



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/16
MEETING	DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY (ORDINARY MEETING)
DATE OF MEETING	28 MAY 2010
SUBJECT OF REPORT	FINANCIAL OUTTURN 2009/2010
LEAD OFFICER	Treasurer
RECOMMENDATIONS	<p>(a) <i>that the following proposed transfers as outlined in paragraph 10.2 of this report be approved;</i></p> <p style="padding-left: 40px;">(i) <i>That the underspend against the revenue budget of £0.041m be transferred to an Earmarked Reserves to part-fund the Integrated Clothing Project (ICP);</i></p> <p style="padding-left: 40px;">(ii) <i>That the identified savings of £0.025m from other Earmarked Reserves be transferred to an Earmarked Reserve to part-fund the ICP project.</i></p> <p>(b) <i>that the capital determinations in relation to the funding of capital spending in 2009/2010, as provided in paragraph 16.1 of this report, be approved.</i></p> <p>(c) <i>that, subject to (a) and (b) above, the position in respect of the 2009/2010 Revenue and Capital Outturn, as indicated in this report be noted.</i></p>
EXECUTIVE SUMMARY	<p>This report provides the financial outturn position for 2009/2010, for both revenue and capital spending, and makes recommendations as to how variances from budget are to be dealt with.</p> <p>The figures included in this report are provisional at this stage, subject to the audit of the Accounts in July 2010.</p>
RESOURCE IMPLICATIONS	As indicated within the report.
EQUALITY IMPACT ASSESSMENT	None

<p>APPENDICES</p>	<p>A. Provisional Revenue Outturn Position 2009/2010.</p> <p>B. Summary of Reserve and Provision Balances at 31 March 2010</p> <p>C. Fire & Rescue Services Employers Circular EMP/01/10 – Part-time Workers (Prevention of Less Favourable Treatment) Regulations – Fire Brigades Union and Retained Firefighters Union Employment Tribunal Cases.</p> <p>D. National Joint Council for Local Authority Fire and Rescue Services Circular NJC/2/10 - Part-time Workers (Prevention of Less Favourable Treatment) Regulations – Fire Brigades Union Employment Tribunal Cases.</p>
<p>LIST OF BACKGROUND PAPERS</p>	<p>Nil.</p>

1. INTRODUCTION

- 1.1 This report provides Members with the final outturn position (subject to audit) for revenue and capital spending for the financial year 2009/2010, and to make proposals as to how variances from budget are to be treated. This report is in two parts, Section 1 deals with the revenue outturn position, and Section 2 deals with the position in relation to capital spending.

2. SECTION 1 – REVENUE OUTTURN 2009/2010

- 2.1 Appendix A provides a summary of spending against the 2009/2010 revenue budget. Total spending is reported to be £72.618m against an agreed budget of £72.659m, representing a small underspend of £0.041m.
- 2.2 It should be emphasised that this spending figure includes an amount of £0.452m required to be set aside in a Provision pending the outcome of the Employment Tribunal case which ruled in favour of retained firefighters under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations. A negotiated settlement is expected to be finalised in the next few months back-dated to the year 2000, which, given the large number of retained firefighters employed by Devon and Somerset FRS, is expected to incur a significant liability over and above that which had been budgeted. Whilst the actual payments will not be made until a later date, under accounting rules, a charge is required to be made against the 2009/2010 accounts, given that the actual ruling was made prior to 31 March 2010. Further details on this issue are reported in paragraphs 3.3 to 3.6 of this report.
- 2.3 Members of the Resources Committee have received regular budget monitoring reports during the course of the financial year, the most recent report being to the meeting of Resources Committee held on the 29 April 2010. Whilst each of those reports had projected that spending would be well within budget, the impact of the Employment Tribunal case could not have been included in those projections, as insufficient information was available to be able to make a realistic assessment of the financial impact to the Authority.
- 2.4 If the Provision of £0.452m had not been required then this report would have been declaring an underspend of £0.136m i.e. Net Operational Underspend £0.493m LESS contribution to Earmarked Reserves of £0.357m (as agreed at the meeting of Resources Committee held on the 16 November 2009 to part-fund the costs associated with the replacement Personal Preventative Equipment (PPE) Project under the Integrated Clothing Project (ICP)).
- 2.5 Given that the underspend is reduced to £0.041m, as a result of the need for the Provision to be made, there is insufficient underspend available for the original agreed transfer of £0.357m to be made to an Earmarked Reserve in relation to the ICP project. Proposals are included within this report for an amount of £0.066m to be transferred into an Earmarked Reserve for the ICP project which would leave this project £0.291m short of the original plan. We are still committed to providing the PPE, as previously agreed by the Fire Authority, and how this is to be financed will be subject to further discussion at the next meeting of Resources Committee in July 2010.

2.6 Appendix A provides a breakdown of spending and variations against all approved budget lines. It is inevitable that there will be variations against individual lines due to changing circumstances during the year, the volatility of some budgets e.g. retained pay costs, and the fact that this is only the third year's budget for the new combined Authority. More detailed explanations of the major variations against budget lines are provided below in paragraphs 3 to 9.

3. **EMPLOYEE COSTS**

Wholetime Pay

3.1 Spending against wholetime pay costs is £0.230m less than budget, primarily as a result of the impact of the 2009 pay award being settled at 1.25%, as compared to the 2.3% provision made in the budget.

Retained Pay

3.2 Spending on retained pay costs is £0.250m more than budget primarily as a consequence of above average activity levels in the last quarter of the financial year. As Members will be aware, as the majority of retained firefighters are paid on a 'pay-as-you-go' basis, spending against this particular budget line can be susceptible to volatility dependent on the number of operational incidents during the financial year

Provisions – Retained Pay Costs

3.3 Members will recall the longstanding Employment Tribunal case under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, relating to retained firefighters claiming equal access to employee benefits e.g. sickness and pensions, as full-time firefighters. Following a lengthy process, the original claim having been lodged in 2001, the House of Lords requested that the issue be returned to the original Employment Tribunal for a ruling. The judgement of the Tribunal has ruled in favour of retained firefighters, accepting that under the legislation retained firefighters have been treated less favourably than their named comparators. Copies of the recent Circulars issued by the National Employers and the National Joint Council on the 13 April 2010 are included as Annex 1 (Circular EMP/01/10) and Annex 2 (Circular NJC/2/10).

3.4 Given the large number of retained firefighters which this Authority employs, the financial impact of this ruling will be significant, particularly given that the proposed settlement includes backdated payments to the year 2000. Whilst at this time it is not possible to calculate the absolute cost, particularly around pension costs which are still to be negotiated, our initial assessment based upon the contents of the 'in principle' agreements is that the Authority will incur a one-off cost of £0.949m.

3.5 The Authority had already prudently made a decision in 2008 to set aside some funds from the 2007/2008 underspend, given that at that time indications were that the Tribunal would rule in favour of retained firefighters, and an amount of £0.497m was set aside in a Provision. This figure was based around assumptions of how many retained firefighters currently in the pension scheme may opt to back-date to the year 2000. The content of the most recent circulars indicate the settlement to me more generous than our original assumptions, resulting in the need to increase that Provision by a further £0.452m to £0.949m.

- 3.6 It should be emphasised that it is impossible to provide an absolute cost to the Authority as it cannot be known at this stage how many retained firefighters would opt to back-date their pension contributions back to the year 2000. In addition, there may be further retained firefighters who are not currently in the pension scheme, who may now choose to do so, with the option to back date. The final cost will not be known for some months following the completion of an options exercise to establish how many retained firefighters will opt to back-date, or indeed join for the first time. Information of the absolute cost to the Authority and its funding implications will be reported through the Resources Committee during 2010/2011 as part of normal budget monitoring processes. In the event that the eventual cost is significantly more than the £0.949m set aside in a Provision, then the Authority may have no other option than to make a call on its General Reserve to fund the additional cost.

Non-Uniformed Pay

- 3.7 The spending on non-uniformed pay includes the costs associated with the Community Safety Action Teams (CSAT) engaged as part our prevention activities to reduce the number of fire calls, and the redundancy and early retirement costs associated with the agreed restructure to the Senior Management Team, resulting in the deletion of two senior management posts.

Training Expenses

- 3.8 Savings of £0116m have been achieved against the training budget as a consequence of some delays in the delivery of planned courses.

4. PREMISES RELATED COSTS

Repair and Maintenance

- 4.1 Whilst spending on property maintenance is more than the agreed budget by £0.119m, this is more than offset by savings on debt charges resulting from slippage against capital projects.

Energy Costs

- 4.2 As a consequence of increases in utility costs over and above what had been budgeted, additional spending of £0.073m has been incurred against this budget line.

5. TRANSPORT RELATED COSTS

Running Costs and Insurances

- 5.1 There are two main causes for an underspend of £0.347m against transport running costs. Firstly, increases in fuel costs have been significantly less than had been anticipated, and secondly, the number of insurance claims to be funded from self insurance arrangements have been much less than anticipated.

6. SUPPLIES AND SERVICES

Equipment and Furniture

- 6.1 The overspend of £0.103m against equipment and furniture primarily relates to additional spend on training equipment and consumables which is fully offset by additional training income delivered from an increased number of courses.

Communications

- 6.2 As a consequence of the need to support the implementation of the new national radio scheme (Firelink) and the RCC project, a number of other ICT projects have not been delivered by the end of the financial year, resulting in an underspend against the Communications budget of £0.060m.

External Fees and Services

- 6.3 The overspend on external fees primarily relates to the early work in support of the two fundamental reviews of Service Delivery and Support Services.

7. ESTABLISHMENT COSTS

Insurances

- 7.1 Fewer insurance claims to be funded from self-insurance arrangements has resulted in savings of £0.119m against the non-fleet insurance budget.

8. CAPITAL FINANCING COSTS

- 8.1 As a consequence of slippage in capital spending against the 2008/2009 and the current year programme and savings on leasing costs, spending on capital financing charges for 2009/2010 is £0.316m less than budget.
- 8.2 The savings on capital financing charges has enabled additional capital spending of £0.133m on vehicles and equipment to be financed direct from revenue therefore avoiding the need to borrow.

9. INCOME

Grants and Reimbursements

- 9.1 Whilst the amount of New Burdens grant necessary in 2009/2010 to fund the RCC transition Teams and ISP project is less than originally anticipated, this reduction in grant is fully offset by a reduction in spending on these projects.

Other Income

- 9.2 Income targets for the year have been exceeded by an amount of £0.384m, primarily from additional training income as a consequence of the Service securing orders to deliver firefighter recruit training to other fire and rescue authorities i.e. Royal Berkshire, Cornwall, Dorset and the States of Jersey.

Earmarked Reserves

- 9.3 At the meeting of Resources Committee held on the 16 November 2009 it was agreed that from the then projected underspend of £0.875m, an amount of £0.357m be transferred to an Earmarked Reserve to part-fund the costs associated with the replacement PPE under the ICP. Given that the overall underspend is now only £0.041m, there is not now a sufficient amount of underspend for this transfer to be made. However we have now signed the ICP Project and remained committed to providing the replacement PPE as previously agreed by the Fire Authority. How this is to be financed may need to be discussed further by the Resources Committee.

10. RESERVES AND BALANCES

Earmarked Reserves

- 10.1 Of the balance of £0.952m in Earmarked Reserves at the beginning of the financial year, an amount of £0.621m has been spent on agreed projects during the year leaving a balance of £0.331m as at 31 March 2010. Of this figure, it has been identified that an amount of £0.025m is no longer required for its original purpose and is therefore available to be transferred to another Reserve. The remaining balance of £0.306m is required to be carried forward to fund those projects originally agreed.

ICP Project

10.2 As is highlighted in paragraph 9.3 above, there is insufficient underspend available for the planned transfer of £0.357m to be made to an Earmarked Reserve at the year-end to part-fund the introduction of the ICP project. It is a recommendation of this report however, that an Earmarked Reserve for the ICP project of £0.066m be created at the year-end, to be funded from;

- the transfer of the actual underspend against the 2009/2010 revenue budget of £0.041m; and
- the transfer of the amount of £0.025m from other Earmarked Reserves identified at the year-end as no longer required for its original purpose.

10.3 The creation of the new Earmarked Reserve for ICP of £0.066m is, of course, short of the original planned allocation of £0.357m, by an amount of £0.291m. Unless savings can be identified from the 2010/2011 budget to fund this £0.291m shortfall, then this may mean a re-phasing of the original implementation plan to reduce costs in 2010/2011. This matter will be reported to the next meeting of Resources Committee, scheduled to be held in July 2010, as part of the normal budget monitoring report.

General Reserve

10.4 There has been no movement on the General Reserve balance during the financial year, resulting in the balance as at 31 March 2010 remaining at £4.453m.

Provisions

10.5 The Authority held two Provisions at the beginning of the year, the first one being in relation to the anticipated costs of the Employment Tribunal case under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, and its potential impact on the costs of retained firefighters, and the second in relation to the back-dated costs associated with the implementation of the Job Evaluation (JE) Scheme.

10.6 As is highlighted within this report, it has been necessary to add to the Provision for retained pay costs by an amount of £0.452m therefore increasing the balance as at the 31 March 2010 to £0.949m. In relation to the back-dated costs of the JE Scheme, of the original balance held of £0.586m, only £0.399m was actually required therefore enabling the balance of £0.187m to be transferred back to the revenue account for 2009/2010. The impact of these movements are fully reflected within the revenue outturn statement included as Appendix A.

10.7 Appendix B to this report provides a summary of the balance on each of the Authority reserves and provisions as at 31 March 2010, including the impact of the recommendations made in paragraph 10.2.

11. SUMMARY OF 2009/2010 REVENUE OUTTURN POSITION

11.1 It is pleasing that the Authority is once again able to report its revenue spending to be within its agreed budget limit, albeit that for this financial year the amount of reported underspend is only £0.041m. This means that the Authority has been able to report spending within its revenue budget for each of the three years' that it has been in existence since April 2007.

- 11.2 The need to include a financial Provision of £0.452m pending completion of negotiations in relation to the Employment Tribunal case for retained firefighters under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, has meant that the amount of underspend is less than it otherwise would have been. This has resulted in the earlier decision of the Authority to part-fund the costs associated with the move to the ICP Project not being able to be fully met. If Members are minded to agree to the recommendations within this report, which would provide an amount of £0.066m towards the project, then it would mean that the 2010/2011 budget is £0.291m short of the funds needed to progress this project. A further report will be brought back to the next meeting of the Resources Committee to provide an update on the funding of the ICP project in 2010/2011.

PART 2 - CAPITAL

12. CAPITAL PROGRAMME 2009/2010

- 12.1 The capital programme for 2009/2010 was originally set at £8.738m at the budget setting meeting held on the 16 February 2009. This figure was revised to £10.121m at the meeting of Resources Committee held on the 14 September 2009. This revision did not represent an increase in the capital programme; it merely reflected the amount of slippage against the previous year's programme to be carried forward into 2009/2010.
- 12.2 The final programme, including additional capital spending of £0.302m, which is to be funded either direct from revenue or from funds previously set aside in Earmarked Reserves, is £10.423m.
- 12.3 Total spending against this programme was £9.707m as detailed in Table 1 overleaf. Total cash payments relating to capital spending during the financial year amounted to £10.320m (including invoices paid in relation to the previous financial year for which accruals were made as at 31 March 2009), and a further £0.455m was accrued at the year-end to reflect invoices not yet received by 31 March 2010.

TABLE 1 – SUMMARY OF CAPITAL SPENDING IN 2009/2010

2009/10 Capital programme outturn statement				
Item	PROJECT	2009/2010 Programme £000	Outturn £000	Variance (under)/over £000
Estate Development				
1	Exeter Middlemoor	1,702	1,396	(306)
2	Exeter Danes Castle	1,856	1,790	(66)
3	Minor improvements & structural maintenance (including 2008/09 slippage)	1,926	1,538	(388)
4	Welfare facilities 2009/10 from earmarked reserves	300	173	(127)
5	Diversity & equality	34	34	-
6	USAR works	35	35	-
7	SHQ major building/USAR major project (slippage 2008/09)	224	71	(153)
8	Other Building works funded from earmarked reserves	112	107	(5)
Sub Total Estates		6,189	5,144	(1,045)
Fleet & Equipment				
9	Appliance replacement	2,764	4,069	1,305
10	Specialist Operational Vehicles	532	142	(390)
11	Equipment	571	137	(434)
12	Asset Management Plan (Miquest) software	177	25	(152)
13	Other Vehicles funded from revenue (community safety & lease buy outs)	190	190	0
Sub Total Fleet & Equipment		4,234	4,563	329
Total programme 2009-2010		10,423	9,707	(716)

13. FINANCING THE CAPITAL PROGRAMME

- 13.1 Table 2 overleaf identifies how the 2009/2010 capital spending of £9.707m is to be financed.

TABLE 2 – SUMMARY OF CAPITAL FINANCING IN 2009/2010

	Actual Financing Required £000
Borrowing	8,298
Other Financing Sources	
Revenue Contribution to Capital Spending	
Training Facility at Station 60	25
Purchase of CFS Vehicles.	115
Purchase of appliance and light vehicles at expiry of leasing arrangements, funded from savings on leasing rentals.	75
Station improvements agreed to be funded from Earmarked Reserves e.g. welfare facilities.	280
Capital/Revenue Grants	
CLG Grant to support capital spending	870
Urban Search and Rescue (USAR) Grant	10
Carbon Reduction Grant	15
Equality and Diversity Grant	34
Devon and Cornwall Constabulary	5
Adjustment re grant overstatement in previous years re Crediton	(20)
Sub Total - Other Financing Sources	1,409
Total Financing	9,707

Borrowing

- 13.2 Prior to the introduction of the Prudential Code in April 2004, the amount of borrowing that could be undertaken to fund capital spending was restricted by the government through the allocation of a Basic Credit Approval (BCA) to each local Authority. An amount was then provided in the Revenue Support Grant allocation to fund that level of borrowing. Whilst the introduction of the Prudential Code has abolished the BCA, an amount is still included in the Revenue Support Grant allocation to support a level of borrowing through the allocation of the Supported Credit Expenditure (SCE). This means that the government will continue to provide support for borrowing by way of Revenue Support Grant up to the SCE amount, and any borrowing in excess of that figure would be classified as unsupported borrowing. The supported borrowing figure allocated for Devon and Somerset FRA for 2009/2010 was set at £1.757m, therefore based on a requirement to borrow £8.298m, as illustrated in Table 2, an amount of £6.541m is to be funded from unsupported borrowing. Actual borrowing that took place during 2009/2010 was £8.365m, which is well within approved limits, as determined by the approved prudential indicators

14. SLIPPAGE

- 14.1 As is indicated from the figures in Table 1, actual capital spending during the year is £0.716m less than the approved capital programme. As this slippage only reflects changes to the timing of the costs being incurred, and not a change in the overall cost of the programme there is no adverse impact against the approved Prudential Indicators. A revised capital programme for 2010/2011 to 2012/2013, incorporating the re-profiling of the slippage against individual projects will be reported to the next meeting of the Resources Committee scheduled to be held in July 2010.

15. DRAFT PRUDENTIAL INDICATORS

- 15.1 The prudential indicators at this time are only in draft format, subject to the completion of the Statement of Accounts.

Capital Expenditure

- 15.2 This prudential indicator reports actual capital spending for the year against the approved programme. Spending has proved to be £0.414m less than anticipated as a consequence of delays on progressing capital projects.

Approved Indicator	£10.121m
Actual Expenditure	£9.707m
Variance	(£0.414) m

Capital Financing Requirement (CFR)

- 15.3 The CFR reflects the underlying need to borrow for capital purposes. Slippage in capital spending has resulted in less borrowing being required in 2009/2010 than had been forecast. As a consequence the actual CFR as at 31 March 2010 is less than the original indicator.

Revised CFR	£28.673m
Actual CFR	£28.148m
Variance	(£0.525) m

15.4 It should be emphasised that at the time of writing this report we are still awaiting clarification of the status of the Severn Park PFI Project, which under revised rules introduced by the HM Treasury, effective from 1 April 2009, may require a different accounting treatment. Whilst this change would not impact on the bottom line council tax of the Authority for 2009/2010, it may be required to be brought on to the balance sheet as both an asset (based on a current valuation) and a liability to pay future rentals. In the event that it is deemed that the PFI project is on balance sheet then the liability to pay future rentals, currently valued at £1.942m would also be required to be charged against the CFR figure for 2009/2010, therefore increasing it from £28.148m to £30.091m This would still be well within the absolute borrowing limit of £36.628m set by the authority at the beginning of the financial year.

Authorised Limit and the Operational Boundary for External Debt

15.5 Actual external debt as at 31 March 2010 was £26.651m. This is well within the authorised limit (absolute maximum borrowing approval) and operational boundary of £36.628m and £33.761m respectively, and therefore neither was breached.

Ratio of Financing Cost to Net Revenue Stream

15.6 This ratio aims to show the percentage of revenue resources which are applied to financing debt. The Authority’s revised estimate was that 3.42% would be applied and the actual figure is 0.21% below the estimate.

Capital Financing Costs	£2.427m
Interest on investments	(£0.092) m
Net Financing Costs	£2.335m
Net Revenue Stream	£72.659m
Percentage	3.21%
Estimated	3.42%
Variance	(0.21) %

15.7 It should be noted that the percentage figure for this Authority is a relatively low figure due to the fact that it has only been in existence as a stand alone Authority since 1998. The ratio will inevitably increase year on year as the level of borrowing to fund future capital programmes cumulatively increases.

16. DETERMINATION OF CAPITAL FINANCE

16.1 The Authority is required to determine its use of capital finance as defined by capital control legislation. The following use of capital finance resources is proposed;

- That central government support to borrowing totalling £1.757m is used as authorisation to capitalise expenditure.
- That unsupported borrowing totalling £6.541m is used as authorisation to capitalise expenditure.
- That £0.914m is capitalised and funded from government grant.
- That an amount of £0.495m is capitalised and funded from a revenue contribution to capital spending.

KEVIN WOODWARD
Treasurer

DEVON & SOMERSET FIRE AND RESCUE AUTHORITY				APPENDIX A
Provisional Revenue Outturn 2009/2010				
Line No		2009/10 Revised Budget £000 (1)	Outturn £000 (2)	Variance over/ (under) £000 (3)
	SPENDING			
	EMPLOYEE COSTS			
1	Wholetime uniform staff	32,756	32,526	(230)
2	Retained firefighters	12,145	12,395	250
3	Retained firefighters - Provision	0	452	452
4	Control room staff	2,226	2,175	(51)
5	Non uniformed staff	8,544	8,916	372
6	Training expenses	1,153	1,037	(116)
7	Fire Service Pensions recharge	1,955	1,913	(42)
		58,779	59,414	635
	PREMISES RELATED COSTS			
8	Repair and maintenance	1,039	1,158	119
9	Energy costs	502	575	73
10	Cleaning costs	374	364	(10)
11	Rent and rates	1,266	1,274	8
		3,181	3,371	190
	TRANSPORT RELATED COSTS			
12	Repair and maintenance	587	557	(30)
13	Running costs and insurances	1,194	847	(347)
14	Travel and subsistence	1,288	1,240	(48)
		3,069	2,644	(425)
	SUPPLIES AND SERVICES			
15	Equipment and furniture	2,323	2,426	103
16	Hydrants-installation and maintenance	120	102	(18)
17	Communications	1,086	1,026	(60)
18	Uniforms	935	971	36
19	Catering	141	190	49
20	External Fees and Services	67	139	72
21	Partnerships & regional collaborative projects	100	100	-
		4,772	4,954	182
	ESTABLISHMENT COSTS			
22	Printing, stationery and office expenses	413	400	(13)
23	Advertising	89	69	(20)
24	Insurances	377	258	(119)
		879	727	(152)
	PAYMENTS TO OTHER AUTHORITIES			
25	Support service contracts	634	634	-
		634	634	-
	CAPITAL FINANCING COSTS			
26	Capital charges	4,537	4,221	(316)
27	Revenue Contribution to Capital spending	82	215	133
		4,619	4,436	(183)
28	TOTAL SPENDING	75,933	76,180	247
	INCOME			
29	Treasury management investment income	(105)	(92)	13
30	Grants and Reimbursements	(2,200)	(2,119)	81
31	Other income	(901)	(1,285)	(384)
32	Internal Recharges	(68)	(66)	2
33	Contribution to Reserves and Provisions Earmarked Reserve	-	-	-
34	TOTAL INCOME	(3,274)	(3,562)	(288)
35	NET SPENDING	72,659	72,618	(41)

Devon and Somerset Fire and Rescue Authority							APPENDIX B
Reserve and Provision Balances as at 31 March 2010							
	Balance b fwd from prev year £000	Spend £000	Balance at 31/3/10 £000	Transfer from revenue £000	Transfer of Funds £000	Balance c fwd to next yr £000	
1. RESERVES							
Earmarked Reserves							
<u>Earmarked reserves agreed prior to 0809 financial year</u>							
Lundy	25		25			25	
Positive pressure ventilation training	17	3	14			14	
Mobilisation equipment	117	9	108			108	
Working at heights	6	5	1		(1)	0	
GIS	15	15	0			0	
Decommission analogue radio	175	160	15		(15)	0	
<u>Earmarked reserves agreed in 0809 financial year</u>							
Property works	132	127	5			5	
Support costs	83	68	15		(8)	7	
Body cameras	13	12	1		(1)	0	
Fireboat	37	37	0			0	
New systems	32	12	20			20	
HSE building works	300	173	127			127	
<u>New reserves 0910 financial year</u>							
ICP Project			0	41	25	66	
	952	621	331	41	0	372	
General Reserve	4,453		4,453			4,453	
Total of useable reserves	5,405	621	4,784	41	0	4,825	
	Balance b fwd from prev year £000	Spend £000	Transfer to Revenue £000	Balance as at 31 March 2010 £000	Additional Provision 2009/2010 £000	Balance c fwd to next yr £000	
2. PROVISIONS							
Retained Firefighter Pension Contributions	497			497	452	949	
Job Evaluation Costs (backdated to April 2007)	586	399	187	0		0	
Total Provisions	1,083	399	187	497	452	949	

Local Government House, Smith Square,
London, SW1P 3HZ
Telephone 020 7187 7336 Fax 020 7664 3000
Employers' Secretary, Sarah Messenger

Direct Dial
020 7187 7335

e-mail: firequeries@lge.gov.uk
website: www.lge.gov.uk/

FIRE & RESCUE SERVICES National Employers

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of Human Resources**

Members of the Employers' Side of the NJC

13 April 2010

CIRCULAR EMP/01/10

Dear Sir/Madam,

PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS - FIRE BRIGADES UNION AND RETAINED FIREFIGHTERS UNION EMPLOYMENT TRIBUNAL CASES

1. You will be aware that test cases in two authorities, Kent and Berkshire, in respect of the FBU cases were identified in 2001 under the above legislation. Those test cases have been subject to the Employment Tribunal, Employment Appeal Tribunal, Court of Appeal and House of Lords processes returning finally at the request of the House of Lords to the original Employment Tribunal again for re-consideration and determination.
2. You will be aware from circular NJC/02/10, also issued today, that settlement negotiations with the FBU in respect of the test cases, and consequently all FBU cases, are drawing to a close and an agreement in principle has been identified. Details of the agreement and the mechanism in relation to withdrawal of all FBU cases will be forwarded to authorities as soon as formal agreement has been reached. In the interim, as stated clearly in the joint circular, no action should be taken.
3. You will also be aware that there are a significant number of cases brought by members of the Retained Firefighters Union under these Regulations and authorities will also wish to know what the position is in respect of those cases.
4. Accordingly, I write to advise you that we have also separately held discussions with the RFU in respect of its' cases. At the time of writing, the RFU is considering its position and we expect to receive a response shortly.

Yours faithfully,

**Gill Gittins
Principal Negotiating Officer**

*Employers' Secretary, Sarah Messenger
Local Government House, Smith Square,
London, SW1P 3HZ
Telephone 020 7187 7335
e-mail: firequeries@lge.gov.uk*

**NATIONAL JOINT COUNCIL
FOR LOCAL AUTHORITY
FIRE AND RESCUE SERVICES**

*Employees' Secretary, Matt Wrack
Bradley House, 68 Coombe Rd
Kingston upon Thames KT2 7AE
Telephone 020 8541 1765*

**To: Chief Fire Officers
Chief Executives/Clerks to Fire Authorities
Chairs of Fire Authorities
Directors of HR (Fire Authorities)**

Members of the National Joint Council

13 April 2010

CIRCULAR NJC/2/10

Dear Sir/Madam

**PART-TIME WORKERS (PREVENTION OF LESS FAVOURABLE TREATMENT) REGULATIONS – FIRE BRIGADES UNION
EMPLOYMENT TRIBUNAL CASES**

Settlement Negotiations

1. You will be aware that test cases in two authorities, Kent and Berkshire, were identified in 2001 under the above legislation. Those test cases have been subject to the Employment Tribunal, Employment Appeal Tribunal, Court of Appeal and House of Lords processes returning finally at the request of the House of Lords to the original Employment Tribunal again for re-consideration and determination.
2. The judgement of the Tribunal on that occasion was:
 - (i) The Tribunal finds and declares that the Claimants were engaged in broadly similar work as their named comparators.
 - (ii) The Claimants were treated less favourably than their named comparators in respect of access to pension rights and payment for sickness absence.
 - (iii) The Respondent's arguments of justification are dismissed.
 - (iv) The Claimant's claim for increased pay for additional responsibilities is adjourned for 8 weeks."
3. The Tribunal indicated that it believed the parties should endeavour to reach a negotiated settlement. Following discussion within the respective Sides an approach was made to Tribunal to allow the parties time for those negotiations to take place. Tribunal's current expectation is that the matter will be resolved by 1 May.

4. Following what has been an extremely complex negotiation we write to advise you that a settlement in respect of the terms and conditions aspect of the case has now been agreed in principle with the FBU. Key points of the 'in principle' settlement are outlined below:
- a. the compensation covers retained duty system employees employed for any part of the reference period, 1 July 2000 to 30 June 2009
 - b. the compensation payment is pro-rata to length of service, rank/role and level of cover based on a particular date - which for those holding employment status currently will be 30 June 2009. Cover pro-rata adjustment to be not less than 75% (which reflects the pay structure)
 - c. maximum levels of payment – firefighter £675; leading firefighter/crew manager £700; watch manager/sub and station officers £725. Minimum payment of £150
 - d. in full settlement of the wide range of issues raised through this legislation:
 - Sick leave
 - Acting-up allowance
 - Pay for public holidays
 - End of course leave
 - Trade union leave
 - Overtime
 - Spoiled meals allowance
 - Removals/lodging allowance
 - Recall to duty
 - Payment during suspension
 - Payment during maternity support leave
 - Special leave
 - All other claims or potential claims under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations arising from the 6th edition of the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire and Rescue Services (and its predecessors) up to 30 June 2009.
 - In the case of those fire and rescue services that have introduced a local salary scheme since 1 July 2000, all other claims or potential claims under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations arising from the 6th edition of the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire and Rescue Services (and its predecessors) and the local salary scheme up to 30 June 09.
 - e. the exception to the above simple process will be those retained duty system employees who can evidence 9 or more months continuous non-injury related sickness absence during the reference period. In such cases individuals will be entitled to payment in accordance with a revised Grey Book sick pay calculation.
5. It is anticipated that formal agreement will be reached shortly. Authorities will be advised when this has occurred and should **take no action** in the interim.
6. Further information will also be provided at that time on how individual employees will be advised of the outcome as well as the mechanism to facilitate withdrawal of the remaining FBU cases that are currently stayed pending the outcome of these test cases.

7. The remaining aspect is that of pension scheme access, which is being handled by CLG. Both CLG and the FBU are mindful of the current timescale within which all negotiations relating to both aspects of these cases are due to be concluded as referred to in paragraph 3 above.

Amendments to the Scheme of Conditions of Service (Grey Book)

8. A number of amendments need to be made to the Grey Book to reflect the requirements of the Regulations. The NJC is in the process of finalising that work, which has been carried out with the assistance of respective legal representatives.
9. Those amendments will also be issued shortly.

Yours faithfully

SARAH MESSENGER
MATT WRACK
Joint Secretaries