

**M. Pearson
CLERK TO THE AUTHORITY**

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

(see below)

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DEVON & SOMERSET FIRE & RESCUE AUTHORITY

Thursday 16 December 2010

Your are hereby summoned to attend a meeting of the Devon & Somerset Fire & Rescue Authority to be held on the above date, **commencing at 10:00 hours 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. **Minutes** of the meeting of the Authority held on 3 November 2010 attached (Page 1).
3. **Items Requiring Urgent Attention**

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

4. **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

5. Questions And Petitions By The Public

In accordance with Standing Orders, to consider any questions and petitions submitted by the public. Questions must relate to matters to be considered at the meeting of the Authority. Petitions must relate to matters for which the Authority has responsibility or which affects the Authority. Neither questions nor petitions may require the disclosure of confidential or exempt information and must be submitted in writing or by e-mail to the Clerk to the Authority by **midday on Monday 13 December 2010**.

6. Questions By Members Of The Authority

To receive and answer any questions submitted in accordance with Standing Orders.

7. Minutes of Committees

(a) Human Resources Management and Development Committee

The Chairman of the Committee, Councillor Cann, to **MOVE** the Minutes of the meeting of the Committee held on 12 November 2010 attached (Page 7).

RECOMMENDATION that the Minutes be adopted in accordance with Standing Orders.

(b) Audit And Performance Review Committee

The Chairman of the Committee, Councillor Dyke, to **MOVE** the Minutes of the meeting of the Committee held on 17 November 2010 attached (Page 9).

RECOMMENDATION that the Minutes be adopted in accordance with Standing Orders.

(**NOTE:** particular attention is drawn to Minute *APRC/20 and the Appendix to the Minutes on pages 12 and 13 respectively)

(c) Resources Committee

The Chairman of the Committee, Councillor Gordon, to **MOVE** the Minutes of the meeting of the Committee held on 29 November 2010 attached (Page 15)

RECOMMENDATIONS

- (i) that the recommendation at Minute RC/18(a) (Revenue Budget Monitoring Report 2010/11) in relation to virements requiring Authority approval shown at Minute RC/4(a) (Page 17 refers) be approved;
- (ii) that, subject to (i) above, the Minutes be adopted in accordance with Standing Orders.

8. Devon & Somerset Fire & Rescue Authority Draft Corporate Plan 2011/12 to 2013/14

Report of the Chief Fire Officer (DSFRA/10/25) attached (Page 18)

9. General Issues - Requirement to Change Authority Budget Setting Date 2011 and Vacancies on Committees and Outside Bodies

Report of the Clerk to the Authority (DSFRA/10/26) attached (Page 23)

10. **Indemnity Policy**

Report of the Clerk to the Authority (DSFRA/10/27) attached (Page 26)

11. **Chairman's Announcements**

12. **Chief Fire Officer's Announcements**

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

13. Nil

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Healey(Chair), Boyd (Vice-Chair), Bown, Burridge-Clayton, Cann, Drear, Dyke, Eastman, Foggin, Fry, Gordon, Gribble, Horsfall, Hughes OBE, Leaves, Manning, Mills, Mrs. Nicholson, Radford, Randall Johnson, Smith, Turner, Way, Woodman and 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

3 November 2010

Present:-

Bown, Boyd, Cann, Dyke, Eastman, Foggin, Fry, Gordon, Healey, Horsfall, Hughes OBE, Leaves, Mills, Mrs. Nicholson, Radford, Viney, Way, Woodman and Yeomans.

Apologies:-

Received from Burrige-Clayton, Gribble, Manning, Randall Johnson, Smith and Turner.

DSFRA/33. Minutes

RESOLVED that the Minutes of the meeting of the Authority held on 16 September 2010 be signed as a correct record.

DSFRA/34. Declarations of Interest

Members were invited to consider whether they had 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.

At this time Councillors Woodman and Eastman declared **personal but non-prejudicial** interests in items relating to South West Regional Fire Control Ltd, the Local Authority Controlled Company (LACC) with overall governance responsibility for the South West Regional Control Centre, by virtue of their being an Authority appointed Director and an alternate Director respectively with the Company.

(SEE ALSO MINUTES DSFRA/ AND BELOW)

DSFRA/35. Minutes of Committees

RESOLVED

(a) Human Resources Management and Development Committee

The Chair of the Committee, Councillor Cann, **MOVED** the Minutes of the meeting of the Committee held on 20 September 2010 which had considered, amongst other things:

- a report on absence management for the Service;
- a report on a government consultation on restriction of pensions tax relief;
- a quality safety audit undertaken using the Royal Society for the Prevention of Accidents (RoSPA) methodology; and
- an update into the recently undertaken Staff Survey.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

(b) Audit and Performance Review Committee

The Chair of the Committee, Councillor Dyke, **MOVED** the Minutes of the meeting of the Committee held on 29 September 2010 which had considered, amongst other things:

- a report on Service performance and progress for the first quarter of the year (April to June 2010) as measured against those goals, activities and targets contained in the approved Corporate Plan;
- a progress report on activities undertaken by the Audit Commission to September 2010; and
- the annual governance statement 2009/10 including the draft opinion on the 2009/10 Statement of Accounts.

RESOLVED that the Minutes be adopted in accordance with Standing Orders.

(c) Resources Committee

(Councillors Woodman and Eastman each declared a **personal but non-prejudicial** interest, by virtue of their being respectively an Authority appointed Director and alternate Director, in this item in so far as it related to the South West Regional Fire Control Ltd, the Local Authority Controlled Company (LACC) with overall governance responsibility for the South West Regional Control Centre).

The Chair of the Committee, Councillor Gordon, **MOVED** the Minutes of the meeting of the Committee held on 21 October 2010 which had considered, amongst other things:

- a report on the financial performance and indicative spending for the Authority compared to the 2010/11 revenue budget;
- an update report on Treasury Management performance during 2010/11; and
- information on the Comprehensive Spending Review (CSR) 2010 announcement and its implications for the Authority.

RESOLVED

- (i) that the recommendations at Minute RC/12 (a)(i) and (ii) (Financial Performance Report 2010/11), in relation to virements in excess of £150,000 and a revised Capital Programme as set out in Appendices A and B respectively to these minutes, be approved;
- (ii) that, subject to (i) above, the Minutes be adopted in accordance with Standing Orders.

(SEE ALSO MINUTE DSFRA/34 ABOVE)

DSFRA/36. Dissolution of the South West Regional Management Board and Proposals for Ongoing Regional Collaboration

(Councillors Woodman and Eastman each declared a **personal but non-prejudicial** interest, by virtue of their being respectively an Authority appointed Director and alternate Director, in this item in so far as it related to the South West Regional Fire Control Ltd, the Local Authority Controlled Company (LACC) with overall governance responsibility for the South West Regional Control Centre).

The Authority considered a report of the Clerk to the Authority and Treasurer to the Authority (DSFRA/10/23) on proposals for the dissolution of the South West Regional Management Board (RMB).

Representations to the former government to secure dissolution had not proved fruitful but the current Fire Minister, Bob Neill MP, had responded to the most recent representations of the Board indicating that participation in RMBs would henceforth be voluntary with fire and rescue authorities free to collaborate in ways and forums best suited to local circumstances.

The report referred to the provisions contained in the Board's establishing Agreement for securing dissolution and also detailed proposals in relation to former regional collaborative working under the Board and in respect of future regional collaboration.

RESOLVED

- (a) That the following be approved:
 - (i) formal dissolution of the South West Regional Management Board with effect from 31 March 2011;
 - (ii) the entering into, from 1 April 2011, of a Co-operation Agreement in relation to regional collaboration on terms and conditions to be agreed by the Chief Fire Officer and Clerk in consultation with the Chairman;
 - (iii) the indemnification of each relevant lead authority against any liabilities arising from the former programme of collaboration under the South West Regional Management Boards and which may subsequently come to light following its dissolution, subject to all authorities agreeing to the indemnification and to any such liability being apportioned equally between each authority (including the relevant lead authority);
 - (iv) that the current arrangements for the 'pooling' of any FireControl "New Burdens" grant continues post April 2011;
- (b) that the Chief Fire Officer be delegated appropriate powers to participate on behalf of the Authority in the programme of regional collaboration (or parts of the programme as appropriate) subject to decisions on levels of funding to be committed being reserved by the Authority itself;
- (c) that the establishment of a South West Forum of Fire and Rescue Authorities on the basis as outlined in Section 2 and Appendix A of report DSFRA/10/23 be noted;
- (d) that the intended structure for officer oversight of the programme of regional collaboration, as set out in Section 4 of the report, be noted.

(SEE ALSO MINUTES DSFRA/34 ABOVE AND DSFRA/38 BELOW)

DSFRA/37. Authority Petition Scheme

The Authority considered a report of the Clerk to the Authority (DSFRA/10/24) on a proposed amendment to Standing Orders to introduce a petition scheme for the Authority consistent with that required of principal authorities by the Local Democracy, Economic Development and Construction Act 2009.

RESOLVED that the proposed revision to Standing Order 12, as appended to report DSFRA/10/24 and intended to give effect to a petition scheme consistent with the requirements of the Local Democracy, Economic Development and Construction Act 2009, be approved.

DSFRA/38. South West Regional Management Board

(Councillors Woodman and Eastman each declared a **personal but non-prejudicial** interest, by virtue of their being respectively an Authority appointed Director and alternate Director, in this item in so far as it related to the South West Regional Fire Control Ltd, the Local Authority Controlled Company (LACC) with overall governance responsibility for the South West Regional Control Centre).

The Authority received for information the Minutes of the meeting of the Board held on 28 September 2010 which had considered, amongst other things:

- a workstreams highlight report on progress with regional collaborative initiatives;
- the Audit Commission Annual Governance Report and Annual Audit Letter in relation to the Board's 2009/10 accounts; and
- a report on dissolution of the Board.

(SEE ALSO MINUTES DSFRA/34 AND 36 ABOVE)

DSFRA/39. Chairman's Announcements

The Chairman reported on events attended on behalf of the Authority since its last meeting. He also reminded Members of the forthcoming Training Day to be held at Taunton fire station on 18 November 2010.

DSFRA/40. Chief Fire Officer's Announcements

The Chief Fire Officer reported on:-

- a fatal fire stemming from a road traffic collision on the Southbound carriageway of the M5 on 24 September 2010; and
- the Comprehensive Spending Review 2010 and its implications for the Authority. While a headline grant reduction of 25% over four years, to be backloaded to the latter years, had been announced it would not be possible to determine the full impact on the Authority and options for addressing any reductions until the Authority received its individual grant settlement, which was anticipated for late November/early December.

The meeting started at 14.00hours and finished at 14.40hours.

**APPENDIX A TO THE MINUTES OF THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY
MEETING 3 NOVEMBER 2010**

VIREMENTS IN EXCESS OF £150,000 REQUIRING AUTHORITY APPROVAL

(a) Establishment of CSR 2010 Budget Strategy Reserve

Budget Line	From £	To £	Reason
Training Costs	(36,700)		
Wholetime uniform (Removal Expenses)	(10,000)		
Retained Firefighters (recruitment costs)	(10,000)		
Premises - Repair and Maintenance (Grounds Mtce)	(7,000)		
Energy Costs	(22,400)		
Cleaning Costs	(11,900)		
Rent and Rates	(140,500)		
Transport – Repair and Mtce	(23,800)		
Transport – Running Costs	(106,800)		
Travel and Subsistence (including Members expenses)	(20,200)		
Equipment and Furniture	(48,300)		
Communications	(50,700)		
Linen Hire	(900)		
Catering	(5,100)		
External Fees and charges	(2,800)		
Establishment Costs	(37,500)		
Advertising	(27,400)		
Insurances	(17,000)		
Support Service Contracts	(37,300)		
Capital Charges	(110,000)		
Earmarked Reserve		726,300	To make provision for a new Earmarked Reserve “CSR 2010 Budget Strategy Reserve”
TOTAL	(726,300)	726,300	

(b) Initial Staffing Pool for Regional Control Centre

Budget Line	From £	To £	Reason
Control Room staff	(280,000)		Transfer of ISP staff to the LACC.
Grants and Reimbursements		280,000	Transfer of New Burdens grant to the LACC
TOTAL	(280,000)	280,000	

**APPENDIX B TO THE MINUTES OF THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY
MEETING 3 NOVEMBER 2010**

Revised Capital Programme 2010/11 to 2012/13

Capital Programme (2010/11 to 2012/13)				
Item PROJECT	2010/11 (£000)	2011/12 (£000)	2012/13 (£000)	Total 2010- 2013 (£000)
	Budget	Budget	Budget	Budget
<u>Estate Development</u>				
1 Exeter Middlemoor	44			44
2 Exeter Danes Castle	169			169
3 SHQ major building/New Dimensions (USAR) major project	135			135
4 Major building works	0	1,000	1,000	2,000
5 Minor improvements & structural maintenance	2,761	650	750	4,161 *
6 Welfare facilities 2009/10	127			127
7 Diversity & equality	34			34 *
8 New Dimensions (USAR) works	150	420		570 *
9 Other building works	5			5
Estates Sub Total	3,425	2,070	1,750	7,245
<u>Fleet & Equipment</u>				
10 Appliance replacement	2,061	2,119	2,119	6,299
11 Specialist Operational Vehicles	1,163			1,163
12 Vehicles -funded from revenue (new)	41			41 *
13 Equipment	634	200	200	1,034
14 Asset Management Plan (Miquest) software	152			152
Fleet & Equipment Sub Total	4,051	2,319	2,319	8,689
Overall Capital Totals	7,476	4,389	4,069	15,934
<u>Programme funding</u>				
Main programme	5,926	4,069	4,069	14,064
Revenue funds	41	0	0	41 *
Grants	1,377	320	0	1,697 *
Earmarked Reserves	132	0	0	132
	7,476	4,389	4,069	15,934

** reflects revision from previously agreed programme*

HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

12 November 2010

Present:-

Councillors Cann (Chairman), Bown, Boyd, Burrige-Clayton and Manning.

Apologies:-

Councillors Mrs. Nicholson and Turner.

***HRMDC/18. Minutes**

RESOLVED that the Minutes of the meeting held on 20 September 2010 be signed as a correct record.

***HRMDC/19. Declarations of Interest**

Members of the Committee were asked to consider whether they had any personal/personal and prejudicial interests in items as set out on the agenda for this meeting and to declare any such interests at this time.

***HRMDC/20. The Equality Act 2010 and Progress Report against the Single Equality Scheme "Making the Connections"**

The Committee received for information a report of the Director of People and Organisational Development (HRMDC/10/16) that gave a summary of the expected position in respect of the extended legal responsibilities under the Equality Act 2010, together with details of the progress made against the Single Equality Scheme – Making the Connections” which was approved by the Devon and Somerset Fire and Rescue Authority in May 2009.

The new Equality Act 2010 consolidated nine pieces of legislation and put into place a cross cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all. The Act created nine legally protected characteristics namely, age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion and belief, sex and finally, sexual orientation. The Act also created General Duties within the new Public Sector Equality Duty (PSED). The General Duty to be implemented from April 2011 is:

“A public authority must, in the exercise of its functions, give due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- Advance equality of opportunity (remove or minimise disadvantage, meet people’s needs, take account of disabilities, encourage participation in public life;
- Foster good relations between people (tackle prejudice and promote understanding).

Within the General Duty, a number of specific duties were also set out surrounding transparency, engagement and equality impact assessment. The Act did not, however, prescribe the need for a specific equality scheme and therefore a decision will need to be taken in the future once the new equality objectives have been set and guidance has been issued by the Equality and Human Rights Commission.

***HRMDC/21. Absence Management**

The Committee considered a report of the Director of People and Organisational Development (HRMDC/10/17) that set out the overall performance of the Service in relation to sickness absence management in 2010/11 and which highlighted the position in relation to long term absence levels in particular.

The Committee noted that, at this point in time, performance in 2009/10 was at an average of 3.83 days absence per person compared with the actual level of 3.64 days/shifts lost per person in 2010/11. This was an improvement of 15.4% on the target level for 2010/11. Whilst this was on track to meet the year end target of 9.0 days/shifts lost per person, the figures for August and September 2010 had shown an increase and the trend was for sickness to increase in the second half of the year with winter illnesses. The increase was linked to the point that the long terms sickness rate for non uniformed staff had increased since August 2010. There were two members of staff that had been off sick for over 2 months and this had impacted on the performance in this area. In terms of type of sickness, the incidence of mental health issues was showing an increase in the current year compared with 2009/10, although musculoskeletal injury was still the most significant cause of absence for the Service. Work was being undertaken in this area to determine whether musculoskeletal injuries were occurring as on or off duty and what action could be undertaken to mitigate this position.

Reference was made to the measures that were being taken to reduce the levels of absence, including Wellbeing at Work initiatives, a guide to assist staff to cope with stress and further work in respect of return to work interviews. The Chairman referred to the position in respect of the return to work interviews and enquired as to whether any progress had been made with this. The Human Resources Manager advised that he had not been able to progress the training for Line Managers that had been proposed previously but that this would be pursued.

The Chairman moved (and was seconded by Councillor Boyd) that:

“in addition to noting the report, an update on the progress made in respect of return to work interviews be submitted to the Committee at its next meeting”.

This was carried unanimously.

RESOLVED

- (a) That an update on the progress made in respect of return to work interviews be submitted to the Committee at its next meeting;
- (b) That, subject to (a) above, report HRMDC/10/17 be noted.

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The meeting started at 10.00hours and finished at 11.00hours

AUDIT AND PERFORMANCE REVIEW COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

17 November 2010

Present:-

Councillors Dyke (Chairman), Burridge-Clayton, Gribble, Mills, Radford, Viney and Way

***APRC/15. Minutes**

RESOLVED that the Minutes of the meeting held on 29 September 2010 be signed as a correct record.

***APRC/16. Declarations of Interest**

Members of the Committee were asked to consider whether they had 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.

No interests were declared.

***APRC/17. Performance Report: April to September 2010**

The Committee considered a report of the Deputy Chief Fire Officer (APRC/10/8) that detailed the performance and progress made by the Service as measured by the Corporate Plan goals, activities and targets for the second quarter of the year (April to September 2010). The report highlighted the key issues and areas of focus in terms of performance as determined by the Service Improvement Group (SIG), namely:

- Accidental dwelling fires;
- Deliberate fires;
- Emergency response standards;
- Equality and diversity targets;
- Sickness absence;
- Retained availability data;
- Finance.

Each of these areas was considered by the Committee in depth as below:

Accidental Dwelling Fires

There had been a steady increase in the number of accidental dwelling fires from April to June 2010, with 43% of these incidents being caused by cooking, although performance had now improved since September 2010. In the period April to September 2010, 40% of accidental dwelling fires had no firefighting action, however, with the majority of fires (89%) having no fire damage or a very limited spread of damage.

Deliberate fires

The Committee received for information a presentation given by the Arson Reduction Manager in respect of deliberate fires. The view was that 47% of fires attended were thought to be “deliberate” i.e., caused deliberately by a person and as a result these incidents were recorded via the Incident Recording System (IRS). It was noted that there had been an increase in the number of deliberate primary fires (excluding vehicles) across the Service area from 188 in 2009/10 to 204 for the same period in 2010/11. There had also been a small increase in the number of deliberate secondary fires (excluding vehicles) over the same period. In view of the current economic climate, the increase in deliberate fires was anticipated and work was being undertaken to address this actively.

Emergency response standards

In relation to the standards for dwelling fires, out of 447 dwelling fires inside the 10 minute areas, 84.6% had an appliance attend within 10 minutes against a target of 85.5%. The target for attendance within 10 minutes and with a crew of 9 had been set at 73.8% although during the recording period of the report only 70.9% of attendances had achieved the full standard. There were four areas that could impact on performance in this respect (call handling; retained firefighters getting to the station; turn out times; and travelling times to incident) and the Response and Resilience Manager would be examining potential policy and procedural issues to seek to improve performance in relation to these targets.

In relation to the targets for Road Traffic Collisions (RTCs), the performance was recorded as:

- for appliance attendance within 15 minutes, 76.3% against a target of 77.3%;
- on single lane carriageways requiring first attendance in 15 minutes and 2 appliances with 8 crew in 18 minutes, 66.9% against a target of 62.5%; and
- on multi-lane carriageways requiring first appliance attendance within 15 minutes and 3 appliances with 10 crew within 18 minutes, 38.3% against a target of 44.44%

It was noted that call handling could take longer for RTCs due to delays in identifying the correct location, either because of contradictory information or lack of knowledge of the location by the caller.

Equality and diversity targets

It was noted that, while the Equality Framework for the Fire & Rescue Service would remain in place, the Government was to remove the national targets within the National Equality and Diversity Strategy. In the absence of such national targets, however, relevant and intelligent performance indicators would be developed to measure the effectiveness of Service strategy in recruiting from under-represented groups. It was also noted that the new Public Sector Equality Duty to be implemented in 2011 would place an emphasis on transparency of data to enable communities to directly challenge public bodies on performance.

Sickness absence

Current sickness rates were below the same period last year and were on track to remain below the year-end target of 9 days/shifts lost per person.

Retained availability data

Reference was made to the introduction of the Gartan availability system which provided a simpler, more flexible means of determining availability and which would assist in the effective management of available operational resources.

Finance

The target within the current Annual Corporate Plan 2010/11 to 2012/13 was to manage expenditure within a tolerance of -1%. Proactive management within the current year to ease budgetary issues in future years, however, meant that an underspend greater than 1% was predicted and consequently it was felt that expenditure target in the current Annual Corporate Plan should be removed.

Reference was also made to aged debt and it was noted that, of the total amount of aged debt over 85 days, 73% related to two debtors. Following previous questions by the Resources Committee, debt recovery continued to be closely monitored.

RESOLVED

- (a) that, in relation to the following targets in the Corporate Plan as indicated:
 - (i) the Human Resources Management and Development Committee be asked to recommend that the Authority removes the equality and diversity targets as and when these are abolished by the Department for Communities and Local Government;
 - (ii) the Resources Committee be asked to recommend that the Authority removes the -1% tolerance target for the expenditure on budget measure for the current financial year;
- (b) that, subject to (a) above, the report be noted.

***APRC/18. Audit Progress Report**

The Committee received for information an Audit Progress Summary (to 9 November 2010), as prepared by the Audit Commission.

The summary report included details of reports issued by the Audit Commission since the previous meeting, including:

- Unqualified opinion and Value for Money (VFM) conclusion on the 2009/10 accounts;
- an Audit of the Authority's financial statements 2009/10 and its preparedness for the introduction of the International Financial Reporting Standards (IFRS); and
- the Annual audit letter 2009/10

It was noted that the Audit Commission had issued an unqualified opinion in relation to the Authority's 2009/10 financial statements and its arrangements for securing economy, efficiency and effectiveness in the use of its resources.

The Audit Progress Summary also indicated work in progress (including the ongoing review of preparedness for IFRS) together with recent Audit Commission events and national reports.

***APRC/19. International Financial Reporting Standards (IFRS) - Update**

The Committee received for information a report of the Treasurer (APRC/10/9) setting out the progress made in respect of implementation of the new International Financial Reporting Standards (IFRS).

Although considerable work had been completed and progress made towards IFRS compliance, there was still a significant amount of work to be undertaken to complete a satisfactory first set of accounts under IFRS.

***APRC/20. Audit and Review Six Monthly Report**

The Committee received for information a report of the Deputy Chief Fire Officer (APRC/10/10) on progress made against the approved 2010/11 Audit Review Plan and which provided assurance statements for the completed audits, together with the key/high risk findings of the sickness management, procurement protection, operational data and combination benefits audit reviews. The report also included the recommendations made by the Service Audit and Review Team and the agreed management actions.

In considering the completed audits, the Chairman commented in particular on the findings from the combination benefits review. A number of salient learning points had been identified and, while certain benefits identified in the business case had yet to be fully realised (e.g. sharing of best practice on community safety initiatives), the forecast financial saving from combination to be achieved by April 2012 was, at an estimated £3.54m, considerably greater than the £590,000 originally calculated.

RESOLVED that the section of report APRC/10/10 dealing with the Combination Benefits Review, as appended to these minutes, be referred to the full Authority for consideration and comment and that future reports on realisation of combination benefits be submitted as appropriate to future meetings of the Authority.

***APRC/21. Six Monthly Internal Audit Monitoring Report**

The Committee received for information the six monthly Internal Audit Monitoring Report for the Devon and Somerset Fire and Rescue Service as prepared by the Audit Manager for the Devon Audit Partnership and summarising work carried out against the agreed internal audit plan for the first six months of 2010/11.

***DENOTED DELEGATED MATTER WITH POWER TO ACT**

The meeting started at 10.00hours and finished at 12.20hours

**APPENDIX TO THE MINUTES OF THE MEETING OF THE AUDIT AND PERFORMANCE
REVIEW COMMITTEE 17 NOVEMBER 2010**

5.5 Combination Benefits Review

The Combination business case identified that the full realisation of all benefits recorded would take up to 5 years to embed into the newly created combined organisation.

The current review has been completed 3 years into combination. The Audit & Review Team are pleased to report that the following benefits would appear to have been realised or have made significant progress:

- The forecast is for a financial saving of £3.64 million to have been delivered by April 2012. This is significantly more (£590,000) than the original benefit calculation. * The figures are subject to scrutiny by the Devon Audit Partnership.
- From the stats collated, Community Safety activities are increasing. This includes Home Fire Safety visits but excludes provision of domestic smoke alarms.
- Support Services have successfully been combined.
- Efficiencies are being realised in the production of new policies
- Improvements in fleet and stores management have contributed to improvements in vehicle servicing downtime and the increased availability of appliances.
- Career development opportunities have increased following the roll out of new HR initiatives.
- Improved retention of retained staff.
- Improved financial reporting
- A year on year increase in training income

One of the most apparent learning points to come out of the review related to the project management of the combination. The review identified that a comprehensive project team was put in place to manage the process up until the point of combination. However, as at April 2007, the project team was dismantled. This has resulted in a lack of drive and co-ordination to ensure the benefits identified pre-combination are realised and implemented to agreed timescales.

The Audit & Review Team identified the following areas where the identified benefit in the business case has yet to be fully realised:

- Sharing of information / best practice across Community Safety activities. However, plans are being put in place now to ensure that this does happen. The Community Safety Manager has made significant progress in embedding a system for recording and analysing partnership activities.
- The IRMP return for 2009-10 shows a 6% reduction in the provision of smoke alarms in comparison with the previous year.
- At the time of this review, the Partnership Framework and Register are still a work in progress. It is therefore too early for the organisation to demonstrate that it is working effectively in partnership to deliver better outcomes.
- The Audit & Review team could not find any evidence of how the combined authority had identified areas of under-resource and following combination, matched resources and skills to pro-actively meet this need. The arrangements have until now been more reactive, however a more pro-active approach is now being taken to maximise resource. An example of this is the ongoing service delivery review.

- The Service Information Point (SIP) was established to help the policy harmonisation team to coordinate the delivery of harmonised policies. It was identified that priority was given to high risk policies. One key omission from this process resulted in no timetables or deadlines being agreed at the time of combination to complete the policy harmonisation process. As a result, approx 55% of policies are still to be harmonised 3 years post combination. This has a direct reflection on staff's perception as to what stage in combination DSFRS has achieved.
- A central procurement team is in place with 8 team members, however only 2 Officers focus exclusively on procurement strategy and initiatives. The concern is that this focus is spread too thinly and full benefits of economies of scale will not be met within 5 years.
- There is currently no stand-alone Integrated Risk Management Plan (IRMP) for DSFRS in place. The essence of the IRMP has been included within the corporate plans since combination but not as a separate document.
- At the time of combination, adequate resources were not put in place to embed the Fire Service Emergency Cover (FSEC) system to its full potential. The focus on FSEC has re-emerged since the SMB re-structure and the Risk Management Team now has the flexibility to focus on FSEC. In 2010/11 the FSEC team has been re-focused and re-sized in line with the original intentions at combination. A target for a DSFRS Risk Map has been set for June 2010.

The Audit & Review Team have presented a full combination benefits report to the Senior Management Board who are committed to ensuring all benefits are realised within the 5 year time frame.

The Audit & Review Team are pleased to report that there is sufficient evidence to demonstrate that progress is being made to ensure all benefits are realised.

RESOURCES COMMITTEE

(Devon and Somerset Fire and Rescue Authority)

29 November 2010

Present:-

Councillors Gordon (Chairman), Healey (vice Woodman), Hughes OBE, Smith, Turner and Yeomans

Apologies:-

Councillors Horsfall and Woodman

***RC/15. Minutes**

RESOLVED that the Minutes of the meeting held on 21 October 2010 be signed as a correct record.

***RC/16. Death of Councillor David Viney**

(An item taken in accordance with Section 100B(4)(b) of the Local Government Act 1972).

The Chairman determined that this item should be taken as a matter of urgency so that the Committee could pay its respects to Councillor David Viney, a Member of the Devon and Somerset Fire and Rescue Authority and a former Member of this Committee.

Councillor Viney passed away suddenly on Saturday 27 November 2010 and the Committee undertook a minutes silence as a mark of respect. The Committee expressed its condolences to the family of Councillor Viney at this sad and difficult time.

***RC/17. Declarations of Interest**

Members of the Committee were asked to consider whether they had 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.

No interests were declared.

RC/18. Revenue Budget Monitoring Report 2010/11

The Committee considered a report of the Treasurer (RC/10/17) that set out the indicative projected outturn against the approved 2010/11 Revenue Budget based upon the spending position up to the end of October 2010.

Projections indicated that revenue spending would be £0.991m (1.32%) less than total budget. This projection was net of a transfer of £0.726m to an Earmarked Reserve (CSR 2010 Budget Strategy Reserve) from savings in the current year (2010/11) as approved by the Authority at its meeting on 3 November 2010 (Minute DSFRA/35(c) refers).

The report provided explanations for the more significant variations against the budget in terms of underspends, including wholetime pay costs [£0.400m]; retained staff [£0.104m]; non-uniformed staff [0.114m]; training expenses [£0.096m]; recovery of overpaid injury award pensions [£0.111m]; vehicle repair and maintenance costs [£0.077m] and greater income on investment than initially projected (£0.076m).

The report also highlighted two proposed virements in excess of £150,000 which, in accordance with Financial Regulations, required Authority approval. The proposed virements related to:

- The increase in the Communications Budget line by £0.293million to fund the cost of Firelink charges (£0.506m) over and above the existing budget as a result of changes to the charging arrangements which has resulted in individual Fire and Rescue Authorities being charged for their share of the regional Service Fees. This virement will be offset by a corresponding increase in the Grants and Reimbursements income budget, and;
- the transfer of £0.258m from the ICT Equipment budget line to External Fees and Services to reflect the changes in how the original allocation for the business transformation programme is to be spent (the total sum for business transformation allocated by the Fire and Rescue Authority remains the same).

The Treasurer advised the Committee that there were no further recommendations at this time on how the projected underspend should be utilised. This would be further considered at the budget meeting of the Committee and again at year-end once the final outturn position was known.

Councillor Yeomans drew attention to the need for training for Members of the Committee in advance of the budget setting process in terms of the new requirements of the International Financial Reporting Standards (IFRS) which the Treasurer undertook to pursue.

Reference was made to the projected overspend of £0.291m in respect of Uniforms and what level of budget was to be set for this in 2011/12 bearing this in mind. The Treasurer reported that there had been a longstanding issue in respect of the implementation of new Personal Protective Equipment (PPE) but that the funding model had previously been agreed by the Authority. The Chief Fire Officer added that, as the national Integrated Clothing Project contract was not mandatory, other options for the provision of PPE and work wear were being considered to ensure best value was obtained. He indicated that any alternative options would be delivered within funding already approved by the Authority and that Members would be kept informed as to the outcome.

RESOLVED

- (a) that, in accordance with Financial Regulations, the Authority be recommended to approve those budget virements described in paragraph 8.1 of report RC/10/17 and illustrated in the Appendix to these Minutes;
- (b) That, subject to (a) above, the budget monitoring position in relation to projected spending against the 2010/2011 revenue budget be noted.

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The meeting started at 10.00hours and finished at 10.47hours.

**APPENDIX TO THE MINUTES OF THE MEETING OF THE RESOURCES COMMITTEE HELD ON
29 NOVEMBER 2010**

Minute RC/18(a) – Virements requiring Authority approval in accordance with Financial Regulations

Budget Line	From £m	To £m	Reason
Grants and Reimbursements Communications	(0.293)	0.293	<p>Up until June 2010 the Department of Communities and Local Government (CLG) have paid for the annual Service Fees associated with the usage of the new national radio system (Firelink).</p> <p>From July 2010 the charging arrangements have changed so as individual FRSs will now be charged for their share of the regional Service Fees. For 2010-11 the total charge for DSFRA will be £0.506m. The CLG will fund the difference between this cost and the cost of legacy radio systems, which are already included in the base budget, through New Burdens grant. For DSFRA the amount of New Burdens grant has been announced as £0.293m,</p> <p>This proposed virement is to increase the Communications budget line by £0.293m to fund the cost of Firelink charges over and above existing budget, with a corresponding increase in the Grants and Reimbursements income budget.</p>
Furniture and Equipment External Fees and Services	(0.258)	0.258	<p>Included in the base budget for this financial year is an allocation of £0.555m to fund the initial costs associated with the business transformation programme.</p> <p>This proposed virement is to move an amount of £0.258m from the ICT Equipment budget line to External Fees and Services to reflect the change in how the original allocation for the business transformation programme is to be spent.</p> <p>The total sum for business transformation allocated by the Fire Authority remains the same.</p>



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/25
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	16 DECEMBER 2010
SUBJECT OF REPORT	DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY DRAFT CORPORATE PLAN 2011/12 TO 2013/14
LEAD OFFICER	Chief Fire Officer
RECOMMENDATIONS	<p>(a) <i>that the separation of the budget and corporate plan approval process for 2011/12 be approved;</i></p> <p>(b) <i>that the Community Safety and Corporate Planning Committee be delegated authority to approve, at its meeting on 13 January 2011, the draft Corporate Plan 2011/12 to 2013/14 for consultation and the associated consultation plan, with the outcome of the consultation to be considered at the Authority meeting in May 2011; and</i></p> <p>(c) <i>that, on the basis of this report and information to be provided at the meeting the Authority determines the approach for consulting non-domestic rate payers on the 2011/12 precept.</i></p>
EXECUTIVE SUMMARY	This report sets out the requirements underpinning the production of the Draft Corporate Plan and precept consultation. The report recommends an approach for approving the Draft Corporate Plan 2011/12 to 2013/14 that accommodates the exceptional circumstances surrounding the government grant announcement and anticipated public sector spending cuts. The report also considers the need to undertake precept consultation with non-domestic rate payers.
RESOURCE IMPLICATIONS	Consultation costs will be met from the existing Corporate Planning budget
EQUALITY IMPACT ASSESSMENT	An initial assessment has not revealed any issues so significant as to require a full EIA
APPENDICES	Nil.

LIST OF BACKGROUND PAPERS	Nil.
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1. **BACKGROUND**

1.1 The Devon and Somerset Fire and Rescue Authority (DSFRA) has the following requirements within its annual planning cycle:

- Produce a publicly available Integrated Risk Management Plan covering at least a three year time span which reflects effective consultation during its development and at all review stages with representatives of all sections of the community and stakeholders. (*The Fire and Rescue Service National Framework 2008-11 refers*);
- Consult non-domestic rate payers or their representatives on the authority's proposals for expenditure (including capital expenditure) before it issues the first precept to be issued by it for the financial year. (*The Local Government Finance Act 1992 refers*); and
- Set its precept by 28 February preceding the financial year.

2. **IMPACT OF THE TIMING OF THE GOVERNMENT GRANT ANNOUNCEMENT**

2.1 The Authority ordinarily approves the draft Corporate Plan for consultation along with a consultation on the proposed level of precept in the Autumn preceding the financial year in which the budget and activity are to be set.

2.2 This year, the Government will not have announced the specific level of government grant that will be provided to the Authority at the time of drafting the papers for this meeting. However, it is anticipated that the details will be made available in time for the meeting and a verbal update will be given by the Chief Fire Officer at that time.

2.3 As such, it is not possible to specify the nature of possible changes until the magnitude of the grant reduction is known.

2.4 Whilst the size of the central government reduction to the Fire Service budget as a whole is known (25% grant reduction, back loaded over four years), specific details for individual Fire & Rescue Authority's are not expected to be known until the week beginning the 13 December 2010. The application of the Fire Formula grant may see a higher or lower percentage grant reduction for this Authority.

2.5 It is therefore deemed prudent to delay the decision on what activity should be incorporated in the plan until the government has made a decision regarding the level of government grant.

2.6 This delay presents a dilemma as there is not a 12 week consultation period between the approval by the Authority to consult on 16 December 2010 and the approval of the budget and corporate plan on 16 February 2011.

2.7 The need to consult is provided in the Integrated Risk Management Planning (IRMP) Guidance Note 2 which also explains that '...the scope of the consultation you undertake will be proportionate to the nature and extent of any changes proposed.'

2.8 In addition to the above documents the HM Government Code of Practice released in July 2008 sets out the consultation code of practice for Central Government and suggest Local Authorities adopt the same standards. The code states, 'consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.'

- 2.9 Complying with the timeframes associated with good practice regarding public consultation means that there is a need to separate the approval of the 2011/12 budget and the corresponding corporate plan.

3. PROCESS FOR APPROVING THE DRAFT CORPORATE PLAN

- 3.1 It is proposed that the approval for consultation to commence on the draft plan be delegated to the Community Safety and Corporate Planning Committee. The next meeting of which is on 13 January 2011. This meeting will be after the announcement of the grant reduction level for Authority and will allow an informed consultation to commence.
- 3.2 The committee would also be asked to approve the corresponding stakeholder consultation plan.
- 3.3 Following the public consultation, the corporate plan would be considered by the full Authority as is normally the case. The earliest that this would be considered is at the May meeting.
- 3.4 The impact of approving the Draft Corporate Plan on 13 January 2011 is that the final plan would not be agreed until after 1 April 2011 due to the consultation period and necessary time for analysing and reporting the results.
- 3.5 The risk associated with not meeting this date is low as Office of the Deputy Prime Minister Circular 09/2004: *Guidance On Best Value And Performance Improvement For Fire And Rescue Authorities In England* states that best practice is for business/corporate plans to be combined with the Performance Plan and IRMP action plan into a single document published by the IRMP implementation date of 1 April.
- 3.6 However this documentation recognises that internal approval processes may make this difficult and the primary objective must be for the IRMP to be mainstreamed into business/corporate planning arrangements as far as is practical.
- 3.7 It should be noted that the departure from usual practice in this respect is solely as a result of the significant changes in levels of grant allocation and the associated timing of the grant allocation announcement, both of which are in the gift of Central Government.

4. PRECEPT CONSULTATION

- 4.1 The decision regarding council tax precept levels and/or accepting the associated specific Central Government grant is a matter that will be considered by the Authority at its budget setting meeting in February.
- 4.2 However, there is a statutory requirement to consult non-domestic rate payers on the level of council tax that they would be prepared to pay. A telephone survey takes place each January.
- 4.3 A good practice principle is to ensure that the level of consultation is proportionate to the likely level of precept.
- 4.4 A contract was awarded last year to undertake the precept survey and included the option to repeat the survey. The cost of conducting the survey for 400 people (the level of consultation used last year) is £3,300.

4.5 This sample size could be reduced further and may result in a possible reduction in costs. In considering this, however, it should also be noted that confidence in the results reduces as the sample size decreases and therefore negatively impacts on the reliability and value of the results obtained.

LEE HOWELL
Chief Fire Officer



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/26
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	16 DECEMBER 2010
SUBJECT OF REPORT	GENERAL ISSUES – REQUIREMENT TO CHANGE AUTHORITY BUDGET SETTING DATE 2011 AND VACANCIES ON COMMITTEES AND OUTSIDE BODIES
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>that the Authority budget meeting 2011 be held on Monday 14 February 2011, commencing at 10.00hours in the Conference Rooms at Service Headquarters;</i></p> <p>(b) <i>that the Resources Committee (budget) meeting be held on Friday 28 January 2011, commencing at 10.00hours at Service Headquarters in Meeting Room B, Service Headquarters.</i></p> <p>(c) <i>that appointments be made to fill to the current vacancies on the Audit and Performance Review Committee and the Local Government Association General Assembly, the term of office to be until the Annual Meeting of the Authority in 2011.</i></p>
EXECUTIVE SUMMARY	<p>This paper addresses a need to change the date for the Authority's 2011 budget setting meeting and, as a consequence, the date for the preceding Resources Committee (budget) meeting.</p> <p>It also seeks appointments by the Authority to fill vacancies on the Audit and Performance Review Committee and the Local Government Association General Assembly.</p>
RESOURCE IMPLICATIONS	Nil
EQUALITY IMPACT ASSESSMENT	An initial assessment has not revealed any issues so significant as to require a full EIA.
APPENDICES	Nil.

LIST OF BACKGROUND PAPERS	Nil.
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1. AUTHORITY BUDGET MEETING 2011 – REQUIREMENT TO CHANGE DATE

- 1.1 Somerset County Council has fixed its 2011 budget setting meeting for Wednesday 16 February 2011. This date, which was set by Somerset County Council after the Authority set its meeting dates for the 2010/11 municipal year, clashes directly with the date originally agreed for the Authority's budget meeting.
- 1.2 Consequently, there is a need to re-arrange the date of the Authority's budget meeting and, associated with this, the date scheduled for the preceding Resources Committee (budget) meeting.
- 1.3 Constituent authority calendars have been examined and the Chairman of both the Authority and the Resources Committee consulted. In light of this, coupled with the need to set the budget in sufficient time to notify billing authorities as to the level of precept, it is proposed that
- that the Authority budget meeting 2011 be held on Monday 14 February 2011, commencing at 10.00hours in the Conference Rooms at Service Headquarters; and
 - that the Resources Committee (budget) meeting be held on Friday 28 January 2011, commencing at 10.00hours at Service Headquarters in Meeting Room B, Service Headquarters.

2. VACANCIES ON COMMITTEES AND OUTSIDE BODIES

- 2.1 With the tragic and sudden death of Cllr. David Viney, vacancies now exist on:
- the Authority Audit and Performance Review Committee; and
 - the Local Government Association General Assembly (NOTE: Assembly meetings are only attended should there be fire-specific items on the agenda)
- 2.2 The Authority is therefore invited to appoint replacements to both the Audit and Performance Review Committee and the Local Government Association General Assembly, the term of office to be until the Annual Meeting of the Authority in 2011.

M PEARSON
Clerk to the Authority



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/10/27
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	16 DECEMBER 2010
SUBJECT OF REPORT	INDEMNITY POLICY
LEAD OFFICER	CLERK TO THE AUTHORITY
RECOMMENDATIONS	<i>That the Authority approves any of its Members acting from time to time as an alternate director on South West Fire Control Limited (SWFC), this constituting approval for the purpose of paragraph 7.2.3 of the Authority's indemnity policy.</i>
EXECUTIVE SUMMARY	This paper refers to the Indemnity Policy approved by the Authority in accordance with the provisions of the Local Authorities (Indemnities for Members and Officers) Order 2004 and raises an issue in relation to the application of this indemnity to the alternate director on South West Fire Control Ltd.
RESOURCE IMPLICATIONS	Nil
EQUALITY IMPACT ASSESSMENT	An initial assessment has not revealed any issues so significant as to require a full EIA.
APPENDICES	A. Authority Indemnity Policy
LIST OF BACKGROUND PAPERS	Report DSFRA/07/9 to the ordinary Authority meeting on 30 May 2007 and the Minutes of that meeting.

1. BACKGROUND

- 1.1 Under the provisions of the Local Authorities (Indemnities for Members and Officers) Order 2004, the Authority is able to indemnify Members against loss suffered when acting as a Member of the Authority or when acting on another body at the request of or with the approval of the Authority. There are important exceptions to the indemnity that can be granted, mostly around criminal actions, fraud, and deliberate wrongdoing or recklessness.
- 1.2 This Authority approved its indemnity policy at its meeting on 30 May 2007 (Minute DSFRA/17 refers). A copy of this indemnity as approved is attached at Appendix A. The precise terms of the indemnity were worded to reflect the provisions of the above-mentioned Regulations.

2. CURRENT ISSUE

- 2.1 The Authority has the right to appoint a Member to the Board of Directors of South West Fire Control Limited (SWFC). The Member so appointed (currently Cllr. Woodman) is covered by the Authority's indemnity policy when acting on the Board.
- 2.2 A company director is entitled to appoint a deputy ("alternate director" in company law parlance). When acting on behalf of (i.e. in the absence of) the main director, an alternate has all the duties and responsibilities of the director. The current "alternate director" for Cllr. Woodman is Cllr. Eastman.
- 2.3 Strictly speaking, under company law the appointment of an alternate is in the personal gift of the main director. It might therefore be argued whether a Member of the Authority when acting as an alternate director is actually doing so at the request of or with the approval of the Authority. If not, it could be argued that the said Member is not covered by the Authority's indemnity policy.
- 2.4 Consequently and for the avoidance of doubt, it is recommended that this Authority formally approves any of its Members acting from time to time as an alternate director on SWFC, this constituting approval for the purpose of paragraph 7.2.3 of the Authority's indemnity policy.
- 2.5 It should be recognised that failure to approve the recommendation might potentially expose a Member serving as an alternate director on SWFC to personal loss. This in turn might make a Member reluctant to serve in this capacity and consequently the Authority is advised to approve the recommendation.

M PEARSON
Clerk to the Authority

Form of Indemnity for Members and Officers of the Devon and Somerset Fire and Rescue Authority

1. Subject to the exceptions set out below, the Authority will indemnify each of its Members and employees against any loss or damage suffered by the Member or officer arising from his/her action or failure to act in his/her capacity as a Member or officer of the Authority.
2. This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
 - 2.1 any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Member or officer;
 - 2.2 any act or failure to act by the Member or employee otherwise than in his/her capacity as a Member or officer of the Authority, or
 - 2.3 failure by the member to comply with the Code of Conduct for Members.
3. Subject to the exceptions set out below, the Authority will indemnify each of its Members and officers against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or Part 3 proceedings to which he/she is subject.
 - 3.1 "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom
 - 3.2 "Part 3 proceedings" means any investigation or hearing in respect of an alleged failure to comply with the Code of Conduct for Members under Part 3 of the Local Government Act 2000.
4. This indemnity will not extend to any advice or representation in respect of any claim or threatened claim in defamation to be brought by a Member or officer, but will extend to defending a claim for defamation.
5. Where any Member or officer avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Part 3 proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the Member or officer has made use of this indemnity:-
 - 5.1 the Member or officer is convicted of a criminal offence in consequence of such proceedings, or
 - 5.2 a Case Tribunal or Standards Committee determine that the Member has failed to comply with the Code of Conduct for Membersand the conviction or determination is not overturned on appeal, the Member or officer shall reimburse any expenditure incurred by the Authority under the indemnity.
6. Where the Authority arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 5 shall apply as if references to the Authority were references to the insurer.
7. For the purpose of these indemnities, a loss or damage is deemed to have arisen to the Member or officer "in his/her capacity as Member or officer of the Authority" where:

- 7.1 the act or failure to act was outside the powers of the Authority, or outside the powers of the Member or officer, but the Member or officer reasonably believed that the act or failure to act was within the powers of the Authority or within the powers of the Member or officer (as appropriate) at the time that he/she acted or failed to act, as the case may be;
- 7.2 the act, or failure to act, occurred not in the discharge of the functions of the Member or officer as a Member or officer of the Authority but in their capacity as a Member or employee of another organisation, where the Member or officer is, at the time of the action or failure to act, a Member or employee of that organisation either:-
 - 7.2.1 in consequence of his/her appointment as such Member or officer of that organisation by the Authority, or
 - 7.2.2 in consequence of his/her nomination for appointment as such Member or officer of that organisation by the Authority; or
 - 7.2.3 where the Authority has specifically approved the appointment of the Member or employee of that organisation for the purpose of these indemnities.
8. The Authority undertakes not to sue (or join in action as co-defendant) any Member or officer in respect of any negligent act or failure to act by the Member or officer in his/her capacity as a Member or officer of the Authority, subject to the following exceptions:
 - 8.1 any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Member or officer; or
 - 8.2 any act or failure to act by the Member or officer otherwise than in his/her capacity as a Member or officer of the Authority.
9. These indemnities and undertakings will not apply if a Member or officer, without the express permission of the Authority or of the appropriate officer of the Authority, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of the resolution.
10. These indemnities and undertakings are without prejudice to the rights of the Authority to take disciplinary action against an officer in respect of any act or failure to act.
11. These indemnities and undertakings apply retrospectively to any act or failure to act which may have occurred before the date on which this Form of Indemnity was approved and shall continue to apply after the Member or officer has ceased to be a Member or officer of the Authority as well as during his/her Membership of or employment by the Authority.