallery to observe the vote on the matter. Additionally, you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

What do I do if I require further guidance or clarification on declarations of interest?

If you feel you may have an interest in a matter that will need to be declared but require further guidance on this, please contact the Clerk to the Authority – preferably before the date of the meeting at which you may need to declare the interest. Similarly, please contact the Clerk if you require guidance/advice on any other aspect of the Code of Conduct.



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/8
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (EXTRAORDINARY MEETING)
DATE OF MEETING	25 MARCH 2010
SUBJECT OF REPORT	TRANSFER OF NEW DIMENSIONS ASSETS
LEAD OFFICER	Director of Service Support
RECOMMENDATIONS	<p>(a) <i>that the transfer of ownership of New Dimensions assets from the Department for Communities and Local Government (CLG) to the Authority be approved;</i></p> <p>(b) <i>That the Authority notes that, while the assets will be transferred, it reserves the right – subject to discussion with CLG – to review its ongoing ownership of the assets in the event that the associated central government funding should either cease or be reduced.</i></p>
EXECUTIVE SUMMARY	<p>A briefing paper (copy attached as Annex A to this report) was presented for information to the last Members Forum on the issues pertaining to the transfer of New Dimensions assets from the Department for Communities and Local Government to this Authority. At present all funding connected with the New Dimensions initiative is met in full from central government via specific Section 31 grant. While a number of fire and rescue authorities in the country have already agreed to the transfer of assets, others – including this Authority - have expressed concern and have been seeking re-assurances from CLG that central government funding for the provision will continue in full and can be easily recognised (i.e. transparent) even should, as intended by CLG, the funding become part of the overall Revenue Support Grant (RSG) rather than specific grant with effect from the 2011/12 financial year.</p> <p>At the last Forum Members were informed that officers were continuing to pursue this and seek further clarification from CLG. CLG has subsequently confirmed that its position is to indicate that it will continue financial support through Section 31 grant for the foreseeable future, but could not commit a future government to this stance at this time. CLG has also reaffirmed that, if circumstances for this Authority change</p>

	<p>in the future, then - subject to proper discussion - it would seek to reallocate our resources should there be a need. It is unlikely at this stage that any further reassurances will be forthcoming from CLG.</p> <p>It also remains the case that, whilst these assets are primarily intended for national emergencies, DSFRS has and continues to benefit financially and operationally from the allocation of resources, training and availability locally</p> <p>With this in mind, it is the view of officers that this transfer be supported and to recognise that an opportunity exists for the Authority to properly review this position in 2011 when the formula for RSG is reviewed.</p>
RESOURCE IMPLICATIONS	Nil. At present, New Dimensions is entirely funded from central government.
EQUALITY IMPACT ASSESSMENT	There are no Equality Impact Assessment issues associated with this report.
ANNEX	A. Briefing Note submitted to Members Forum meeting on 19 February 2010
LIST OF BACKGROUND PAPERS	

MEMBERS FORUM

NEW DIMENSIONS – TRANSFER OF ASSETS

1 Executive Summary

- 1.1 The long-term strategic aim for the governments New Dimension project has been to enhance the ability of each FRS to respond to catastrophic incidents as part of the Critical National Infrastructure. It has also been the aim to provide appropriate arrangements for the maintenance and replacement of these assets, assurance, funding and their full integration into respective fire and rescue authorities (FRAs) as part of the transfer of assets.
- 1.2 The Chief Fire Officers' Association (CFOA) National Resilience Board represents each FRS regarding the proposed contractual arrangements and subsequent discussions. Whilst most of the aspirations sought by the Department for Communities and Local Government (CLG) have been achieved over the life of this project the "Transfer of Assets Agreement" has raised concerns with regard to future associated costs and funding.
- 1.3 The Service has sought legal advice throughout both periods of consultation, whilst CFOA has also raised similar concerns with CLG, the response to which is attached. Whilst assurance is provided where possible, inevitably the decision to sign up continues to be a matter for each FRA.
- 1.5 Whilst CLG remain committed to the principle of New Burdens, they cannot commit any future parliament and the uncertainty has been exacerbated by the pending national elections. It is also important to note that the transfer of funding for the New Dimensions initiative into Revenue Support Grant (RSG) will be effective from 2011/2012, the very same year that there will not only be reductions in total RSG funding but also a fundamental review of the Fire Formula Grant.
- 1.6 When considering the impact of 'floors' and 'damping' to this it will mean that the 2011/2012 distribution of grant will already be extremely turbulent, and the transfer of New Dimensions funding into RSG may only increase that turbulence. This in effect may mean that the transfer of New Dimensions funding may well get 'lost' in this and make it difficult to calculate how much funding has been received.
- 1.7 However, these are national assets that are integral to the country's Critical National Infrastructure and have been developed with appropriate governance and assurance arrangements over the last few years. The government has always supported throughout.
- 1.8 The Devon & Somerset Fire & Rescue Service (DSFRS) also continues to benefit from the use of funded assets, trained staff, and the availability of specialist equipment, training facilities and access to regional officers who are located within the Service. Whilst these assets remain primarily for use at national incidents, their integration within specific DSFRS mobilising arrangements for local incidents has the benefit of reducing associated Retained Duty System (RDS) costs, enhancing our capability and reputation, which would be affected if these assets are lost to the Authority by not wishing to approve contract signature.

2 **Introduction**

- 2.1 Members will be aware of the arrangements put in place to deliver assurance of fire & rescue resilience arrangements to both Government and individual FRAs charged with delivering capabilities. The New Dimension project involves collaboration between the Department for Communities and Local Government (CLG) and the fire community in providing a national capability able to respond to national catastrophic Chemical, Bacteriological, Radiological and Nuclear (CBRN) terrorist events. This role has also been extended to include extreme natural disasters. The strategic resources and equipment now provide a fully co-ordinated, coherent and unified national response to the widest possible range of potential emergency incidents.
- 2.2 Members may recall the four workstreams by which transition to “steady state” was delivered;
- Assurance
 - Funding
 - Procurement
 - Ownership (Transfer Arrangements)
- 2.3 This report provides Members with a brief update on delivery of three of the workstreams with a brief update of ongoing activity within each and the current issues around the transfer of ownership of the New Dimensions assets, the only outstanding element of Government’s desired final position. Appendix 1 outlines the general principles of the national framework.

3 **Background**

- 3.1 CLG has now delivered on three of the four workstreams:
- i) The announcement of funding over the full Comprehensive Spending Review (CSR) period is July 2008 (£80m)
 - ii) The commencement of the long term maintenance contract with VTCS covering all the assets in October 2008 (£100m); and
 - iii) The establishment of the CFOA led assurance body managed through the FRS National Resilience Board, under the terms of a Memorandum of Understanding signed in March 2009, providing governance for the New Dimensions Capabilities.
- 3.2 In March 2009 CLG published a further Fire & Rescue Service Circular 16/2009, seeking further views on a revised Transfer of Ownership Agreement. Through this second round of consultation, CLG are looking for ‘in principle’ agreement, subject of course, to any minor clarifications/amendments on the transfer agreement that FRAs may have.
- 3.3 CFOA and the LGA remain committed to the principle of transfer and continue to support each FRA in obtaining sufficient information to enable them to understand the implications of this transfer.

4 **New Dimensions Assets within DSFRS**

4.1 In summary DSFRS has the largest compliment of New Dimension assets outside of London, designed to respond to mass decontamination, major flooding and Urban Search & Rescue (USAR). The decision to be part of the Country's National Resilience was taken some years ago and as a consequence we have developed in-house capabilities that support this. The Service now benefits from an extremely robust assurance process, cost free central training, and cost free maintenance of all vehicles along with asset refresh. In addition we benefit from the co-location of two regional staff that, whilst they work directly through the National Resilience Board, benefits DSFRS through their knowledge, skills and support. These assets are funded through section 31 grants.

5 **Key Issues**

5.1 The contract for long-term capability management is between Firebuy, VT Critical Services Limited and respective FRS. Legal advice has over the last few years been taken at various stages in response to the draft agreement, for the transfer of assets.

5.2 The questions raised by DSFRS are the same as those reflected in correspondence between CLG and CFOA (see Appendix 2). CLG has confirmed that it is the intention of government to honour the New Burdens arrangements that currently exist for funding these assets. CLG does, however, recognise that it is unable to commit future parliaments. Whilst the contractual obligation rests with the FRS, CLG have made it clear that they will not place a statutory duty on any FRA in this respect and where circumstances dictate will, after discussion with key stakeholders, relocate equipment if necessary.

5.3 It is also important to note that the transfer of funding for the New Dimensions initiative into RSG will be effective from 2011/2012, the very same year that there will not only be severe reductions in total RSG funding but also a fundamental review of the Fire Formula Grant. When you add the impact of 'floors' and 'damping' to this it will mean that the 2011/2012 distribution of grant will already be extremely turbulent, and the transfer of New Dimensions funding into RSG will only increase that turbulence. This will mean that the transfer of New Dimensions funding may well get 'lost' in this and make it difficult to calculate how much funding has been received.

5.5 CLG is seeking the transfer to take place on the 31 March 2010.

5.6 A decision whether or not to enter into the agreement should also take into account:-

- i) That the substantial initial capital costs of all assets, has been met by CLG.
- ii) CLG also currently provides grant funding for the staffing of the assets and have indicated that this will continue.
- iii) The Service benefits by using these assets for normal FRA purposes. For example during major flooding, costs associated to RDS are reduced by the reduced number of pumping appliances required through the use of the High Volume Pump, (New Dimension asset).
- iv) The prospect that, if a FRA refuses to enter into the arrangements, CLG could relocate them to another FRA which is willing to enter into the agreement with the consequent loss of staffing grants would be substantial.
- v) The impact upon current arrangements by withdrawing from this arrangement would be substantial.
- vi) The potential for grant funding to be re-adjusted to reflect local usage.

6 **Funding**

- 6.1 The funding for our assets is currently provided annually through Section 31 grant, for 2008/09 this was £953,149. These grants will continue for the remainder of this CSR period. It is intended that future funding may be on a different, more flexible basis in line with governments and the Local Government Association's (LGAs) general policy.
- 6.2 There has also been a question regarding any move to Revenue Support Grant (RSG, block grant), relating to distribution, the situation of 'floor authorities', and transparency as mentioned above. Whilst CLG has acknowledged our concerns any transfer into RSG would be looked at together with the FRAs themselves, through the normal Formula Review process, and with examples of what a transfer would mean to each individual FRA. When options for the future funding mechanism are being considered, FRAs will be consulted. CLG have provided assurance that the future funding from CLG will hold true for as long as their planning horizons permit, in particular the next Comprehensive Spending Assessment round.
- 6.3 The Memorandum of Understanding (MoU) between CLG and the National Resilience Board (NRB) regarding the assurance function the NRB provides, covers this Spending Review period, but is renewable provided both parties agree, subject to consultation with stakeholders (each FRS).

7 **Conclusion**

- 7.1 CLG has made it clear that they can go no further with the debate over the detail of the transfer agreement and, in effect each FRS is at a point of having to make a decision on the basis of what we currently understand. DSFRA is being asked the same question as was asked few years ago and is now at the point where a decision needs to be made. The question is whether the Authority wishes to be an integral part of the resilience arrangements across the United Kingdom with the best assurances that CLG can provide regarding future funding.
- 7.2 Provided there is no detriment, there is a clear benefit for the Service in the Authority supporting the sector led approach to managing and maintaining New Dimension assets in support of national resilience. This provides a unique opportunity to fully integrate this capability into our own arrangements.
- 7.3 As previously highlighted and detailed within Appendix 1, the Government is fully committed to the New Burdens principle, but recognises that there will always be a discussion between central and local government about the appropriate levels of funding. Through submissions to the spending reviews, local government has a clear route to raise its concerns about funding levels at the time when Government draws up its spending plans. Therefore in coming to a view regarding New Dimensions, the LGA would look to the National Resilience Board, (who act on behalf of each FRS), for advice both on levels of funding generally and any future need for additional or replacement resilience capability.
- 7.4 Given the debate to date, the general officer consensus to support this approach, and correspondence received from CLG, the potential for CLG to release the assets to another FRS should there be a need, there is a risk should the Authority not sign up to the Agreement. Members are invited to consider the issues raised in this report and to express a view accordingly.

APPENDIX 1

NATIONAL FRAMEWORK GENERAL PRINCIPLES

Assurance

The governance framework is monitored by the National Resilience Board chaired by CFOA. The Board currently oversees all activity within the capabilities and provides:

- A central secretariat (based at Fire Service Colleague, Moreton-in-Marsh),
- A National Team (comprising 21 officers covering all of the 9 regions),
- An ongoing training and exercise regime including central provision of all core training [and coordination of major exercises]
- Oversight of the maintenance and overhaul contract for all assets
- A minor technical asset refresh programme.

The Boards activity is funded through an annual grant from CLG comprising of three components to deliver training, asset refresh and the national team. Financial management is provided through the offices of CFOA (NR) Ltd.

The assurance process provides an annual report to Government detailing the state of readiness of each of the capabilities. The first such report is now being prepared and will be shared with this committee subject to CLG approval.

In addition, the Board provides reports to FRSs on the state of their capabilities based on a programme of assurance visits to individual Services. The past year has seen a focus upon Mass Decontamination arrangements and has delivered assurance into each of the 9 regions on this subject. 2010/11 will see the focus shift to Urban Search and Rescue capabilities. This programme has been extremely well received by CFO's.

As part of its review of in-service management, CLG's Fire & Rescue and Resilience Programme Board recently considered a "Transition Structure for Fire and Resilience Programme Assurance – FiReCONTROL and Firelink". In its deliberations, the programme board have acknowledged the pragmatic and joined-up solutions delivered by the National Resilience Board. As a result, CLG has requested that the National Resilience Board attend the newly formed "Transition Project Oversight Board" in an advisory capacity.

This request is considered as testament to the results delivered through the governance, project management and assurance processes engaged but most specifically it is hoped that influence will be exercised around stakeholder engagement and inclusive communication.

Funding

Funding of the Assurance process has been agreed and is currently being delivered for the duration of the existing CSR. The MoU between CNR and CLG outlines "fall-away" arrangements for the Board in the unlikely event of funds not being sufficient to provide assurance to all parties.

Section 31 & 32 funding to FRA's continues on the level agreed through a series of Fire & Rescue Service Circulars over recent years. The level of funding is currently being maintained as per historical agreements for a range of elements including USAR crewing, consumables, local training for retained crews for Mass Decontamination and Enhanced Command Support.

Central funding for the Maintenance and Overhaul contract continues although a small element of local charging is proposed to cover “at fault” damage caused to equipment when being used for FRS’s own purposes.

Authorities continue to be sensitive to future financial provision making repeated reference to the funding mechanism during recent consultations.

Transfer of Ownership

Fire & Rescue Service Circular 53/2009 announced CLG’s request for FRA’s to accept a transfer of function which would see ownership of all vehicles and equipment shifting to those authorities hosting them. This request has followed two extensive consultation programmes with services.

The Board has remained committed to the principle of transfer and continues to support FRA’s in obtaining sufficient information to enable them to ensure the provision of suitable information to enable them to analyse any impacts upon their own authority.

At the time of this report it is not possible to report the level of take-up as discussions between CLG and individual authorities expressing concerns continue. A verbal update will be made.

APPENDIX 2

CLG RESPONSE TO CFOA

ANNEX A – Detailed responses to the points raised in John Bonney’s letter dated 17 November 2009 on the transfer of ownership of New Dimension assets

1 Control FRAs have over the level of costs apportioned to them under the maintenance contract and how FRAs are protected against the risks

The costs which fall on FRAs are:

- USAR costs including crewing, some consumables, PPE and dogs for which FRAs are grant-funded;
- Training costs, some of which are grant funded to FRAs, and some (where it makes sense to have a single purchaser) given to the Assurance Body;
- Fixed costs of the maintenance contract – CLG has committed to fund these fixed costs under the contract – currently directly to the contractor, but after transfer of assets to be paid directly by FRAs and grant funded;
- Consumables costs (except certain items funded for USAR above) – paid directly by CLG to the contractor, in the future planned to be paid directly by FRAs and grant-funded. These costs are within FRAs’ control.
- Unfair wear and tear (avoidable costs) – to be borne by FRAs at their own cost under the recharging policy which was issued on 30 November. To put in context, these costs, which also are within FRAs’ control, amounted to £118k in the first 12 months of the contract (i.e. that is the amount all English FRAs together would have had to pay if a recharging policy had been in place for that first year). These costs may go up or down in the future – see Section 5 of the recharging circular (FSC 72/2009) – but give an indicator of the likely order of costs.

From the above list, the main cost risks an FRA would be exposed to are consumables and unfair wear and tear – which they themselves are in a position to control.

2 Rights to terminate the national maintenance contract, and holding the contractor to account

The point of the national maintenance contract is to ensure continued interoperability, resilience, convenience and economies of scale. By its nature the contract is collective, and Firebuy is the contracting authority with VT Group (the contractor) and therefore the terms of the Prime Contract can only be enforced directly by Firebuy or VT. The contract is closely managed by Firebuy and the National Resilience Board on the FRSS’ behalf, and the NRB hosts quarterly meetings with Firebuy and the contractor to address issues raised by FRSS. In addition Firebuy are required to provide a report to the National Resilience Board on the contract performance at each of its regular meetings.

In terms of paying bills for unfair wear and tear under the contract, we can offer some reassurance by the way the process has operated in its first year. The Department has not sought to approve every single bill for repairs – there are thousands of these in a year. Under the arrangement we have with Firebuy and the contractor, for costs up to £250, the contractor goes ahead and does the work. Costs from £250-£1000 are subject to approval by Firebuy. Costs above £1000 require approval by the CLG policy team. This has worked well for the Department and given us the level of assurance we require. Firebuy have made clear they will seek similar arrangements with FRAs post transfer, and will work with authorities to arrive at a process which gives the required assurance without being overly-burdensome or delaying every repair unduly to await permissions.

Further, with a year's worth of monthly statistics on costs, Firebuy is in a position to act as an 'intelligent client' and is doing so from a national perspective, to ensure best value for FRSs, for example it is able to spot the more frequent recurring costs, and consider how these may be addressed and potentially reduced in future – such as courier costs for parts which may be more sensibly changed at regular servicing thereby reducing costs. On this basis Firebuy is working on behalf of the FRS customer to try and reduce costs wherever able. In addition, it is fair to say that the contractor is consistently achieving its performance standards, and the feedback from FRSs is positive. There is no reason at this stage to envisage a scenario that would arise where the contractor defaults on the contract to the extent that termination would be justified. However, if any specific FRS has any concerns as to performance issues, then they should of course be fed through to Firebuy and the National Resilience Board, who will be receptive to such concerns, and will work towards satisfactory resolution of such issues as they share a common interest in ensuring that the respective performance requirements are met.

With regard to termination of the arrangements by a specific FRS, where a FRS has taken ownership of relevant New Dimension assets, and responsibility for associated maintenance payments, but is experiencing genuine financial problems, or is making structural arrangements within the service which causes difficulty for the FRS in supporting those arrangements, then an approach should be made to the National Resilience Board to explore the prospect of the relevant assets being transferred to another FRS.

3 Risks change over time and improvements to kit may drive up costs to FRAs

In the first instance it is worth noting that the National Resilience Board is funded by CLG around £1.5m pa for in-year necessary improvements, and promotes the interests of FRS. Whilst we cannot commit future Parliaments, we envisage 'major refreshes' every 5-6 years which would look at major changes to the capabilities which may be required by changing Government requirements (i.e. assessment of top risks changes).

The National Resilience Board has very clear procedure in place to deal with asset refresh both in turns of minor and major refresh. This is a good example of why we feel it is in the interest of FRA's to accept transfer of assets as opposed to other third party options (see below). To support this process the National Resilience Board report on an annual basis to CLG on FRS National Resilience, capability gaps and major refresh requirements. Of course major refreshes are in the context of a spending review so that Government can seek the money for changes required, including any impact on contracted maintenance costs.

Government is fully committed to the New Burdens rules as it has been for many years – if a Government policy or action means increasing costs to local authorities, including FRAs, then central Government funds that increase in costs. Government believes that the general track record, the record on New Dimensions, and the Assurance Body itself, should provide reassurance.

4 **Transfer of function and position on duties on FRS regarding flood response.**

Transfer of function is a classification given by HM Treasury for accounting purposes. There is an important practical point for the Department in that if the transfer were not designated a transfer of function, we would have to account for the assets' capital value (i.e. the Department would need to cover the current capital value of the assets owing to the loss of this value on the Department accounts as a result of this transfer). The transfer of function mechanism enables CLG to transfer the assets without that accounting treatment and has no impact on the powers and duties which FRS already has. To be clear, the intention of the Department is for FRAs to own the assets and have an obligation to use the national maintenance contract. There is no intention by Government to impose or confer statutory duties of any sort on the FRAs through this transfer. Any such duties in the future would be for the appropriate statutory instruments.

5 **What if most FRAs don't agree to the transfer, and could the assets they host be taken away?**

We do recognise the wish by FRAs for as much certainty as possible, and hence the natural desire to know in advance what may happen if an FRA does not agree transfer. However, the premise of the New Dimensions programme since its inception has been that the FRS would take ownership of the assets they host after they were delivered. This was supported by LGA and CFOA at the beginning of the project, and the principle was reaffirmed as recently as last summer by the large majority of FRSs responding to consultation. We remain strongly of the view that the best outcome is for FRAs to take ownership, putting ownership with use. To assist this we have ensured, in conjunction with CFOA, that the necessary support is in place. To this end we have delivered a national maintenance contract, appropriate funding streams, and a robust National Resilience Board providing both governance and assurance, all elements which stakeholders agreed would be essential to secure asset transfer. Given delivery of these, we are consequently looking to complete the final element of asset transfer itself.

If we were in the unfortunate position that the majority of authorities did not agree transfer, then we should be clear that there is no option for CLG to retain ownership of a large fleet of specialist vehicles for the longer term. In such a case, the Department would look to other options for fleet ownership, but I would emphasise that for the assets to move to a third party rather than to the fire community would feel like a missed opportunity.

Should the transfer to FRAs not happen, at this stage, it is difficult to indicate whether this will have any bearing on the placement of the assets. Alternatively, we may be in a situation where the majority of FRAs do sign up to the transfer but that a few FRAs decline and on this basis, we may consider whether the assets hosted by the latter FRAs should be relocated. In either of these scenarios however we would work with the National Resilience Board and the authority concerned to ensure that the assets are positioned in locations which preserve the robustness of national resilience. I would note that in the roll-out of the assets over the last few years, the National Resilience Board, and its predecessor Transition Board, dealt with a number of difficult positioning issues, which were sorted out pragmatically, reasonably and satisfactorily. We would expect that future relocation issues are likely to arise from time to time as part of normal business, and the National Resilience Board would work with the brigades concerned in a similar way.

I would add at this point, in the interests of clarity, that it would not be open for an FRS to choose to accept some of the New Dimension assets, (for example those which it more regularly uses) whilst not accepting transfer of the remainder of the assets which it currently hosts.

6 **No guarantees for future USAR crewing grants**

As stated above, the Department cannot commit future Parliaments. Nevertheless, the Government is fully committed to the New Burdens rules. We would point to the Department's record thus far on providing new burdens funding for both New Dimensions and in other areas. For New Dimensions alone this has amounted to nearly £90m over the last 5 years of which USAR crewing accounts for over 60%.

7 **New burdens funding may be inadequate for full costs**

Again as highlighted above, the Government is fully committed to the New Burdens principle, but recognises that there will always be a discussion between central and local government about the appropriate levels of funding. Through the LGA and ALG submissions to the Spending Reviews, local government has a clear route to raise its concerns about funding levels at the time when Government draws up its spending plans. We would expect that in coming to its views in the area of New Dimensions, the LGA would look to the sector-led National Resilience Board for advice both on levels of funding generally and any future need for additional or replacement resilience capability.

8 **Lack of transparency if special grants moved to RSG or Area Based grants and issues over FRAs at the floor**

Currently funding for New Dimensions is provided to the FRAs through s31 special grants. This reflects that they relate to capabilities only recently put in place, and so that funding can follow the rather uneven cost distribution, given that FRAs hold different amounts and types of ND equipment. However, Government and local authorities have long held the view that the majority of central funding is best provided as block grant (RSG) rather than many small grants with the increased administrative effort, uncertainty of timing and hypothecating effects this involves. For this reason, across the range of Government support to local authorities, there has been a cycle of new special grants, many or most of which eventually are transferred into RSG.

Any proposed transfer into RSG, or the relatively new Area Based Grants (ABG) would be looked at together with the FRAs themselves (for RSG this would be through the normal Formula Review process), and with exemplifications of what a transfer would mean to each individual FRA.

In due course, when we consider options for the future funding mechanism, we will have regard to authorities' concerns that we are still in a transition phase, that the maintenance contract has been going for only a short while, and their wish to build up a pattern of spend over a period of time.

9 **No clarity on future funding of the Assurance function**

The MOU between CLG and the National Resilience Board regarding the assurance function the NRB provides, covers this Spending Review period, but is renewable so long as both parties agree, subject to consultation with stakeholders. The response to request for clarity on future funding for the National Resilience Board is no different to that on FRA funding more generally namely that, as noted above, we are unable to commit future Parliaments. However, from a policy point of view, we see the Assurance Body as working well and to the satisfaction of all, and think this bodes well for the future.

**Fire and Resilience Directorate
15 December 2009**



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/9
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (EXTRAORDINARY MEETING)
DATE OF MEETING	25 MARCH 2010
SUBJECT OF REPORT	FIREFIGHTERS' PENSIONS SCHEME – INTERNAL DISPUTE RESOLUTION PROCEDURE
LEAD OFFICER	Director of Human Resources
RECOMMENDATIONS	<p>(a) <i>that the Terms of Reference of the Human Resources Management & Development Committee be amended as follows:</i></p> <p style="padding-left: 40px;"><i>“To appoint from amongst its Members a Panel of three Members with delegated authority to consider and determine complaints made by individuals under Stage 2 of the Firefighters’ Pensions Scheme Internal Dispute Resolution Procedure”;</i></p> <p>(b) <i>that, given the associated timescales for addressing Stage 2 complaints and that there is currently has one complaint at Stage 2 outstanding:</i></p> <p style="padding-left: 40px;">(i) <i>on this occasion the Authority appoints from those Members of the Human Resources Management & Development Committee present at the meeting a Panel of three Members to determine the outstanding case;</i></p> <p style="padding-left: 40px;">(ii) <i>that those Members so appointed agree a date for the Panel to meet; and</i></p> <p style="padding-left: 40px;">(iii) <i>the substantive Membership of the Panel be reviewed by the Human Resources Management & Development Committee at its meeting on 14 April 2010.</i></p> <p>(c) <i>that, subject to (a) and (b) above, the report be noted.</i></p>

EXECUTIVE SUMMARY	<p>The Firefighters' Pension Scheme Internal Dispute Resolution Procedure (IDRP) enables complaints related to a pension to be considered by the Service and Authority under a two stage process. At this time there is no mechanism for Authority members to consider such complaints and therefore the necessary delegated authority is required for this to be dealt with by the HRMD committee.</p> <p>The recommendation from the national Pensions Division is that there is a two-stage dispute resolution process as follows:</p> <p>Stage One: the matters should be considered by the Chief Fire Officer, or a senior manager specified by him/her, who will give a decision in the matters; and</p> <p>Stage Two: the decision should be confirmed or replaced by the decision of elected Members of the Fire and Rescue Authority which may in turn delegate this function to a smaller grouping.</p> <p>It should be noted that the Service procedures for grievances, discipline or dismissals now align with ACAS practice and guidance (which replaced the statutory discipline regulations) and do not provide for any ultimate recourse to the Authority. The Service has no intention to change this arrangement but, given the revised Internal Disputes Resolution Procedure are linked to statutory pensions schemes, it is necessary in the case of pensions complaints to provide an ultimate recourse to the Authority.</p>
RESOURCE IMPLICATIONS	Nil.
EQUALITY IMPACT ASSESSMENT	An initial assessment as revealed no equality issues in this matter sufficient to warrant a full equality impact assessment.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Firefighters' Pensions Scheme Circular 1/2009 – Firefighters' Pension Scheme: Internal Dispute Resolution Procedure (IDRP).

1. **INTRODUCTION**

- 1.1 The Firefighters' Pension Scheme (FPS) Internal Dispute Resolution Procedure (IDRP) has been reviewed to ensure that it continues to meet the requirements of the relevant pensions legislation. The revised Procedure provides for complaints related to a pension to be considered by the Service and Authority under a two stage process.

2. **PENSION COMPLAINTS**

- 2.1 The IDRP is available to the following categories:

- (a). a member (active, deferred or pensioner) of the FPS or the New Firefighters' Pensions Scheme (NFPS);
- (b). a widow, widower or surviving dependant of a deceased member of the FPS or NFPS;
- (c). a surviving non-dependant beneficiary of a deceased member of the FPS or NFPS;
- (d). a prospective member of the scheme;
- (e). persons who have ceased to be within any of the categories of persons referred to in paragraphs (a) to (d); or
- (f). persons who claim to be such a person as is mentioned in paragraphs (a) to (e) and the dispute relates to whether he/she is such a person.

- 2.2 The procedures apply also to disputes relating to the Firefighters' Compensation Scheme 2006.

3. **THE IDRP PROCESS**

- 3.1 The IDRP provides recourse for a person with a complaint relating to their pension. The recommendation from the national Pensions Division is that there is a two-stage arrangement as follows:

Stage One: the matters should be considered by the Chief Fire Officer, or a senior manager specified by him/her, who will give a decision in the matters; and

Stage Two: the decision should be confirmed or replaced by the decision of elected Members of the Fire and Rescue Authority. The Authority may in turn delegate this function as appropriate.

- 3.2 The application for consideration of the dispute should be made in writing, giving details of the complaint. The Chief Fire Officer, or the person specified by him/her, will acknowledge receipt of the application.

- 3.3 A decision on the application must be notified to the complainant or his representative within two months of receipt of the application or a further letter must be sent explaining the reason for the delay and the expected date of the decision.

- 3.4 If the complainant is dissatisfied with the decision at Stage One, he or she can apply in writing, not later than six months after the date on which notified of the Stage One decision, for the decision to be reconsidered by the Fire and Rescue Authority. When an application is received, it should be acknowledged.

3.5 A decision must be taken within two months of receipt of the application or a further letter must be sent explaining the reasons for the delay and the expected date of the decision.

3.6 The notice of the decision must include a statement that the Pensions Ombudsman appointed under Section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law, in relation to the schemes, made or referred in accordance with that Act; and also include their contact details.

4. AUTHORITY REQUIREMENTS

4.1 Whilst arrangements are currently in place for dealing with Stage 1 of the process as outlined above, currently no mechanism exists for addressing Stage 2 of the process. Consequently, it is proposed that – to address this – the Terms of Reference of the Human Resources Management and Development Committee should be amended as follows:

“To appoint from amongst its Members a Panel of three Members with delegated authority to consider and determine complaints made by individuals under Stage 2 of the Firefighters’ Pensions Scheme Internal Dispute Resolution Procedure”

4.2 It should be noted that the Service procedures for grievances, discipline or dismissals now align with ACAS practice and guidance (which replaced the statutory discipline regulations) and do not provide for any ultimate recourse to the Authority. The Service has no intention to change this arrangement but, given the revised Internal Disputes Resolution Procedure are linked to statutory pensions schemes, it is necessary in the case of pensions complaints to provide an ultimate recourse to the Authority.

JANE SHERLOCK
Director of Human Resources