

**M. Pearson
CLERK TO THE AUTHORITY**

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

(see below)

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

Your ref :
Our ref : SY/DSFRA
Website : www.dsfire.gov.uk

Date : 9 February 2012
Please ask for : Steve Yates
Email : syates@dsfire.gov.uk

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

DEVON & SOMERSET FIRE & RESCUE AUTHORITY
(Budget Meeting)

Friday 17 February 2012

The budget meeting of the Devon & Somerset Fire & Rescue Authority will 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

AGENDA

1. **Apologies**
2. **Minutes** of the meeting of the Authority held on 16 December 2011 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 from 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 this meeting of the Authority. Petitions must relate to matters for which the Authority has a responsibility or which affects the Authority. Neither questions nor petitions may require the disclosure of confidential or exempt information. Questions and petitions must be submitted in writing or by e-mail to the Clerk to the Authority **by midday on Tuesday 14 February 2012.**

6. Addresses by Representative Bodies

To receive addresses from representative bodies requested and approved in accordance with Standing Orders.

7. Questions from Members of the Authority

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

8. Minutes of Committees, Working Parties Etc.

(a) Commercial Services Committee

The Chair of the Committee, Councillor Healey, to move the Minutes of the meetings of the Committee held on 5 January and 2 February 2012, attached (Pages 6 and 8 respectively).

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

(b) Community Safety and Corporate Planning Committee

The Chair of the Committee, Councillor Leaves, to move the Minutes of the meeting of the Committee held on 12 January 2012, attached (Page 10).

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

(c) Human Resources Management and Development Committee

The Chair of the Committee, Councillor Cann, to move the Minutes of the meeting of the Committee held on 23 January 2012, attached (Page 12).

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

(d) Audit and Performance Review Committee

The Vice-Chair of the Committee, Councillor Way, to move the Minutes of the meeting of the Committee held on 1 February 2012, attached (Page 15).

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

(e) Resources Committee

The Chair of the Committee, Councillor Gordon, to move the Minutes of the meeting of the Committee held on 3 February 2012, attached (Pages 18).

RECOMMENDATIONS

- (i) that the recommendations at Minutes RC/17 (2012/13 Revenue Budget and Council Tax Levels) and RC/18 (Capital Programme 2012/13 to 2014/2015) be considered in conjunction with items 10(c) and 10(a), respectively, below
- (ii) that, subject to (i) above and in accordance with Standing Orders, the Minutes be adopted.

9. Results and Recommendations Arising from Consultation on the Devon & Somerset Fire & Rescue Authority Corporate Plan 2012/13 to 2014/15 and a Proposal to Amend the Response to Automatic Fire Alarm (AFA) Calls

Report of the Chief Fire Officer (DSFRA/12/1) attached (Page 22)

10. Revenue and Capital Budgets 2012/13

(a) Capital Programme 2012/13 To 2014/15

Report of the Chief Fire Officer and Treasurer (DSFRA/12/2) attached (Page 30)

(b) Treasury Management Strategy (Including Prudential and Treasury Indicators Report 2012/13 To 2014/15

Report of the Treasurer (DSFRA/12/3) attached (Page 40)

(c) 2012/13 Revenue Budget and Council Tax Levels

Report of the Treasurer and Chief Fire Officer (DSFRA/12/4) attached (page 58)

11. Review of the Devon & Somerset Fire & Rescue Authority Scheme of Members Allowances

Report of the Clerk to the Authority (DSFRA/12/5) attached (Page 79)

12. The Localism Act - Pay Policy Statement 2012/13

Report of the Clerk to the Authority (DSFRA/12/6) attached (Page 96)

13. Authority Commercial Trading Governance Arrangements

Report of the Chief Fire Officer and Clerk to the Authority (DSFRA/12/7) attached (Page 105)

14. Fire & Rescue Service National Framework for England - Consultation

Report of the Chief Fire Officer (DSFRA/12/8) attached (Page 148)

15. Chairman's Announcements

16. Chief Fire Officer's Announcements

17. **Exclusion of the Press and Public**

RECOMMENDATION that, in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of the Authority.

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

18. **Opportunity to Realise Capital Receipt - Update**

Report of the Chief Fire Officer (DSFRA/12/9) attached (Page 154)

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Healey(Chair), Mrs. C Bakewell MBE, Bown, Boyd, Brooksbank, Burrige-Clayton, Cann, Drean, Dyke, Eastman, Foggin, Fry, Gordon, Gribble, Horsfall, Hughes OBE, Leaves, Mills, Radford, Randall Johnson, Smith, Way, Woodman, Wright, 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

16 December 2011

Present:-

Councillors Healey (Chairman), Bakewell MBE, Bown, Boyd, Brooksbank, Cann, Drear, Dyke, Eastman, Gordon, Gribble, Healey, Horsfall, Hughes OBE, Leaves, Radford, Randall Johnson, Smith, Way, Woodman and Wright

Apologies:-

Councillors Burrige-Clayton, Foggin, Fry, Mills and Yeomans

DSFRA/54. Minutes

RESOLVED that the Minutes of the meeting held on 7 November 2011 be signed as a correct record.

DSFRA/55. Declarations of Interest

Members 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.

No interests were declared.

DSFRA/56. Address by the Fire Brigades Union

In accordance with Standing Order 13, the Authority received an address by the Fire Brigades Union on the changes being proposed by central government to the Firefighters Pensions Scheme. Constructive discussions had been held in relation to the setting of a cost ceiling for any proposals. These would be discussed further by the Union's Executive Committee early in the New Year.

(SEE ALSO MINUTE DSFRA/57(a) BELOW)

DSFRA/57. Minutes of Committees, Working Parties Etc.

(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 11 November 2011, which had considered, amongst other things:

- an update report on absence management and the health of the organisation; and
- a report on the Department for Communities and Local Government (CLG) consultation on proposed changes to the Firefighters Pensions Scheme

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

(SEE ALSO MINUTE DSFRA/56 ABOVE)

(b) Audit And Performance Review Committee

The Chair of the Committee, Councillor Dyke, **MOVED** the Minutes of the meeting of the Committee held on 17 November 2011, which had considered, amongst other things:

- a summary report on issues addressed by the Audit Commission on behalf of the Authority since the last Committee meeting, including the Annual Audit Letter 2010/11 and an audit of system controls and financial statements;
- a report of the Service's Audit and Review Manager on progress between April and September 2011 against the internal audit plan for the current financial year; and
- a report on performance by the Service during April to September 2011 against those targets as set out in the Corporate Plan 2011/12 to 2013/14.

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

(c) Community Safety And Corporate Planning Committee

The Chair of the Committee, Councillor Leaves, **MOVED** the Minutes of the meeting of the Committee held on 28 November 2011, which had considered, amongst other things:

- a presentation on the Job Centre Plus Training Programme;
- a presentation on Community Safety marketing, including the production of bespoke community safety messages targeted at high-risk groups in Devon and Somerset;
- a presentation on work being undertaken by the Service to enhance the provision of information on firesetter activity to assist in the development of more effective strategies to address this;
- a presentation on measures being pursued by the Service to highlight fire risks associated with timber framed buildings; and
- a report on the new Operational Risk Information System (ORIS) which would provide critical risk information to Incident Commanders at the incident ground via Mobile Data Terminals.

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

(d) Commercial Services Committee

The Chair of the Committee, Councillor Healey, **MOVED** the Minutes of the meeting of the Committee held on 2 December 2011, which had considered, amongst other things:

- a progress report on the proposed Articles of Association for Red One;
- a progress report on the development of the contract governing the relationship between Red One and the Authority;
- an update on commercial initiatives being progressed through the Training Academy; and
- an update on the current position in relation to other commercial leads and trading opportunities being explored by the Service.

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

DSFRA/58. Localism Act 2011

The Authority considered a report of the Clerk to the Authority (DSFRA/11/31) on the implications for the Authority of the Localism Act which had received the Royal Assent on 15 November 2011. Although enacted, many aspects of the Act were still subject to Commencement Orders. The Department for Communities and Local Government (CLG) had indicated the government's intention for the Act to be fully in force by 1 April 2012.

The report covered the following areas of the Act in terms of their applicability to the Authority:

- implementation of Pay Policy Statements (required by 31 March 2012);
- introduction, for combined fire and rescue authorities, of a new "general" power to do anything linked – either directly or indirectly - to "functional purposes";
- a relaxation of the rules in relation to trading and charging;
- the introduction of a new power to charge for repeated attendances at non-domestic premises arising from defective automated fire alarm detection equipment;
- changes to the standards regime;
- the community "right to challenge" and the designation of assets of community value (the "right to buy"); and
- the contents of the Act in relation to pre-determination.

RESOLVED

- (a) that a report setting out the Authority's proposed Pay Policy Statement for the 2012/13 financial year be submitted for consideration and approval at the Authority budget meeting to be held on Friday 17 February 2012;
- (b) that the Clerk be asked to progress discussions with constituent authorities with a view to establishing appropriate "arrangements" for the Authority in relation to standards matters in the context of the Act and any subsequent Regulations;
- (c) that further reports be submitted to future meetings of the Authority as and when further clarification on other provisions in the Act and the potential impact of these on the Authority becomes available;
- (d) that, subject to (a) to (c) above, the report be noted.

DSFRA/59. Proposed Amendment to Standing Order 13 - Addresses by Representative Bodies

The Authority considered a report of the Clerk to the Authority (DSFRA/11/32) on a proposed amendment to Standing Order 13 to amend the timescale for representative bodies requesting permission to address the Authority from ten to two clear working days prior to the meeting in question. This would align the timescale with that of the public submitting questions or petitions to the Authority and would provide the opportunity for representative bodies to raise issues linked to items to be discussed at meetings.

RESOLVED that the amendment to Standing Order 13 (Addresses by Representative Bodies), as set out in the appendix to report DSFRA/11/32, be approved.

DSFRA/60. Fire Control Project - Progress Report

The Authority received for information a report of the Director of Service Delivery (DSFRA/11/33) on the current position in relation to the consolidated fire control project necessitated following the cessation of the regional FiReControl Project.

The new project feature three phases:

- (a) consolidation of the Devon and Somerset Control Rooms into a single unit;
- (b) the development of a new, fit for purpose building for this single unit; and
- (c) collaboration with the Dorset, Wiltshire and Hampshire fire and rescue services to secure a new, integrated operating system.

The first of these phases was still on track for completion by 31 March 2012, necessary approvals having been made by the Authority at its last meeting (Minute DSFRA/51 refers).

In relation to the third phase, a joint bid for funding in the region of £8million had been submitted to the Department for Communities and Local Government in November. A decision was anticipated early in the new year and, given the unique nature of the new partnership proposed, it was felt the bid stood a good chance of success.

In relation to the second phase, outline plans were being developed to determine the scope and extent of the new facility and options would in due course be submitted to a future meeting.

DSFRA/61. Chairman's Announcements

The Authority received, for information, a list of events attended by the Chairman on behalf of the Authority since its last meeting. In particular, the Chairman commented on endeavours to secure cross-party agreement to promote fire safety initiatives such as the fitting of sprinklers in new developments.

DSFRA/62. Chief Fire Officer's Announcements

The Deputy Chief Fire Officer reported on two fatalities since the last meeting:

- on 3 December in Cullompton, an 95 year old lady. There were no smoke detectors in the premises;
- on 9 December in Broadwoodwidge, a 3 year old child following a house fire. Enquires were still ongoing into this incident.

Additionally, the Deputy Chief Fire Officer gave preliminary feedback from the recently undertaken peer review against the Equality and Diversity Framework. The Service had been adjudged at "achieving" level. Further, more detailed reports on the assessment (covering areas of particular strengths, weaknesses and actions proposed to address the latter) would be submitted to future meetings.

DSFRA/63. Recess

Following the conclusion of the Chief Fire Officer's announcements, the Chairman called a 5 minute recess at 11.15am. The meeting reconvened at 11.20am.

DSFRA/64. Exclusion of the Press and Public

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972 the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in:

- Paragraph 1 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to individuals; and
- Paragraph 2 of Part 1 of Schedule 12A (as amended) to the Act, namely information likely to reveal the identity of individuals; and
- Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of the Authority and other companies.

DSFRA/65. Senior Management Board Non-operational Directors - Further Considerations

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during which the press and public were excluded).

The Authority considered a report of the Chief Fire Officer (DSFRA/11/34) detailing consideration given to outstanding issues arising from the restructure of the Senior Management Board as identified in report DSFRA/09/29, considered by the Authority meeting on 14 December 2009.

The Authority had resolved at its meeting on 29 July 2011 to establish a small Panel of Members to consider and make recommendations on the outstanding issues (Minute DSFRA/27 refers).

The report now submitted summarised the deliberations of the Panel following the three meetings held since its establishment, together with legal advice obtained on the issues so addressed.

Following considerable debate on the matter, including further legal commentary provided during the course of the meeting, Councillor Dyke **MOVED** (and Councillor Bown seconded) a proposition in two parts relating to implementation of certain proposals, and the effective date of implementation.

Following a vote it was

RESOLVED

- (a) that the motion of Councillor Dyke, as seconded by Councillor Bown, in relation to implementation of certain proposals be approved; and
- (b) that the date of implementation, as proposed by Councillor Dyke and seconded by Councillor Bown, be approved.

(NOTE: Resolution (a) above was approved unanimously. Resolution (b) was approved by a majority of 17 votes for the proposal, with two votes against [Councillors Bakewell MBE and Way] and one abstention [Councillor Wright]).

The meeting started at 10.00hours and finished at 12.25hours

COMMERCIAL SERVICES COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

5 January 2012

Present:-

Councillors Healey (Chairman), Boyd, Dyke, Gribble, Mills, Randall Johnson and Smith

***CSC/21. Minutes**

RESOLVED that the Minutes of the meeting held on 2 December 2011 be signed as a correct record.

***CSC/22. 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.

No interests were declared.

***CSC/23. Exclusion of the Press and Public**

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of the Authority and other companies.

CSC/24. Devon & Somerset Fire & Rescue Authority Commercial Services Business Case

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee considered a report of the Director of People and Organisational Development (CSC/12/1) that set out the arrangements for the commercial trading activity of the Devon and Somerset Fire and Rescue Authority within a strategic context. The Business Case provided the authorisation, direction and framework within which the Authority would be able to identify and generate beneficial income streams for the future, whilst setting out the governance arrangements for trading through Red One in addition. This included the Articles of Association for the Authority together with the Contract between Red One Limited and Devon and Somerset Fire and Rescue Authority which required formal approval in due course.

The Director of People and Organisational Development stated that the relationships between the Authority and Red One were complex. It was requested that a document setting out the interrelationships between the Authority, Commercial Services Committee, Commercial Services Board and Red One be set out for reference by Members. The Director of People and Organisational Development stated that this could be set out and presented within a workshop session for Members.

RESOLVED that the Devon and Somerset Fire and Rescue Authority be recommended to approve the Commercial Business Case as set out in report CSC/12/1 and incorporating the Articles of Association for Red One and the Contract detailing the governance arrangements between the Devon and Somerset Fire and Rescue Authority and Red One.

CSC/25. Devon & Somerset Fire & Rescue Service Commercial Business Plan 2012 - 2013

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee considered a report of the Director of People and Organisational Development (CSC/12/2) that detailed the activities to be undertaken within the Business Plan for 2012/13 as defined by the Business Case for commercial trading (Minute CSC/11/24 above also refers).

The Director of People and Organisational Development reported that the trading activities were moving on all the time. As a result, some minor changes were required to the Business Plan prior to final approval.

Councillor Boyd proposed (and was seconded by Councillor Mills) that the Business Plan be approved in principle subject to amendment prior to submission to the Committee for approval in due course.

This was carried unanimously.

RESOLVED that the Business Plan as set out in report CSC/12/2 be approved in principle and, subject to amendment, be recommended to the Devon and Somerset Fire and Rescue Authority for full approval.

***CSC/26. Training Academy Update**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee received for information a report of the Director of People and Organisational Development (CSC/12/3) that provided an update on the progress made to November 2011 in respect of the Training Academy and Schools within this, together with details of plans for the future in terms of course development and potential customers.

***CSC/27. Update on Current Commercial Leads**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee received for information an update given by the Director of People and Organisational Development at the meeting in respect of commercial leads that were being pursued and opportunities that had been taken in terms of its trading activities.

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

The meeting started at 10.00hours and finished at 11.28 hours

COMMERCIAL SERVICES COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

2 February 2012

Present:-

Councillors Healey (Chair), Boyd, Gribble, Mills and Randall Johnson

Apologies:-

Councillors Dyke and Smith

***CSC/28. Minutes**

RESOLVED that the Minutes of the meeting held on 5 January 2012 be signed as a correct record.

***CSC/29. Governance Issues**

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

The Chairman determined that this should be considered as a matter of urgency to enable consideration of the options available to the Committee in respect of the governance issues surrounding trading prior to the meeting of the Devon and Somerset Fire and Rescue Authority on 17 February 2012.

The Chief Fire Officer outlined a number of issues associated with the governance of commercial trading activities which it was intended to submit to the Authority at its meeting on 17 February 2012. Amongst other issues, it was proposed that the Terms and Reference for this Committee might be amended to increase its delegated power to act. This would allow a more responsive decision making process for commercial matters which required Member approval and ensure the timely entering into of contracts for the provision of goods and services.

The Committee enquired as to whether the Terms of Reference could be extended to include the power to approve the establishment of companies in partnership with other bodies to progress joint trading ventures. The Clerk advised that this may be possible but would perhaps require legal advice for clarification purposes.

RESOLVED that, in line with the discussion at the meeting, legal advice be sought to clarify the potential for further delegation to the Committee.

***CSC/30. 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.

No interests were declared.

***CSC/31. Exclusion of the Press and Public**

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of the Authority and other companies.

***CSC/32. Update on Current Commercial Leads**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee received for information an update given by the Director of People and Organisational Development in respect of commercial leads that were being pursued currently and opportunities that had been taken in terms of the Authority's commercial trading activities.

***CSC/33. Update on the Falck Partnership**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during consideration of which the press and public were excluded from the meeting).

The Committee received for information an update given by the Chief Fire Officer in conjunction with the Chair on the progress made to date in respect of the development of the joint venture with Falck DS.

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

The meeting started at 10.05hours and finished at 11.50hours

COMMUNITY SAFETY AND CORPORATE PLANNING COMMITTEE

12 January 2012

Present:-

Councillors Leaves (Chair), Boyd (vice Woodman), Brooksbank, Eastman, Foggin, Fry and Healey

Apologies:-

Councillor Woodman

*CSCPC/21. Minutes

RESOLVED that the Minutes of the meeting held on 28 November 2011 be signed as a correct record.

*CSCPC/22. 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.

No interests were declared at this time.

*CSCPC/23. Overview of Community Safety Activities

The Committee received, for information, presentations on the above and specifically:

- a presentation by the Head of Community Safety on the move away from the limited historical approach to community safety to the more pro-active, intelligence-based approach which better utilised existing, but finite, resources to target those groups most vulnerable. The presentation also highlighted some of the highly innovative approaches (e.g. firesetter interventions) developed over the years, often in partnership with other agencies;
- a presentation by the Corporate Planning Manager on the introduction and evolution of Local Community Plans including their role in enhancing both identification of community safety risks and needs and allocation of resources to address these at a local, station-based level;
- the cycle of “plan – do – review” operated by the Service to measure the effectiveness of its activities (including community safety initiatives) and respond in a timely and proportionate manner to any areas of under-performance identified;

- the success of the Service in receiving a national award for its part in the “Countrymile” joint venture, a partnership initiative promoted by the Department for Trade and Industry and involving, amongst others, the Devon County Council, the Devon & Cornwall Constabulary, the Devon Primary Care Trust and the South Western Ambulance Service NHS Trust. The initiative was aimed at reducing the number of road collisions, casualties and fatalities within the project area using a mix of enforcement, engineering and educational activities. The project had proven highly successful and, during the period from November 2008 to October 2009 had seen a 44% reduction in the number of collisions when compared with the average figure between 2002 and 2006. This also exceeded the 11% reduction secured across the rest of Devon for the same period.

The Director of Service Delivery commented that the above reflected the change in emphasis from the traditional, reactive role of the Service to a more pro-active, prevention and protection role and the considerable success of the Service in forging effective collaborative partnership arrangements with other agencies to effectively deliver the protection and prevention agenda to the betterment of the communities served.

***CSCPC/24. Hinckley Point C Development**

The Committee considered a report of the Director of Service Delivery (CSCP/12/1) on the current position in relation to the proposal for a new nuclear generating station at Hinkley Point. NNB Generation Company had now submitted a formal application for a Development Consent Order under the Planning Act 2008.

The development could have considerable implications both for the Service and the immediate communities it served in the vicinity of the development. Consequently, the Service had developed a strategy to monitor, inform and contribute to the process as far as was practicable. As part of this, the Service was proposing, in accordance with the Infrastructure Planning (Interested Parties) Regulations 2010, to register its interest in this matter with the Infrastructure Planning Commission (IPC), which would ultimately determine the Development Consent Order.

RESOLVED

- (a) that the Director of Service Delivery be authorised to register, by 23 January 2012, the Authority’s interest in the Hinkley C development with the Infrastructure Planning Commission;
- (b) that further reports associated with this significant development be submitted as and when required to future meetings;
- (c) that, subject to (a) and (b) above, report CSCP/12/1 be noted.

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

The meeting started at 10.00hours and finished at 11.20hours.

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

23 January 2012

Present:-

Councillor Cann (Chair), Bown, Brooksbank, Burrige-Clayton, Horsfall and Wright

Apologies:-

Councillor Boyd

***HRMDC/23. Minutes**

RESOLVED that the Minutes of the meeting held on 11 November 2011 be signed as a correct record.

***HRMDC/24. 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.

No interests were declared.

***HRMDC/25. Absence Management and Health of the Organisation**

The Committee received for information a report of the Director of People and Organisational Development (HRMDC/12/1) that set out the progress made with absence management, including an update on aspects linked to the overall health of the organisation.

The areas set out within the report included:

- Sickness absence performance 2011/12;
- Detailed breakdown of long term sickness;
- The main reasons behind sickness absence;
- Levels of stress and referrals to counselling;
- Staff turnover;
- Discipline and grievance cases;
- Collective relationships with unions.

The Human Resources Manager stated that the current actual level of sickness absence (to the end of November 2011) was 5.33 days/shifts lost per person as compared with the same period in 2010/11 when it was 5.12 days per person. Although the Service was not achieving the same level of absence as in 2010/11, this had been improving throughout the year and was due to lower levels of absence within Fire Control and non-station based Uniformed staff.

Attention was drawn to the point that there had been another increase in long terms sickness levels for November and December 2011 but that this appeared to be back on track in January 2012. Members of the Committee enquired as to how the Service compared with other local authorities and fire services nationally. The Human Resources Manager commented that the Service was above the average for the public sector but did not perform as well as the private sector. The results of a national survey reflected that sickness in other sectors tended to reflect the same reasons for absence namely, mental health and musculoskeletal issues.

In terms of the levels of stress and referrals to counselling within the organisation, it was noted that this had increased again within Somerset although it was recognised that the figures included the counselling sessions held as a result of the M5 motorway road traffic collision in November 2011. The Service was drilling down into the information to obtain the categories for referral for counselling which may give more explanation to report to the Committee in due course.

***HRMDC/26. Retained Duty System: Outcome from the Part Time Workers Regulations Employment Tribunal**

The Committee received for information a report of the Director of People and Organisational Development (HRMDC/12/2) that set out the position in respect of the payment of compensation to firefighters as a result of the outcome of the case raised under the Part Time Workers Regulations at an Employment Tribunal.

It was noted that Popularis, the company engaged to deal with the payments to staff, would be in a position shortly to issue settlement offer letters to individuals. There had been £643,000 set aside in the Reserves for current personnel together with those leavers who had made a claim. It was envisaged that a further £900,000 may be needed to cover the issue of pensions and provision had been made for this although this matter had not yet been concluded.

***HRMDC/27. Strategic Workforce Planning**

The Committee considered a report of the Director of People and Organisational Development (HRMDC/12/3) that set out the workforce planning activity being undertaken by the Service to ensure that it had the correct staffing capacity in place to deliver the corporate objectives.

RESOLVED

- (a) that the Committee includes this matter as a standing agenda item for future meetings, and;
- (b) subject to (a) above, the report be noted.

***HRMDC/28. Exclusion of the Press and Public**

RESOLVED that, in accordance with Section 100A(4) of the Local Government Act 1972 the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 3 and 4 of Part 1 of Schedule 12A (as amended) to the Act, namely:

- Paragraph 3 - information relating to the financial or business affairs of the Authority; and

- Paragraph 4 – information relating to any consultations or negotiations or contemplated consultations or negotiations in connection with any labour relations matter arising between the Authority and its employees.

***HRMDC/29. Review of the Redundancy Multiplier**

(An item taken in accordance with Section 100A (4) of the Local Government Act 1972 during which the press and public were excluded).

The Director of People and Organisational Development reported that the Devon and Somerset Fire and Rescue Authority had agreed a multiplier to be used in the event of either compulsory or voluntary redundancy situations and that this was subject to review on an annual basis.

The Committee discussed the basis on which the multiplier may be reviewed, whereupon Councillor Bown moved (and Councillor Burridge-Clayton seconded):

“that the Director of People and Organisational Development be requested to undertake further research in respect of the redundancy multiplier offered by other fire and rescue and local authorities with a view to the submission of a report on potential options being submitted to a future meeting of the Committee”.

This was carried unanimously.

RESOLVED that the Director of People and Organisational Development be requested to undertake further research in respect of the redundancy multiplier offered by other fire and rescue and local authorities with a view to the submission of a report on potential options being submitted to a future meeting of the Committee.

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

The meeting started at 14.00hours and finished at 14.55hours

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

1 February 2012

Present:-

Councillors Way (Vice Chair - in the Chair), Bakewell (vice Dyke), BurrIDGE-Clayton, Drean, Mills and Radford.

Apologies:-

Councillors Dyke (Chair) and Gribble.

***APRC/22. Minutes**

RESOLVED that the Minutes of the meeting held on 17 November 2011 be signed as a correct record.

***APRC/23. 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/24. Devon and Somerset Fire and Rescue Authority Performance Report: April to November 2011**

The Committee received for information a report of the Deputy Chief Fire Officer (APRC/12/1) that set out the Service's performance in April to November 2011, as measured against the targets set out within the Corporate Plan for 2011/12 to 2013/14.

The Committee was informed of the progress made against the targets with particular emphasis on areas where there had been a positive improvement or a decrease in performance in particular. In this regard, the following points were noted:

Measures 1 to 3 - Deaths, injuries and incidents which occurred as a result of fire in the places where people lived:

- In terms of measure 1, it was noted that there had been 4 deaths to November 2011. A downward trend was still being maintained, however.
- On measure 2, there had been 32 injuries recorded to November 2011, of these 25 were at accidental fires at places where people lived, lower than the same period in the 2 years previously. 7 of these were deliberate, however.
- There had been a 13% drop (672 fires as opposed to 775 the previous year) in the number of fires in places where people lived, although it was noted that the number of deaths was not dropping proportionately.

- The downward trend in respect of measures 2 & 3 was still being maintained which was very positive.

Measures 4 to 6 - Deaths, injuries and incidents which occurred as a result of fire in the places where people worked and visited:

- Measure 4 - The level of deaths arising as a result of fire in places where people worked and visited had remained fairly consistent at 4 or 5 a year since 2007/08. The 4 deaths to date in 2011/12 related to the road traffic collision (RTC) on the M5 in November 2011, however, it was yet to be confirmed if these were all attributable to fire rather than being impact related.
- The number of injuries arising as a result of the fires associated with the M5 RTC had yet to be confirmed and therefore the statistics showed a figure of 0.
- There was a decreasing trend since 2007/08 in respect of the number of fires where people worked or visited.

Reference was made at this point to the number of deliberate fires that had occurred in places where people lived as well as where they worked and visited. The Deputy Chief Fire Officer advised that work was being undertaken by the Service to reduce the number of deliberate fires. This would be reported at a future meeting for information.

Measures 7 and 8 - Occasions where response standards are met for first attendance at dwelling fires and RTCs:

- The Emergency Response Standards (ERS) was the subject of investigation by the Service Delivery Group as this had fallen from 74.14% in 2010/11 to 71.36% in 2011/12. Further information on this would be reported to the Committee in due course.

Measure 9 – community risk profiles had been prepared in preparation for the development of the Local Community Plans in 2012/13.

Measures 10 and 11 – these had not changed since the previous report to the Committee.

The Committee noted that the Service had also been undertaking a lot of work in respect of the number of vehicle accidents including both cars and appliances and that the number of accidents was decreasing at a quicker rate than the number of incidents. In 2011/12 to date, there had been only 27 accidents whilst proceeding to an incident compared to 61 in the same period in 2009/10 and 38 in 2010/11. Personal injuries had been reduced in addition with a 30% reduction over 3 years.

***APRC/25. Audit and Review 2011/12: 3rd Quarter Progress Report**

The Committee received for information a report of the Audit & Review Manager (APRC/12/2) that set out progress against the approved 2011/12 Audit and Review Plan and which provided assurance statements for the audits that had been completed up to December 2011. The report also detailed the key findings of the Hydrant Management and Glastonbury Festival audit reviews.

Martin Gould and Rob Hutchings, representing the Devon Audit Partnership, were present at the meeting and reported upon the work being undertaken in financial systems for the Authority.

***APRC/26. Audit Commission Update Report**

The Committee received for information a report submitted by the Audit Commission. David Bray and Alun Williams, representing the Audit Commission, were at the meeting to present the report to the Committee.

The report covered, amongst other things, an update on the externalisation of the Audit Commission and a summary of the findings of the audit of the 2010/11 accounts.

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

The meeting started at 10.00hours and finished at 11.00hours.

RESOURCES COMMITTEE

(Devon and Somerset Fire and Rescue Authority)

3 February 2012

Present:-

Councillors Gordon (Chairman), Bakewell MBE, Hughes OBE, Smith and Yeomans.

***RC/13. Minutes**

RESOLVED that the Minutes of the meeting held on 19 October 2011 be signed as a correct record.

***RC/14. 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.

No interests were declared.

***RC/15. Treasury Management Performance 2011/12**

The Committee received for information a report of the Treasurer to the Authority (RC/12/1) that set out as presented by the Mr Adam Burleton from SECTOR, the Authority's independent Treasury Management adviser, on the Authority's performance against its approved Treasury Management Strategy for 2011/12 (to December 2011).

The report concluded that none of the Prudential Indicators had been breached and that a prudent approach had been adopted on investment decisions taken so far, with priority being given to liquidity and security over yield. The Authority had achieved a return of 0.80% on its investments for the quarter ending December 2011, which was above the LIBID 7 day benchmark (0.50%), although it had not achieved the 3 month rate (0.89%). The reason behind this was that, given the high degree of volatility within the money markets this quarter, investments had been kept predominantly short term to allow for easy access.

***RC/16. Financial Performance Report 2011/12 - Quarter 3**

The Committee considered a report of the Treasurer to the Authority (RC/12/2) on the performance of the Authority for the third quarter of the current financial year (2011/12) against the agreed financial targets for that year. It also detailed the monitoring position in relation to the approved revenue budget and capital programme.

In relation to the revenue budget, current indications were that spending would be £74.190m against an approved budget of £75.141m, representing a forecast saving of £0.951m (1.25%). The projection was based on the spending position as at the end of December 2011, historical trends, information from budget managers and known commitments. The Treasurer indicated that he had not made a recommendation as to how this underspend should be utilised pending the actual outturn at the year end.

The report also detailed the position to date against those areas identified for savings as part of the approved revenue budget along with the current position in relation to reserves and provisions.

In terms of capital, it was noted that a saving had been generated on capital charges as a result of the slippage on the Capital Programme (Minute RC/18 below also refers). It was proposed that, of the savings on debt charges in 2011-12 resulting from this slippage, an amount of £0.250m be utilised as direct revenue funding for capital spending thus reducing the Authority's borrowing requirement by the same amount. A recommendation for a virement of these funds, together with a virement of £0.172m on the staffing salary lines, was made accordingly.

RESOLVED

- (a) That it be recommended to the Devon and Somerset Fire and Rescue Authority that the budget virements outlined in paragraph 10.1 of report RC/12/1 (as appended to these Minutes for reference) be approved;
- (b) That, subject to (a) above, the monitoring position in relation to projected spending against the 2011-2012 revenue and capital budgets be noted;
- (c) That the performance against the 2011-2012 financial targets be noted.

NB. MINUTE RC/18 BELOW ALSO REFERS

RC/17. 2012/13 Revenue Budget and Council Tax Level

The Committee considered a report of the Treasurer and Chief Fire Officer (RC/12/3) that set out the necessary financial background in order that the Committee could give due consideration to an appropriate level of Revenue Budget and Council Tax for 2012/13 and to make a recommendation to the Fire and Rescue Authority accordingly. With this in mind, the Treasurer referred to the following points:

- details of the local government finance settlement for 2012/13 (which represented an increase of 1.9% over 2011/12 with a Formula Grant of £31.484m). Reference was also made to the Local Government Resource Review and the new requirement to hold a Local Referendum for excessive council tax increases (of 4% and above for fire and rescue authorities);
- four options for the proposed level of council tax were set out, namely:

Option A	–	freeze council tax at 2011/12 level and take the Government Reward Grant (£71.77 for Council Tax Band D property)
Option B	–	increase council tax by 2.0% above 2011/12 (£73.20)
Option C	–	increase council tax by 2.5% (£73.56)
Option D	–	increase council tax by 3.0% (£73.92)
- details of the core revenue budget requirements for 2012/13, together with details of invest-to-save opportunities, existing inescapable commitments and proposed essential spending pressures;
- the Medium Term Financial Plan (MTFP) 2012/13 to 2014/15;
- plans to achieve the required budget reductions 2012/13 to 2015/16;

- details of the precept consultation for 2012/13;
- the levels of reserves and balances.

The Committee considered at length the options that had been suggested by the Treasurer for potential increases in Council Tax. The Treasurer advised that the reward grant on offer in 2012/13 was a one-off payment and would not be included in the base budget in future years. This made it much less attractive than the reward grant offered in 2011/12, which would be paid for a minimum of four years. Reference was also made to the precept consultation exercise that had been carried out. This had been extended in 2012/13 to include the public for the first time and, notably, the responses showed that more people (both businesses and members of the public) felt that it was reasonable for the Authority to consider increasing Council Tax than felt that it was not reasonable.

Councillor Smith moved (and was seconded by Councillor Yeomans):

“that it be recommended to the budget setting meeting of the Fire and Rescue Authority, to be held on the 17 February 2012, that the level of council tax in 2012/13 for a Band D property be increased by 3% to a level of £73.92, as outlined as Option D in paragraph 5.3 of report RC/12/3”.

Upon a vote (4 for, 1 abstention), the motion was carried.

RESOLVED that it be recommended to the budget setting meeting of the Fire and Rescue Authority, to be held on the 17 February 2012, that;

- (a) the level of council tax in 2012/13 for a Band D property be increased by 3% to a level of £73.92, as outlined as Option D in paragraph 5.3 of report RC/12/3;
- and that, consequently;
- (b) a Net Budget Requirement of £78,676,700 for 2012/13 be set.

NB. MINUTE RC/18 BELOW ALSO REFERS.

RC/18. Capital Programme 2012/13 to 2014/15

The Committee considered a report of the Director of Service Support and Treasurer (RC/12/4) that set out details of the revised Capital Programme for 2012/13 to 2014/15 and associated Prudential Indicators, together with proposals to make a contribution of £1.850million from the revenue budget to part fund the 2012/13 Capital Programme.

The Director of Service Support referred to the proposals for the Capital Programme and the limitations on borrowing which meant that the Authority would have to limit the amount of capital investment around new capital builds and further suspend the fire appliance replacement programme.

Attention was also drawn to a number of capital spending pressures, including notably:

- the need for harmonisation of the Breathing Apparatus sets between Devon and Somerset at a cost of approximately £1.4m, and;

- Estate maintenance which required further funds of, estimated in the region of an initial £2m, to meet ever increasing demands due to an ageing property portfolio.

The Treasurer reported that one of the primary considerations in respect of the Capital Programme was its affordability and reference was made to the point that the guiding principle set was that debt repayments should be kept to within 5% of the total revenue budget. The proposed Capital Programme required an increase in borrowing to £32.7m by 2014/15, whilst still maintaining the debt ratio below the 5% threshold (4.99%).

It was recognised that it was becoming increasingly difficult to maintain a Capital Programme that was affordable within the Prudential Indicators but allowed the Authority to meet all of its capital expenditure requirements, given the size and complexity of the Authority's capital assets. A balance needed to be struck in terms of affordability of the Programme based on the valuation of the Estate together with the impact on the revenue budget and the debt exposure. The Treasurer advised that the addition of a further £2m to the Programme would result in an increase of approximately 0.3% to the level of debt ratio.

RESOLVED that the Devon and Somerset Fire and Rescue Authority at its meeting on 17 February 2012 be asked to:

- (a) Approve, in accordance with Financial Regulations, a contribution of £1.850m from the 2012-2013 Revenue budget to part fund the 2012-13 capital programme, and;
- (b) Subject to (a) above, approve the Capital Programme and associated prudential indicators for the years 2012-2013 to 2014-2015, as included within Appendix B of report RC/12/4; and;
- (c) Subject to (a) and (b) above, the report be noted.

NB. MINUTE RC/16 ABOVE ALSO REFERS

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

The meeting started at 11.00hours and finished at 12.08hours



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/1
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	RESULTS AND RECOMMENDATIONS ARISING FROM CONSULTATION ON THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY CORPORATE PLAN 2012/13 TO 2014/15 AND A PROPOSAL TO AMEND THE RESPONSE TO AUTOMATIC FIRE ALARM (AFA) CALLS
LEAD OFFICER	Chief Fire Officer
RECOMMENDATIONS	<p>a) <i>that the outcome of the consultation on the Draft Corporate Plan 2012/13 to 2014/15 be noted;</i></p> <p>b) <i>that, arising from the consultation, the following be approved:</i></p> <p><i>i. Recommendation 1</i></p> <p><i>to indicate that the requirements of Integrated Risk Management Planning are integrated within the Corporate Plan 2012/13 to 2014/15; and</i></p> <p><i>to make prevention, protection and response performance information, demonstrating how our outcomes support our Corporate Plan, more easily accessible to the public.</i></p> <p><i>ii. Recommendation 2</i></p> <p><i>that the domestic element of the Automatic Fire Alarms (AFA) proposal, as outlined in the consultation document, be implemented.</i></p> <p><i>iii. Recommendation 3</i></p> <p><i>That, after consulting widely on the proposal to change the response to non-domestic (non-residential) automatic fire alarm calls, as outlined in the consultation document, the changes should not be implemented at this time.</i></p>

	<p><i>Although there is public support for non-attendance, there is a need to provide more information and guidance to businesses to give them an opportunity to reduce unwanted calls to the fire and rescue service prior to a non-attendance policy being implemented. The existing arrangements already approved by the fire authority and the rigorous application of the Chief Fire Officers' Association protocol will assist the reduction of false alarms. If these arrangements do not prove to be effective, a subsequent paper to the fire authority will be presented using the results of this consultation as a basis.</i></p> <p><i>iv. Recommendation 4</i></p> <p><i>that the existing automatic fire alarm policy for managing down non-domestic AFAs be amended to include cost recovery as allowed by the Localism Act 2011, and which was approved by the DSFRA, following public consultation, on 27 May 2011 (Minute ref. DSFRA/11 refers).</i></p> <p><i>Note: This change would apply to all non-domestic properties in the Service area.</i></p>
<p>EXECUTIVE SUMMARY</p>	<p>This report presents a summary of the results and recommendations from the consultation on the Draft Corporate Plan 2012/13 – 2014/15 and the automatic fire alarm proposal. The consultation took place over a thirteen week period between 3 October 2011 and 4 January 2012.</p> <p>The questionnaire results show that most respondents agreed with the proposals to change the Service's response to domestic and non-domestic automatic fire alarms. However, opinions gathered from focus groups with staff, members of the public and businesses, also supplemented by written comments received from surveys, letters and emails, show that there are various concerns relating to specific details of the proposal. Having listened to these opinions and carefully considered them, this report contains recommendations that amend the element of the original proposal relating to non-domestic properties.</p>
<p>RESOURCE IMPLICATIONS</p>	<p>As indicated in the report.</p>
<p>EQUALITY IMPACT ASSESSMENT</p>	<p>Where required, the proposals contained in the consultation on the draft Corporate Plan 2012/123 to 2014/15 have been subject either to an Equality Impact Assessment or its successor, an Equality Risks and Benefits Analysis (in the case of the AFA proposal). These can be made available on request.</p>
<p>APPENDICES</p>	<p>A Detailed Consultation Report (page numbered and enclosed separately with the agenda for this meeting)</p>
<p>LIST OF BACKGROUND PAPERS</p>	<p>Report DSFRA/11/11 as submitted to the meeting of the Authority held on 27 May 2011.</p> <p>Report DSFRA/11/23 as submitted to the meeting of the Authority held on 29 September 2011.</p>

1. INTRODUCTION AND CONTEXT

- 1.1 Following approval by Devon & Somerset Fire & Rescue Authority on 29 September 2011 consultation commenced on the Draft Corporate Plan 2012/13 to 2014/15. The consultation included a specific focus on the proposal to change the response to automatic fire alarms as presented in the draft plan. The thirteen week consultation period started on 3 October 2011 and closed on 4 January 2011, which incorporated an additional week for the Christmas and New Year holiday period.
- 1.4 As in previous years, the annual requirement to produce an Integrated Risk Management Plan (IRMP) has been integrated with the production of the Corporate Plan. The draft plan was also presented in a new more concise style to make it more reader friendly. Its structure is based on the framework of the three strategic principles established in the organisational strategy 'Towards 2014'.
- 1.5 Due to the delay of the government grant announcement in 2010 the consultation on the 2011/12 to 2013/14 Corporate Plan was undertaken at the start of 2011. This imposed constraint has meant that consultation on two corporate plans has been undertaken in one calendar year.
- 1.6 The consultation on the Draft Corporate Plan was again set against the context of the uncertainty surrounding the level of savings that the Service will need to make in the future. The Draft Corporate Plan presents plans for operating under the current expectation to make savings of between four and nine million pounds by 2014/15.
- 1.7 The proposal to change the response to automatic fire alarms focuses on false alarm reduction rather than financial savings. The proposal considers domestic and non-domestic (non-residential) automatic fire alarms separately. This proposal was specifically chosen for consultation as it affects the service received by the community.
- 1.8 This report presents a high level summary of the key consultation results together with recommendations for consideration by the Authority. A full detailed report on the consultation is attached in Appendix A.

2. SUMMARY OF DRAFT CORPORATE PLAN RESULTS AND RECOMMENDATIONS

- 2.1 The responses to the content of the whole Draft Corporate Plan were limited with only three responses received. All other responses received in the consultation related to the automatic fire alarms (See Section 3). Two responses were from representative bodies (Fire Brigades Union and Unison) and one came from a member of staff.
- 2.2 The responses from the Fire Brigades Union, Unison and member of staff are summarised in Appendix A and, where appropriate, a Service response has been provided in italics.

Recommendation 1

Having considered the consultation responses from the Representative Bodies and member of staff, the following changes are recommended:

to indicate that the requirements of Integrated Risk Management Planning are integrated within the Corporate Plan 2012/13 to 2014/15; and;

to make prevention, protection and response performance information, demonstrating how our outcomes support our Corporate Plan, more easily accessible to the public.

2.3 It is recommended to the Fire Authority that these arrangements are adopted.

3. SUMMARY OF THE DOMESTIC AFA PROPOSAL, RESULTS AND RECOMMENDATION

3.1 Consultation was undertaken on the proposal to change the way the Service responds to automatic fire alarms at domestic properties. The proposed change is outlined below.

3.2 The proposed change for all domestic properties:

Attendance at domestic (residential) automatic fire alarm (AFA) calls should be reduced from two fire engines to one, between 8.00am and 6.00pm, unless the person reporting the alarm can confirm that there is a fire.

Results

3.3 The results of the consultation on the domestic element of the proposal indicate that there is support to reduce attendance at automatic fire alarms, between the hours of 8.00am and 6.00pm, from two fire engines to one. External stakeholders showed strongest support for the proposal. The quantitative consultation results for the domestic proposal are summarised in Table 1 below.

Table 1: Quantitative results (agree only) for the domestic proposal

	Questionnaire		Focus groups			
	Agree with proposal		Agree with proposal (Vote 1)		Agree with proposal (Vote 2)	
	%	#	%	#	%	#
Online and paper questionnaires	79.9	139				
Public focus group			86.9	40	84.7	39
Business focus group			77.6	23	88.5	23
Minority advocate focus group			66.7	4	66.7	4
Staff focus group			21.4	3	11.1	1

3.4 The free text responses returned with completed questionnaires suggest that most respondents supported the domestic and non-domestic proposals. Few concerns were raised about the domestic proposal from the focus groups, but where concerns were highlighted they referred to:

- 3.5 The policy should consider the building type, construction, use and location on a risk basis:
- There were concerns about a 'one size fits all' approach considering the range of property types within different classifications and the differences between rural and urban sites across the Service area. There appears to be a significant 'grey area' in terms of the in-scope properties that requires clarification, and this includes how the policy relates to site-specific risk assessments.
- 3.6 The policy will increase risk to public and fire fighter safety:
- Asking members of the public to confirm signs of fire potentially puts them in danger, and more established fires are more dangerous to both members of the public and to firefighters. Reduced attendance may be fine for false alarms, but what happens when there is a real fire? Would the delay encourage people to fight fires themselves?
- 3.7 The concerns relating to the consideration of risk were raised in most focus groups, and the proposal will consider these aspects by retaining pre-determined attendance criteria for properties deemed to be high risk. It should be noted that the proposal does not include non-domestic (residential) properties such as hospitals, hotels or care homes.
- 3.8 Staff and others raised concerns about the operational consequences of responding with one fire engine if it is only crewed by four firefighters. Whilst the preferred arrangement is to mobilise with five firefighters, there are occasions where a fire engine is mobilised with four firefighters. Given the perceived risk in relation to automatic fire alarms is low, it is for the officer in charge of the first attendance to make an assessment for any additional resources they deem necessary to ensure firefighter and public safety. If the domestic proposal is implemented this operational policy would not change.
- 3.9 The need to clearly communicate any changes to DSFRS service provision, following consultation, was identified as necessary and important. Feedback from the consultation highlighted the contradiction between existing fire safety messages and the perceived intentions of the proposal. The need to manage the expectations of the community and to communicate with them during the implementation of any changes should be borne in mind when considering the following recommendations.

Recommendation 2

That the domestic element of the AFA proposal, as outlined in the consultation document be implemented.

- 3.10 It is recommended to the Fire Authority that this arrangement be adopted.

4. SUMMARY OF THE NON-DOMESTIC AFA PROPOSAL, RESULTS AND RECOMMENDATIONS

- 4.1 Consultation was undertaken on the proposal to change the way the Service responds to automatic fire alarms at non-domestic properties. The proposed change is outlined below.

4.2 The proposed change for specified types of non-domestic (non-residential) premises (see Table 2 below):

Attendance at the listed non-domestic (non-residential) properties should be stopped between 8.00am and 6.00pm unless the person making the automatic fire alarm (AFA) call can confirm that there is a fire on the premises.

Table 2: Non-residential property types to which the non-domestic element of the proposal would apply

Education	Religious
Entertainment and Culture	Retail
Food and Drink	Sporting Venues
Industrial Manufacturing	Transport Buildings
Industrial Processing	Type Not Specified
Offices and Call Centres	Vehicle Repair
Public Administration	Warehouses and Bulk Storage

Results

4.3 The results of the consultation on the non-domestic element of the proposal indicates that there is support to no longer attend certain types of business premises when there is an automatic fire alarm unless the person making the call can confirm there is a fire. The quantitative consultation results for the non-domestic proposal are summarised in Table 3 below.

Table 3: Quantitative results (agree only) for the non-domestic proposal

	Questionnaire		Focus groups			
	Agree with proposal		Agree with proposal (Vote 1)		Agree with proposal (Vote 2)	
	%	#	%	#	%	#
Online and paper questionnaires	63.7	114				
Public focus group			73.4	33	78.2	36
Business focus group			56.7	17	65.4	17
Minority advocate focus group			83.4	5	100.0	6
Staff focus group			28.6	4	22.2	2

- 4.4 The quantitative results in Table 3 indicate support for the proposed policy and this was mirrored in the public focus groups where support for the proposal was the most frequently expressed opinion.
- 4.5 In both the public and business focus groups a common theme was that businesses and members of the public need to manage their own risks; that emergency plan implementation should not depend on the DSFRS. For businesses this is already a requirement of the Regulatory Reform (Fire Safety) Order.
- 4.6 The qualitative comments received during discussions at the focus groups and submitted in letters, emails and the questionnaires did highlight several areas of concern with the non-domestic proposal. The key areas of concern are:
- 4.7 The policy should consider the building type, construction, use and location on a risk basis:
- There were concerns about a 'one size fits all' approach considering the range of property types within different classifications and the differences between rural and urban sites across the Service area. There appears to be a significant 'grey area' that requires clarification and this includes how the policy relates to site specific risk assessments.
- 4.8 Concern about the proposed times of operation:
- Times seen as arbitrary and not reflective of the needs of businesses / habits of individuals.
- The policy will increase risk to public and fire fighter safety:
- Asking members of the public to confirm signs of fire potentially puts them in danger, while more established fires are more dangerous to both members of the public who are trapped and to firefighters. Reduced attendance may be fine for false alarms, but what happens when there is a real fire? Would the delay encourage people to fight fires themselves?
- Lack of availability/time delay of person to confirm there is a fire will increase risk:
- Where premises are not occupied 24hrs/day seven days/week, delays in obtaining confirmation may allow small fires to become established and may lead to an increase in the number of serious fires
- 4.9 The staff focus group also emphasised that the existing automatic fire alarm policy should be applied more rigorously.
- 4.10 Having listened to and carefully considered all the opinions expressed, it is recognised that, despite quantitative support of 63.7%, the qualitative feedback highlights concerns about the proposed policy change to the standard non-domestic response. To fully investigate these concerns and give them due consideration will require time, and it is therefore not recommended that the proposed policy change as outlined above be implemented at this time.

Recommendation 3

That, after consulting widely on the proposal to change the response to non-domestic (non-residential) automatic fire alarm calls, as outlined in the consultation document, the changes should not be implemented at this time.

Although there is public support for non-attendance, there is a need to provide more information and guidance to businesses to give them an opportunity to reduce unwanted calls to the fire and rescue service prior to a non-attendance policy being implemented. The existing arrangements already approved by the fire authority and the rigorous application of the Chief Fire Officers' Association protocol will assist the reduction of false alarms. If these arrangements do not prove to be effective, a subsequent paper to the fire authority will be presented using the results of this consultation as a basis.

- 4.11 It is recommended to the Fire Authority that this arrangement be adopted.
- 4.12 Alternative proposals suggested included, among others: charging for attending false alarms; applying the proposed policy 24 hours a day; and having reduced attendance but not non-attendance.
- 4.13 The existing DSFRS Unwanted Fire Signals Policy operates within the scope and intent of the current CFOA protocol. It uses a four stage approach to help poor performing non-domestic properties reduce the number of AFA calls that come from their systems. The fourth stage of the current policy allows the use of remedial action, including reduction of attendance, if poor performance persists. DSFRS proposes to enhance its existing approach to managing the reduction of AFA calls through the introduction of cost recovery as a replacement for reduced attendance.
- 4.14 In 2011 the Authority approved, following public consultation (Minute ref. DSFRA/11 (27/05/2011)) to adopt, on its becoming law, the powers contained with the Localism Bill 2010 that would permit the recovery of costs incurred in attending repeat calls to false alarms caused by poorly maintained or defective automatic fire alarms systems at non-domestic properties. The Bill received Royal Assent in November 2011 and the Authority expects to be able to recover costs from April 2012 when the relevant section of the Act is predicted to commence.

Recommendation 4

That the existing automatic fire alarm policy for managing down non-domestic AFAs be amended to include cost recovery as allowed by the Localism Act 2011, and which was approved by the DSFRA, following public consultation, on 27/05/2011 (Minute ref. DSFRA/11).

Note: This change would apply to all non-domestic properties in the Service area.

- 4.15 It is recommended to the Fire Authority that this arrangement be adopted.
- 4.16 The arrangements outlined within this plan support our strategic intent to protect the public of Devon and Somerset and become a more efficient and effective organisation at the same time. Changes have been made to the original proposals after taking into account comments from staff, businesses and the public and I commend the report to the Fire Authority.

LEE HOWELL
Chief Fire Officer



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/2
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	CAPITAL PROGRAMME 2012/13 TO 2014/15
LEAD OFFICER	CHIEF FIRE OFFICER AND TREASURER
RECOMMENDATIONS	<i>That the appendix to this report be considered with a view to approving the recommendation set out therein, as commended to the Authority by the Resources Committee at its meeting on 3 February 2012 (Minute RC/18 refers).</i>
EXECUTIVE SUMMARY	Appended to this paper is the report previously considered by the Resources Committee at its meeting on 3 February 2012 and setting out the proposed Capital Programme 2012/13 to 2014/15.
RESOURCE IMPLICATIONS	As set out in the report appended to this paper.
EQUALITY IMPACT ASSESSMENT	As set out in the report appended to this paper.
APPENDICES	A. Capital Programme 2012/13 to 2014/15 – report RC/12/4 as submitted to the meeting of the Resources Committee on 3 February 2012.
LIST OF BACKGROUND PAPERS	As per attached Appendix.

DEVON & SOMERSET FIRE & RESCUE AUTHORITY



REPORT REFERENCE NO.	RC/12/4
MEETING	RESOURCES COMMITTEE
DATE OF MEETING	3 FEBRUARY 2012
SUBJECT OF REPORT	CAPITAL PROGRAMME 2012/13 TO 2014/15
LEAD OFFICER	DIRECTOR OF SERVICE SUPPORT AND TREASURER
RECOMMENDATIONS	<p><i>That the Devon and Somerset Fire and Rescue Authority at its meeting on 17 February 2012 be asked to:</i></p> <p><i>(a) Approve, in accordance with Financial Regulations, a contribution of £1.850m from the 2012-2013 Revenue budget to part fund the 2012-13 capital programme, and</i></p> <p><i>(b) Subject to (a) above approves the Capital Programme and associated prudential indicators for the years 2012/2013 to 2014/2015, as included within report RC/12/4; and</i></p> <p><i>(c) Subject to (a) and (b) above, the report be noted.</i></p>
EXECUTIVE SUMMARY	<p>Each year, the Capital Programme is reviewed and adjusted to include new projects or those that have been carried forward, allowing the capital investment needs of the Service to be understood over a three year rolling programme.</p> <p>Capital expenditure remains an issue for this Authority given the size of the property portfolio and the Service's growing maintenance obligations – a position made worse by the 25% reduction in fire grant funding announced in the Comprehensive Spending Review 2010.</p> <p>The consequence of a reducing revenue budget will impact on borrowing limits for this Authority and, whilst the Service has maintained expenditure within limits, certain projects and opportunities have been revised accordingly.</p>
RESOURCE IMPLICATIONS	As indicated within the Report

EQUALITY IMPACT ASSESSMENT	An initial assessment has not identified any equality issues emanating from this report.
APPENDICES	A. Summary of Proposed Capital Programme 2012/13 –2014/15 B. Prudential Indicators 2012/13 – 2014/15
LIST OF BACKGROUND PAPERS	None

1. INTRODUCTION

- 1.1 Each year the Capital Programme is reviewed and adjusted to include new projects or those that have been carried forward, allowing the capital investment needs of the Service to be understood over a three year rolling programme. Appendix A represents the proposed programme for 2012/13, including years 2013/14 and 2014/15.
- 1.2 Capital expenditure remains an issue for this Authority given the size of the property portfolio and our growing maintenance obligations. A position made worse by the 25% reduction in Fire grant funding announced in the Comprehensive Spending Review 2010.
- 1.3 The programme continues to be adjusted annually, to meet the pressing needs of this Authority, which in the past has been met from the reduction of the vehicle replacement programme to accommodate projects such as the new fire stations builds and the more recent Training Academy development at Exeter Airport. However, there are a number of essential projects pending, such as the harmonisation of breathing apparatus equipment and the need to reinstate the vehicle replacement programme in full by 2013/14. These projects put significant pressure on the capital programme and the ability to keep borrowing costs within the 5% prudential indicator previously recommended to the Authority.
- 1.4 For 2012/13 this position has, in part, been eased by the allocation of £2.021m direct grant funding from the Department for Communities and Local Government (CLG) as part of the £70m allocated nationally to Fire. For 2013-14 and beyond, this grant will be subject to a new distribution formula, which will involve only part of the £70m being allocated direct to individual FRAs, the remainder being subject to some form of bidding process. The criteria to be applied to the bidding process is yet to be announced but it is anticipated that successful bids will be those that can demonstrate the delivery of efficiencies.
- 1.5 This report therefore proposes a programme for 2012/13 to 2014/15 whilst recognising that this Authority faces significant pressure in balancing what is affordable in terms of its exposure to external borrowing, particularly in light of the current economic position and changing interest rates and ensuring our assets remain 'fit for purpose'.

2. FINANCING OF THE PROPOSED CAPITAL PROGRAMME

- 2.1 In 2010/11, a report RC/08/10 - "Affordable Capital Investment Plans for 2009-2010 to 2011-12" was submitted to the Resources Committee regarding the instigation of a principle that debt repayments be kept below 5% of the total revenue budget. It was subsequently identified that this may be breached in 2012/13, although this is not as a consequence of borrowing being in excess of agreed limits, but future revenue budgets being lower than originally forecast following the Comprehensive Spending Review (CSR) 2010 announcement. This resulted in a 25% reduction in government grant by 2013/14 and consequently, the Capital Programme going forward will be affected.
- 2.2 The tests of affordability are measured by compliance with the CIPFA Prudential Code for Capital Financing for Local Authorities. Under this code, the Authority is required to set a suite of indicators to provide assurance that capital spending is prudent, affordable and sustainable. The indicators are reviewed annually, although set for the three year period. They also include setting maximum borrowing limits to provide assurance around prudence and the setting of maximum debt ratios to provide assurances in relation to affordability and sustainability.

- 2.3 The issue of affordable capital spending has been the subject of several reports to both this Committee and the Authority in recent years. The most recent report was considered in February 2011 (report DSFRA/11/1 refers) when setting the existing capital programme, which was approved in the knowledge that external borrowing would need to increase to £33.6m by 2013/14, which would increase the debt ratio to 4.93%. The external borrowing requirement figure at the end of 2011/12 is forecast to be £27.0m.
- 2.4 Whilst a debt of £33.6m is not considered excessive for this size Authority, it is evident that the Committee will want to monitor its exposure to further debt levels as the Service moves forward in the next 3-5 years, to ensure that the debt levels are affordable in the context of the ability to service debt repayments through the revenue budget.
- 2.5 The focus of this Authority has been to control spending within the 5% limit. To achieve this, the Service has, over recent years, reduced the spend on the appliance replacement programme to support estates projects, and utilised revenue funding wherever possible. It has always been intended to replace the fleet programme in full by 2013/14, however, the extent to which this can be achieved will always be subject to affordability issues as measured by the Prudential Indicators.
- 2.6 The revised programme proposed in this report has again been constructed on the basis of keeping the debt ratio within the 5% limit by 2014/15. This inevitably means that not all of the Service's capital investment backlog can be delivered in this period, and the position will need to be reviewed in twelve month's time when a clearer picture is available as to the extent of the revenue grant reductions for 2013/14 and 2014/15.

3. SERVICE ESTATES

- 3.1 The current budget for Estates remains consistently insufficient for the extensive property portfolio and associated maintenance requirements, the budget, outside of specific projects is normally in the range of £1.75 - £2m. However, this figure does not reflect the true costs which are in the region of £5m. Whilst combination provided many benefits, the Estates department inherited additional building stock with no increase in budget or staffing. In recognising the additional pressures over the next few years, the estates function is currently being reviewed by Atkins consultants, the aim of which is to identify where improvements can be achieved whilst maximising our current building stock for the benefit of the Service. The outcome of which will be reported to Members in due course.
- 3.2 It is proposed that the capital programme for 2012/13 is £6.062m to support slippage from 2011/12 and Phase 2 of the training arrangements at Exeter Airport, as approved by the Authority. The remaining budget reflects the normal annual allocation for minor works, improvements and structural maintenance. For 2013/14 this budget is significantly reduced, to an allocation of £1.750m. The Service Management Property Plan will be revised and reported to the Committee in due course.

4. EXETER AIRPORT TRAINING CENTRE

- 4.1 Negotiations regarding the lease have been protracted, delaying the commencement date of this project. Whilst these have now concluded there remain some outstanding conditions yet to be met. It is expected that work will commence early in March 2012 and the contract period for the build of 45 weeks should see the project complete by December 2012.

5. SERVICE FLEET AND EQUIPMENT

Vehicle Replacements/Equipment

5.1 The Authority has the second largest fleet of all fire and rescue services in England. Over the last four years, finances have been reallocated away from the annual fleet replacement programme in support of other projects elsewhere across the Authority, such as Middlemoor and Danes Castle fire stations and the development of the training academy at Exeter Airport. The slippage in replacing vehicles, particularly fire appliances, is becoming increasingly difficult to manage especially with increases in on-going maintenance costs. Although this situation is not ideal, the re-investment in the fleet replacement programme for 2013/14, through the LRP programme will greatly reduce any backlog.

5.2 Whilst this difficulty is recognised, it has been partially addressed in 2011/12 by utilising some of the specialist vehicles budget to appliances, although it is proposed to further suspend the fire appliance replacement programme during 2012/13 leaving a budget allocation of £2.535m, including slippage. This will support the harmonisation of specialist appliances and equipment replacement. Subject to the appropriate approvals it is proposed to increase the budget for 2013/14 to £2.7m to support the introduction of the Light Rescue Pump.

Light Rescue Pumps

5.3 The Light Rescue Pump (LRP) project pilot will be completed shortly. The Service is also considering options for a 'self build' programme and is in the process of building two LRP's (proof of concept), which subject to satisfactory outcome is likely to form part of the procurement arrangements during 2012/13. All these matters will be reported to the Committee in due course.

5.4 Given the cost incentive, the LRP is likely to be £50,000 less than the conventional fire appliance, this is a unique opportunity to procure a more appropriate operational vehicle commencing in 2013/14 with a significant cost reduction. This approach will also go some way to reducing the backlog accrued over recent years through the reallocation of capital budget.

BA Replacement Programme

5.5 There is, amongst other matters such as age, maintenance and contracts an operational need to harmonise the breathing apparatus equipment between Somerset (Scott Sabre) and Devon (InterSpiro). As this is a matter of firefighter safety and therefore risk critical, it is proposed subject to the business case, to enter into a full procurement during 2012/13. It is estimated that £1.4million will be required in 2013/14 to fund this replacement programme.

6. REVISED CAPITAL PROGRAMME FOR 2011/12 – 2014/15

6.1 Appendix A provides an analysis of the proposed programme contained in this report. This programme represents an increase in spending of £2.5million over the previously agreed programme, as illustrated in Table 1 overleaf.

TABLE 1		Estates	Fleet and Equipment	Total
		£m	£m	£m
EXISTING PROGRAMME	AGREED			
2011/2012		5.1	2.2	7.3
2012/2013		3.7	1.6	5.3
2013/2014		1.7	1.9	3.6
2014/2015 (provisional)		1.7	1.9	3.6
Total 2011/12 TO 2013/14		12.2	7.6	19.8
PROPOSED PROGRAMME				
2011/2012 (forecast spending)		2.7	1.4	4.1
2012/2013		6.1	2.5	8.6
2013/2014		1.7	4.1	5.8
2014/2015		1.7	2.1	3.8
Total 2011/12 TO 2013/14		12.2	10.1	22.3
PROPOSED INCREASE		0.0	2.5	2.5

- 6.2 To fund all of this additional spending from external borrowing would breach the 5% debt ratio ceiling in 2014-15 (5.21%). Elsewhere on the agenda is the report “2012-2013 Revenue Budget and Council Tax Levels” for consideration. Included in the draft 2012-13 revenue budget is provision for a direct revenue contribution of £1.850m towards capital spending which would be required to keep the debt ratio within the 5% limit. The contribution from revenue will require the approval of the Fire & Rescue Authority in accordance with Financial Regulations.
- 6.3 The schedule in Appendix A illustrates the revised spending profiles for 2011/12 through to 2014/15, and a summary of the Prudential Indicators associated with this level of spending is included as Appendix B.
- 6.4 The estimated debt charges emanating from this revised spending profile are illustrated in Table 2 below. These amounts are included in the 2012-13 revenue budget proposal and Medium Term Financial Plan 2012-13 to 2015-16.

TABLE 2 – SUMMARY OF ESTIMATED CAPITAL FINANCING COSTS

	2011/12	2012/13	2013/14	2014/15
	£m	£m	£m	£m
Base budget for Capital Financing Costs – debt charges and operating leasing rentals	5.162	4.753	4.950	5.425
Change over previous year		(0.409)	0.197	0.475
<i>Debt Ratio</i>	<i>4.14%</i>	<i>3.98%</i>	<i>4.32%</i>	<i>4.99%</i>

7. CONCLUSION

- 7.1 This report emphasises the difficulties in meeting the full capital expenditure requirement for the Service, given the size and the large numbers of fire stations and appliances required to be maintained and eventually replaced. The Committee has been advised over recent years of the difficulties in maintaining a programme that is affordable within the 5% Prudential Indicator. It was previously reported that the consequence of a reducing revenue budget will impact on borrowing limits for this Authority and that it was highly likely that we would breach the 5% ceiling. Whilst the Service has maintained expenditure within limits, certain projects and opportunities have been revised accordingly.
- 7.2 Restricted borrowing will affect many aspects of this Authority, including the roll out of the LRP, fire control and general maintenance of the current building stock. The review of both Fleet and Estates may go some way to understanding how to improve future arrangements, addressing the backlog of replacement and maintenance.
- 7.3 The proposed capital programme as set down in Appendix A is recommended for approval, on the basis that it goes some way to addressing the Service capital investment needs, whilst also providing some funding towards the introduction of a smaller, and cheaper, type of fire appliance (LRPs), whilst also keeping borrowing costs within the set limit of 5% of the total revenue budget.

TREVOR STRATFORD
Director of Service Support

KEVIN WOODWARD
Treasurer

APPENDIX A TO REPORT RC/12/4

Capital Programme (2011/12 to 2014/15)						
2011/12	2011/12			2012/13	2013/14	2014/15
Budget	predicted	Item	PROJECT	(£000)	(£000)	(£000)
(£000)	(£000)					
			Estate Development			
30	30	1	Exeter Middlemoor	0		
10	3	2	Exeter Danes Castle	0		
96	96	3	SHQ major building works	0		
1,000	196	4	Major Projects - Training Facility at Exeter Airport	2,804		
		5	Minor improvements & structural maintenance	1,650	1,750	1,750
37	37	6	Welfare Facilities	0		
		7	Diversity & equality	0		
610	552	8	USAR works	58		
1,689	1,346	9	Minor Works slippage from 2010-11	343		
1,667	460	10	Minor Works 2011-12	1,207		
5,139	2,720		Estates Sub Total	6,062	1,750	1,750
			Fleet & Equipment			
397	780	11	Appliance replacement	700	1,900	1,900
1,315	177	12	Specialist Operational Vehicles	920	600	0
84	84	13	Vehicles funded from revenue			
127	127	14	Equipment	160	200	200
129	0	15	Asset Management Plan (Miquest) software			
180	180	16	Systems integration			
		17	BA replacement		1,400	
		18	Appliance and Specialist Operational Vehicles slippage	755		
2,232	1,348		Fleet & Equipment Sub Total	2,535	4,100	2,100
7,371	4,068		SPENDING TOTALS	8,597	5,850	3,850
			Programme funding			
3,507	204		Main programme	3,976	5,350	3,350
1,333	1,333		Revenue funds	2,600		
2,531	2,531		Grants	2,021	500	500
7,371	4,068		FUNDING TOTALS	8,597	5,850	3,850

APPENDIX B TO REPORT RC/12/4

<u>PRUDENTIAL INDICATORS</u>			
<u>PRUDENTIAL INDICATORS - CAPITAL</u>			
	2012/13	2013/14	2014/15
	£m	£m	£m
	estimate	estimate	estimate
Capital Expenditure			
Non - HRA	8.597	5.850	3.850
HRA (applies only to housing authorities)			
Total	<u>8.597</u>	<u>5.850</u>	<u>3.850</u>
Ratio of financing costs to net revenue stream			
Non - HRA	3.98%	4.32%	4.99%
HRA (applies only to housing authorities)	0.00%	0.00%	0.00%
Capital Financing Requirement as at 31 March	£000	£000	£000
Non - HRA	28,403	31,744	32,739
HRA (applies only to housing authorities)	0	0	0
Other long term liabilities	1,558	1,532	1,509
Total	<u>29,961</u>	<u>33,276</u>	<u>34,248</u>
Annual change in Capital Financing Requirement	£000	£000	£000
Non - HRA	2,001	3,315	972
HRA (applies only to housing authorities)	0	0	0
Total	<u>2,001</u>	<u>3,315</u>	<u>972</u>
Incremental impact of capital investment decisions	£ p	£ p	£ p
Increase/(decrease) in council tax (band D) per annum	-£0.32	-£0.35	£0.09
<u>PRUDENTIAL INDICATORS - TREASURY MANAGEMENT</u>			
Authorised Limit for external debt	£000	£000	£000
Borrowing	34,159	35,875	37,313
Other long term liabilities	1,587	1,521	1,449
Total	<u>35,746</u>	<u>37,396</u>	<u>38,762</u>
Operational Boundary for external debt	£000	£000	£000
Borrowing	32,739	34,288	35,676
Other long term liabilities	1,509	1,444	1,374
Total	<u>34,248</u>	<u>35,732</u>	<u>37,050</u>

<u>TREASURY MANAGEMENT INDICATOR</u>	Upper Limit %	Lower Limit %
Limits on borrowing at fixed interest rates	100%	70%
Limits on borrowing at variable interest rates	30%	0%
Maturity structure of fixed rate borrowing during 2012/13		
Under 12 months	30%	0%
12 months and within 24 months	30%	0%
24 months and within 5 years	50%	0%
5 years and within 10 years	75%	0%
10 years and above	100%	50%



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/3
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	TREASURY MANAGEMENT STRATEGY (INCLUDING PRUDENTIAL AND TREASURY INDICATORS REPORT 2012/13 TO 2014/15)
LEAD OFFICER	Treasurer
RECOMMENDATIONS	<p><i>That the Fire and Rescue Authority approves;</i></p> <ul style="list-style-type: none"> <i>(a) the Treasury Management Strategy and the Annual Investment Strategy;</i> <i>(b) the prudential indicators and limits, as contained as Appendix A;</i> <i>(c) the Minimum Revenue Provision (MRP) statement for 2012/2013, as contained as Appendix B;</i> <i>(d) that the Treasurer be delegated authority to effect movements between the separately agreed prudential limits for borrowing;</i> <i>(e) that the statement at paragraph 5.8 of this report that borrowing limits and the debt management strategy have been set to ensure that net borrowing remains below the capital financing requirement for 2012/2013 to 2014/2015, in line with the requirements of the CIPFA Prudential Code, be noted.</i>
EXECUTIVE SUMMARY	This report sets out a treasury management strategy and investment strategy for 2012/2013, including the Prudential Indicators associated with the capital programme for 2012/2013 to 2014/2015 considered elsewhere on the agenda of this meeting. A Minimum Revenue Provision Statement for 2012/2013 is also included for approval.

RESOURCE IMPLICATIONS	As indicated in this report
EQUALITY IMPACT ASSESSMENT	None
APPENDICES	<p>A. Prudential and Treasury Management Indicators 2012/2013 to 2014/2015.</p> <p>B. Minimum Revenue Provision Statement 2012/2013</p>
LIST OF BACKGROUND PAPERS	<p>Local Government Act 2003.</p> <p>Chartered Institute of Public Finance Accountancy's (CIPFA) Prudential Code.</p>

1. **INTRODUCTION**

Background

1.1 Treasury management is defined as:

“the management of the local authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”

Statutory requirements

1.2 The Local Government Act 2003 (the Act) and supporting regulations requires the Authority to “have regard to” the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years to ensure that the Authority’s capital investment plans are affordable, prudent and sustainable.

1.3 The Act therefore requires the Authority to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by Investment Guidance subsequent to the Act and included as paragraph 8 of this report); this sets out the Authority’s policies for managing its investments and for giving priority to the security and liquidity of those investments.

1.4 The Department of Communities and Local Government issued revised investment guidance which came into force from 1 April 2010. This guidance was captured within the revised CIPFA Treasury Management Code 2011.

CIPFA requirements

1.5 The Chartered Institute of Public Finance and Accountancy’s (CIPFA) Code of Practice on Treasury Management (revised November 2009) was adopted by the Authority on 19 February 2010. The Code was reissued in 2011 with cross sectorial guidance notes.

1.6 The primary requirements of the Code are as follows:

- Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Authority’s treasury management activities.
- Creation and maintenance of Treasury Management Practices which set out the manner in which the Authority will seek to achieve those policies and objectives.
- Receipt by the Authority of an annual Treasury Management Strategy Statement – including the Annual Investment Strategy and Minimum Revenue Provision Policy for the year ahead, a mid-year review report and an annual report (stewardship report) covering activities during the previous year.
- Delegation by the Authority of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
- Delegation by the Authority of the role of scrutiny of treasury management strategy and policies to a named body. For this Authority the delegated body is Resources Committee.

1.7 In summary, this Authority will adopt the following reporting arrangements in accordance with the requirements of the Code: -

Area of Responsibility	Authority/ Committee/ Officer	Frequency
Treasury Management Policy Statement (revised)	Full authority	Initial adoption in 2010
Treasury Management Strategy / Annual Investment Strategy / MRP policy	Full authority	Annually before the start of the year
Treasury Management Strategy / Annual Investment Strategy / MRP policy – mid-year report	Full authority	Mid year
Treasury Management Strategy / Annual Investment Strategy / MRP policy – updates or revisions at other times	Full authority	
Annual Treasury Outturn Report	Full authority	Annually by 30 September after the end of the year
Treasury Management Monitoring Reports	Resources Committee	
Treasury Management Practices	Full authority	
Scrutiny of treasury management performance	Resources Committee	

Treasury Management Strategy for 2012/13

- 1.8 The suggested strategy for 2012/13 in respect of the following aspects of the treasury management function is based upon the treasury officers' views on interest rates, supplemented with leading market forecasts provided by the Authority's treasury advisor, Sector.
- 1.9 The strategy covers:
- treasury limits in force which will limit the treasury risk and activities of the Authority
 - treasury Indicators
 - the current treasury position
 - the borrowing requirement
 - prospects for interest rates
 - the borrowing strategy
 - policy on borrowing in advance of need
 - debt rescheduling
 - the investment strategy
 - creditworthiness policy
 - policy on use of external service providers
 - capital plans and prudential indicators
 - the MRP strategy

Balanced Budget Requirement

- 1.10 The Authority has to set a balanced budget, which means that revenue raised in year should meet expected expenditure. In particular a local authority must calculate its budget requirement for each financial year to include the revenue costs that flow from capital financing decisions. This, therefore, means that increases in capital expenditure must be limited to a level whereby increases in charges to revenue from:-
- increases in interest charges caused by increased borrowing to finance additional capital expenditure, and
 - Any increases in running costs from new capital projects
- are set at a level which is affordable within the projected income of the Authority for the foreseeable future.

2. TREASURY LIMITS FOR 2012/13 TO 2014/15

- 2.1 It is a statutory duty for the Authority to determine and keep under review how much it can afford to borrow. The amount so determined is termed the “Affordable Borrowing Limit”. In England and Wales the Authorised Limit represents the legislative limit specified in the Act.
- 2.2 The Authority must have regard to the Prudential Code when setting the Authorised Limit, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future Authority council tax levels is ‘acceptable’.
- 2.3 Whilst termed an “Affordable Borrowing Limit”, the capital plans to be considered for inclusion incorporate financing by both external borrowing and other forms of liability, such as credit arrangements. The Authorised Limit is to be set, on a rolling basis, for the forthcoming financial year and two successive financial years, details of the Authorised Limit can be found in paragraph 5.5 of this report.

3. CURRENT PORTFOLIO POSITION

- 3.1 The Authority’s treasury portfolio position at 31/12/11 comprised:

TABLE 1		Principal £m	Average Rate %
Fixed Rate Funding	PWLB	27.766	4.27
Variable Rate Funding	PWLB	0	-
Other Long Term liabilities (excluding PFI)		0	
Gross Debt		27.766	4.27
Total Investments		(17.423)	
Net Debt		10.343	

4. **BORROWING REQUIREMENT**

4.1 The Authority's borrowing requirement is as follows:

TABLE 2	2010/11 £m	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m
	Actual	Estimate	Estimate	Estimate	Estimate
External Debt (1 April)	26.651	28.609	27.067	29.124	32.465
New Borrowing	3.000	0	3.956	4.295	1.265
Internal Borrowing	0	0	0	0	0
Replacement	0	0	0	0	0
Repaid	(1.042)	(1.542)	(1.899)	(0.954)	(0.270)
External Debt (31 March)	28.609	27.067	29.124	32.465	33.460

5. **PRUDENTIAL AND TREASURY INDICATORS 2012/13 – 2014/15**

5.1 The prudential indicators are relevant for the purposes of setting an integrated treasury management strategy. A summary of the proposed indicators are included as Appendix A to this report. Explanations of the purpose of each of these indicators are provided in the following paragraphs. The Authority is also required to indicate if it has adopted the CIPFA Code of Practice on Treasury Management. This was adopted on 11 April 2007 by the full authority and the revised Code was adopted by the Authority on 19 February 2010.

Capital Expenditure

5.2 The capital expenditure plans, as proposed in the Capital Programme report considered elsewhere on the agenda, are shown in Table 3.

TABLE 3	2010/11 Actual £m	2011/12 Estimate £m	2012/13 Estimate £m	2013/14 Estimate £m	2014/15 Estimate £m
Land and buildings	1.309	2.721	6.061	1.750	1.750
Vehicles, Plant and Equipment	2.157	1.347	2.536	4.100	2.100
TOTAL CAPITAL EXPENDITURE	3.466	4.068	8.597	5.850	3.850

5.3 Additional capital finance sources may become available during the year, for example, additional grants or external contributions. The Authority will be requested to approve increases to the capital programme to be financed from other capital resources as and when the need arises.

Capital Financing Requirement (CFR)

5.4 The Capital Financing Requirement represents the authority's underlying need to borrow for capital purposes. The forecast CFR for 2012/2013 to 2014/2015, based on the spending plans are shown in Table 4 overleaf.

TABLE 4	2010/11 Actual £m	2011/12 Estimate £m	2012/13 Estimate £m	2013/14 Estimate £m	2014/15 Estimate £m
Capital Financing Requirement as at 31 March - borrowing	28.251	26.346	28.403	31.744	32.739
Capital Financing Requirement as at 31 March – other longterm liabilities	1.666	1.613	1.558	1.532	1.509
Total Capital Financing Requirement as at 31 March	29.917	27.959	29.961	33.276	34.248

Limits to Borrowing Activity

5.5 Two Treasury Management Indicators control the level of borrowing. They are:

- The *authorised limit* - this represents the limit beyond which any additional borrowing is prohibited until the limit is revised by the Authority. Revision may occur during the year if there are substantial and unforeseen changes in circumstances, for example, a significant delay in achieving forecast capital receipts. In normal circumstances this limit will not require revision until the estimate for 2013/14 is revised as part of the 2013/14 budget process.
- The *operational boundary* – this indicator is based on the probable external debt during the year; it is not a limit and actual borrowing could vary around this boundary for short times during the year.

5.6 Tables 5 and 6 below detail, respectively:

- the recommended Authorised Limits for 2012/2013 and the medium term; and
- the recommended Operational Boundaries for 2012/2013 and the medium term.

TABLE 5	2012/13 Estimate £m	2013/14 Estimate £m	2014/15 Estimate £m
Authorised limit for External Debt			
- External Debt	34.159	35.875	37.313
- Other long term liabilities	1.587	1.521	1.449
TOTAL AUTHORISED LIMIT FOR EXTERNAL DEBT	35.746	37.396	38.762

TABLE 6	2012/13 Estimate £m	2013/14 Estimate £m	2014/15 Estimate £m
Operational Boundary for External Debt			
- External Debt	32.739	34.288	35.676
- Other long term liabilities	1.509	1.444	1.374
TOTAL OPERATIONAL BOUNDARY FOR EXTERNAL DEBT	34.248	35.732	37.050

5.7 It is estimated that the actual external debt at 31 March 2012 will be £27.067 million.

Net Borrowing in Comparison to the Capital Financing Requirement (CFR)

- 5.8 The debt management strategy and borrowing limits for the period 2012/13 to 2014/15 have been set to ensure that over the medium term, net borrowing will only be for capital purposes i.e. net external borrowing does not exceed the total Capital Financing Requirement in the preceding year plus the estimates for the current year and the next two years. This is demonstrated by the fact that the operational boundary for external debt borrowing in 2012/2013 of £34.248 million (Table 6) does not exceed the CFR for 2014/15 of £34.248 million (Table 4).

Prudential Indicators for Affordability

- 5.9 The previous sections of the report cover the overall limits for capital expenditure and borrowing, but within the overall framework indicators are also included to demonstrate the affordability of capital investment plans.
- 5.10 A key indicator of the affordability of capital investment plans is the ratio of financing costs to the net revenue stream; this indicator identifies the trend in the cost of capital financing (borrowing costs net of investment income) against the Authority's net budget requirement. Annual capital financing costs are a product of total debt outstanding, the annual repayment regime and interest rates. The forecast ratios for 2012/13 to 2014/15 based on current commitments and the proposed Capital Programme are included in Table 7.

TABLE 7	2012/13 Estimate %	2013/14 Estimate %	2014/15 Estimate %
Ratio of Financing Costs to Net Revenue Stream	3.98	4.32	4.99

- 5.11 At its meeting on 3 February 2012, the Resources Committee considered again the need to determine a level of borrowing for the Authority which would be deemed to be affordable, sustainable and prudent. At that time and in line with previous considerations the Treasurer advised that debt repayments should be kept within a ceiling of 5% of the net revenue stream for the period 2012-13 to 2014-15.
- 5.12 The estimate of the incremental impact of capital investment decisions proposed in the recommended Capital Programme over and above capital investment decisions that have previously been taken by the Authority are given in Table 8. These figures do not represent the total impact on the Authority tax over and above 2011/2012 as a consequence of the total capital programme, only the incremental impact over and above previous decisions made on capital investment. The figures given represent the incremental impact for a Band D property.

TABLE 8	2012/13 Estimate £ p	2013/14 Estimate £ p	2014/15 Estimate £ p
Element of Authority tax for New Capital Spending	(£0.32)	(£0.35)	£0.09

6. BORROWING STRATEGY

Borrowing rates

- 6.1 The Sector forecast for the PWLB new borrowing rate is shown in Table 9 overleaf: -

TABLE 9

	Mar-12	Jun-12	Sep-12	Dec-12	Mar-13	Mar-14	Mar-15
Bank rate	0.50%	0.50%	0.50%	0.50%	0.50%	1.25%	2.50%
5yr PWLB rate	2.30%	2.30%	2.30%	2.40%	2.50%	2.90%	3.70%
10yr PWLB rate	3.30%	3.30%	3.40%	3.40%	3.50%	4.00%	4.80%
25yr PWLB rate	4.20%	4.20%	4.30%	4.30%	4.40%	4.80%	5.20%
50yr PWLB rate	4.30%	4.30%	4.40%	4.40%	4.50%	4.90%	5.30%

6.2 In view of the above forecast the Authority's borrowing strategy will be based upon the following information.

The cheapest borrowing will be internal borrowing by running down cash balances and foregoing interest earned at historically low rates. However in view of the overall forecast for long term borrowing rates to increase over the next few years, consideration will also be given to weighing the short term advantage of internal borrowing against potential long term costs if the opportunity is missed for taking loans at long term rates which will be higher in future years.

Temporary borrowing from the money markets or other local authorities

PWLB variable rate loans for up to ten years.

Short dated borrowing from non PWLB sources.

Long term fixed rate market loans at rates significantly below PWLB rates for the equivalent maturity period (where available) and to maintaining an appropriate balance between PWLB and market debt in the debt portfolio.

PWLB borrowing to spread debt maturities away from a concentration of longer dated debt.

Any consideration of further PWLB debt will be in accordance with the authority agreed maturity structure limits, as included in Appendix A.

6.3 Sensitivity of the forecast – In normal circumstances the main sensitivities of the forecast are likely to be the two scenarios noted below. The authority officers, in conjunction with the treasury advisers, will continually monitor both the prevailing interest rates and the market forecasts, adopting the following responses to a change of sentiment:

if it were felt that there was a significant risk of a sharp FALL in long and short term rates, e.g. due to a marked increase of risks around relapse into recession or of risks of deflation, then long term borrowings will be postponed, and potential rescheduling from fixed rate funding into short term borrowing will be considered.

if it were felt that there was a significant risk of a much sharper RISE in long and short term rates than that currently forecast, perhaps arising from a greater than expected increase in world economic activity or a sudden increase in inflation risks, then the portfolio position will be re-appraised with the likely action that fixed rate funding will be drawn whilst interest rates were still relatively cheap.

6.4 **Net debt**

TABLE 10 – Comparison of gross and net debt positions at year end	2010/11 £m	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m
	Actual	Predicted outturn	estimate	estimate	Estimate
Actual external debt (gross)	28.609	27.067	29.124	32.465	33.460
Cash Balances and Investments	(13.159)	(15.000)	(10.000)	(10.000)	(10.000)
Net Debt	15.450	12.067	19.124	22.465	23.465

6.5 As at the end of December 2011 the Authority had a difference between gross debt and net debt (after deducting cash balances and investments), of £10m. The general aim of this treasury management strategy is to reduce the difference between the two debt levels over the next three years in order to reduce the credit risk incurred by holding investments. However, measures taken in the last year have already reduced substantially the level of credit risk so another factor which will be carefully considered is the difference between borrowing rates and investment rates. Additionally, the Authority will examine the potential for undertaking early repayment of some external debt to the PWLB in order to reduce the difference between its gross and net debt positions. However, the introduction by the PWLB of significantly lower repayment rates than new borrowing rates in November 2007, which has been compounded since 20 October 2010 by a considerable further widening of the difference between new borrowing and repayment rates, has potentially meant that large premiums would be incurred by such action; such levels of premiums are unlikely to be justifiable on value for money grounds. This situation will be monitored in case these differentials are narrowed by PWLB at some future date.

6.6 The Director of Finance will monitor the interest rate market and adopt a pragmatic approach to changing circumstances, reporting any decisions to the appropriate decision making body at the next available opportunity.

Policy on borrowing in advance of need

6.7 The Authority will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be considered carefully to ensure value for money can be demonstrated and that the Authority can ensure the security of such funds.

6.8 In determining whether borrowing will be undertaken in advance of need the Authority will:

- ensure that there is a clear link between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need
- ensure the ongoing revenue liabilities created, and the implications for the future plans and budgets have been considered
- evaluate the economic and market factors that might influence the manner and timing of any decision to borrow
- consider the merits and demerits of alternative forms of funding

- consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use
- consider the impact of borrowing in advance on temporarily (until required to finance capital expenditure) increasing investment cash balances and the consequent increase in exposure to counterparty risk, and other risks, and the level of such risks given the controls in place to minimise them.

7. DEBT RESCHEDULING

- 7.1 As short term borrowing rates will be considerably cheaper than longer term rates, there may be potential for some residual opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the size of premiums incurred, their short term nature and the likely cost of refinancing those short term loans, once they mature, compared to the current rates of longer term debt in the existing debt portfolio. Any such rescheduling and repayment of debt is likely to cause a flattening of the authority's maturity profile as in recent years there has been a skew towards longer dated PWLB.
- 7.3 Consideration will also be given to identify if there is any potential for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.
- 7.4 The reasons for any rescheduling to take place will include:
- the generation of cash savings and / or discounted cash flow savings,
 - helping to fulfil the adopted borrowing strategy, and
 - enhancing the balance of the portfolio (amend the maturity profile and/or the balance of volatility).
- 7.5 All rescheduling will be reported to the Resources Committee, at the earliest meeting following its action.

8. ANNUAL INVESTMENT STRATEGY

Investment Policy

- 8.1 The Authority will have regard to the CLG's Guidance on Local Government Investments ("the Guidance") and the 2011 revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code"). The Authority's investment priorities are: -
- (a) the security of capital and
 - (b) the liquidity of its investments.
- 8.2 The Authority will also aim to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The risk appetite of this Authority is low in order to give priority to security of its investments.
- 8.3 The borrowing of monies purely to invest or on-lend and make a return is unlawful and this Authority will not engage in such activity.
- 8.4 Investment instruments identified for use in the financial year are maintained under the 'Specified' and 'Non-Specified' Investments categories. Counterparty limits will be as set through the Authority's Treasury Management Practices – Schedules.

Creditworthiness Policy

- 8.5 This Authority uses the creditworthiness service provided by Sector Treasury Services. This service employs a sophisticated modelling approach with credit ratings from all three rating agencies - Fitch, Moodys and Standard and Poors, forming the core element. However, it does not rely solely on the current credit ratings of counterparties but also uses the following as overlays: -
- credit watches and credit outlooks from credit rating agencies
 - Credit Default Swap (CDS) spreads to give early warning of likely changes in credit ratings
 - sovereign ratings to select counterparties from only the most creditworthy countries
- 8.6 This modelling approach combines credit ratings, credit watches, credit outlooks and CDS spreads in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour code bands which indicate the relative creditworthiness of counterparties. These colour codes are also used by the Authority to determine the duration for investments and are therefore referred to as durational bands. The Authority is satisfied that this service now gives a much improved level of security for its investments. It is also a service which the Authority would not be able to replicate using in house resources.
- 8.7 The selection of counterparties with a high level of creditworthiness will be achieved by selection of institutions down to a minimum durational band within Sector's weekly credit list of worldwide potential counterparties.
- 8.8 CIPFAs 2011 TM Code removed the requirement to have regard to the "lowest" credit rating from the credit rating agencies of Fitch, Moodys and Standard and Poors. Historically, this Authority chose to follow the Sector colour matrix credit assessment as it gave a more balanced approach. With the removal of this lowest common denominator requirement from CIPFA the Authority's will continue to use a combination of the Sector colour matrix and any additional information available locally on which to base investment decisions.
- 8.9 All credit ratings will be monitored weekly. The Authority is alerted to changes to ratings of all three agencies through its use of the Sector creditworthiness service. If a downgrade results in the counterparty/investment scheme no longer meeting the Authority's minimum criteria, its further use as a new investment will be withdrawn immediately. In addition to the use of Credit Ratings the Authority will be advised of information in movements in Credit Default Swap against the iTraxx benchmark and other market data on a weekly basis. Extreme market movements may result in downgrade of an institution or removal from the Authority's lending list.
- 8.10 Sole reliance will not be placed on the use of this external service. In addition this Authority will also use market data and market information, information on government support for banks and the credit ratings of that government support.
- Approved Instruments for Investments
- 8.11 Investments will only be made with those bodies identified by the authority for its use through the Annual Investment Strategy. A non specified investment covers those counterparties where there is either no recognised credit rating and/or an anticipation that an investment will be for greater than one year in duration.

Specified Investments	Non Specified Investments
Deposits with the Debt Management Agency Deposit Facility	
Term Deposits with UK government, UK local authorities, banks and building societies (including callable deposits and forward deals)	Term Deposits with UK government, UK local authorities, banks and building societies (including callable deposits and forward deals) Non credit rated building societies
Banks nationalised or supported by the UK government	Banks nationalised or supported by the UK government
Money Market Funds	
Non UK highly credited rated banks	
UK Government Treasury Bills	

- 8.12 The Authority has determined that it will only use approved counterparties from countries with a minimum sovereign credit rating of AA- from Fitch Ratings (or equivalent from other agencies if Fitch does not provide).

Investment Strategy

- 8.13 In-house funds: The Authority's in-house managed funds are mainly cash-flow derived and. Investments will accordingly be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months).

- 8.14 Interest rate outlook: The Authority has appointed Sector Treasury Services as treasury advisor to the Authority and part of their service is to assist the Authority to formulate a view on interest rates. Sectors central view of changes in Bank Rate is shown below;

Sector Bank Rate forecast for financial year ends (March)

2012 0.50%

2013 0.50%

2014 1.25%

2015 2.50%

There is downside risk to these forecasts if lack of economic growth continues, with there being a potential for the Bank Rate increases being further delayed

- 8.15 The Authority will avoid locking into longer term deals while investment rates are down at historically low levels unless attractive rates are available with counterparties of particularly high creditworthiness which make longer term deals worthwhile and within the risk parameters set by this Authority.

- 8.16 For 2012/13 the Authority has budgeted for an investment return of 0.67% on investments placed during the financial year.

End of year investment report

- 8.17 At the end of the financial year, the Authority will report on its investment activity as part of its Annual Treasury Report.

Policy on the use of external service providers

- 8.18 The Authority uses Sector as its external treasury management advisers. The Authority recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers.

8.19 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Authority will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

Treasury Management Scheme of Delegation

8.20 Full Authority;

- Receiving and reviewing reports on treasury management policies, practices and activities
- Approval of annual strategy
- Approval of/amendments to the Authority's adopted clauses, treasury management policy statement and treasury management practices
- Budget consideration and approval
- Approval of the division of responsibilities
- Approving the selection of external service providers and agreeing terms of appointment.
- Reviewing the treasury management policy and procedures and making recommendations to the Authority.

Resources Committee;

- Receiving and reviewing regular monitoring reports and acting on recommendations

Role of the Section 151 officer

- Recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance
- Submitting regular treasury management policy reports
- Submitting budgets and budget variations
- Receiving and reviewing management information reports
- Reviewing the performance of the treasury management function
- Ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
- Ensuring the adequacy of internal audit and liaising with external audit
- Recommending the appointment of external service providers.

9. MINIMUM REVENUE PROVISION (MRP) STRATEGY

- 9.1 What is a Minimum Revenue Provision? - Capital expenditure is generally expenditure on assets which have a life expectancy of more than one year e.g. fire stations, vehicles, equipment etc. It would be impractical to charge the entirety of such expenditure to revenue in the year in which it was incurred and so such expenditure is spread over several years so as to try to match the years over which such assets benefit the local community through their useful life. The manner of spreading these costs is through an annual Minimum Revenue Provision, which was previously determined under Regulation, and will in future be determined under Guidance.
- 9.2 New statutory duty - Statutory Instrument 2008 no. 414 s4 lays down that: "A local authority shall determine for the current financial year an amount of minimum revenue provision that it considers to be prudent."
- 9.3 The above is a substitution for the previous requirement to comply with regulation 28 in S.I. 2003 no. 3146 (as amended). There is no requirement to charge MRP where the Capital Financing Requirement is nil or negative at the end of the preceding financial year.
- 9.4 New Government Guidance - Along with the above duty, the Government issued new guidance in February 2008 which requires that a Statement on the Council's policy for its annual MRP should be submitted to the full Authority for approval before the start of the financial year to which the provision will relate.
- 9.5 The Authority are legally obliged to "have regard" to the guidance, which is intended to enable a more flexible approach to assessing the amount of annual provision than was required under the previous statutory requirements. The guidance offers four main options under which MRP could be made, with an overriding recommendation that the Authority should make prudent provision to redeem its debt liability over a period which is reasonably commensurate with that over which the capital expenditure is estimated to provide benefits. The requirement to 'have regard' to the guidance therefore means that: Although four main options are recommended in the guidance, there is no intention to be prescriptive by making these the only methods of charge under which a local authority may consider its MRP to be prudent;
- 9.6 It is the responsibility of each authority to decide upon the most appropriate method of making a prudent provision, after having had regard to the guidance. The guidance broadly requires authorities to make revenue provision for the repayment of borrowing over a period of time which bears some relation to the finite life of the asset to which borrowing is being taken. There are four options set out in the guidance which are briefly as follows:
- For borrowing after 1 April 2008 which is supported by Revenue Support Grant (RSG) and for all borrowing before 1st April 2008;
- Option 1 – Regulatory Method
- MRP calculated on the basis of the old rules as this is the basis for calculating Revenue Support Grant implications.
- Option 2 – CFR Method
- MRP can be calculated on the basis of 4% of the CFR at the end of the preceding financial year. If the CFR at that date is nil or negative, no MRP is required.
- For new borrowing after 1 April 2008, under the Prudential system and for which no Government support is given;

Option 3 – Asset Life Method

Where capital expenditure on an asset is financed wholly or partly by borrowing or credit arrangements, MRP is to be made in equal annual instalments over the life of the asset. In this circumstance the asset life is to be determined when MRP commences and not changed after that.

MRP should normally commence in the financial year following the one in which the expenditure is incurred. However, when borrowing to construct an asset, the authority may treat the asset life as commencing in the year in which the asset first becomes operational. It may accordingly postpone beginning to make MRP until that year. Investment properties should be regarded as becoming operational when they begin to generate revenues.

Option 4 – Depreciation Method

MRP is to be equal to the provision required in accordance with depreciation accounting in respect of the asset on which expenditure has been financed by borrowing or credit arrangements.

- 9.7 Whilst options 1 and 2 are available for unsupported borrowing before 1 April 2008, authorities are able to use options 3 and 4 if they choose to do so.
- 9.8 As some types of capital expenditure incurred by the Authority are not capable of being related to an individual asset, asset lives will be assessed on a basis which most reasonably reflects the anticipated period of benefit that arises from the expenditure. Also, whatever type of expenditure is involved, it will be grouped together in a manner which reflects the nature of the main component of expenditure and will only be divided up in cases where there are two or more major components with substantially different useful economic lives.
- 9.9 A draft MRP statement for 2012/2013 is attached as Appendix B for Authority approval. The financing of the approved 2012/2013 capital programme, and the resultant prudential indicators, have been set on the basis of the content of this statement.

10. SUMMARY AND RECOMMENDATIONS

- 10.1 The Authority is required to consider and approve the treasury management strategy to be adopted prior to the start of the financial year. This strategy must also include proposed prudential indicators and a minimum provision statement (MRP). Approval of the strategy for 2012/2013 as contained in this report will also incorporate the adoption of the revised CIPFA Treasury Management Code of Practice in 2011.

KEVIN WOODWARD
Treasurer

APPENDIX A DSFRA/12/3

PRUDENTIAL INDICATORS			
PRUDENTIAL INDICATORS - CAPITAL			
	2012/13	2013/14	2014/15
	£m	£m	£m
	estimate	estimate	estimate
Capital Expenditure			
Non - HRA	8.597	5.850	3.850
HRA (applies only to housing authorities)			
Total	<u>8.597</u>	<u>5.850</u>	<u>3.850</u>
Ratio of financing costs to net revenue stream			
Non - HRA	3.98%	4.32%	4.99%
HRA (applies only to housing authorities)	0.00%	0.00%	0.00%
Capital Financing Requirement as at 31 March	£000	£000	£000
Non - HRA	28,403	31,744	32,739
HRA (applies only to housing authorities)	0	0	0
Other long term liabilities	1,558	1,532	1,509
Total	<u>29,961</u>	<u>33,276</u>	<u>34,248</u>
Annual change in Capital Financing Requirement	£000	£000	£000
Non - HRA	2,001	3,315	972
HRA (applies only to housing authorities)	0	0	0
Total	<u>2,001</u>	<u>3,315</u>	<u>972</u>
Incremental impact of capital investment decisions	£ p	£ p	£ p
Increase/(decrease) in council tax (band D) per annum	-£0.32	-£0.35	£0.09
PRUDENTIAL INDICATORS - TREASURY MANAGEMENT			
Authorised Limit for external debt	£000	£000	£000
Borrowing	34,159	35,875	37,313
Other long term liabilities	1,587	1,521	1,449
Total	<u>35,746</u>	<u>37,396</u>	<u>38,762</u>
Operational Boundary for external debt	£000	£000	£000
Borrowing	32,739	34,288	35,676
Other long term liabilities	1,509	1,444	1,374
Total	<u>34,248</u>	<u>35,732</u>	<u>37,050</u>

TREASURY MANAGEMENT INDICATOR	Upper Limit %	Lower Limit %
Limits on borrowing at fixed interest rates	100%	70%
Limits on borrowing at variable interest rates	30%	0%
Maturity structure of fixed rate borrowing during 2012/13		
Under 12 months	30%	0%
12 months and within 24 months	30%	0%
24 months and within 5 years	50%	0%
5 years and within 10 years	75%	0%
10 years and above	100%	50%

MINIMUM REVENUE STATEMENT (MRP) 2012/2013

Supported Borrowing

The MRP will be calculated using the regulatory method (option 1). MRP will therefore be calculated using the formulae in the old regulations, since future entitlement to RSG in support of this borrowing will continue to be calculated on this basis.

Un-Supported Borrowing (including un-supported borrowing prior to 1 April 2008)

The MRP in respect of unsupported borrowing under the prudential system will be calculated using the asset life method (option 3). The MRP will therefore be calculated to repay the borrowing in equal annual instalments over the life of the class of assets which it is funding. The repayment period of all such borrowing will be calculated when it takes place and will be based on the finite life of the class of asset at that time and will not be changed.

Finance Lease and PFI

In the case of Finance Leases and on balance sheet PFI schemes, the MRP requirement is regarded as met by a charge equal to the element of the annual charge that goes to write down the balance sheet liability. Where a lease of PFI scheme is brought, having previously been accounted for off-balance sheet, the MRP requirement is regarded as having been met by the inclusion of the charge, for the year in which the restatement occurs, of an amount equal to the write-down for the year plus retrospective writing down of the balance sheet liability that arises from the restatement. This approach produces an MRP charge that is comparable to that of the Option 3 approach in that it will run over the life of the lease or PFI scheme and will have a profile similar to that of the annuity method.

MRP will normally commence in the financial year following the one in which the expenditure was incurred. However, when borrowing to construct an asset, the authority may treat the asset life as commencing in the year in which the asset first becomes operational. It may accordingly postpone the beginning to make MRP until that year. Investment properties will be regarded as becoming operational when they begin to generate revenues.

DEVON & SOMERSET FIRE & RESCUE AUTHORITY



REPORT REFERENCE NO.	DSFRA/12/4
MEETING	DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	2012-2013 REVENUE BUDGET AND COUNCIL TAX LEVEL
LEAD OFFICER	Treasurer and Chief Fire Officer
RECOMMENDATIONS	<p>(a) <i>That the following recommendation of the meeting of the Resources Committee, held on 3 February 2012, be approved:</i></p> <p>(i) <i>that the level of council tax in 2012-13 for a Band D property be set at £73.92, as outlined as Option D in paragraph 5 of this report, representing a 3.00% increase over 2011-12;</i></p> <p>(ii) <i>that a Net Revenue Budget Requirement of £78,676,700 for 2012-13 be set;</i></p> <p>(b) <i>that as a consequence of recommendations (a) (i) and (ii):</i></p> <p>(i) <i>the tax base for payment purposes and the precept required from each billing authority for payment of the total precept of £45,634,541, as detailed on Page 2 of the budget booklet provided separately with this report, be approved;</i></p> <p>(ii) <i>the council tax for each property bands A to H associated with a total precept of £45,634,541, as detailed on Page 2 of the budget booklet provided separately with this report, be approved; and</i></p> <p>(iii) <i>that the Treasurer's 'Statement of the Robustness of the Budget Estimates and the Adequacy of the Authority Reserve Balances' as included as Appendix C to this report, be noted.</i></p>

EXECUTIVE SUMMARY	<p>It is a legislative requirement that the Authority sets a level of revenue budget and council tax for the forthcoming financial year by the 1 March each year.</p> <p>The meeting of Resources Committee held on the 3 February 2012 considered four options for a level of council tax for 2012-13:</p> <p>OPTION A – Freeze council tax at 2011-12 level (£71.77 for a Band D Property).</p> <p>OPTION B – Increase council tax by 2.0% above 2011-12 (increase of £1.43 to £73.20).</p> <p>OPTION C – Increase council tax by 2.5% above 2011-12 (increase of £1.79 to £73.56).</p> <p>OPTION D – Increase council tax by 3.0% above 2011-12 (increase of £2.15 to £73.92).</p> <p>The Fire and Rescue Authority is asked to consider the contents of this report, and ratify the recommendation made from the meeting of the Resources Committee for Option D (increase in council tax of 3.00%).</p>
RESOURCE IMPLICATIONS	As indicated in the report.
EQUALITY IMPACT ASSESSMENT	No potentially negative impact sufficient enough to warrant a full impact assessment has been identified in the content of this report.
APPENDICES	<p>A. Proposed Net Revenue Budget Requirement 2012-13.</p> <p>B. Report on Precept Consultation for 2012-13 Revenue Budget (page numbered and included separately with agenda for meeting).</p> <p>C. Statement of the Robustness of the Budget Estimates and the Adequacy of the Authority Reserves and Balances.</p>
LIST OF BACKGROUND PAPERS	Nil.

1. **INTRODUCTION**

- 1.1 It is a legislative requirement that the Authority sets a level of revenue budget and council tax for the forthcoming financial year, before 1 March, in order that it can inform each of the fifteen council tax billing authorities within Devon and Somerset of the level of precept required from the Authority for 2012-2013. The purpose of this report is to provide Members with the necessary financial background, in order that consideration can be given as to what would be appropriate levels for the Authority.
- 1.2 The Localism Act 2011 includes new provisions which require an authority to hold a council tax referendum where an authority's council tax increase in 2012-2013 exceeds the council tax "excessiveness principles" applied for that year. These new rules replace the previous capping regime where the government would impose a cap on council tax increases.
- 1.3 The Secretary of State has proposed the council tax principles he is minded to set for 2012-2013. These are that fire and rescue authorities will be required to seek the approval of the local electorate in a referendum if, compared with 2011-2012, they set a council tax increase that exceeds 4.0%:
- 1.5 Whilst the Authority could consider an increase of 4.0% and still be within the "excessive principles" to be applied, this report considers four options, A to D below, of which the maximum increase is 3.0%. The 4.0% option is not included given the results of the precept consultation survey (paragraph 8 of this report) which only indicates limited support for a 4.0% increase.

OPTION A – Freeze council tax at 2011-12 level (£71.77 for a Band D Property).

OPTION B – Increase council tax by 2.0% above 2011-12 (£73.20).

OPTION C – Increase council tax by 2.5% above 2011-12 (£73.56).

OPTION D – Increase council tax by 3.0% above 2011-12 (£73.92).

- 1.6 The meeting of Resources Committee held on the 3 February 2012 considered the implications of each of these options, and have recommended that Option D (increase in council tax of 3.00%) be recommended to the Fire and Rescue Authority for approval.

2. **COMPREHENSIVE SPENDING REVIEW 2010 (CSR 2010)**

- 2.1 Members will be well aware of the economic background which has led to the government announcing its plans to reduce the national structural deficit. The Spending Review in October 2010 provided specific details of how public spending would be reduced over the four year period 2011-12 to 2014-15, including significant reductions in local authority grants over this period.
- 2.2 For fire and rescue authorities, CSR 2010 announced reductions in government grants of 25% by 2014-15, representing a real terms reduction in spending of 13% by 2014-15, bearing in mind that, on average, government grant funding represents 50% of total fire and rescue spending.

2.3 A 25% reduction in government grants obviously represents a significant reduction in future funding streams and requires fire and rescue authorities to put plans in place to deliver significant reductions in spending over the CSR 2010 period. However, the Fire Service has been provided with some protection as, unlike other local authorities, the reductions have been weighted so that they are back-loaded to 2013-14 and 2014-15, in order that fire and rescue authorities are given time to implement changes without affecting the quality and breadth of service to communities.

3. LOCAL GOVERNMENT FINANCE SETTLEMENT 2012-13

3.1 The Local Government Finance Settlement announcement in December 2010 provided local authorities with individual grant allocations for the two financial years 2011-12 and 2012-13. The further provisional Local Government Finance Settlement made in December 2011 only served to confirm that the original figures announced twelve months previously for 2012-13 will stand.

3.2 The settlement announced average local government grant reductions for England in 2011-12 of -9.9% when compared to 2010-11, and reductions of -7.3% in 2012-13 when compared to 2011-12. For fire and rescue authorities, however, the reductions are not so severe, -5.7% in 2011-12 and a further -0.7% in 2012-13, which is consistent with the government commitment that the larger reductions in Fire funding will be back-loaded to 2013-14 and 2014-15.

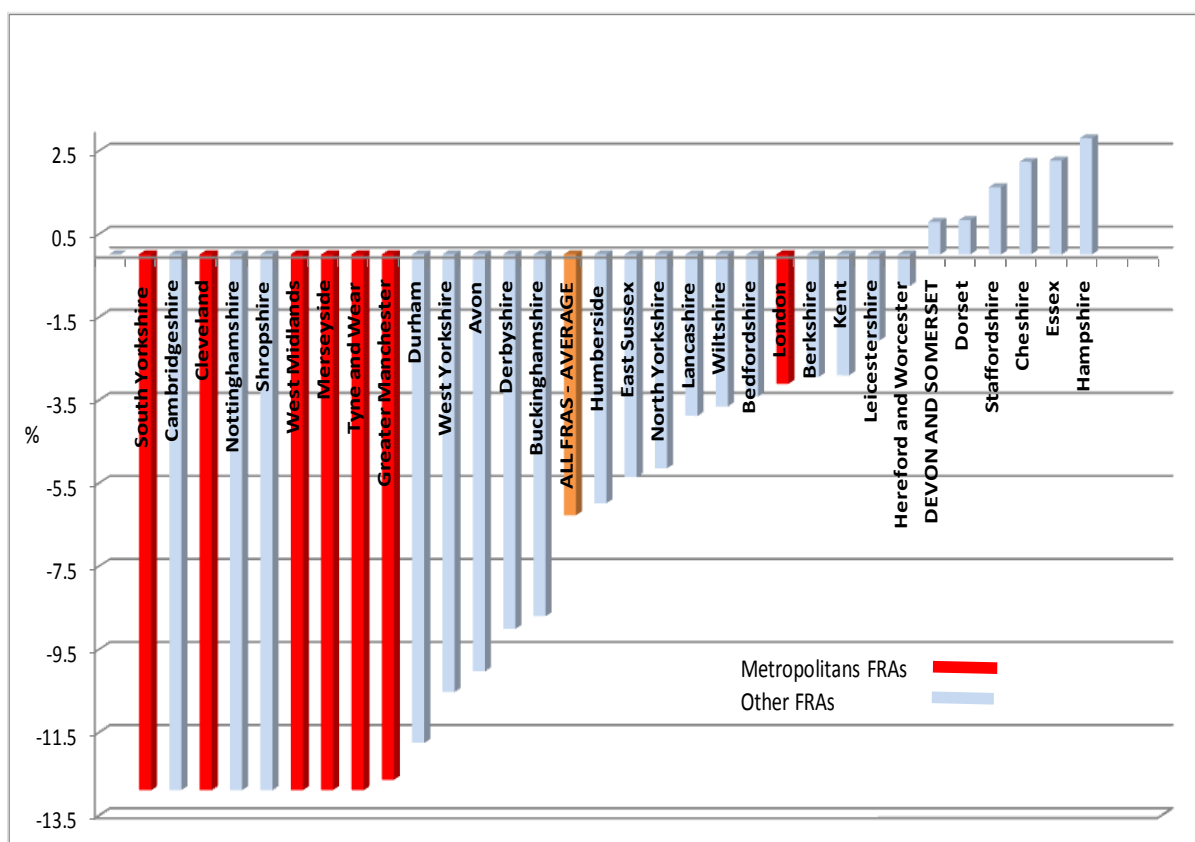
Impact of Provisional Grant Settlement to Devon and Somerset FRA

3.3 The actual changes in grant figures for Devon and Somerset FRA were a reduction in 2011-12 of -1.1% over 2010-11, and an increase of +1.9% in 2012-13 over 2011-12. Table 1 below provides a summary of the grant allocations.

TABLE 1 – FINAL GRANT SETTLEMENT FIGURES	£m	%
Formula Grant 2011-12	30.894	
Reduction over 2010-11 Grant	(0.349)	-(1.1)%
Formula Grant 2012-13	31.485	
Increase over 2011-12 Grant	0.591	+1.9%

3.4 These allocations were certainly more favourable than had originally been anticipated, which is as a consequence of the government introducing changes to the way Fire Formula grant is distributed. A number of changes have been made which, in general, benefit the more rural authorities such as Devon and Somerset FRA, primarily at the expense of the larger urban FRA's, who are suffering much larger reductions in grant. Chart 1 overleaf provides an analysis of changes in grant for all FRA's over the two years 2010-11 to 2012-13.

CHART 1 – ANALYSIS OF CHANGES IN FRA FORMULA GRANT 2012-13 OVER 2010-11



3.5 Chart 1 above illustrates that, whilst the average reduction in grant for Fire is -6.3%, the range of reductions are from -12.9% (eight FRAs) to +2.80% (Hampshire FRA). As the government has set a floor of -12.9% no FRA has suffered a reduction of more than -12.9%.

Local Government Resource Review

3.6 As is stated earlier the Local Government Finance Settlement announcement in December 2010 covered the first two years of the four year CSR 2010 period. The reason that grant figures were only released for two years rather than the whole four-year period is that the government had announced its intention to fundamentally change the way local authorities are to be funded from 2013-14.

3.7 In the summer of 2011 the government issued a consultation document “*Local Government Resource Review – Proposals for Business Rate Retention*” which outlined its proposed changes which would allow councils to retain locally raised business rates. The main principle behind the new system is to free councils from dependence on central Government grants and to provide a strong incentive for them to stimulate growth in the local economy.

3.8 Given that fire and rescue authorities are not billing authorities, and have very limited leverage in terms of stimulating the local economy, it is difficult to assess with any certainty the impact of the new system to the future funding of Devon and Somerset FRA from April 2013. The government has made it clear however that the new system will be working within the CSR 2010 control totals already set for 2013-14 and 2014-15, which means that the back-loading of grant reductions for fire and rescue authorities is still to be applied to 2013-14 and 2014-15. Based upon grant reductions already applied to Fire in 2011-12 and 2012-13 it is estimated that there are still -13.5% cash reductions in grant to come in 2013-14 and 2014-15. It is not anticipated that actual funding figures for 2013-14 and 2014-15 at individual authority level will be known until late 2012.

4. REQUIREMENT TO HOLD A LOCAL REFERENDUM FOR EXCESSIVE COUNCIL TAX INCREASES

4.1 The government had already published a consultation document during 2010 setting out its intentions to abolish the capping system from 2012-13. Capping has been in place for a number of years and used as a means of government intervening where authorities are deemed to have set excessive increases in council tax. It proposed that from 2012-13 capping will be replaced with a new system which will give local residents the powers to veto excessive increases in council tax through a local referendum.

4.2 The Localism Act received Royal Assent in December 2011 and included the implementation of the new system from 2012-13. Under these new arrangements any authority that wishes to increase council tax beyond a government set limit (principles), will be required to hold a referendum by May of the financial year in question, to seek the approval of the local electorate to such an increase. If the referendum results in a 'yes' vote then the increase will stand, however, if a 'no' vote is the outcome then the authority will need to revert to a council tax increase limited to the government set limit. This means that, in such circumstances at the budget meeting, two budgets will need to be considered, the budget at the excessive council tax level, and a second "shadow budget" based on the government set limit for council tax increases.

4.3 The government principles to be applied for 2012-13 have now been announced (subject to parliamentary approval), which are that a local authority will be required to seek the approval of their local electorate in a referendum if, compared with 2011-12, they set a council tax increase that exceeds:

- 3.5% for most principal authorities;
- 3.75% for the City of London;
- 4% for the Greater London Authority, police authorities, and single purpose fire and rescue authorities.

4.4 This means that a fire and rescue authority can increase its council tax by up to 4.0% without the need to hold a local referendum.

5. COUNCIL TAX AND BUDGET REQUIREMENT 2012-2013

Council Tax

5.1 Members will be aware that the government has laid out its expectations that for 2012-2013 local authorities freeze council tax for a second year. To encourage authorities to do this it has announced that it will pay a further Council Tax Freeze Grant to those authorities that set a zero per cent increase in council tax for 2012-13. For fire and rescue authorities (and police) this grant will be equivalent to an increase in council tax of 3.0%, equivalent to £1.328m for this authority.

- 5.2 However, it is important to recognise that this grant is different from the Reward Grant paid in relation to 2011-12 in that it will be paid for 2012-13 only, whereas the 2011-12 grant will be paid for each year of the CSR 2010 period. This makes this new grant less attractive and it is the Treasurers view that unlike 2011-12 when all local authorities decided to take the grant on offer and freeze council tax, this time there will be a number of authorities that will refuse the grant and opt to increase council tax. It should be emphasised that it is still an Authority decision to set a level of council tax that is appropriate to its funding position, and indeed it is voluntary as to whether the Authority agrees to accept the grant available.
- 5.3 For 2012-13 therefore, the Authority has to decide first as to whether it wishes to freeze council tax for a second year or not, and if it chooses to increase council tax then secondly, to decide what level of increase is required. Each 1% increase in council tax represents a £0.71p increase for a Band D property, and is equivalent to a £0.442m variation on the revenue budget. This report considers four options:
- OPTION A** – Freeze council tax at 2011-12 level (£71.77 for a Band D Property).
- OPTION B** – Increase council tax by 2.0% above 2011-12 (£73.20).
- OPTION C** – Increase council tax by 2.5% above 2011-12 (£73.56).
- OPTION D** – Increase council tax by 3.0% above 2011-12 (£73.92).
- 5.4 Included in this report at paragraph 8 is a summary of the results of the 2012-2013 precept consultation exercise. Given that there is limited support from business and the public for a 4% increase, this report has not considered increases beyond 3.0%.
- 5.5 Each of these options will increase the amount of revenue funding available in 2012-2013. Table 2 overleaf provides a summary of the increase in funding over 2011-2012 for each of the four options.

TABLE 2 – OPTIONS FOR COUNCIL TAX CHANGE – INCREASE IN SPENDING POWER OVER 2011-12

	OPTION A	OPTION B	OPTION C	OPTION D
	Council Tax Freeze at £71.77	Council Tax Increase of 2.0% to £73.20	Council Tax Increase of 2.5% to £73.56	Council Tax Increase of 3.0% to £73.92
	£m	£m	£m	£m
TOTAL FUNDING 2011-2012	76.240	76.240	76.240	76.240
Increase in Government Grant	0.591	0.591	0.591	0.591
<u>Increase in Council Tax Precept</u>				
- resulting from an increase in Council Tax Base (Number of Valued Properties)	0.364	0.364	0.364	0.364
- resulting from an increase in Band D Council Tax	-	0.883	1.105	1.328
Increase in Share of Billing Authorities Council Tax Collection Funds	0.154	0.154	0.154	0.154
2012-13 Council Tax Reward Grant	1.328	-	-	-
TOTAL FUNDING AVAILABLE 2012-2013	78.677	78.232	78.454	78.677
INCREASE IN SPENDING POWER	2.437	1.992	2.214	2.437

5.6 The impact of each of the options over 2011-12 is summarised below:

- **Option A** offers the equal largest increase in spending power in 2012-13 +2.437m, but the reward grant of £1.328m will be removed in 2013-2014 as the grant is payable for one year only.
- **Option B** offers a smaller increase in spending power than Option A in 2012-13 +1.992m, however the £0.883m generated from a 2.00% increase in council tax would be built into base and will therefore be available for the Authority to spend in all future annual budgets.
- **Option C** offers a smaller increase in spending power than Option A in 2012-13 +2.214m, however the £1.105m generated from a 2.50% increase in council tax this amount would be built into base and will therefore be available for the Authority to spend in all future annual budgets.
- **Option D** offers the equal largest increase in spending power in 2012-13 +2.437m, and the additional £1.328m generated from a 3.00% increase in council tax would be built into base and will therefore be available for the Authority to spend in all future annual budgets.

Net Budget Requirement

5.7

Table 3 below provides a summary of the proposed revenue budget for 2012-13 on the basis of setting the budget at £78.677m i.e. Options A and D. A breakdown of the more detailed changes included in this draft budget are included in Appendix A, and a budget booklet is enclosed separately with this report which provides analysis of the proposed budget by subjective budget headings.

<u>TABLE 3 – SUMMARY OF CORE REVENUE BUDGET REQUIREMENT 2012-2013</u>	£m	%
Approved Net Revenue Budget Requirement 2011/2012 (including 2011-12 Council Tax Reward grant of £1.099m)	76.240	
PLUS Provision for pay and price increases (items 1 to 4 included in Appendix A to this report)	1.303	
PLUS Inescapable Commitments (items 5 to 9 included in Appendix A to this report)	(0.178)	
MINUS One-off investments in 2011-12 (items 10 to 13 included in Appendix A to this report)	(1.103)	
PLUS Invest-to-Save/Essential Spending Pressures (items 14 to 18 included in Appendix A to this report)	4.040	
CORE SPENDING REQUIREMENT 2012-2013	80.302	
MINUS Budget Savings/Income Generation (items 19 to 23 included in Appendix A to this report)	(1.625)	
NET REVENUE BUDGET REQUIREMENT 2012-2013	78.677	
INCREASE IN BUDGET OVER 2011-2012 (£m)		2.437
INCREASE IN BUDGET OVER 2011/2012 (%)		3.19%

Invest-to-Save/Essential Spending Pressures

- 5.8 In constructing the budget requirement for 2012-13 an amount of £4.040m has been included for new investment in the Service. In assessing how this sum is to best utilised Senior Management Board has adopted the strict criteria that any new investment has to contribute towards the Business Change and Improvement Programme and/or contribute to plans to reduce spending by 2014-15, or be risk critical in terms of enhancing firefighter safety and operational resilience.
- 5.9 From the range of new investment bids that have been received from budget managers the following three areas of investment are proposed;
- I. **Change and Improvement Programme (invest-to-save)** – an amount of £0.936m has been identified as the minimum requirement in 2012-13 to support the key improvement projects to be progressed through the two Change and Improvement Programmes in 2012-13. This sum will be allocated during the financial year, by the officer led Portfolio Management Board, subject to the approval of robust business cases which demonstrate the delivery of efficiencies or improvements to the Service.
 - II. **Revenue Contribution to Capital Spending (invest-to-save)** - elsewhere on the agenda is a separate report proposing a revised capital programme for the years 2012-13 to 2014-15. The proposed programme has been constructed on the basis of keeping within prudential code limits and, in particular, containing as much as possible the Authority's exposure to external borrowing, now and into the future, and keeping debt charges within a 5% limit of the revenue budget. That programme includes some significant capital investment needs to be delivered in 2013-14 such replacement of breathing apparatus equipment, and the introduction of light rescue pumps (LRPs). To deliver that level of programme and maintain the debt ratio within the 5% limit it is proposed that in setting the 2012-13 revenue budget an amount is of £1.850m is utilised to directly fund capital spending.
 - III. **Commercial Services Activities (invest-to-save)** – the establishment of the Commercial Services Arm has already increased income generation from the delivery of external training courses from £0.5m in 2010-2011 to a projected £1.1m in 2011-2012. For 2012-13 the income target has been increased by £0.395m. It is proposed that this additional income is re-invested back into commercial activities to cover costs of the Commercial Services Team, increased number of trainers, and costs of Members allowances associated with the Commercial Services Committee.
 - IV. **Alternative Fire Control Building** – The issues surrounding the closure of the Regional Fire Control Project by the Department of Communities and Local Government (CLG) and the alternative arrangements for the Networked Fire Control Project, in collaboration with Dorset, Wiltshire and Hampshire Fire and Rescue Services has been reported to the Committee previously. The procurement for a new operating system and associated systems are likely to be complete by the end of the next financial year (2012/13) and consequently, there is a need to locate this into a new facility. Whilst the business case for this project has yet to be agreed, the pressure on the capital programme makes a new building on site unlikely. At this time, it is proposed to allocate £0.490m from the 2012-13 revenue budget to fund refurbishment to existing buildings to facilitate the development of fire control on the Service Headquarters (SHQ) site.

- V. **Essential Spending Pressures** – an amount of £0.369m has been included for investment in a small number of essential spending bids agreed by the Senior Management Board from a large number of bids received from budget managers. The main areas of support relate to the enhancement of firefighter safety, enhanced training budget for Retained Duty System, the provision of Automatic External Defibrillators (AEDs) on front line appliances, Service Level Agreement with Plymouth and Devon Equality Council, and increased legal support.

- 5.10 Should the Authority be minded to approve either options B or C, then the Net Budget Requirement for 2012-13 would need to be reduced accordingly, and the Senior Management Board would need to review all of the projects included within these investment initiatives with a view to deciding which of these would be removed from the base budget.

6. MEDIUM TERM FINANCIAL PLAN

- 6.1 As is stated earlier in this report the Local Government Grant Settlement has provided details of grant allocations for the next two years, but we will not know the scale of grant reductions at FRA level for 2013-14 and 2014-15 until late 2012. The uncertainty of the funding position is exacerbated by government plans to implement a significant change to the funding of local authorities from 2013-14, involving the introduction of the local retention of business rates system, and the abolition of Formula Grant.
- 6.2 This uncertain future over our funding for the next few years makes it even more important that financial planning spans more than just one year, so as decisions on council tax can be made on the basis of its impact over the medium term. The Medium Term Financial Plan has therefore been updated to span a four year period from 2012-13 to 2015-16.
- 6.3 Clearly it is difficult to provide forecasts into future years with absolute certainty, particularly in relation to future pay awards, inflationary increases and changes in pension costs. Key assumptions have therefore had to be made in our forecasts which will inevitably be subject to change. However, the prudent forecasts of future budgets can be used to refresh the Authority's Medium Term Financial Plan (MTFP) to inform financial planning and provide updated forecasts of the levels of budget reductions required by 2014-15 to balance the budget.

7. PLANS TO ACHIEVE BUDGET REDUCTIONS 2012-13 TO 2015-16

- 7.1 Whilst it is not possible to predict the scale of budget reductions required by 2014-2015 with absolute certainty, the MTFP financial model can be used to assess 'best case' and 'worst case' scenarios. This modelling assessed last year that on-going savings of between -4.5m (best case) and -£9.2m (worst case) would be required by 2014-2015, over the 2010-2011 budget.
- 7.2 This budget report proposes total budget reductions of -£1.6m to be delivered in 2012-13 (Appendix A items 19 to 23), which when added to the £1m of savings identified in setting the 2011-12 budget, means that the Authority has already identified -£2.6m of on-going savings which will contribute to the budget reductions programme required by 2014-2015.

7.3 Using our original forecast of savings required this means that the savings delivered so far has reduced our savings requirement for 2014-2015 to -£1.9m (best case) to -£6.6m (worst case). This position would be exacerbated should the decision be made to freeze council tax in 2012-13 as the loss of the freeze grant would also need to be made up by further reductions in spending, or increases in council tax from 2013-2014. Table 4 below summarises how the -£2.6m of savings delivered so far are made up.

<u>TABLE 4 – SUMMARY OF ON-GOING SAVINGS DELIVERED 2011-12 AND 2012-13</u>	£m
Vacancy Management	(0.575)
Adoption of Zero Base Budgeting and efficiency savings identified from Budget Holders	(0.647)
Additional Revenue from Commercial Activities	(0.495)
Amalgamation of control rooms	(0.503)
Senior Management Board restructure	(0.154)
Changes to mobilisation arrangements to co-responder calls	(0.075)
Change in policy to Automatic Fire Alarm (AFA) calls	(0.109)
Change in payroll provider	(0.059)
Dissolution of Regional Management Board	(0.025)
TOTAL SAVINGS 2011-12 AND 2012-13	(2.642)

7.4 Members will be well aware that in planning to deliver the savings by 2014-15 we plan to meet our budget shortfall through: 1) **improving efficiency** 2) **reducing spending** and 3) **generating income**.

Improving efficiency by: -

- Better management and control of spending and suppliers,
- Sharing managers and operational/business support functions,
- Changing how we respond to co-responder calls for the ambulance service.
- Providing better targeted prevention advice.
- Using slightly smaller fire engines for relevant areas.
- Commencing discussions with staff as to how we can change the existing shift system.
- Savings from reductions in the senior management team in 2010.
- Improving business processes.

Reducing costs: -

- Risk managed approach to reduce spend.
- Not attending repeated false alarms from the same premises and/or charge for repeated defective alarm system call outs.
- Ending the Regional Management Board (a political body).
- Reducing spending by Councillors.
- Pay restraint (recognising national conditions of service apply).

Using money saved in 2010/11 as a result of tight budget management (ring fenced reserves).

Generating income: -

Selling training and other functions.

- 7.5 Looking beyond 2014-15, the Chancellors' Autumn Statement in November 2011 indicated that the austerity measures currently in place will need to continue for at least two years beyond 2014-15. Whilst we cannot be certain of the impact of this Statement on local government funding, it would indicate that further reductions in funding will be made.
- 7.6 The progression of projects within the Change and Improvement Programmes will be key to the delivery of further savings in the next few years. Officers are confident that the significant work underway within this programme will secure the necessary budget reductions by 2014-15.

8. PRECEPT CONSULTATION 2012-2013

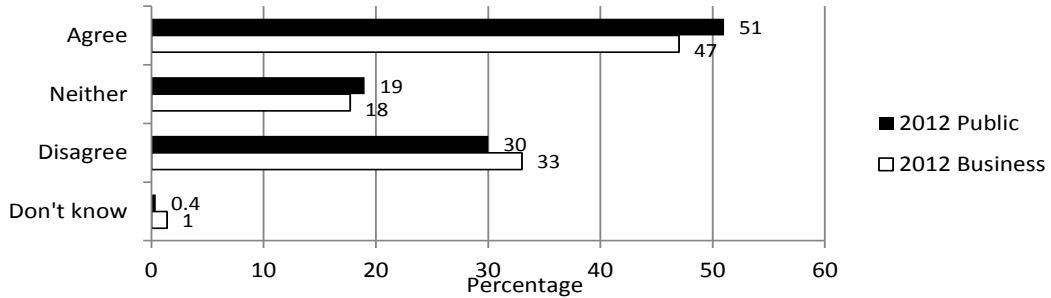
- 8.1 Section 65 of the Local Government Finance Act (1992) requires precepting authorities to consult non-domestic ratepayers on its proposals for expenditure.
- 8.2 For 2012 the consultation was extended to include members of the public; it was deemed inappropriate not to include the public's views on the option of increasing Council Tax at a time of economic difficulty.
- 8.3 A telephone survey methodology was used as in previous years due to the short timescale to complete the research. The key specifications for the survey were:
- To ask 4 key question plus demographic information;
 - to collect answers to both closed and open questions; and
 - to provide a representative sample of 400 business and 400 members of the public by constituent authority area (Devon County Council; Plymouth City Council; Somerset County Council; and Torbay Council).
- 8.4 The survey commenced the week beginning Monday 8 January 2012 and was undertaken by BMG Research. Appendix B provides the full report of the results produced by BMG Research.

Results

- 8.5 **Question 1: 'How strongly do you agree or disagree that it is reasonable for the Authority to consider increasing its council tax charge for 2012/13 in order to safeguard the present levels of service?'**

The results to Question 1 show that the results are very similar between the public and business samples demonstrating that the two groups hold similar views. The top line results in Graph 1 reveal that more business and public respondents agree than disagree that it is reasonable to consider increasing its Council Tax charge for 2012/13.

Graph 1: Business and public results as to whether they agree it is reasonable for the Authority to consider increasing its council tax charge for 2012/13

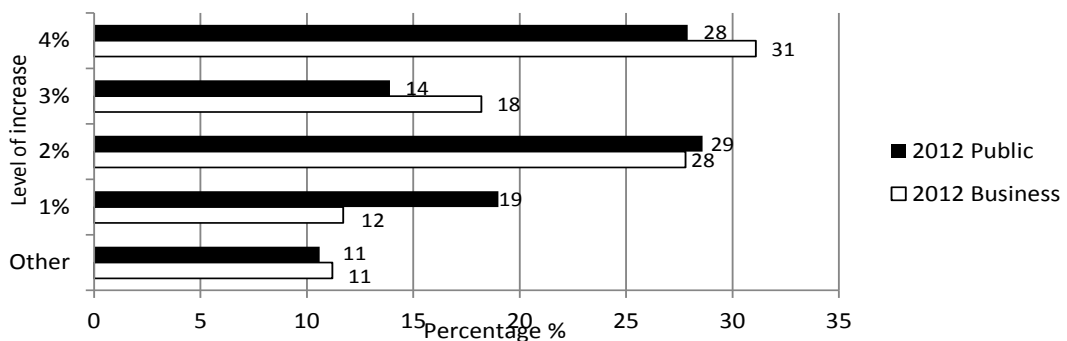


In the 2011 survey, 77% of business respondents agreed that the Authority should not increase its Council Tax charge for 2011/12. The 2012 survey results, therefore, suggest that opinion has changed over the year towards a more positive view of increasing the Council Tax precept.

8.6 Question 1.b 'If you answered agree or strongly agree what level of increase based on the current figure of £71.77 would you consider reasonable?'

The results to Question 1b, shown in Graph 2, demonstrate that the support for increasing the Council Tax does not, as may be assumed, decline as the percentage increases. Instead the greatest level of support is for either 2% or 4% and this is consistent for both public and business responses.

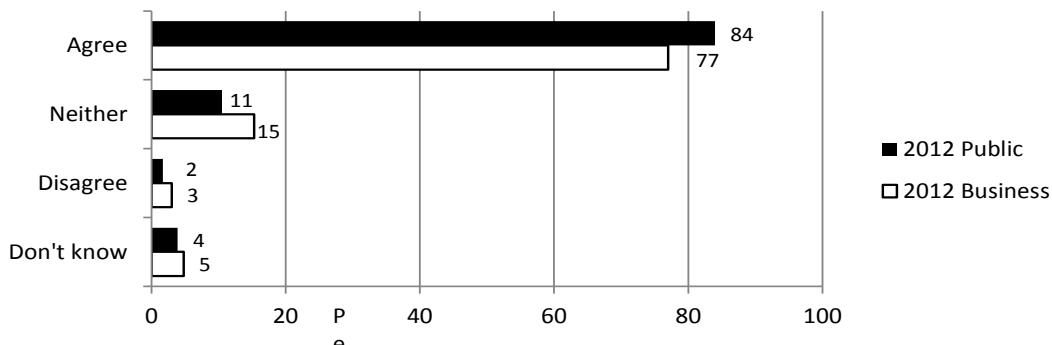
Graph 2: The percentage level increase considered reasonable by respondents who agreed to Question 1



8.7 **Question 2. Devon and Somerset Fire and Rescue Service’s total annual budget (e.g. Council Tax, Government Grant, Non Domestic Rates) equates to £122.72 per Band ‘D’ household across Devon and Somerset. How strongly do you agree or disagree that Devon and Somerset Fire and Rescue Service provides value for money?**

The cost quoted for £122.72 was calculated to provide a total cost of running the service per household. In previous years’ questions the cost indicated represented only the Council Tax charge for a Band ‘D’ property. This change provides a more transparent approach of providing rate payers with a more accurate assessment of the costs of DSFRS. The results in Graph 3 show that both public and business respondents agree that the Service provides value for money and that there is a higher level of agreement from members of the public.

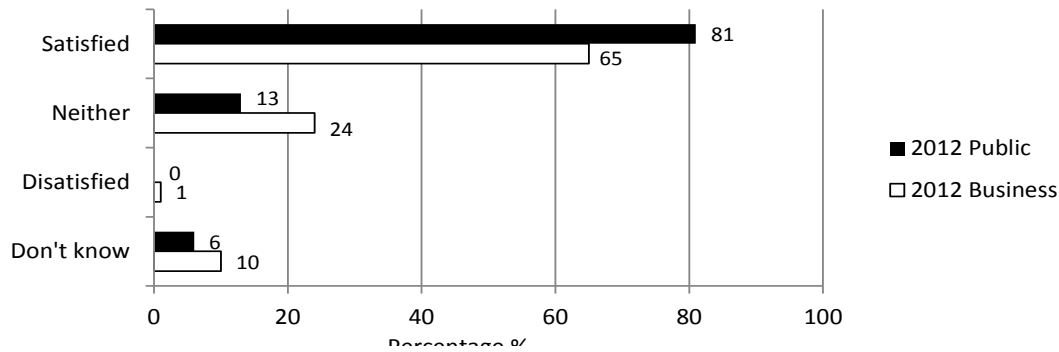
Graph 3: How strongly do you agree or disagree that Devon and Somerset Fire and Rescue Service provides value for money?



8.8 **Question 3 How satisfied are you with the service provided by Devon and Somerset Fire and Rescue Service?**

The results in Graph 4 show that there is high level of satisfaction with the service provided amongst members of public. Satisfaction levels are lower amongst businesses but this is not necessarily because they are dissatisfied; more business respondents reported ‘Neither agree nor disagree’ or ‘Don’t know’ than members of the public.

Graph 4: How satisfied are you with the service provided by DSFRS



8.9 **Conclusion**

In both cases, more members of the public and the business community agree than disagree that it is reasonable for the Authority to consider increasing its Council Tax precept for 2012/13. For those who agreed the Authority should consider increasing the level of precept the most support was for a 2% or 4% increase. Results from members of the public and business community show that respondents agree the Service provides value for money and are also satisfied with the service provided.

9. **STATEMENT ON ROBUSTNESS OF BUDGET ESTIMATES AND THE ADEQUACY OF THE LEVELS OF RESERVES AND BALANCES**

9.1 It is a legal requirement under Section 25 of the Local Government Act 2003 that the person appointed as the 'Chief Finance Officer' to the Authority reports on the robustness of the budget estimates and the adequacy of the level of reserves. The Act requires the Authority to have regard to the report in making its decisions. This statement is included as Appendix D to this report.

10. **SUMMARY**

10.1 The Authority is required to set its level of revenue budget and council tax for 2012-2013 by 1 March so that it can meet its statutory obligation to advise each of the fifteen billing authorities in Devon and Somerset of the required level of precept for 2012-2013. This report provides Members with the necessary background information to assist them in making decisions as to the appropriate levels for Devon and Somerset FRA.

10.2 The meeting of Resources Committee held on the 3 February 2012 have already considered the implications of each of these options, and have recommended that Option D (increase in council tax of 3.00%) be recommended to the Fire and Rescue Authority for approval.

KEVIN WOODWARD
Treasurer

LEE HOWELL
Chief Fire Officer

APPENDIX A TO REPORT DSFRA/12/4

DRAFT REVENUE BUDGET REQUIREMENT 2012-2013

		£m	£m	%
	Revenue Budget 2011-2012 (approved Net Budget £75.141m PLUS 2011-2012 Council Tax Reward Grant £1.099m)		76.240	
	Provision for Pay and Prices			
1.	Uniformed Pay (assumed 1.0% from July 2012))	0.340		
2.	Non-Uniformed Pay (assumed 1.0% from April 2012)	0.092		
3.	Provision for prices increases (assumed CPI of 5.2%) plus additional allowance for fuel, utilities and non-domestic rates)	0.765		
4.	Provision for inflationary increase in pension costs.	0.106		
			1.303	
	Inescapable Commitments			
5	Pay increments and other pay changes	0.113		
6	Reduction in debt charges (including leasing costs)	(0.409)		
7	Increase in Occupational Health Costs	0.031		
8	Increase in Rates Costs from removal of rates relief	0.052		
9	Other changes (net)	0.035		
			(0.178)	
	One-off Provisions included in 2011-12 Budget			
10	Replacement of obsolete Hand Held Radios	(0.200)		
11	Change and Improvement Programmes (invest-to-save)	(0.740)		
12	Document Records Management System	(0.075)		
13	Replacement Training System	(0.088)		
			(1.103)	
	Invest-to-Save/Essential Spending Pressures			
14	Change and Improvement Programme	0.936		
15	Revenue Contribution to Capital Spending	1.850		
16	Commercial Services Activities	0.395		
17	Alternative Fire Control Room	0.490		
18	Essential Spending Pressures	0.369		
			4.040	
	Efficiency Savings/Income Generation			
19	Business Support Programme - Zero Based Budgeting - Change of Payroll Provider	(0.305) (0.059)		
20	Service Delivery Programme - Amalgamation of Control Rooms - Change in mobilisation arrangements to co-responder calls - Change in Policy to Automatic Fire Alarm (AFA) calls	(0.503) (0.025) (0.084)		
21	Additional income generation from Commercial Activities	(0.395)		
22	Vacancy Management	(0.150)		
23	Senior Management Board restructure	(0.104)		
			(1.625)	
	TOTAL CHANGES (LINES 1 TO 23)		2.436	
	DRAFT REVENUE BUDGET REQUIREMENT 2012-2013		78.677	

STATEMENT OF THE ROBUSTNESS OF THE BUDGET ESTIMATES AND THE ADEQUACY OF THE DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY LEVELS OF RESERVES

It is a legal requirement under Section 25 of the Local Government Act 2003 that the person appointed as the 'Chief Finance Officer' to the Authority reports on the robustness of the budget estimates and the adequacy of the level of reserves. The Act requires the Authority to have regard to the report in making its decisions.

THE ROBUSTNESS OF THE 2012-13 BUDGET

The net revenue budget requirement for 2012-13 has been assessed as £78.677m. In arriving at this figure a detailed assessment has been made of the risks associated with each of the budget headings and the adequacy in terms of supporting the goals and objectives of the authority as included in the Corporate Plan. It should be emphasised that these assessments are being made for a period up to the 31st March 2013, in which time external factors, which are outside of the control of the authority, may arise which will cause additional expenditure to be incurred. For example, the majority of retained pay costs are dependent on the number of call outs during the year, which can be subject to volatility dependent on spate weather conditions. Other budgets, such as fuel are affected by market forces that often lead to fluctuations in price that are difficult to predict. Details of those budget heads that are most at risk from these uncertainties are included in Table 1 overleaf, along with details of the action taken to mitigate each of these identified risks.

TABLE 1 – BUDGET SETTING 2012-13 ASSESSMENT OF BUDGET HEADINGS MOST SUBJECT TO VOLATILE CHANGES

Budget Head	Budget Provision 2012-13 £m	RISK AND IMPACT	MITIGATION
Retained Pay Costs	12.3	A significant proportion of costs associated with retained pay is directly as a result of the number of calls responded to during the year. The level of calls from year to year can be volatile and difficult to predict e.g. spate weather conditions. Abnormally high or low levels of calls could result in significant variations against budget provision.	In establishing a General Reserve for 2012-13, allowance has been made for a potential overspend on this budget. The amount is largely based upon the required local contribution to the costs of a major incident covered under the 'Bellwin' Scheme.
		In addition, negotiations are still outstanding relating to the outcome of the Part-Time Workers (less than favourable working conditions) tribunal, which during 2008 ruled in favour of retained firefighters having the same conditions of service in relation to pension and sickness benefits as wholtime firefighters. Given the significant number of retained firefighters employed by the Service, and the fact that this ruling will be backdated to the year 2000, this ruling will have a significant impact on the Service budget.	A 'Provision' of £1.505m has been set aside for the impact of the ruling from the Part Time Workers tribunal. However, until final negotiations are complete the full extent of the impact to the Service budget cannot be quantified.
Fire-fighter's Pensions	2.1	Whilst net pension costs funded by the government through a top-up grant arrangement, the Authority is still required to fund the costs associated with ill-health retirements, and the potential costs of retained firefighters joining the scheme.	In establishing a General Reserve for 2012-13 an allowance has been made for a potential overspend on this budget. The figure is based upon a further two ill health retirements during the year; over and above the number budgeted for.
Insurance Costs	0.8	The Fire Authority's insurance arrangements require the authority to fund claims up to agreed insurance excesses. The costs of these claims are to be met from the revenue budget. The number of claims in any one-year can be very difficult to predict, and therefore there is a risk of the budget being insufficient. In addition some uninsured costs such as any compensation claims from Employment Tribunals carry a financial risk to the Authority.	In establishing a General Reserve for 2012-13 an allowance has been made for a potential overspend on this budget. The amount is largely based upon the occurrence of one aerial platform appliance being totally written-off.
Fuel Costs	0.8	Whilst the budget has made some allowance for further increases in fuel costs during 2012-13, it is highly possible that increases could be in excess of the budget provided.	In establishing a General Reserve for 2012-13 an allowance has been made for a potential overspend on this budget.
Income	-1.7	Whilst the authority has only limited ability to generate income, the budget has been set on the basis of delivering £1.7m of external income. Whilst the work of the Commercial Services Arm will seek to at least hit this target, actual performance will be dependent on the full impact of the economic downturn.	Budget monitoring processes will identify any potential shortfall and management informed so as any remedial action can be introduced as soon as possible.
Capital Programme	8.6	Capital projects are subject to changes due to number of factors; these include unforeseen ground conditions, planning requirements, necessary but unforeseen changes in design, and market forces.	Capital projects are subject to risk management processes that quantify risks and identify appropriate management action. Any changes to the spending profile of any capital projects will be subject to Committee approval in line with the Authority Financial Regulations.

Whilst there is only a legal requirement to set a budget requirement for the forthcoming financial year, the Medium Term Financial Plan (MTFP) provides forecasts to be made of indicative budget requirements over a four year period covering the years 2012-13 to 2015-16. These forecasts include only prudent assumptions in relation future pay awards and prices increases, which will need to be reviewed in light of pay settlements and movement in the Consumer Prices Index.

Given the CSR 2010 announcement, which included average reductions in grant of 25% for fire and rescue authorities by 2014-15, the strategy for setting a budget for 2012-13 has been very mindful of the likely funding scenarios over the next four years rather than just one year. Therefore the budget for 2012-13 has included some new invest-to-save funding e.g. revenue contributions to capital funding (to alleviate external borrowing and future debt charges liabilities) and support to the Change and Improvement Programmes (to identify and progress those projects that will generate the efficiencies and improvements by 2014-15).

THE ADEQUACY OF THE LEVEL OF RESERVES

It should be noted that 2012-13 is only the ninth year that Combined Fire and Rescue Authorities have had the legal power to hold reserves. This new power emanates from the legislative change from 2004-2005 that gave Combined Fire and Rescue Authorities major precepting status. This being the case a strategy was adopted, by the then Devon FRA, to build Reserve levels up over a period of time, as the only funding available to build up the Reserve balance to recommended levels was to make contributions from the Revenue budget and in-year underspends.

The current level of General Reserve balances for the authority is £4.453m, which represents 5.9% of the revenue budget. Should there be an underspend against this year's budget, current forecast is for an underspend of £0.951m, then, subject to other Service priorities required to be funded from this figure, this level could be increased further to just under 7% at the year-end.

The Authority has adopted an "in principle" strategy to maintain the level of reserves at a minimum of 5% of the revenue budget for any given year, with the absolute minimum level of reserves only being breached in exceptional circumstances, as determined by risk assessment. This does not mean that the Authority should not aspire to have more robust reserve balances based upon changing circumstances, but that if the balance drops below 5% (as a consequence of the need to utilise reserves) then it should immediately consider methods to replenish the balance back to a 5% level.

It is pleasing that the Authority has not experienced the need to call on reserve balances in the last five years to fund emergency spending, which has enabled the balance, through budget underspends, to be increased to a level in excess of 5%. The importance of holding adequate levels of general reserves was highlighted in recent years following the deterioration of the banking system and the loss of local authority investments from the Icelandic banks. Whilst this Authority was not directly impacted by the Icelandic bank situation (as these banks are not included on the list of financial institutions the Authority invests with), it was exposed by the problems of Northern Rock at the time that that bank was in trouble during 2007. As a consequence of the Icelandic bank position the Chartered Institute of Public Finance and Accountancy (CIPFA) immediately introduced a new Local Authority Accounting Principle in November 2008 (LAAP 77) bulletin to provide further guidance to local authority chief finance officers on the establishment and maintenance of local authority reserves and balances, which should be followed as a matter of course. Whilst this bulletin 'stopped short' of advising of a minimum level of reserves, it acted as a further reminder that it is for the authority, on the advice of the chief finance officer, to make their own judgements on such matters based upon local circumstances

The impact of flooding and the problems experienced by the global financial markets are just two examples, highlighted within the bulletin, of external risks which local authorities may need to take into account in setting levels of reserves and wider financial planning.

It should also be emphasised that this Authority is placed in the 4th quartile (lower) when compared to all fire and rescue authorities. The average reserve balance for all FRAs is 9.6% of revenue budget; consequently, even at just under 7% the Authority's reserve level would still be placed in the 4th quartile and fourth lowest of all combined fire and rescue authorities in the country, positioning the Authority at 29 out of 33.

Given the uncertainty over the scale of budget reductions that the Authority will be required to find in 2013-14 and 2014-15, it is my view that the Authority should seek to protect reserve balances as much as possible to provide added financial stability through the CSR 2010 period.

CONCLUSION

It is considered that the budget proposed for 2012-13 represents a sound and achievable financial plan, and will not increase the Authority's risk exposure to an unacceptable level. The estimated level of reserves is judged to be adequate to meet all reasonable forecasts of future liabilities.

KEVIN WOODWARD
Treasurer



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/5
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	DEVON & SOMERSET FIRE & RESCUE AUTHORITY APPROVED SCHEME OF MEMBERS ALLOWANCES
LEAD OFFICER	Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>That the contents of this report be considered alongside the report of the Independent Advisor (as appended) and with a view to determining, for the forthcoming (2012/13) financial year:</i></p> <ul style="list-style-type: none"> (i) <i>the rate of Basic Allowance payable;</i> (ii) <i>the rates and type of Special Responsibility Allowances (SRAs) payable;</i> (iii) <i>the position in relation to payment of more than one SRA with reference to the Commercial Services Committee;</i> (iv) <i>rates for reimbursement of travel and subsistence;</i> (v) <i>other recommendations as contained in the Independent Advisors report (e.g. performance monitoring etc.);</i> <p>(b) <i>that, following from (a) above and in accordance with the requirements of the relevant Regulations, the Clerk be authorised:</i></p> <ul style="list-style-type: none"> (i) <i>to arrange for publication as soon as possible of those rates agreed in relation to Basic and Special Responsibility Allowances;</i> (ii) <i>to amend the Authority Approved Scheme of Members Allowances to reflect, where required, decisions taken at (a) above;</i>

	(c) <i>that, given the change to the standards regime as contained in the Localism Act 2011 and in light of Counsel advice as to sanctions available under the successor regime, the Clerk be further authorised – upon commencement of the new provisions (anticipated for 1 July 2012) - to amend the Approved Scheme of Allowances by removal of reference to full or partial suspension of a Member from duties and associated withholding of allowances.</i>
EXECUTIVE SUMMARY	<p>Regulations require the Authority to determine each year basic and special responsibility allowances, together with levels for reimbursement of travel and subsistence expenses to Members. For the forthcoming financial year, this has been subject to an independent review, the recommendations for which are set out in the appended report from the Independent Advisor.</p> <p>This report sets out the financial implications for the Authority should it be minded to approve those recommendations. It also highlights the requirement for a further amendment to be made to the Approved Scheme once the new standards regime introduced by the Localism Act 2011 is effected.</p>
RESOURCE IMPLICATIONS	As set out in Section 2 of this report.
EQUALITY IMPACT ASSESSMENT	Not applicable
APPENDICES	A. Report of Independent Advisor
LIST OF BACKGROUND PAPERS	<p>The Local Authorities (Members Allowances) (England) Regulations 2003</p> <p>The Localism Act 2011</p>

1. BACKGROUND - LEGISLATIVE FRAMEWORK AND REVIEW PROCESS

- 1.1 The relevant Regulations governing Members' Allowances require the Authority to pay a basic allowance (to cover all normal duties associated with the office) to all Members. This basic allowance must be the same amount for each Member. The regulations also provide for the payment of Special Responsibility Allowances in certain circumstances (e.g. for chairing duties etc) as specified.
- 1.2 Unlike other public authorities, this Authority is NOT required to appoint an Independent Remuneration Panel (IRP) to review its allowance scheme. It is, however, required to "have regard to" any recommendations made by the IRPs of its constituent authorities in relation to allowances paid by those authorities. Additionally, the Regulations advise that any automatic uprating mechanism contained within an approved Scheme should only be used for a maximum period of four years after which a more fundamental review should be undertaken.
- 1.3 This Authority's Approved Scheme of Members Allowances was last reviewed substantially by an Independent Advisor in 2008. At that time it was considered appropriate to use the services of an Independent Advisor given the sensitivity of this issue and in-keeping with a desire to reflect the impartiality, objectivity and transparency of the arrangements applying to other public authorities.
- 1.4 Applying this rationale again, a quotation exercise was conducted in December 2011 resulting in the appointment of Ms. Bryony Houlden to undertake the current review.
- 1.5 A copy of Ms. Houlden's review, including proposals as to allowances to be paid, is appended to this report. Ms. Houlden has been invited to attend the meeting for this item to address any issues Members may wish to raise in relation to the review and subsequent report as appended to this paper. The remainder of this report addresses the financial implications should the proposals set out in Ms. Houlden's report be adopted.

2. FINANCIAL IMPLICATIONS

- 2.1 The Authority's draft revenue budget for 2012/13 makes a total provision of £125,200 for Members allowances, allowing for a 2.5% increase on allowance lines (including National Insurance), a standard, 5.2% inflationary increase for non-allowances lines and other inescapable commitments. This is broken down as follows:

ITEM	AMOUNT £
Members' Allowances	89,900
Members' National Insurance	2,100
Members Travel	20,900
Members Conference Fees	6,000
Members Subsistence	4,500
Members hotel bookings	1,800
TOTAL	125,200

- 2.2 It should be noted that (with the exception of the National Insurance line), the above does not include provision for the payment of any Special Responsibility Allowances (SRAs) attracting to the Commercial Services Committee. The Authority previously resolved that these SRAs should be met from income generation and should not fall on the Council Tax payer (Minute DSFRA/21(e) of the meeting held on 29 July 2011 refers).
- 2.3 As such, provision for allowances linked to the Commercial Services Committee is, therefore, factored in as part of the recoverable costs associated with commercial trading but it should be noted that any increase in the level of such allowances arising from the Independent Advisors report will need to be met from a corresponding increase in the income target for commercial trading activities.
- 2.4 Should the recommendations as contained in the Independent Advisors report be approved, then expenditure on Members Allowances only (again, excluding SRAs associated with the Commercial Services Committee) would be as follows:

ITEM	AMOUNT £
Basic Allowance (25 x £2,500)	62,500
SRAs	
- Authority Chairman	12,500
- Authority Vice Chairman	6,250
- Committee Chairmen (4 x £3,750)	15,000
- Allowance for Standards Independent Members (3 x £500)	1,500
TOTAL	97,750

- 2.5 This total amount of £97,750 exceeds the provision of £89,900 for allowances only (as contained in the draft revenue budget 2012/13) by £7,850. If approved, this additional amount will be contained from elsewhere within the overall budget for Democratic services.

3. LOCALISM ACT – IMPLICATIONS FOR APPROVED SCHEME OF ALLOWANCES

- 3.1 The current Regulations on Members Allowances provide that a Scheme may specify that, where a Member is wholly or partially suspended from his/her responsibilities in accordance with Part III of the Local Government Act 2000 (the former standards regime), then part or all of any allowances payable may be withheld during the period of suspension. This provision is currently reflected in the Authority's approved Scheme.
- 3.2 At its meeting in December 2011 the Authority received a report on the implications of the recently enacted Localism Act 2011. One of the provisions of this Act is to remove, virtually in its entirety, the standards regime introduced by the Local Government Act 2000. The Authority must replace this with its own "arrangements", which must include adoption of a Code of Conduct and a process for addressing any alleged breaches of this Code.
- 3.3 Significantly, however, the range of sanctions under the former regime has effectively been swept away by the new provisions as required under the Localism Act. Counsel opinion has been sought by the Association of Council Secretaries and Solicitors which has confirmed that suspension will no longer be a sanction available to local authorities under the new regime.

- 3.4 Consequently, it follows that – if suspension is no longer available – then it will no longer be possible to withhold allowance payments on that basis. It is anticipated that the new standards arrangements under the Localism Act will come into force on 1 July 2012. Given this, the Authority is asked to authorise the Clerk to amend the Authority Approved Scheme of Allowances – once the new standards arrangements come into force – to delete reference to the withholding of allowances in the event of suspension.

MIKE PEARSON
Clerk to the Authority

**REVIEW OF DEVON AND SOMERSET FIRE AND
RESCUE AUTHORITY MEMBERS' ALLOWANCES
SCHEME**

January 2011

EXECUTIVE SUMMARY

Devon and Somerset Fire and Rescue Authority (the Authority) asked for an Independent Review of their Allowances Scheme following the last review in 2008. Since the last review Members have decided to freeze the level of Allowances reflecting the difficult economic climate. This has resulted in the Authority's Allowances moving well below the average in a number of cases when considered against benchmark figures available from other Fire Authorities. Whilst it is recognised that it is a difficult decision to increase payments against a background of funding cuts the Independent Advisor feels it is important to ensure that Members are receiving proper recognition and support in carrying out their work whilst recognising the important element of public service expected in their roles.

The recommendations outlined below, if approved, will result in changes to the current scheme. These include an increase in the Basic Allowance to bring the Authority closer in line with that of other Fire Authorities. Special Responsibility Allowances have also been extensively considered particularly in relation to the Commercial Services Committee which represents a new and innovative approach to delivery of the work of the Authority.

Recommendations:

- (i) The Basic Allowance be set at £2,500;**
- (ii) The Chair's Allowances be set at 5 x the basic (£12,500);**
- (iii) The Vice Chair's Allowance be set at 2.5 x the basic (£6,250);**
- (iv) The Committee Chairs Allowance be set at 1.5 x the basic (£3,750);**
- (v) The Allowance for the Director of SW Fire Control Service be removed;**
- (vi) Commercial Services Committee Members Allowance should be set at 1.5 x basic (£3,750);**
- (vii) Members should only be allowed to receive one Special Responsibility Allowance with the exception of Members of the Commercial Services Committee who should be allowed an Allowance for this Committee in addition to one other SRA;**
- (viii) The Allowance for the Independent Members of the Standards Committee be set at £500 until the provisions of the Localism Act come into effect;**
- (ix) Uprating of Allowances be linked to any annual increase agreed by the NJC for Local Government Services;**
- (x) Travel rates should be linked to the rates published by HMRC and amended accordingly;**
- (xi) Subsistence be linked to the employee scheme and uprated accordingly;**
- (xii) Consideration be given to the introduction of some performance management measures for all Members and particularly those in receipt of a Special Responsibility Allowance;**
- (xiii) The Authority should continue to provide development support to Members as required;**
- (xiv) The Authority considers a partial review before 2016 to assess areas of uncertainty about the relative merits of some of the Special Responsibility Allowances as set out in the Report.**

1. Introduction

- 1.1. Devon and Somerset Fire and Rescue Authority (the Authority) is a body corporate and as such is required to have a scheme of allowances. These Allowances are set under *The Local Authorities (Members' Allowances) (England) Regulations 2003*. In setting the level of Allowances the Authority has to have regard to the recommendations made by any Independent Remuneration Panel in relation to any local authority that nominates Members to the Fire and Rescue Authority. Fire and Rescue Authorities are not required to set up their own Independent Remuneration Panel but may conclude that some external, independent advice is appropriate. The Authority decided to appoint an Advisor to undertake a review. The Advisor and author of this Report, Bryony Houlden, is Chief Executive of SW Councils; she is currently the Chair of the Torbay Independent Remuneration Panel, is also a member of the Mid Devon District Council Panel and has previously belonged to other Panels. Her organisation provides training to Independent Panels and regularly collects and produces comparator information on allowances across the South West for the use of Panels and Authorities.
- 1.2. The Authority was established in April 2007 following the merger of Devon FRS and Somerset FRS and the first review of allowances following the merger took place in 2008. Uprating of the scheme was linked to the Local Government Association's Annual Survey of Hours and Earnings although Members have not taken an increase in Allowances since the scheme was last reviewed in 2008.
- 1.3. The Authority has now requested a review of the Allowances Scheme recognising that the Regulations specify that adjustments of allowances must not rely on an index for longer than four years before seeking future recommendations. The review has also been requested in light of changes that have taken place over the last four years in terms of the environment in which the Authority is working. The Authority has a new officer and Member leadership team and is striving to meet the tough challenges presented by current economic circumstances and is looking to find new and effective ways of working.
- 1.4. In developing the recommendations the Advisor was helped by input from Members some of whom submitted questionnaires and others who were interviewed as part of the process. Members provided views on a range of issues around the Basic Allowance, the various Special Responsibility Allowances and the direction of travel of the Authority. The views were very helpful in shaping the recommendations although were not always consistent. The support and input of Members was gratefully received.
- 1.5. In preparing this Report the Advisor was supported by officers who provided factual advice and information. The Advisor found this help extremely useful.

2. Background

- 2.1. The Authority is the largest non-metropolitan fire and rescue service in the UK and is based in the South West:
- An annual budget of £75m [drawn from Government Grant, income from fees and charges and Council Tax - on average approx 4% of the total bill received by households];
 - 2279 staff;
 - Operates 85 fire stations, of which 67 are retained, the largest number in England;
 - Operates 178 fire appliances and special vehicles;
 - Operates two training facilities (one shared at Avonmouth).
- 2.2. The Authority is led by 25 elected Members drawn from the four constituent local authorities – Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council. Members set the strategic direction, set and oversee the budget and ensure the delivery of the overall objectives.
- 2.3. The Authority has established the following structure to support the full membership of the Authority:
- Resources Committee
 - Community Safety and Corporate Planning Committee
 - Audit and Performance Review Committee
 - Human Resources Management and Development Committee
 - Standards Committee
 - Commercial Services Committee
- [There is also a Capital Programme Working Party which works via the Resources Committee or elsewhere as required].
- 2.4. The last four years have seen much change across the public sector and within Fire and Rescue Authorities. Budgets have been under severe pressure with overall fire resource expenditure reducing by 13% in real terms and government grant by 25%. Fire Authorities have been given new opportunities as well as challenges through the Localism Act general power linked to their functions which may enable a more innovative approach to delivery. The Authority has been proactive in endeavouring to meet the challenges of the changes to the economic situation by improving efficiency, reducing costs and generating income. The commitment to looking at new ways of generating income led to the setting up of a Commercial Services Committee in July 2011 particularly tasked to oversee the contract with Red One Ltd., the delivery arm of the Authority's commercial trading activities. This Committee was not in existence at the time of the last full review of the Allowances and therefore has been an important consideration in producing the recommendations for the overall Allowances Scheme as set out in this Report.
- 2.5. One notable point is that the intention is for the Commercial Services Committee Allowance to be met from income generated through Red One. As far as the Advisor is aware this is a new approach to the issue of meeting the cost of Allowances.

3. Purpose

- 3.1. The purpose of the review was to provide recommendations (together with the rationale for those recommendations) that would cover the following issues:
- The level of the basic allowances for 2012/13;
 - The level and number of special responsibility allowances for 2012/13;
 - The level of allowances payable to Independent members of the Standards Committee for 2012/13;
 - An appropriate mechanism for annual uprating of the basic and special allowances;
 - The level of travel and subsistence reimbursement from April 2012 together with an appropriate mechanism for uprating.

4. Methodology

- 4.1. In producing the Report the Advisor has considered:
- i. The Local Authorities (Members' Allowances) Regulations 2003 and the Guidance issued by the Dept. of Communities and Local Government;
 - ii. The current Allowances Scheme and the previous independent report produced in 2008;
 - iii. Evidence from Members all of whom were invited to complete a contact time questionnaire and were given the opportunity to speak to the independent Advisor (which the Chair, Deputy Chair and other Members took the opportunity to do);
 - iv. The Authority's Corporate Plan 2011/12 to 2013/14 and the DSFRS Strategy *Towards 2014*;
 - v. Terms of Reference of Committee, Working Parties etc;
 - vi. The Allowances schemes for the constituent authorities: Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council;
 - vii. Benchmark data on current Fire and Rescue Authority Allowances Schemes across England;
 - viii. The Practical Guide on Allowances produced by SW Councils in 2010.

5. Basic Allowance

- 5.1. The current Basic Allowance is set at: £2,000.
- 5.2. As set out in the Guidance (referred to at 4.1 (i) above) the Basic Allowance is intended to: *“recognise the time commitment of all councillors, including such inevitable call on their time as meetings with officers and constituents and attendance at political group meetings. It is also intended to cover incidental costs such as the use of their homes”*. The basic allowance paid *“must be the same for each councillor”* and it cannot be based on measures such as attendance at meetings.

- 5.3. In setting the level of allowances the Guidance suggests considering the rate at which, and the number of hours for which, councillors ought to be remunerated – with an important emphasis on some element of the work continuing to be voluntary. The “*public sector ethos*” has to be balanced against encouraging participation and ensuring that financial loss is not suffered. There is no set amount recommended for the “public service “ element – in the previous Report setting the current Allowances a 30% figure was used.
- 5.4. As part of the review Members were invited to record a time log in relation to the Basic Allowance which 5 Members kindly completed. This showed a high variation in the amount of time spent on the “basic” duties. Officers used this information along with information about meetings of the Authority, including committees, to produce a figure for the annual average amount of days involvement by Members. The average number of days spent was recorded via this method as 24.15 days a year. This is a higher figure than recorded at the last review in 2008 of 15.8 and 16.3 days – it cannot, however, be taken as wholly reliable given the wide variation between the responses of the 5 Members on the time log. Part of the increase might reflect Members’ increased interest across the whole Authority in looking at new ways of working and ensuring the development of an effective business model for ensuring the future delivery of services at a time of substantial resource constraint. This was referred to both in the discussions with Members and with officers.
- 5.5. One methodology to use in setting the Basic Allowance would be to apply the current daily rate as advised by the Local Government Association of £152.77 (set 2010 and not changed in 2011) to this average number of days, and then to deduct a public service element of 30%. This would produce a figure for the basic allowance of £2,583.
- 5.6. Another approach is to consider benchmark data. This can be done in two ways. First the benchmark information from constituent Authorities: – the Basic Allowance in the four constituent authorities range from £7,912 - £10,970, giving an average £9,813. The Guidance does not specifically suggest that this is an appropriate benchmark group given the different nature of the activities and business. It may be that other Fire and Rescue Services are a better benchmarking group but it is a useful background figure –and as all the Members of the Authority will be in receipt of one of these Allowances it sets a context.
- 5.7. The other benchmark data is from other combined fire and rescue Authorities (CFRAs). Data obtained by officers for CFRAs in 2011/12 has a range of Basic Allowances from £1,158 - £4,554. The Average Basic Allowance being £2,746 and the median £2,799 (including the Authority). If different benchmark groups are taken from within the whole data set there are other permutations. First, a “South West” grouping: information from 3 other South West CFRAs (Dorset, Wiltshire and Avon) gives an average Basic Allowance of £2,526. Another benchmark group would be authorities with a similar sized budget and type of area: Hampshire, Kent and Essex have budgets between £38m-£75m (website data) and pay an average basic allowance of £2,962.

- 5.8. Feedback from the Chair and most of the Members who met the Advisor was that the current Basic Allowance was not a fair reflection of the amount of work and commitment of Members. However, they also recognised budgetary pressures, the pay restraint being applied to staff and the need, if Allowances rose, to ensure a continued high level of commitment from all Members. This need to ensure a high level of commitment and performance was reiterated by all the members on a number of occasions and is reflected in the final recommendation below.
- 5.9. Taking account of all the benchmarking and other information and comments from Members I **recommend the Basic Allowance be increased to £2,500.** Whilst this represents a substantial increase in percentage terms, it is important to set it against the evidence outlined above including the fact that it is still below all the benchmark averages and the fact that Members have not taken an increase since the rates were last reviewed and set in 2008. I believe it represents a fairer reflection of the role and responsibilities expected of members i.e. the “worth of the job” as described by one Member.
- 5.10. Whatever the level of the Basic Allowance its payment clearly brings with it the expectation that Members will continue to put in the commitment, attending meetings and contributing to the debate and that they will be equipped to do so through support for their continuing development. It is worth noting that two of the constituent authorities have now achieved Member Charter or Charter Plus status recognising the importance of ongoing Member development. It is understood that a number of other CFRAs are also exploring some form of Performance Review Processes for their Members and the Authority may wish to learn from this experience.

6. Special Responsibility Allowances

- 6.1. Special Responsibility Allowances (SRAs) are payable to those Members who have significant additional responsibilities. The regulations do not prohibit the payment of more than one SRA to any one Member although it is quite often the adopted practice to limit to one SRA. In the case of the Authority, there has been a restriction with Members only entitled to one SRA with the exception recently of the Commercial Services Committee. Allowances for the Commercial Services Committee were introduced after the last review and are considered in more detail below.
- 6.2. SRAs are often set by reference to the Basic Allowance with a multiplier assessed for each post which attracts a SRA. This is the approach that has been previously adopted with the multipliers noted in 6.3 below.
- 6.3. Based on the previous report and updated subsequently the current scheme pays the following SRAs:

Chair of the Authority (5x Basic)	£10,000
Vice Chair (3x Basic)	£ 6,000
Chair of Committee (2x Basic)	£ 4,000
Director of SW Fire Control Service (1xBasic)	£ 2,000
Commercial Services Committee* (1.5 x Basic) [* As noted above this an allowance was agreed separately following a report from the Chief Fire Officer in July 2011]	£3,000
Standards Committee	£ 500

6.4. The use of a multipliers was continued following the last Independent Report which recommended only one change in the existing multiplier which was to increase the Vice Chair's multiplier from 2x to 3x.

6.5. In reaching conclusions on the way forward consideration has been given to benchmarking information. Using the information about the Combined Fire Authorities and the same benchmark group provides the following data:

	Combined Fire Authorities (Includes Devon & Somerset)	SW Authorities (Avon, Dorset, Wiltshire)	“similar sized” FRSA (Hants, Kent, Essex)
Chair :			
Average	£11,713	£7,747	£16,196
Range	£3,393 -18,819	£5,900 -10,725	£14,469 -18,180
Vice Chair:			
Average	£5,764	£3,764	£5,670
Range	Nil – £11,082	Nil - £4578	£1,769 -7,969
Committee Chair:			
Average	£2,408	£2,360	£3,755
Range	Nil - 7272	£1,985 – £4,578	£1,944 - £7,272

6.6. The benchmarking data shows there is considerable variation across Authorities. Although not all Authorities used a multiplier approach a multiplier can be calculated against these figures which reveal a considerable range with the Chair's Allowance multiplier ranging from 0.88 to 13.10 and the Vice Chairs from 0.83 -5.7. An alternative approach to multipliers is to set the Chair or Leader's salary and then assess other allowances in a “top down” approach.

(i) Chair

6.7. The Chair's Allowance was confirmed at a multiplier of 5 x basic at the last Review, the evidence cited at the time included the fact that the Authority is the largest non-metropolitan fire and rescue authority and that the Chair was chairing the Regional Management Board. There is no longer a formal Management Board but an informal South West Forum of Fire Authorities. The Chair rotates between authorities and requires a reduced time commitment.

6.8. Evidence from the Members interviewed about the role of the Chair suggested a high, and potentially increasing, level of commitment and responsibility given the current challenges – and opportunities – facing the Authority. Taking this evidence into account along with the benchmarking information **I recommend that the multiplier be maintained at 5 x Basic (£12,500 assuming the Basic Allowance is increased as per the recommendation at paragraph 5.9 above).**

(ii) Vice Chair

6.9. As noted above the Vice Chair's allowance was increased following the last Independent Report. This reflected the views that the Vice Chair role carries a greater set of responsibilities than Committee chairmen and substituted quite frequently for the Chair. In addition the Vice Chair was at the time the Authority's representative on the company running the Regional Control Centre. Since the last Report the situation has changed. The Regional Control Project has been abandoned and in any event the current Director appointed by the Authority (and who receives an SRA of £2,000 in that respect) is no longer the Vice-Chair. The Chair reports, however, that the Vice Chair continues to deputise for him. Looking at the benchmarking information and reflecting on the changes in the role the Vice Chair clearly continues to make an important contribution which warrants a multiplier of more than the original 2 x basic. **I therefore recommend that the multiplier for the Vice Chair should be set at 2.5x Basic Allowance (£6,250 assuming the Basic Allowance is increased in line with the recommendation at paragraph 5.9 above).**

(iii) Committee Chairs

6.10. Discussions about the role of Committee Chairs and their workload and level of responsibility suggested that the Authority continues to see these as delivering important ongoing roles. However, Committees only meet every couple of months. In discussion with Members, Committees and their Chairs were seen as playing an ongoing core role, but were not identified as taking as wide ranging a role and responsibility in terms of shaping the future direction and meeting challenges. There was some evidence of different Chairs taking on a higher level of responsibility between meetings and it may be that a future review looks in more detail at whether there should be a different level of allowance for each of the Committee Chair roles, reflecting responsibility and workload. It is not possible on the current evidence to differentiate in this way.

6.11. Reflecting on this my view is that the role of a Committee Chair is on average broadly commensurate with the workload of the Commercial Services Committee. Using this analysis and the benchmarking information which shows the Authority's Committee Chair Allowances to be above all the average benchmark groups **I recommend that the allowance should be set at a multiplier of 1.5x Basic Allowance (£3,750 assuming the Basic Allowance is increased in line with the recommendation at paragraph 5.9 above).** This still sets the allowance at the average for similar sized authorities and above other benchmark groups. For avoidance of doubt this would not apply to the Chair of the Capital Programme Working Party as it works via other Committees.

(iv) Director of South West Fire Control Service

6.12. The current scheme provides an allowance for being a Director of South West Fire Control Service. This project is coming to an end and I understand will involve little additional work until dissolution which is expected in the summer. This suggests that the workload could easily be covered as part of the basic duties of one Member and **I recommend the the Authority ceases to pay an SRA for this role.**

(v) Commercial Services Committee

- 6.13. The Commercial Services Committee is a new Committee established in 2011 to oversee the commercial activity undertaken by the Authority through Red One Ltd. and any other body established for such purposes. The Authority exercises control over Red One through the contract established with the company and as sole shareholders. The Report proposing the setting up of the Commercial Services Committee foresaw a requirement for the Committee to meet very regularly, at short notice, and required a considerable commitment from Members. Exceptionally the Report recommended that the rules on Members only receiving one SRA should be lifted in relation to this Committee recognising its special nature. The Report also proposed that the costs should be met from income generated by the company. The multiplier agreed was 1.5x Basic Allowance.
- 6.14. In the current climate the work of this Committee was identified by all Members I spoke to as very important. There was a clear conviction and commitment from the Chair and some of the Members I interviewed that moving the commercial work forward whilst maintaining quality service provision within Devon and Somerset was vital. The new approach of meeting the cost of allowances for the work of this Committee from the income of Red One and not from grant or Council Tax is an interesting approach. It is obviously early days for this approach and for Red One, but if successful the Authority may wish to actively share information about the pros and cons of such an approach with other Authorities.
- 6.15. The Commercial Services Committee membership includes a number of Members in receipt of other Special Responsibility Allowances, including the Chair, Vice Chair and a Committee Chair. This reflects the importance attached to this Committee but makes it even more important, in my view, to reflect on performance issues flagged up below. Taking account of all the evidence with which I have been presented **I recommend that it should be set at 1.5x Basic Allowances (£3750 on the basis that Basic Allowance is increased as per the recommendation at paragraph 5.9 above). Exceptionally I also recommend that Members should be able to receive this SRA in addition to one other SRA.** This is in recognition of the important and potentially groundbreaking nature of the Committee's role.
- 6.16. The Commercial Services Committee Allowance may be one that over time, if the workload continues to increase and the approach is successful, could be set at a higher level. However, at this stage given the Authority's past views on the relative weighting, particular of the Committee Chairs, I have not found the evidence to set the Allowance at a higher level than previously agreed. Paying an allowance to all Members of this Committee suggests a strong expectation on Members that Members will, wherever possible, attend meetings and contribute to the debate. As this Committee is setting a new approach in seeking to meet the cost of the Allowances from externally generated income **I recommend that the Authority and the Committee give particular consideration to introducing some form of performance monitoring for this Committee.**

7. Standards Committee

- 7.1. The Localism Act has confirmed that the previous Standards Regime will be abolished. The Act further confirms that, while Authorities will be required to have in place arrangements to deal with Standards issues, details as to these arrangements will be for each individual Authority to determine. The latest thinking is that these provisions of the Localism Act will be effected from 1 July 2012. Until that date the previous arrangements apply. Consequently, **I recommend that the current allowance of £500 per Independent Members is retained up to the date by which the replacement provisions as to Standards issues as set out in the Localism Act come into effect.**

8. Uprating mechanism

- 8.1. The Authority has been using the Local Government Association daily rate as the measure for Members Allowances uprating. The LGA rate has not been uprated this rate since 2010.
- 8.2. **I am recommending that the Authority moves to linking the Allowances with the level of any annual increase agreed by the NJC for Local Government Services (Green Book).** Presentationally this may be helpful in explaining both to staff and to the public if increases occur and is consistent with practice in some other FRSA's.

9. Travel and Subsistence

- 9.1. Having reviewed the current travel and subsistence scheme and considered the schemes in the constituent authorities and the arrangements for staff **I am recommending:**

(i) reimbursement of approved mileage be linked to the rates published by HMRC. For 2011/12, namely:

- 45p per mile for the first 10,000 miles pa.
- 25p per mile for mileage over 10,001 miles pa.
- Passenger rate is 5p per passenger per mile (max 4 passengers).
- Bicycle allowance: 20p per mile.

Any increases or decreases to these rates by HMRC should automatically be reflected in the payment to Members in the future.

(ii) Subsistence allowances should be the same as for employees, with any changes in rates reflecting changes to the employee scheme. Currently set at:

- Breakfast - £6.90
- Lunch - £9.54
- Tea - £3.76
- Dinner - £11.82

Overnight accommodation would be subject to agreement through the Democratic Services section as under the current arrangements.

10. Other Issues

10.1. An issue mentioned in the Report and raised on a number of occasions in discussion with Members was ongoing development and performance of Members. There was a clear commitment by Members to delivering the work of the Authority but also recognition of the need to clearly demonstrate that commitment by all the Members in receipt of an allowance. I recommend:

- (i) that consideration be given to the introduction of some performance management measures for all Members and particularly those in receipt of a Special Responsibility Allowance.**
- (ii) that the Authority works with Members to assess their needs and continues to provide development support as required.**

10.2. Although under the Guidance a full review is not required for another 4 years, there are a number of issues flagged in this Report where there is uncertainty. For example, the work and relative weighting of responsibility of the Commercial Services Committee as set against other roles, whether the approach to payment of Allowances through self-generated income will be successful and replicable and whether all Committee Chairs responsibilities and workloads are of the same level in terms of the need for a SRA. Given these uncertainties the Authority may want to consider a partial review of these issues before 2016.

Bryony Houlden
January 2012



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/6
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	THE LOCALISM ACT – PAY POLICY STATEMENT 2012/2013
LEAD OFFICER	Director of Corporate Services (and Clerk to the Fire & Rescue Authority)
RECOMMENDATIONS	<i>That, subject to any amendments that may be agreed at the meeting, the Authority approves the Pay Policy Statement as appended to this report and agrees to its publication in accordance with the Localism Act 2012.</i>
EXECUTIVE SUMMARY	<p>The Authority is required under the Localism Act 2011 to prepare a Pay Policy Statement. This will state the Authority's policy towards a range of issues relating to the pay of its workforce and in particular the senior staff and the lowest paid employees. Pay Policy Statements must be prepared for each financial year, beginning with 2012/13. They must be approved by the full Authority, and be published.</p> <p>This paper provides further background information in relation to the requirements of the Localism Act and includes a draft Pay Policy Statement.</p>
RESOURCE IMPLICATIONS	There are no resource implications associated with production of the Pay Policy Statement. Funding for staffing costs etc. are contained within the approved Authority revenue budget.
EQUALITY RISK & BENEFITS ASSESSMENT	The Service is currently preparing an Equal Pay Audit which will also include an action plan. The Service will also be producing a Rewards Strategy.
APPENDICES	A. Draft Pay Policy Statement
LIST OF BACKGROUND PAPERS	Localism Act 2011

1. INTRODUCTION

- 1.1 Relevant authorities are required by section 38(1) of the Localism Act 2011 to prepare Pay Policy Statements. These statements must articulate an authority's policy towards a range of issues relating to the pay of its workforce, particularly its senior staff (or 'chief officers') and its lowest paid employees. Pay Policy Statements must be prepared for each financial year, beginning with 2012/13. They must be approved by the full Authority, and be published.
- 1.2 The background to the requirement for a Pay Policy Statement is set out in (currently) draft guidance produced by the Department for Communities and Local Government. A hard-copy of this is available on request or can be found by following the link below:
www.communities.gov.uk/publications/localgovernment/draftguidancelocalpay
- 1.3 In essence, the purpose of the Pay Policy Statement is to ensure that there is the appropriate accountability and transparency of top salaries in local government. Under the Act elected Members have the ability to take a greater role in determining the pay for our top earners and therefore ensuring that these decisions are taken by those who are directly accountable to the local people. In addition, communities should have access to the information they need to determine whether remuneration, particularly senior remuneration, is appropriate and commensurate with responsibility. The Pay Policy Statement must be approved on or before the 31 March each year and published as soon as is reasonably practicable thereafter in such a manner as the Authority considers appropriate, but which must include publication on the Authority's website. Once published, it can be amended but must be again published.

2. CONTENT OF THE PAY POLICY STATEMENT

- 2.1 The statement is to include the following:
- Remuneration of its Chief Officers;
 - Remuneration of its lowest paid employees;
 - The relationship between the remuneration of its Chief Officers and the remuneration of those employees who are not Chief Officers.
- 2.2 The term 'Chief Officers' in a FRS context is the Chief Fire Officer but Authorities can include any additional information relating to policies on pay that they may consider as appropriate to do so. The Authority also needs to determine who are the lowest paid employees and give reasons as to why they have defined them as such.
- 2.3 The pay policy statement must include the Authority's policies relating to:
- The level and elements of remuneration for each Chief Officer
 - Remuneration of Chief Officers on recruitment
 - Increases and additions to remuneration for each Chief Officer
 - The use of performance related pay for Chief Officers
 - The use of bonuses for Chief Officers
 - The approach to the payment of Chief Officers on their ceasing to hold office under or to be employed by the Authority
 - The publication of, and access to, information relating to remuneration of Chief Officers.

2.4 The term remuneration is defined as the Chief Officer's salary, any bonuses payable, any charges, fees or allowances payable, any benefits in kind to which the Chief Officer is entitled as a result of their office or employment, any increase in or enhancement of the Chief Officer's pension entitlement where the increase or enhancement is as a result of the resolution of the Authority and any amounts payable by the Authority to the Chief Officer on the Chief Officer ceasing to hold office under or be employed by the Authority other than amounts that may be payable by virtue of any enactment.

3. **CATEGORIES OF STAFF CONTRACTS WITHIN THE DEVON & SOMERSET FIRE & RESCUE SERVICE**

3.1 In order to produce a statement it is necessary to define the categories of staff within the Service and by which Terms & Conditions they are governed.

Chief Fire Officer and Senior Management Board: The Board is a mix of uniformed Brigade Managers and 'non-uniformed' Officers who are the Directors of the Service. The salary structure for Brigade Managers and other Board members in DSFRS has previously been determined by the Authority and is subject to future salary reviews in accordance with the Constitution & Scheme of Conditions of Service of the National Joint Council for Brigade Managers of Local Authorities' Fire Brigades known as the 'Gold Book'. The minimum remuneration levels for Chief Fire Officers are set nationally in relation to population bands and in accordance with the Gold Book. At a national level the National Joint Council (NJC) for Brigade Managers of Fire and Rescue Services, annually reviews the level of pay increase applicable to all those covered by the national agreement and determines any pay settlement. All other decisions about pay levels and remuneration for individual *Brigade Managers* are taken locally by the Authority.

Uniformed staff: This includes Wholetime and Retained Duty staff and also the Control Room uniformed staff. The remuneration levels for these staff are subject to national negotiation as contained in the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire & Rescue Services which is known as the 'Grey Book'.

Support Staff: This category is the non-uniformed staff who support our Operational Service. The Scheme of Conditions of Service for these staff are set out within the National Joint Council for Local Government Services known as the 'Green Book'. The 2004 national pay agreement included an Implementation Agreement requiring local pay reviews to be completed and implemented by all authorities by 31 March 2007. The local pay review required the introduction of a Job Evaluation Scheme and this, together with a Grading Structure, was negotiated and agreed with the recognised trade union for this staff category which is UNISON. The Job Evaluation Scheme and Grading Structure were approved by the Authority. The National Joint Council negotiates the level of any annual pay increases applicable to all 'Green Book' staff.

3.2 Having established the staff categories, it is possible to define the lowest paid worker within the Authority. This will be the lowest grade within the Support Staff which has a grading structure from Grade 1 to 11. The lowest paid workers are the station cleaners who are at Grade 1. Each grade has five levels referred to as spinal column points and a new joiner will progress through these by annual increments with increasing service. The salary levels for the spinal column points are determined nationally through the National Joint Council.

3.3 The Chief Officer can be defined as the Chief Fire Officer.

4. PAY MULTIPLES

4.1 The Localism Act requires authorities to explain what they think the relationship should be between the remuneration of its chief officers and its employees who are not chief officers. The Hutton Review of Fair Pay recommended the publication of the ratio between the highest paid employee and the mean earnings of the organisation's whole workforce as a way of illustrating that relationship. The draft guidance on openness and accountability in local pay (Appendix 2) goes on to say that: "*Authorities should include their current policy towards maintaining or reaching a specific pay multiple within their broader policy on how pay and reward should be fairly dispersed across their workforce.*"

4.2 Section 5 of the proposed Pay Policy Statement shows two pay multiples, comparison with the mean earnings of the whole workforce (as recommended by Hutton), using the basic pay for full-time equivalents. The second multiple is for the lowest pay point, which has frequently been used as a benchmark in the media following suggestions by the Government that a ratio of 20:1 should be regarded as a level above which public sector organisation should not exceed.

MIKE PEARSON
Clerk to the Authority

DEVON & SOMERSET FIRE & RESCUE AUTHORITY

THE LOCALISM ACT – PAY POLICY STATEMENT 2012/2013

1. INTRODUCTION

- 1.1 Under section 38(1) of the Localism Act 2011, Devon & Somerset Fire & Rescue Authority (the Authority) is required to prepare a Pay Policy Statement. The Authority is responsible for ensuring that the pay policy will set out the issues relating to the pay of the workforce and in particular the senior officers and the lowest paid employees. This will ensure that there is the appropriate accountability and transparency of the salaries of our senior staff. The Authority will also publish the statement on the Authority's website and update it on an annual basis or at such times as it is amended. The purpose of the statement is to provide greater transparency on how taxpayer's money is used in relation to the pay and rewards for public sector staff.
- 1.2 This is the first such Pay Policy Statement that the Authority has produced and it is anticipated that this will be reviewed and refined as the Authority takes an increasing role in determining the Rewards & Recognition Strategy for the Service. An Equal Pay Audit will also be published.
- 1.3 It should be noted that Regulation 4 of the Accounts and Audit (Amendment number 2) Regulations 2009 have already introduced a new legal requirement to increase transparency and accountability within Local Government. The amended Regulations require authorities to disclose individual remuneration details for senior employees and these can be viewed at the [Senior Management Salaries](#) page on the internet. In addition, the rates of pay for all other categories of staff can be found at Rates of Pay.

2. CATEGORIES OF STAFF

- 2.1 As part of the Pay Policy Statement, it is useful to define the categories of staff within the Service and by which Terms & Conditions they are governed:
- 2.2 Chief Fire Officer and Senior Management Board: The Board is a mix of uniformed Brigade Managers and 'non-uniformed' Officers who are the Directors of the Service. The salary structure for Brigade Managers and other Board members employed by the Authority has previously been determined by the Authority and is subject to future salary reviews in accordance with the Constitution & Scheme of Conditions of Service of the National Joint Council for Brigade Managers of Local Authorities' Fire Brigades known as the 'Gold Book'. The minimum remuneration levels for Chief Fire Officers are set nationally in relation to population bands and in accordance with the Gold Book. At a national level the National Joint Council (NJC) for Brigade Managers of Fire and Rescue Services, annually reviews the level of pay increase applicable to all those covered by the national agreement and determines any pay settlement. All other decisions about pay levels and remuneration for individual Brigade Managers are taken locally by the Authority.
- 2.3 Uniformed staff: This includes Wholetime and Retained Duty staff and also the Control Room uniformed staff. The remuneration levels for these staff are subject to national negotiation as contained in the Scheme of Conditions of Service of the National Joint Council for Local Authority Fire & Rescue Services which is known as the 'Grey Book'.

2.4 Support Staff: This category is the non-uniformed staff who support our Operational Service. The Scheme of Conditions of Service for these staff are set out within the National Joint Council for Local Government Services known as the 'Green Book'. The 2004 national pay agreement included an Implementation Agreement requiring local pay reviews to be completed and implemented by all authorities by 31 March 2007. The local pay review required the introduction of a Job Evaluation Scheme and this, together with a Grading Structure, was negotiated and agreed with the recognised trade union for this staff category which is UNISON. The Job Evaluation Scheme and Grading Structure were approved by the Authority. The National Joint Council negotiates the level of any annual pay increases applicable to all 'Green Book' staff.

3. REMUNERATION OF THE CHIEF FIRE OFFICER AND SENIOR MANAGEMENT BOARD

3.1 The position of Chief Fire Officer is subject to minimum remuneration levels as set out in the 'Gold Book' and according to population bands. The Authority is in Population Band 4, 1.5m people and above. The minimum salary level for this position is currently £116,310 per annum. Devon & Somerset Fire & Rescue Service is the largest non-metropolitan fire and rescue service in the UK. There are 85 fire stations which is the second largest number in England, 2,300 staff and a current budget for 2011/12 of £75m. The population for Devon and Somerset is over 1.6 million people.

3.2 In 2006, prior to the combination of Devon Fire & Rescue Service and Somerset Fire & Rescue Service, the Authority reviewed the remuneration of the Chief Fire Officer and undertook a salary survey of other Fire & Rescue Services within the same population band. The average salary, based on 2005 data, was found to be £124,184 and the salary level for the Chief Fire Officer for the new, combined service, was set at a notional level of £124,800 per annum for 2005. Since then, annual national cost of living reviews have increased the salary to £136,392.

3.3 The relevant sections 9 – 11 from the Gold book in relation to salary increases are set out below:

Salaries

The NJC will publish annually recommended minimum levels of salary applicable to chief fire officers/chief executives employed by local authority fire and rescue authorities.

There is a two-track approach for determining levels of pay for Brigade Manager roles. At national level, the NJC shall review annually the level of pay increase applicable to all those covered by this agreement. In doing so, the NJC will consider affordability, other relevant pay deals and the rate of inflation at the appropriate date. Any increase agreed by the NJC will be communicated to fire authorities by circular.

All other decisions about the level of pay and remuneration to be awarded to individual Brigade Manager roles will be taken by the local Fire and Rescue Authority, who will annually review these salary levels.

3.4 Since combination, the Authority has chosen not to apply any additional pay increases other than those agreed at a national level. From January 2010 there has been no pay increases at either a national or local level within the Authority.

3.5 The other positions within the Senior Management Board are as follows and further details of their responsibilities can be found at [Devon and Somerset Fire and Rescue Service - Organisational Structure](#):

Deputy Chief Fire Officer
 Assistant Chief Fire Officer - Service Delivery
 Assistant Chief Fire Officer - Service Delivery Support
 Director of Corporate Services
 Director of People and Organisational Development
 Treasurer and Director of Finance

3.6 The Deputy Chief Fire Officer and Assistant Chief Fire Officer salaries have been set locally at 80% and 75% of the Chief Fire Officer salary which reflects the previously stated minimum salary level set by the National Joint Council. It should also be noted that uniformed Brigade Managers (Chief Fire Officer, Deputy Chief Fire Officer and Assistant Chief Fire Officer) also provide 'stand-by' hours outside of the normal working day within a Brigade Manager rota.

3.7 The remaining 'non-uniformed' Board positions are within a grading structure 1 to 4 grades which have been determined by Job Evaluation. The salary levels for these grades are linked as a percentage to the Chief Fire Officer's salary.

4. **REMUNERATION OF THE LOWEST PAID EMPLOYEES**

4.1 The lowest grade in the Service is within the Support Staff which has a grading structure from Grade 1 to 11. The lowest paid worker is at Grade 1. Each grade has five levels referred to as spinal column points and a new joiner will progress through these with increasing service. Since the lowest paid staff are part-time the actual salary levels are pro-rata. The salary range at Grade 1 is currently £12,787 to £14,733 for a 37 hour week.

The relationship between the remuneration of its Chief Officers and the remuneration of those employees who are not Chief Officers.

5.1 In terms of pay multiples, in line with recommendations contained within the Hutton Review of Fair Pay, the Authority will use two ratios to explain the relationship between the remuneration of the Chief Fire Officer and the remuneration of those employees who are not chief officers. The first is a comparison with the mean earnings of the whole workforce using the basic pay for full-time equivalents. The second multiple is for the lowest pay point, which has frequently been used as a benchmark in the media following suggestions by the Government that a ratio of 20:1 should be regarded as a level above which public sector organisation should not exceed:

- the mean basic pay of the Authority's whole workforce (£32,943), and
- the lowest pay point (£12,787).

The current pay multiple ratios are:

	2011/12
mean basic pay	4:1
lowest pay point	11:1

5.2 In terms of the pay multiple between the Chief Fire Officer and other staff across the organisation, the Authority pay policy is that this will remain at the current level when compared with the mean basic pay across the organisation. The Pay Policy Statement for future years will be determined by Members and reported to a future Fire Authority meeting.

Additional elements of the remuneration for the Chief Officer

- 6.1 These additional elements relate to the following elements:
- Bonuses or Performance Related Pay
 - Charges, Fees or Allowances
 - Benefits in Kind
 - Any increase or enhancement to the pension entitlement as a result of the resolution of the Authority
 - Any amounts payable by the Authority to the Chief Fire Officer on the Chief Fire Officer ceasing to hold office other than amounts that may be payable by virtue of any enactment.
- 6.2 The Chief Fire Officer does not receive any additional bonuses, performance related pay, charges, fees or allowances. As a Brigade Manager, the Chief Fire Officer has an operational requirement for a lease vehicle and this is in accordance with the Service Contract Car Hire Scheme. The benefit-in-kind attributable to the private usage of this Service car is £2,832 for 2010-11. The actual 2011-12 figure will not be available until after 31 March 2012.
- 6.3 In relation to the pension entitlement, the Chief Fire Officer is eligible to be a member of the Firefighters' Pension Scheme. All members of this pension scheme (which is closed to new members) can retire on reaching age 50 provided they have at least 25 years service. The maximum pension entitlement that a member of the pension scheme can accrue is 30 years service. Chief Fire Officers appointed before 2006 are required to seek approval to retire at age 50 whilst those appointed after 2006 do not. All other members of the pension scheme are not required to obtain such approval. This requirement for Chief Fire Officers to have to seek approval has been recognised nationally as being potentially discriminatory on the grounds of age but that this can be overcome by agreement with the Authority to permit retirement from age 50. The Authority has previously given approval for the Chief Fire Officer to retire at age 50 and there are no additional financial implications to the Fire Authority associated with this decision. The Department for Communities & Local Government is currently considering future changes to the Firefighters' Pensions Scheme as part of the Hutton review.
- 6.4 Should the Chief Fire Officer cease to hold his post then the notice period from either the employee or employer is three months. There are no additional elements relating to the Chief Fire Officer ceasing to hold this post other than those covered under any other enactments.

7. REMUNERATION OF CHIEF OFFICERS ON RECRUITMENT

- 7.1 Within the Localism Act there is a requirement to state the remuneration of Chief Officers on recruitment. The pay level for the Chief Fire Officer was determined by the Authority in 2006, based on 2005 data, in preparation for the new combined Devon & Somerset Fire & Rescue Service commencing on 1 April 2007. The current rate of remuneration would apply to any Chief Fire Officer on recruitment.

8. THE PUBLICATION OF AND ACCESS TO INFORMATION RELATING TO REMUNERATION OF CHIEF OFFICERS

- 8.1 In order to make this information in relation to the Chief Fire Officer accessible to members of the public, this Pay Policy Statement will be published on the Authority website.

9. REVIEW OF THE PAY POLICY STATEMENT

9.1 This document will be reviewed at least annually by the full Authority.



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/7
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	AUTHORITY COMMERCIAL TRADING GOVERNANCE ARRANGEMENTS
LEAD OFFICER	Chief Fire Officer and Clerk to the Authority
RECOMMENDATIONS	<p>(a) <i>that the governance arrangements for commercial trading activities be noted;</i></p> <p>(b) <i>that the Articles of Association for Red One Ltd. as set out in Appendix A to this report, be approved;</i></p> <p>(c) <i>that the trading contract governing the relationship between the Authority and Red One Ltd., as set out in Appendix B to this report, be approved; and</i></p> <p>(d) <i>that the proposed revisions to the Terms of Reference for the Commercial Services Committee, as set out at paragraph 4.11 of this report, be approved.</i></p>
EXECUTIVE SUMMARY	<p>The Authority has, both directly and via the Commercial Services Committee, previously agreed reports on the undertaking of commercial trading activities. The key principle being that the commercial trading surplus will be used to underpin delivery of core business and in this respect should reduce the impact of Government grant reductions that would otherwise have been the case had a commercial service approach not been progressed.</p> <p>This report sets out to clarify the intended governance arrangements in relation to commercial trading activities on behalf of the authority and invites the Authority to delegate a number of matters to the Commercial Services Committee. This Committee meets monthly and ensures the interest of the Fire Authority are met.</p>

RESOURCE IMPLICATIONS	The are no resource implications associated with the proposed governance arrangements. Special Responsibility Allowances attracting to membership etc. of the Commercial Services Committee will be met from funding generated from commercial trading activities, as previously agreed by the Full Fire Authority (29 July 2011 Minute DSFRA/21 refers).
EQUALITY IMPACT ASSESSMENT	Not applicable to the governance arrangements. Individual trading initiatives may, however, require individual equality impact assessments.
APPENDICES	<p>A. Articles of Association for Red One Ltd.</p> <p>B. Trading Contract between the Authority and Red One Ltd.</p>
LIST OF BACKGROUND PAPERS	<p>The Local Authorities (Goods and Services) Act 1970</p> <p>The Fire and Rescue Services Act 2004</p> <p>The Fire and Rescue Services (England) Order 2004</p> <p>The Local Government Act 2003</p> <p>The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009</p> <p>The Localism Act 2011</p>

1. INTRODUCTION

- 1.1 The purpose of this report is to detail the governance arrangements in place for commercial trading activities undertaken on behalf of the Authority and proposes to extend the powers of the Commercial Services Committee.

2. SUMMARY OF CURRENT ARRANGEMENTS

- 2.1 There are, in essence, two tiers to the governance arrangements in place for current commercial activity as summarised in the diagram below. These are supported by officers who ensure the strategic intent outlined is delivered on a day to day basis. This arrangement is almost identical to the arrangement for delivery of core duties where the Chief Fire Officer has a wide range of delegated authority but where some key decisions are remitted to the Fire Authority for decision.

FIGURE 1

Devon & Somerset Fire & Rescue Authority	<ul style="list-style-type: none">• approval of mechanism for commercial trading (e.g. establishment of company [Red One] inc. articles of association; governance arrangements between Authority and company);• approval of overarching business case for commercial trading;• approval of annual commercial services business plan
Commercial Services Committee	<ul style="list-style-type: none">• development and recommendation of overarching business case for commercial trading and annual commercial services business plan;• monitoring effectiveness of commercial activities against approved annual commercial services business plan;• approval of investments in individual commercial trading activities up to limits delegated by Authority (as set out in annual commercial services business plan).

- 2.2 The responsibilities and activities of each of these tiers are outlined below.

3. DEVON & SOMERSET FIRE & RESCUE AUTHORITY

- 3.1 Currently, the Authority is responsible for:

- (a) approving the mechanism for commercial trading (e.g. establishment of company [Red One] inc. articles of association; governance arrangements between Authority and company); and
- (b) approving both the overarching business case for commercial trading and an annual commercial services business plan

(a) *Approval of Mechanism for Commercial Trading*

- 3.2 The current legislation governing commercial trading by public authorities requires, amongst other things, that this be undertaken by a separate company (unless trading in services provided to another public body).

- 3.3 Consequently, in preparation for undertaking commercial trading activities, Red One Ltd. was incorporated in September 2010. Red One Ltd. is a private company limited by shares and is subject to companies legislation – specifically the Companies Act 2006. In accordance with this legislation, it is required to have Articles of Association which set out, amongst other things:
- Director’s Powers and responsibilities
 - Decision making by Directors
 - Appointment of Directors
 - Shares and Distributions
 - Dividends and other Distributions
 - Capitalisation of Profits
 - Decision making by Shareholders
 - Voting at General meetings
- 3.4 The Articles of Association for Red One are attached at Appendix A to this report. They have been prepared in consultation with the legal adviser appointed by the Authority to assist in developing commercial trading opportunities (Bevan Brittan Ltd.) and are now commended to the Authority for approval.
- 3.5 Red One Ltd. is a private company limited by shares. The Authority will be the sole shareholder for Red One and for any other wholly owned Companies that may in future be incorporated for commercial purposes. It will also be the single shareholder for any jointly owned companies in which the Authority has a shareholding and as such will exercise shareholders rights and powers as detailed in the respective articles of association for each company.
- 3.6 The facilitation of commercial services activities by the Authority through the trading company Red One Ltd will be managed by a Trading Company Contract.
- 3.7 This contract describes the terms under which resources from the Authority may be utilised by Red One Ltd to facilitate trading. It is proposed that the contract should have an initial term of three years and thereafter be extended automatically unless appropriate notice is given.
- 3.8 Under this contract and subject to the terms described therein, Red One Ltd may enter into trading arrangements with other third parties for the provision of services and/or goods for commercial purposes. The contract also licenses the secondment of Authority staff, facilities, equipment and the benefit of Authority Contracts for the purposes of delivering or facilitating an agreed contract with any third party/ies.
- 3.9 The contract also makes provision for the use of Support Services, Intellectual Property, Insurance, Data Protection and Freedom of Information. In line with other standard legal contracts, terms are also included for Charging, Liability & Indemnification, Contract Termination, Assignment, Partnership/Agency rights, Variation, Severance, Warranty, Official notices, Third party rights and Governing Law/Jurisdiction.
- 3.10 Specific schedules lay out the terms under which Authority Staff shall be seconded to Red One Ltd as well as the license agreements and charges payable to the Authority as mentioned above.

- 3.11 The charges payable by Red One Ltd to the Authority shall be an amount equalling the total cost for all services, licenses, goods or benefits of whatever nature provided by the Authority to Red One Ltd.
- 3.12 As with the Articles of Association for Red One Ltd., the Contract has been prepared in consultation with the legal adviser appointed by the Authority to assist in developing commercial trading opportunities (Bevan Brittan Ltd.).
- 3.13 The Contract is attached as Appendix B to this report and the Authority is commended to approve entering into it.

(b) Approval of Overarching Business Case and Annual Business Plan

- 3.14 The overarching Business Case will conform with the relevant legislation in providing a comprehensive statement as to:
- the overall objectives for commercial trading activities;
 - the investment and other resources required to achieve those objectives;
 - any risks that may be faced, how significant these risks are and any mitigation for them; and
 - the expected financial results of such activities, together with any other relevant outcomes that are expected to be achieved.
- 3.15 In essence, therefore, the overarching Business Case will provide the mechanism for resource allocation and investment arrangements for commercial activity carried out on behalf of the Authority.
- 3.16 The Annual Commercial Services Business Plan will present an overview of the current business situation and will detail each of the trading activities that the Authority is currently engaged in or is planning to explore in the immediate future. This will also present a summary of the Business Case for each activity, along with appropriate financial projections and risk assessments, the investment required, timing and any resources that may be used to facilitate the activity.
- 3.17 As such, the Annual Commercial Services Business Plan will be used by the Commercial Services Committee both to direct various commercial activities in any given financial year and to review delivery and performance against the targets as outlined in the Plan.

4. COMMERCIAL SERVICES COMMITTEE

Background

- 4.1 The Commercial Services Committee was established by the Authority at its meeting on 29 July 2011 with the following terms of reference (Minute DSFRA/21 refers):

Advisory Only

To consider and recommend to the Authority the Annual Commercial Services Business Plan and associated annual operating budget for Red One Ltd for each financial year;

To recommend to the Authority any revisions to the approved Annual Commercial Services Business Plan and/or annual operating budget as may arise during the course of operations during the financial year in question;

To make recommendations to the Authority on the utilisation of any year-end profit generated by commercial activities.

Matters with Delegated Power to Act

To consider and approve any trading activities of Red One Ltd within overall parameters to be set out in the approved Annual Commercial Services Business Plan and associated annual operating budget;

To monitor the financial status and performance of Red One Ltd in terms of expenditure on operating costs, costs recovered and profit generated and to take corrective action and report to the Authority on these issues as necessary.

- 4.2 As indicated in the previous section, the Annual Commercial Services Business Plan will, by default, contain information on financial projections and risk assessments, investment required, timing and any resources that may be used to facilitate commercial activity. The Plan will work within the approved levels of delegation in relation to investment linked to commercial activity.

Proposed Revisions to Terms of Reference

(a) Introduction

- 4.3 Given the already effective operation of the Commercial Services Committee and to allow an adaptable response to market opportunities, it is proposed that the approval of the overarching business case and business plans could be matters delegated to the Commercial Services Committee with decisions reported to the Fire Authority as appropriate.
- 4.4 If this approach is approved, the Commercial Services Committee will approve the individual Business Cases which must be prepared for any commercial activity it is proposed to enter into and which falls under the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 ("the Order") or any subsequent amending legislation.
- 4.5 Similarly, any commercial activities not falling under the Order will be detailed in relevant lead department Commercial Plan and captured within the Annual Commercial Services Plan which will detail the budgetary and resource requirement for that department, from a commercial perspective.
- 4.6 For similar reasons of securing "fleetness of foot" in commercial matters, it is also proposed to delegate to the Committee the ability to enter into new, joint venture trading initiatives and to approve staffing increases associated with commercial trading, subject to this being "cost neutral" for the Authority (i.e. to all the associated costs being met from commercial income).

Legal Issues

- 4.7 Legal advice has been sought specifically on the appropriateness of delegating to the Committee power to enter into new joint trading ventures.
- 4.8 The response received concludes:
"It is my view on the basis of the information provided that the decision to incorporate another trading company should be taken by the full Authority with delegation of certain tasks to the Commercial Services Committee as appropriate."

- 4.9 It should be noted that this advice indicates only that such decisions “should” be taken by the full Authority. Balanced against this view, however, it remains the case that, as with other local authorities, the ability of this Authority to delegate matters to Committees is governed by Sections 101 and 102 of the Local Government Act 1972. In practice, there is little that cannot lawfully be delegated. The 1972 Act itself provides that delegations are subject to **express** provisions either in that Act or other Acts. The 1972 Act itself provides that “functions with respect to levying, or issuing a precept for, or borrowing money” (i.e. the setting of a budget) must be exercised by the full Authority. More recently, the Localism Act has provided that the approval of a Pay Policy Statement is another matter that may not be delegated (a paper on the Pay Policy Statement for the forthcoming financial year is contained elsewhere on the agenda for this meeting).
- 4.10 There would not appear to be any express statutory provision preventing the delegation of commercial trading activities (including approval of business cases, entering into joint trading ventures etc.) to a Committee. It should also be borne in mind that the fundamental principle behind commercial trading is first and foremost full recovery of associated costs. While this can never be totally guaranteed, the Service is committed to making every endeavour – including obtaining specialist legal and other advice as necessary – to ensuring this happens. It nonetheless remains a risk, however – albeit, it is contended, remote – that full cost recovery would not be secured. This would, as such, impact on the finances of the Authority.
- 4.11 The revised Terms of Reference set out below take account of the above issues and it is contended – specifically in relation to establishing new joint trading ventures – provide sufficient safeguards to mitigate risk and provide an appropriate balance between effective governance and the necessary flexibility of approach if the Authority is to be successful in commercial trading ventures. As such, it is proposed that the Terms of Reference of the Committee be amended to read as follows (any additions are shown in **bold, italics**):

Advisory Only

To recommend to the Authority ***in the first instance appropriate levels of delegation for investment and thereafter any revisions to changes in levels of delegation***, as may arise during the course of operations during the financial year in question in order to maximise commercial opportunities;

To make recommendations to the Authority on the use of any year-end trading surplus generated by commercial activities.

Matters with Delegated Power to Act

To ***approve both the overarching Business Case for commercial trading and, in line with the financial planning calendar, the Annual Commercial Services Business Plan***;

In relation to the Annual Commercial Services Business Plan, to consider and approve any business case required to facilitate commercial trading in accordance with the provisions of the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (“the Order”) or any subsequent amending legislation;

To consider and approve any trading activities of Red One Ltd within overall parameters to be set out in the approved Annual Commercial Services Business Plan ***and specifically to authorise investments as required up to the limits as agreed by the Authority***;

To authorise contracts to be entered into after consideration of risks and opportunities presented;

In each case subject to legal advice and guidance that it is appropriate to do so, to establish additional trading entities (as appropriate) (NOTE: in the event of legal advice indicating otherwise, such matters will be referred to the full Authority for determination);

To authorise any permanent staffing increases in the authorised establishment required to deliver the Commercial Services, subject to the costs being met from income generated.

To monitor the financial status and performance of Red One Ltd in terms of expenditure on operating costs, costs recovered and profit generated and to take corrective action and report to the Authority on these issues as necessary.

5. COMMERCIAL SERVICES MANAGEMENT ARRANGEMENTS

- 5.1 The delivery of all commercial activity agreed by the Commercial Services Committee will be implemented by the Chief Fire Officer in his role as Chief Executive/Chief Fire Officer and supported by the Senior Management Board and the Commercial Services Management Team.

6. CONCLUSION

- 6.1 Commercial trading represents an exciting new approach which will see additional income generated. This will allow the Fire Authority to partially mitigate the impact of central Government grant reductions and reform the traditional model of public service provision.
- 6.2 This report sets out revised governance arrangements which it is felt strike an appropriate balance between effective Governance and the ability to be sufficiently fleet of foot, as is often required when operating in a commercial environment. These arrangements are, therefore, commended to the Authority for approval.

LEE HOWELL
Chief Fire Officer

MIKE PEARSON
Clerk to the Authority

THE COMPANIES ACT 2006
PRIVATE COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

RED ONE LTD

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PART 1

INTERPRETATION AND LIMITATION OF LIABILITY

Defined terms

1. —(1) In the articles, unless the context requires otherwise—

"**articles**" means the company's articles of association;

"**bankruptcy**" includes individual insolvency proceedings in a jurisdiction other than England and Wales or Northern Ireland which have an effect similar to that of bankruptcy;

"**chairman**" has the meaning given in article 12;

"**chairman of the meeting**" has the meaning given in article 39;

"**Companies Acts**" means the Companies Acts (as defined in section 2 of the Companies Act 2006), in so far as they apply to the company;

"**Conflict**" has the meaning given in article 14B;

"**director**" means a director of the company, and includes any person occupying the position of director, by whatever name called;

"**distribution recipient**" has the meaning given in article 31;

"**document**" includes, unless otherwise specified, any document sent or supplied in electronic form;

"**electronic form**" has the meaning given in section 1168 of the Companies Act 2006;

"**fully paid**" in relation to a share, means that the nominal value and any premium to be paid to the company in respect of that share have been paid to the company;

"**group company**" means, in relation to a company, a subsidiary undertaking or parent undertaking of the company or a subsidiary undertaking of any parent undertaking of the company, provided that the definition of "undertaking" in section 1161 of the Companies Act 2006 shall for these purposes also include any person (incorporated or unincorporated) created by statute;

"**hard copy form**" has the meaning given in section 1168 of the Companies Act 2006;

"**holder**" in relation to shares means the person whose name is entered in the register of members as the holder of the shares;

"**instrument**" means a document in hard copy form;

"**ordinary resolution**" has the meaning given in section 282 of the Companies Act 2006;

"**paid**" means paid or credited as paid;

"**participate**", in relation to a directors' meeting, has the meaning given in article 10;

"**Permitted Situation**" has the meaning given in article 14B;

"**proxy notice**" has the meaning given in article 45;

"**shareholder**" means a person who is the holder of a share;

"**shares**" means shares in the company;

"**special resolution**" has the meaning given in section 283 of the Companies Act 2006;

"**subsidiary**" has the meaning given in section 1159 of the Companies Act 2006;

"**transmittee**" means a person entitled to a share by reason of the death or bankruptcy of a

shareholder or otherwise by operation of law; and

"**writing**" means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

(2) No regulations or model articles contained in any statute or subordinate legislation, including those contained in the model articles for private companies limited by shares contained in Schedule 1 of the Companies Act (Model Articles) Regulations 2008, shall apply to the company.

(3) Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Companies Act 2006 as in force on the date when these articles become binding on the company.

Liability of members

2. The liability of the members is limited to the amount, if any, unpaid on the shares held by them.

PART 2

DIRECTORS

DIRECTORS' POWERS AND RESPONSIBILITIES

Directors' general authority

3. Subject to the articles, the directors are responsible for the management of the company's business, for which purpose they may exercise all the powers of the company.

Shareholders' reserve power

4.—(1) The shareholders may, by special resolution, direct the directors to take, or refrain from taking, specified action.

(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

Directors may delegate

5.—(1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles—

- (a) to such person or committee;
- (b) by such means (including by power of attorney);
- (c) to such an extent;
- (d) in relation to such matters or territories; and
- (e) on such terms and conditions;

as they think fit.

(2) If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

Committees

6.—(1) Committees to which the directors delegate any of their powers must follow procedures

which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.

(2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

DECISION-MAKING BY DIRECTORS

Directors to take decisions collectively

7.—(1) The general rule about decision-making by directors is that any decision of the directors must be either a majority decision at a meeting or a decision taken in accordance with article 8.

(2) If—

(a) the company only has one director, and

(b) no provision of the articles requires it to have more than one director,

the general rule does not apply, and the director may take decisions without regard to any of the provisions of the articles relating to directors' decision-making.

(3) If only one director is eligible to vote on any authorisation required under article 14B, the general rule does not apply, and the eligible director may take decisions in relation to the relevant matter without regard to any of the provisions in the articles relating to directors' decision-making.

Unanimous decisions

8.—(1) A decision of the directors is taken in accordance with this article when all eligible directors indicate to each other by any means that they share a common view on a matter.

(2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.

(3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.

(4) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.

Calling a directors' meeting

9.—(1) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(2) Notice of any directors' meeting must indicate—

(a) its proposed date and time;

(b) where it is to take place; and

(c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

(3) Notice of a directors' meeting must be given to each director, but need not be in writing.

(4) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it.

Participation in directors' meetings

10.—(1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when—

(a) the meeting has been called and takes place in accordance with the articles, and

(b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.

(3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.

Quorum for directors' meetings

11.—(1) At a directors' meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to call another meeting.

(2) Subject always to articles 7(2) and 7(3), the quorum for directors' meetings may be fixed from time to time by a decision of the directors, but it must never be less than two, and unless otherwise fixed it is two.

(3) Subject always to article 7(2), if the total number of directors for the time being is less than the quorum required, the directors must not take any decision other than a decision—

(a) to appoint further directors, or

(b) to call a general meeting so as to enable the shareholders to appoint further directors.

Chairing of directors' meetings

12.—(1) The directors may appoint a director to chair their meetings.

(2) The person so appointed for the time being is known as the chairman.

(3) The directors may terminate the chairman's appointment at any time.

(4) If the chairman is not participating in a directors' meeting within ten minutes of the time at which it was to start, the participating directors must appoint one of themselves to chair it.

Casting vote

13.—(1) If the numbers of votes for and against a proposal are equal, the chairman or other director chairing the meeting has a casting vote.

(2) But this does not apply if, in accordance with the articles, the chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

Conflicts of interest – transactions or arrangements with the company

14A.—(1) The relevant provisions of the Companies Act 2006 (including, without limitation, sections 177 and 182) shall apply in relation to declarations of interest in proposed and existing transactions or arrangements with the company.

(2) Provided that he has disclosed to the directors the nature and extent of any interest of his in accordance with and to the extent required by the Companies Acts, a director notwithstanding his office:

(a) may be a party to, or otherwise interested in, any contract with the company or in which the company is otherwise interested;

(b) may be a director or other officer of, employed by, a party to any contract with or otherwise interested in any group company or in any body corporate promoted by the company or any group company or in which the company or any group company is interested; and

(c) may act by himself or his firm in a professional capacity for the company (otherwise than as auditor).

(2) For the purposes of this article 14A:

(a) a director shall be deemed to have disclosed the nature and extent of an interest which consists of him being a director, officer or employee of any group company; and

(b) a general notice given to the directors that a director is to be regarded as having an interest of the nature and extent specified in the notice in any contract in which a specified person or class of persons is interested shall be deemed to be a disclosure that the director has an interest in any such contract of the nature and extent so specified.

(3) Where a director is a director or other officer of, or employed by, a group company, he:

- (a) may in exercising his independent judgment take into account the success of other group companies as well as the success of the company; and
- (b) shall in the exercise of his duties, where that other group company is a parent company, have a duty of confidentiality to the parent company in relation to confidential information of the parent company, but he shall not be restricted by any duty of confidentiality to the company from providing information to any parent company.

Conflicts of interest requiring board authorisation

- 14B.**—(1) The directors may, subject to the quorum and voting requirements set out in the articles, authorise any matter which would otherwise involve a director breaching his duty under the Companies Acts to avoid conflicts of interest (a "**Conflict**").
- (2) Any director (including the relevant director) may propose that the relevant director be authorised in relation to any matter the subject of a Conflict. Such proposal and any authority given by the directors shall be effected in the same way that any other matter may be proposed to and decided upon by the directors under the provisions of the articles save that the relevant director shall not count towards the quorum nor vote on any resolution giving such authority and save further that if there are insufficient directors eligible to vote and therefore to form a quorum, article 7(3) will apply.
- (3) Where the directors give authority in relation to a Conflict:
- (a) the terms of the authority shall be recorded in writing (but the authority shall be effective whether or not the terms are so recorded); and
 - (b) the directors may revoke or vary such authority at any time but this will not affect anything done by the relevant director prior to such revocation in accordance with the terms of such authority.
- (4) A Conflict in relation to a director arising solely as a result of him being a director, officer or employee of any group company shall be deemed to have been authorised for the purposes of this article 14B and section 175 of the Companies Act 2006.
- (5) Where paragraph (4) above applies or the directors otherwise give authority in relation to a Conflict, or where any of the situations referred to in article 14(A) (a "**Permitted Situation**") applies:
- (a) the directors may (whether at the relevant time or subsequently) (i) require that the relevant director is excluded from the receipt of information, the participation in discussion and/or the making of decisions (whether at meetings of the directors or otherwise) related to the Conflict or Permitted Situation; and (ii) impose upon the relevant director such other terms for the purpose of dealing with the Conflict as they may determine;
 - (b) the relevant director will be obliged to conduct himself in accordance with any terms imposed by the board in relation to the Conflict or Permitted Situation; and
 - (c) the directors may provide that where the relevant director obtains (otherwise than through his position as a director of the company) information that is confidential to a third party, the director will not be obliged to disclose that information to the company, or to use or apply the information in relation to the company's affairs, where to do so would amount to a breach of that confidence.
- (6) A director shall not, by reason of his office or of the fiduciary relationship thereby established, be liable to account to the company or the members for any remuneration, profit or other benefit realised by reason of his having any type of interest in a Conflict authorised under this article or in any Permitted Situation and no contract shall be liable to be avoided on the grounds of a director having any such interest.

Directors may vote when interested

- 14C.**—(1) Subject where applicable to disclosure in accordance with the Companies Acts or the articles and subject to any terms imposed by the directors in relation to any Conflict or Permitted Situation, a director shall be entitled to vote in respect of any matter in which he is interested directly or indirectly and if he shall do so his vote shall be counted and, whether or not he does, his presence at the meeting shall be taken into account in ascertaining whether a quorum is present.

(2) Subject to paragraph (3) below, if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the chairman whose ruling in relation to any director other than the chairman is to be final and conclusive.

(3) If any question as to the right to participate in the meeting (or part of the meeting) should arise in respect of the chairman, the question is to be decided by a decision of the directors at that meeting, for which purpose the chairman is not to be counted as participating in the meeting (or that part of the meeting) for voting or quorum purposes.

Records of decisions to be kept

15. The directors must ensure that the company keeps a record, in writing, for at least 10 years from the date of the decision recorded, of every unanimous or majority decision taken by the directors.

Directors' discretion to make further rules

16. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

APPOINTMENT OF DIRECTORS

Methods of appointing directors

17.—(1) Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—

- (a) by ordinary resolution,
- (b) by a decision of the directors; or
- (c) by a notice of his appointment given in accordance with article 19.

(2) In any case where, as a result of death, the company has no shareholders and no directors, the personal representatives of the last shareholder to have died have the right, by notice in writing, to appoint a person to be a director.

(3) For the purposes of paragraph (2), where 2 or more shareholders die in circumstances rendering it uncertain who was the last to die, a younger shareholder is deemed to have survived an older shareholder.

Termination of director's appointment

18. A person ceases to be a director as soon as—

- (a) that person ceases to be a director by virtue of any provision of the Companies Act 2006 or is prohibited from being a director by law;
- (b) a bankruptcy order is made against that person;
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have;
- (f) notification is received by the company from the director that the director is resigning from office, and such resignation has taken effect in accordance with its terms; or
- (g) notice of his removal is given in accordance with article 19.

Appointment and removal of a director by majority of ordinary shareholders

19. Any member or members holding a majority in nominal amount of the issued ordinary share capital that confers the right to attend and vote at general meetings may at any time appoint any person who is willing to act, and is permitted by law to do so, to be a director (whether as an additional director or to fill a vacancy) and may remove from office any director (no matter how he was appointed) and any alternate director. Any such appointment or removal shall be effected by notice in writing to the company by the relevant member or members. Any such appointment or removal shall take effect immediately on deposit of the notice or one such later date (if any) specified in the notice. Any removal pursuant to this article shall be without prejudice to any claim that a director may have under any contract between him and the company.

Directors' remuneration and expenses

- 20.—(1) Directors may undertake any services for the company that the shareholders approve in advance in writing.
- (2) Directors are only entitled to such remuneration as approved by the shareholders in advance in writing—
- (a) for their services to the company as directors, and
 - (b) for any other service which they undertake for the company.
- (3) Subject to the articles, a director's remuneration may—
- (a) take any form, and
 - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.
- (5) Unless the shareholders decide otherwise, directors are not accountable to the company for any remuneration which they receive as directors or other officers or employees of the company's subsidiaries or of any other body corporate in which the company is interested.
- (6) The company may pay any reasonable expenses which the directors properly incur in connection with their attendance at—
- (a) meetings of directors or committees of directors,
 - (b) general meetings, or
 - (c) separate meetings of the holders of any class of shares or of debentures of the company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

PART 3

SHARES AND DISTRIBUTIONS

SHARES

All shares to be fully paid up

- 21.—(1) No share is to be issued for less than the aggregate of its nominal value and any premium to be paid to the company in consideration for its issue.
- (2) This does not apply to shares taken on the formation of the company by the subscribers to the company's memorandum.

Powers to issue different classes of share

- 22.—(1) Subject to the articles, but without prejudice to the rights attached to any existing share, the company may issue shares with such rights or restrictions as may be determined by ordinary

resolution.

(2) The company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

Company not bound by less than absolute interests

23. Except as required by law, no person is to be recognised by the company as holding any share upon any trust, and except as otherwise required by law or the articles, the company is not in any way to be bound by or recognise any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

Share certificates

24.—(1) The company must issue each shareholder, free of charge, with one or more certificates in respect of the shares which that shareholder holds.

(2) Every certificate must specify—

- (a) in respect of how many shares, of what class, it is issued;
- (b) the nominal value of those shares;
- (c) that the shares are fully paid; and
- (d) any distinguishing numbers assigned to them.

(3) No certificate may be issued in respect of shares of more than one class.

(4) If more than one person holds a share, only one certificate may be issued in respect of it.

(5) Certificates must—

- (a) have affixed to them the company's common seal, or
- (b) be otherwise executed in accordance with the Companies Acts.

Replacement share certificates

25.—(1) If a certificate issued in respect of a shareholder's shares is—

- (a) damaged or defaced, or
- (b) said to be lost, stolen or destroyed, that shareholder is entitled to be issued with a replacement certificate in respect of the same shares.

(2) A shareholder exercising the right to be issued with such a replacement certificate—

- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
- (b) must return the certificate which is to be replaced to the company if it is damaged or defaced; and
- (c) must comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

Share transfers

26.—(1) Shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of the transferor.

(2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.

(3) The company may retain any instrument of transfer which is registered.

(4) The transferor remains the holder of a share until the transferee's name is entered in the register of members as holder of it.

(5) The directors may refuse to register the transfer of a share, and if they do so, the instrument of transfer must be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

Transmission of shares

27.—(1) If title to a share passes to a transmittee, the company may only recognise the transmittee as having any title to that share.

(2) A transmittee who produces such evidence of entitlement to shares as the directors may properly require—

(a) may, subject to the articles, choose either to become the holder of those shares or to have them transferred to another person, and

(b) subject to the articles, and pending any transfer of the shares to another person, has the same rights as the holder had.

(3) But transmittees do not have the right to attend or vote at a general meeting, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

Exercise of transmittees' rights

28.—(1) Transmittees who wish to become the holders of shares to which they have become entitled must notify the company in writing of that wish.

(2) If the transmittee wishes to have a share transferred to another person, the transmittee must execute an instrument of transfer in respect of it.

(3) Any transfer made or executed under this article is to be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

Transmittees bound by prior notices

29. If a notice is given to a shareholder in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the shareholder before the transmittee's name has been entered in the register of members.

DIVIDENDS AND OTHER DISTRIBUTIONS

Procedure for declaring dividends

30.—(1) The company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.

(2) A dividend must not be declared unless the directors have made a recommendation as to its amount. Such a dividend must not exceed the amount recommended by the directors.

(3) No dividend may be declared or paid unless it is in accordance with shareholders' respective rights.

(4) Unless the shareholders' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it must be paid by reference to each shareholder's holding of shares on the date of the resolution or decision to declare or pay it.

(5) If the company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrear.

(6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.

(7) If the directors act in good faith, they do not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

Payment of dividends and other distributions

31.—(1) Where a dividend or other sum which is a distribution is payable in respect of a share, it must be paid by one or more of the following means—

- (a) transfer to a bank or building society account specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
- (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide;
- or
- (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.

(2) In the articles, "**the distribution recipient**" means, in respect of a share in respect of which a dividend or other sum is payable—

- (a) the holder of the share; or
- (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
- (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

No interest on distributions

32. The company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—

- (a) the terms on which the share was issued, or
- (b) the provisions of another agreement between the holder of that share and the company.

Unclaimed distributions

33.—(1) All dividends or other sums which are—

- (a) payable in respect of shares, and
 - (b) unclaimed after having been declared or become payable,
- may be invested or otherwise made use of by the directors for the benefit of the company until claimed.

(2) The payment of any such dividend or other sum into a separate account does not make the company a trustee in respect of it.

(3) If—

- (a) twelve years have passed from the date on which a dividend or other sum became due for payment, and
- (b) the distribution recipient has not claimed it,

the distribution recipient is no longer entitled to that dividend or other sum and it ceases to remain owing by the company.

Non-cash distributions

34.—(1) Subject to the terms of issue of the share in question, the company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

(2) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution—

- (a) fixing the value of any assets;

- (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
- (c) vesting any assets in trustees.

Waiver of distributions

- 35.** Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the company notice in writing to that effect, but if—
- (a) the share has more than one holder, or
 - (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise,
- the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

CAPITALISATION OF PROFITS

Authority to capitalise and appropriation of capitalised sums

- 36.**—(1) Subject to the articles, the directors may, if they are so authorised by an ordinary resolution—
- (a) decide to capitalise any profits of the company (whether or not they are available for distribution) which are not required for paying a preferential dividend, or any sum standing to the credit of the company's share premium account or capital redemption reserve; and
 - (b) appropriate any sum which they so decide to capitalise (a "**capitalised sum**") to the persons who would have been entitled to it if it were distributed by way of dividend (the "**persons entitled**") and in the same proportions.
- (2) Capitalised sums must be applied—
- (a) on behalf of the persons entitled, and
 - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalised sum which was appropriated from profits available for distribution may be applied in paying up new debentures of the company which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (5) Subject to the articles the directors may—
- (a) apply capitalised sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
 - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article (including the issuing of fractional certificates or the making of cash payments); and
 - (c) authorise any person to enter into an agreement with the company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

PART 4
DECISION-MAKING BY SHAREHOLDERS
ORGANISATION OF GENERAL MEETINGS

Attendance and speaking at general meetings

37.—(1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.

(2) A person is able to exercise the right to vote at a general meeting when—

(a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and

(b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.

(3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.

(4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

(5) Two or more persons who are not in the same place as each other attend a general meeting if their circumstances are such that if they have (or were to have) rights to speak and vote at that meeting, they are (or would be) able to exercise them.

Quorum for general meetings

38. No business other than the appointment of the chairman of the meeting is to be transacted at a general meeting if the persons attending it do not constitute a quorum.

Chairing general meetings

39.—(1) If the directors have appointed a chairman, the chairman shall chair general meetings if present and willing to do so.

(2) If the directors have not appointed a chairman, or if the chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—

(a) the directors present, or

(b) (if no directors are present), the meeting,

must appoint a director or shareholder to chair the meeting, and the appointment of the chairman of the meeting must be the first business of the meeting.

(3) The person chairing a meeting in accordance with this article is referred to as "**the chairman of the meeting**".

Attendance and speaking by directors and non-shareholders

40.—(1) Directors may attend and speak at general meetings, whether or not they are shareholders.

(2) The chairman of the meeting may permit other persons who are not—

(a) shareholders of the company, or

(b) otherwise entitled to exercise the rights of shareholders in relation to general meetings, to attend and speak at a general meeting.

Adjournment

- 41.**—(1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the chairman of the meeting must adjourn it.
- (2) The chairman of the meeting may adjourn a general meeting at which a quorum is present if—
- (a) the meeting consents to an adjournment, or
 - (b) it appears to the chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The chairman of the meeting must adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the chairman of the meeting must—
- (a) either specify the time and place to which it is adjourned or state that it is to continue at a time and place to be fixed by the directors, and
 - (b) have regard to any directions as to the time and place of any adjournment which have been given by the meeting.
- (5) If the continuation of an adjourned meeting is to take place more than 14 days after it was adjourned, the company must give at least 7 clear days' notice of it (that is, excluding the day of the adjourned meeting and the day on which the notice is given)—
- (a) to the same persons to whom notice of the company's general meetings is required to be given, and
 - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

VOTING AT GENERAL MEETINGS

Voting: general

42. A resolution put to the vote of a general meeting must be decided on a show of hands unless a poll is duly demanded in accordance with the articles.

Errors and disputes

- 43.**—(1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection must be referred to the chairman of the meeting, whose decision is final.

Poll votes

- 44.**—(1) A poll on a resolution may be demanded—
- (a) in advance of the general meeting where it is to be put to the vote, or
 - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by—
- (a) the chairman of the meeting;
 - (b) the directors;
 - (c) two or more persons having the right to vote on the resolution; or
 - (d) a person or persons representing not less than one tenth of the total voting rights of all the shareholders having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if—
- (a) the poll has not yet been taken, and
 - (b) the chairman of the meeting consents to the withdrawal.

(4) Polls must be taken immediately and in such manner as the chairman of the meeting directs.

Content of proxy notices

- 45.**—(1) Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which—
- (a) states the name and address of the shareholder appointing the proxy;
 - (b) identifies the person appointed to be that shareholder's proxy and the general meeting in relation to which that person is appointed;
 - (c) is signed by or on behalf of the shareholder appointing the proxy, or is authenticated in such manner as the directors may determine; and
 - (d) is delivered to the company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it must be treated as—
- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting, and
 - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

Delivery of proxy notices

- 46.**—(1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.
- (4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

Amendments to resolutions

- 47.**—(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—
- (a) notice of the proposed amendment is given to the company in writing by a person entitled to vote at the general meeting at which it is to be proposed not less than 48 hours before the meeting is to take place (or such later time as the chairman of the meeting may determine), and
 - (b) the proposed amendment does not, in the reasonable opinion of the chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if—
- (a) the chairman of the meeting proposes the amendment at the general meeting at which the resolution is to be proposed, and
 - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the chairman's error does not invalidate the vote on that resolution.

PART 5

ADMINISTRATIVE ARRANGEMENTS

Means of communication to be used

48.—(1) Subject to the articles, anything sent or supplied by or to the company under the articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the company.

(2) Subject to the articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.

(3) A director may agree with the company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.

Company seals

49.—(1) Any common seal may only be used by the authority of the directors.

(2) The directors may decide by what means and in what form any common seal is to be used.

(3) Unless otherwise decided by the directors, if the company has a common seal and it is affixed to a document, the document must also be signed by at least one authorised person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorised person is—

(a) any director of the company;

(b) the company secretary (if any); or

(c) any person authorised by the directors for the purpose of signing documents to which the common seal is applied.

No right to inspect accounts and other records

50. Except as provided by law or authorised by the directors or an ordinary resolution of the company, no person is entitled to inspect any of the company's accounting or other records or documents merely by virtue of being a shareholder.

Provision for employees on cessation of business

51. The directors may decide to make provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries (other than a director or former director or shadow director) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

DIRECTORS' INDEMNITY AND INSURANCE

Indemnity

52.—(1) Subject to paragraph (2), a relevant director of the company or an associated company may be indemnified out of the company's assets against—

(a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the company or an associated company,

(b) any liability incurred by that director in connection with the activities of the company or an associated company in its capacity as a trustee of an occupational pension scheme (as defined in section 235(6) of the Companies Act 2006),

(c) any other liability incurred by that director as an officer of the company or an associated company.

(2) This article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Companies Acts or by any other provision of law.

(3) In this article—

(a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate, and

(b) a "**relevant director**" means any director or former director of the company or an associated company.

Insurance

53.—(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article—

(a) a "**relevant director**" means any director or former director of the company or an associated company,

(b) a "**relevant loss**" means any loss or liability which has been or may be incurred by a relevant director in connection with that director's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company, and

(c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

DATED:

2011

DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY

AND

RED ONE LTD

TRADING COMPANY CONTRACT

AGREEMENT dated

20[11]

BETWEEN

- (1) Devon and Somerset Fire and Rescue Authority of Clyst St George, Exeter, Devon, England EX3 0NW (as established under The Devon and Somerset Fire and Rescue Authority (Combination Scheme) Order 2006) ("**Authority**")
- (2) Red One Ltd of Clyst St George, Exeter, Devon, England EX3 0NW (registered number: 7379630) ("**Company**")

BACKGROUND

- (A) The Authority is the sole shareholder of the Company which it has established in accordance with s.95 Local Government Act 2003 for the purposes of undertaking commercial trading.
- (B) The Authority is providing resources to the Company in order to facilitate the Company being able to trade.

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following definitions shall be used:

"Agreed Contract"	has the meaning given at clause 3.1;
"Agreement"	the agreement between the parties as set out in this document;
"Authority Contracts"	contracts entered into between the Authority and third parties for the provision of any services, goods, software or hardware of any nature whatsoever;
"Authority Equipment"	all equipment, hardware or other physical assets owned by the Authority;
"Authority's Intellectual Property"	Intellectual Property owned by the Authority;
"Authority Premises"	all premises licensed to the Company by the Authority in accordance with clause 5 and Schedule 2;
"Authority Staff"	employees of the Authority provided to the Company in accordance with the clause 4.1 and Schedule 1;
"Charges"	has the meaning given at paragraph 1.2 of Schedule 3;
"Commencement Date"	the date of this Agreement;
"Commercial Services Committee"	a committee of the Authority established with delegated authority to make certain decisions on behalf of the Authority in relation to the Company;
"Company's Intellectual Property"	Intellectual Property owned by the Company;

“Data Controller”	has the meaning given under the Data Protection Legislation;
“Data Processor”	has the meaning given under the Data Protection Legislation;
“Data Protection Legislation”	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
“Extended Term”	has the meaning given in clause 2.2;
“FOI Legislation”	the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and any subordinate legislation made under the Act or Regulations from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
“Initial Term”	has the meaning given in clause 2.1;
“Intellectual Property”	any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites;
“Total Cost”	has the meaning given at paragraph 1.3 of Schedule 3;
“Trading Contract”	has the meaning given at clause 3.1;
“VAT”	value added tax chargeable under the Value Added Tax Act 1994 or any similar or replacement tax.

- 1.2 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made from time to time under that statute or statutory provision.

2 COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with clause 12 for a period of [three] years (“Initial Term”).
- 2.2 The term of the Agreement shall automatically extend for a further three year period (“Extended Term”) at the end of the Initial Term and at the end of each Extended Term, unless the Authority gives written notice to the Company before the end of the Initial Term or the relevant Extended Term, to terminate this agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

3 AGREED CONTRACTS

- 3.1 The Company shall not enter into any contracts with third parties involving the provision of services and / or goods by the Company (“Trading Contract”) without the prior written consent of the Authority, to be exercised through the Commercial Services Committee or any such other committee, board or person within the Authority with due authority to make such decisions on behalf of the Authority as notified from time to time by the Authority to the Company (at which point the contract will be deemed an “Agreed Contract”).
- 3.2 The Authority shall not give its consent for the Company to enter into a Trading Contract until the Parties have agreed in writing the specific resources that the Authority would be required to provide to the Company in order that it could carry out its obligations under the Trading Contract (“Agreed Resources”) including in particular:
- 3.2.1 the provision of Authority Staff;
 - 3.2.2 a licence to use any equipment or software owned or licensed by the Authority;
 - 3.2.3 a licence to use premises owned or occupied by the Authority;
 - 3.2.4 the provision of any necessary support services to service the Company’s activities.
- 3.3 All Agreed Resources shall be supplied by the Authority to the Company in accordance with the terms of this Agreement.

4 PROVISION OF AUTHORITY STAFF

- 4.1 The Authority shall second the Authority Staff to the Company in accordance with Schedule 1.

5 LICENCE TO USE AUTHORITY PREMISES

- 5.1 The Authority shall licence the Authority Premises to the Company in accordance with Schedule 2.

6 LICENCE FOR AUTHORITY EQUIPMENT AND CONTRACTS

- 6.1 The Authority shall licence the Company to use the Authority Equipment for the purposes of delivering an Agreed Contract or facilitating, or preparing to bid for, the delivery of an Agreed Contract.
- 6.2 The Authority licences the benefit of Authority Contracts to the Company for the purposes of delivering an Agreed Contract or facilitating, or preparing to bid for, the delivery of an Agreed Contract.

7 SUPPORT SERVICES

- 7.1 The Authority shall provide all support services that the Company requires unless the Parties agree otherwise in writing in advance of the Company entering into a contract with a third party for support services.

8 INTELLECTUAL PROPERTY

- 8.1 The Company assigns ownership of all of the Company's Intellectual Property to the Authority.
- 8.2 The Authority provides a revocable, non-exclusive, royalty free licence to the Company to use the Authority's Intellectual Property for the Approved Purposes [provided that the Authority's Intellectual Property shall not be used without the prior written approval of the Authority].
- 8.3 The Company shall not sub-licence any part of the Authority's Intellectual Property without the prior written approval of the Authority.

9 CHARGES

- 9.1 The Company shall pay the Authority the Charges in accordance with the terms contained in Schedule 3.

10 INSURANCE

- 10.1 The Authority shall arrange for the activities of the Company relating to this Agreement to be covered by its insurance policies.
- 10.2 The cost to the Authority of providing insurance cover to the Company shall be accounted for in the Charges.

11 LIABILITY

- 11.1 The Company shall indemnify the Authority against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Authority arising out of or in connection with
 - 11.1.1 the Company's breach of the terms of this Agreement.
 - 11.1.2 any claim made against the Authority for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with an Agreed Contract;

11.1.3 any claim made against the Authority by a third party arising out of or in connection with the undertaking of an Agreed Contract by the Company.

11.2 This indemnity shall apply whether or not the Company has been negligent or at fault.

12 TERMINATION

12.1 The Authority may terminate this Agreement:

12.1.1 upon serving [one month's] written notice to the Company with such notice to be served at any time; or

12.1.2 immediately upon serving written notice where the Company is in breach of its obligations under this Agreement.

13 DATA PROTECTION

13.1 With respect to the Parties' rights and obligations under this agreement, the Parties agree that the Authority is the Data Controller and that the Company is the Data Processor.

13.2 The Company shall comply with any notification requirements under the Data Protection Legislation and both parties will duly observe all their obligations under the Data Protection Legislation, which arise in connection with the Agreement.

13.3 Notwithstanding the general obligation in clause 13.1, where the Company is processing Personal Data as a Data Processor for the Authority, the Company shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the Data Protection Act 1998; and

13.3.1 provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Company is complying with its obligations under the Data Protection Legislation;

13.3.2 promptly notify the Authority of any breach of the security measures required to be put in place pursuant to clause 13.3; and

13.3.3 ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under the Data Protection Legislation.

13.4 The provisions of this clause shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

14 FREEDOM OF INFORMATION

14.1 The Parties agree that the Company will be subject to the FOI Legislation as a company wholly owned by the Authority and the Parties agree to comply with their

legal obligations under FOI Legislation and work together cooperatively and in good faith to assist each other in complying with such obligations.

15 NO PARTNERSHIP OR AGENCY

15.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute any Party the agent of the other Party, nor authorise any Party to make or enter into any commitments for or on behalf of the other Party.

16 ASSIGNMENT

16.1 This Agreement is personal to the Parties and neither Party shall assign, transfer, mortgage, charge, subcontract or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the other Party.

16.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

17 ENTIRE AGREEMENT

17.1 This Agreement constitutes the whole agreement between the Parties and supersedes all previous agreements between the Parties relating to its subject matter.

17.2 Each Party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement.

17.3 Nothing in this clause shall limit or exclude any liability for fraud.

18 VARIATION

18.1 No variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

19 SEVERENCE

19.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

19.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

20 NOTICES

20.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier, to each party required to receive the notice as set out below:

Authority: [CONTACT][ADDRESS]

Company: [CONTACT][ADDRESS],

or as otherwise specified by the relevant party by notice in writing to each other party.

20.2 Any notice shall be deemed to have been duly received:

20.2.1 if delivered personally, when left at the address and for the contact referred to in this clause; or

20.2.2 if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or

20.2.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

20.3 A notice required to be given under this agreement shall not be validly given if sent by e-mail.

20.4 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

21 COUNTERPARTS

21.1 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement. No counterpart shall be effective until each party has executed at least one counterpart.

22 THIRD PARTY RIGHTS

22.1 No person other than a party to this Agreement shall have any rights to enforce any term of this Agreement.

23 GOVERNING LAW AND JURISDICTION

23.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute.

Signed for and on behalf of
**DEVON AND SOMERSET FIRE AND
RESCUE AUTHORITY**

.....
[authorised signatory]

Signed for and on behalf of the
RED ONE LTD

.....
Director

.....
Director / Secretary

SCHEDULE 1– AUTHORITY STAFF

1 Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in this Schedule (unless the context requires otherwise).

Employment Contract: the terms of employment between the Authority and the Secondee.

Management Issues: all those matters under the Employment Contract requiring action, investigation and/or decisions by the Authority including in particular (by way of illustration only and without limitation) appraisals and performance issues; pay reviews and the award of other payments and benefits under the Employment Contract; periods of annual, sick or other leave; absence of the Secondee for any other reason; any complaint about the Secondee (whether or not that would be dealt with under the Authority's disciplinary procedure) and any complaint or grievance raised by the Secondee (whether or not that would be dealt with under the Authority's grievance procedure).

Secondee: the employees of the Authority that the Parties agree in writing will be seconded by the Authority to the Company for the purposes of facilitating the delivery of an Agreed Contract.

Secondment: the secondment of the Secondee by the Employer to the Company on the terms of this Agreement.

Secondment Period: in relation to each Secondee the period of time that the Parties agree in writing in advance that the Secondee shall be seconded to the Company for the purposes of this Agreement.

Services: in relation to each Secondee the services agreed between the Parties from time to time.

2 Secondment

- 2.1 The Authority shall second the Secondee to the Company for the Secondment Period to provide the Services in accordance with the terms of this Agreement.

3 Secondee's employment

- 3.1 The Employment Contract shall remain in force during the Secondment Period.
- 3.2 The Company shall not, and shall not require the Secondee to do anything that shall, breach the Employment Contract and shall have no authority to vary the terms of the Employment Contract or make any representations to the Secondee in relation to the terms of the Employment Contract.
- 3.3 The Company shall provide the Authority with such information and assistance as it may reasonably require to carry out its obligations as the Secondee's employer.
- 3.4 If the Secondee is held to be employed by the Company at any time during the Secondment Period then the Company may dismiss the Secondee and the Authority shall offer the Secondee employment on the terms that applied immediately prior to that dismissal.

4 Payments

- 4.1 The Authority shall continue to pay the Secondee's salary and any allowances, provide any benefits due to the Secondee or their dependants, make any payments to third parties in relation to the Secondee and make any deductions that it is required to make from the Secondee's salary and other payments.
- 4.2 The Authority shall refund the Secondee all reasonable travel, accommodation and other expenses wholly, exclusively and necessarily incurred by the Secondee during the Secondment Period in or in connection with the exercise of the Services, if such expenses are evidenced in such manner as the Authority may specify from time to time. The Company shall provide information required by the Authority to evidence such expenses.

5 Management during the secondment

- 5.1 The Authority shall continue to deal with any Management Issues concerning the Secondee during the Secondment Period, where relevant following consultation with the Company.
- 5.2 The Company shall provide any information, documentation, access to its premises and employees and assistance (including but not limited to giving witness evidence) to the Authority to deal with any Management Issues concerning the Secondee.
- 5.3 The Company shall have day-to-day control of the Secondee's activities but as soon as reasonably practicable shall refer any Management Issues concerning the Secondee that come to its attention to the Authority.
- 5.4 Both parties shall inform the other as soon as reasonably practicable of any other significant matter that may arise during the Secondment Period relating to the Secondee or their employment.

6 Data protection

- 6.1 The Authority confirms that the Secondee has consented
 - 6.1.1 to the Company processing data relating to the Secondee for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Secondee.
 - 6.1.2 to the Company making such information available to those who provide products or services to the Company (such as advisers and insurers), regulatory authorities, governmental or quasi governmental organisations and, where relevant, potential purchasers of any of the Company's services..

7 Summary termination

- 7.1 The Authority may terminate any Secondment with immediate effect without notice or payment in lieu of notice:
 - 7.1.1 on the termination of the Employment Contract; or

- 7.1.2 if the Company is guilty of any breach of the terms of this Agreement.
- 7.2 All Secondments shall terminate upon the termination of the Agreement under clause 12.

8 Liability

- 8.1 During the Secondment Period the Authority, in consultation with the Company where appropriate, shall fulfil all duties relating to the Secondee's health, safety and welfare as if it was their employer and shall comply with the Employer's reasonable requests in connection with the Employer's duties in relation to the Secondee.
- 8.2 The Company shall indemnify the Authority fully and keep the Authority indemnified fully at all times against any loss, injury, damage or costs suffered, sustained or incurred by:
 - 8.2.1 the Secondee in relation to any loss, injury, damage or costs arising out of any act or omission by the Host or its employees or agents during the Secondment Period; or
 - 8.2.2 a third party, in relation to any loss, injury, damage or costs arising out of any act or omission of the Secondee during the Secondment Period.
- 8.3 The Company shall indemnify the Authority fully and keep the Authority indemnified fully at all times against any claim or demand by the Secondee arising out of their employment by the Authority or its termination during the Secondment Period (save for any claim that the Authority has failed to pay the Secondee's salary and any allowances, provide any benefits due to the Secondee or their dependants, make any payments to third parties in relation to the Secondee or make any deductions that it is required to make from the Secondee's salary and other payments).

SCHEDULE 2– LICENCE TO USE AUTHORITY PREMISES

AGREED TERMS FOR AGREED FACILITIES

9 Interpretation

9.1 The definitions and rules of interpretation in this clause apply in this Schedule.

"Building"

In respect of each license, the building specified by the Authority as part of the written agreement between the Parties in relation to an Agreed Contract.

"Common Parts"

The roads, paths, entrance halls, corridors lifts, staircases, landing and other means of access in or upon the Building the use of which is necessary for obtaining access to and egress from the Property as designated from time to time by the Authority.

"Competent Authority"

Any statutory undertaker or any statutory, public, local or other authority or regulatory body or any court of law or government department or any of them or any of their duly authorised officers.

"Licence Period"

In relation to each license the period agreed in writing between the Parties as part of the Authority approving an Agreed Contract.

"Necessary Consents"

All planning permissions and other consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature that shall be required by any Competent Authority for the Permitted Use.

"Permitted Use"

In relation to each licence, the uses specified by the Authority in writing as part of the written agreement between the Parties in relation to an Agreed Contract.

"Property"

In relation to each licence, the properties specified by the Authority in writing as part of the written agreement between the Parties in relation to an Agreed Contract.

"Service Media"

All media for the supply or removal of heat, electricity, gas, water, sewage, air-conditioning, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

10 Licence to occupy

10.1 Subject to paragraph 11 and clause 12, the Authority permits the Company to occupy the Property for the Permitted Use for the Licence Period in common with the Authority and all others authorised by the Authority (so far as is not inconsistent with the rights given to the Licensee to use the Property for the Permitted Use) together with the rights of the Licensee to use during the Licence Period:

10.1.1 such parts of the Common Parts for the purpose of access to and egress from the Property as shall from time to time be designated by the Authority for such purpose;

- 10.1.2 the Service Media serving the Property.
- 10.2 The Company acknowledges that:
 - 10.2.1 the Company shall occupy the Property as a licensee and that no relationship of landlord and tenant is created between the Authority and the Company by this Licence;
 - 10.2.2 the Authority retains control, possession and management of the Property and the Company has no right to exclude the Licensor from the Property; and
 - 10.2.3 subject to paragraph 10.3, the licence to occupy granted by this Licence is personal to the Licensee and is not assignable and the rights given in paragraph 10 may only be exercised by the Licensee and its employees.
- 10.3 The Company shall have the right to sub-licence the licence provided in this Agreement where such sub-licensing is done for the purposes of an Agreed Contract and to the extent agreed in advance in writing with the Authority.

11 Company's obligations

The Company agrees and undertakes:

- 11.1 To keep the Property clean, tidy and clear of rubbish.
- 11.2 Not to use the Property other than for the Permitted Use.
- 11.3 Not to make any alteration or addition whatsoever to the Property.
- 11.4 Not to display any advertisement, signboards, name plate, inscription, flag, banner, placard, poster, signs or notices at the Property or elsewhere in the Building without the prior written consent of the Licensor.
- 11.5 Not to do or permit to be done on the Property anything which is illegal or which may be or become a nuisance (whether or not actionable), damage, annoyance, inconvenience or disturbance to the Licensor or to tenants or occupiers of the Building or any owner or occupier of neighbouring property.
- 11.6 Not to obstruct the Common Parts, make them dirty or untidy or leave any rubbish on them.
- 11.7 Not to apply for any planning permission in respect of the Property.
- 11.8 Not to do anything that will or might constitute a breach of any Necessary Consents affecting the Property or which will or might vitiate in whole or in part any insurance effected by the Licensor in respect of the Property and Building from time to time.
- 11.9 To observe any rules or regulations the Licensor makes and notifies to the Licensee from time to time in respect of the Property and the Common Parts.
- 11.10 To leave the Property in a clean and tidy condition and to remove the Licensee's furniture, equipment and goods from the Property at the end of the Licence Period.

- 11.11 To indemnify the Licensor and keep the Licensor indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability arising in any way from:
- 11.11.1 this Licence;
 - 11.11.2 any breach of the Company's undertakings contained in paragraph 11; and/or
 - 11.11.3 the exercise of any rights given in paragraph 10.

12 Termination

- 12.1 The licence to occupy granted by this Licence shall end on the earliest of:
- 12.1.1 date on which Licence is to end;
 - 12.1.2 immediately on notice given by the Authority at any time following breach of any of the Company's obligations contained in paragraph 11;
 - 12.1.3 on termination of the Agreement in accordance with clause 12.
- 12.2 Termination is without prejudice to the rights of either party in connection with any antecedent breach of or other obligations subsisting under this Licence.

13 Exclusion of warranty

- 13.1 The Authority gives no warranty that the Property possesses the Necessary Consents for the Permitted Use.
- 13.2 The Authority gives no warranty that the Property is legally or physically fit for the purposes specified in paragraph 10.
- 13.3 The Licensor is not to be liable for the death or, or injury to the Licensee, its employers, customers and authorised invitees or for damage to any property of theirs, or for any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by them in the exercise or purported exercise of the rights granted by paragraph 10.

SCHEDULE 3– CHARGES

1 CHARGES PAYABLE

- 1.1 The Company shall pay the Authority the Charges.
- 1.2 The Charges shall be an amount equalling the Total Cost for all services, licences, goods or benefits of whatever nature (collectively referred to as “Authority Support”) provided to the Company by the Authority under the terms of this Agreement, including:
 - 1.2.1 the provision of Authority Staff;
 - 1.2.2 the licence of Authority Premises;
 - 1.2.3 the licence of Authority Equipment;
 - 1.2.4 the provision of Support Services;
 - 1.2.5 the benefit of insurance cover.
- 1.3 The ‘Total Cost’ for each element of Authority Support provided to the Company shall be a fair and reasonable proportion of any costs or charges of any nature incurred by the Authority whether directly or indirectly in connection with or in relation to that element of Authority Support.
- 1.4 The Parties shall in respect of each element of Authority Support and before such support is provided by the Authority to the Company agree in writing the Total Cost, or where agreed as more appropriate an estimate of the Total Cost, for that element of Authority Support.

2 VAT

- 2.1 The amounts agreed as the Charges payable by the Company to the Authority under or pursuant to this Agreement are exclusive of VAT (if any).
- 2.2 If any VAT is chargeable on any supply of Authority Support made by the Authority under or pursuant to this Agreement, the Company will on receipt of a valid VAT invoice, pay the Authority an amount equal to that VAT.

3 PAYMENT

- 3.1 The Company shall pay the Authority the Charges upon receipt of an invoice from the Authority.



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

REPORT REFERENCE NO.	DSFRA/12/8
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY (BUDGET MEETING)
DATE OF MEETING	17 FEBRUARY 2012
SUBJECT OF REPORT	FIRE AND RESCUE SERVICE NATIONAL FRAMEWORK FOR ENGLAND – CONSULTATION
LEAD OFFICER	CHIEF FIRE OFFICER
RECOMMENDATIONS	<p>(a) <i>that the Chief Fire Officer, in consultation with the Chairman, be authorised to submit on behalf of the Authority a response to the Department for Communities and Local Government consultation on the proposed Fire and Rescue Service National Framework for England by the deadline of 19 March 2012;</i></p> <p>(b) <i>that Authority Members be invited to submit, by no later than Monday 12 March 2012, views to inform the final response.</i></p>
EXECUTIVE SUMMARY	<p>The current National Framework covers a broad range of activities and responsibilities for fire and rescue authorities including resilience and prevention, protection and response. In the response to the sector's Fire Futures Reports, the government committed itself to work with the sector to develop and consult on a revised National Framework as part of resetting the relationship between central government and fire and rescue authorities, placing an emphasis on local accountability while focusing on issues where there is a clear national interest, for example national resilience.</p> <p>Work has been completed to develop a draft National Framework for public consultation. A National Framework Partner Working Group including representatives from the Local Government Association, the Chief Fire Officers' Association, the Fire Brigade Union and the Fire Sector Partnership has met a number of times to consider and contribute to the draft Framework.</p>

	<p>On national resilience issues, the Partner Working Group has been supported by a National Resilience Sub-Group, which includes members from across the sector and the government.</p> <p>The public consultation on the draft National Framework was published on Tuesday 13 December 2011 and will end on Monday 19 March 2012. This consultation gives partners across the sector and the general public the opportunity to share their views.</p> <p>The revised National Framework will be in place for 2012. The existing National Framework remains in force until the new one is brought into effect.</p>
RESOURCE IMPLICATIONS	Nil associated in responding to the Consultation
EQUALITY IMPACT ASSESSMENT	Not applicable
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Fire and Rescue Services National Framework for England - Consultation

1. **BACKGROUND**

1.1 The Department for Communities and Local Government (CLG) published its consultation on the Fire and Rescue Service National Framework for England on 13 December 2011. A copy of the consultation document is available on request or can be found by following the link below:

www.communities.gov.uk/fire/nationalframework/

1.2 The Framework is produced under Section 21 of the Fire and Rescue Services Act 2004 and sets out the Government's priorities and objectives for fire and rescue authorities in England as follows:

- to identify and assess the full range of fire and rescue related risks their areas face, make provision for prevention and protection activities and respond to incidents appropriately;
- to work in partnership with their communities and a wide range of partners locally and nationally to deliver their service; and
- to be accountable to communities for the service they provide.

1.4 Alongside the public consultation, the CLG will also be working with key partner organisations, including the Local Government Association and the Chief Fire Officers' Association, to determine the appropriate strategic governance arrangements for national resilience, as introduced in the draft Framework.

2. **DRAFT FRAMEWORK – ETHOS AND CONSULTATION QUESTIONS**

2.1 In the foreword to the National Framework, Bob Neill MP makes clear that the Framework is intended to reflect the localist agenda. He states that:

“...the best thing central government can do to improve the services provided by fire and rescue authorities and the professionals they employ is not to micro manage from the centre, but to provide an overall strategic direction and support, to empower and encourage them but not to interfere in the way in which they serve their communities.”

2.2 The Fire Minister is also clear that “...ultimately, it is to local communities, not central government, that fire and rescue authorities are accountable.” In addition, Bob Neill MP reiterates the government's overarching responsibility for resilience.

2.3 The consultation document is set out under three broad headings:

- Safer Communities;
- Accountable to communities; and
- Assurance.

2.4 In addition to seeking general comments, the consultation poses four specific questions:

- **Question 1:** is the content of each chapter clear, specific and proportionate?
- **Question 2:** does the draft National Framework set clear and appropriate expectations of fire and rescue authorities? If not, how could it be improved?
- **Question 3:** are the respective roles of fire and rescue authorities and the government set out clearly? If not, how could they be improved or made clearer?

- **Question 4:** do the requirements for fire and rescue authorities on scrutiny, access to comparable performance data go too far or not far enough?

2.5 The following sections of this report summarise the contents of the consultation document.

3. SAFER COMMUNITIES

3.1 In relation to national resilience, fire and rescue authorities will be expected to assess their existing capability and identify any gaps as part of the integrated risk management planning process. This gap analysis needs to be conducted by fire and rescue authorities individually and collectively to obtain an overall picture of their ability to meet the full range of risks in their area.

3.2 Fire and rescue authorities must work collectively, through agreed strategic governance arrangements, with the CLG to agree whether and/or how to address any capability gap identified through the gap analysis. As indicated earlier, CLG is, alongside this public consultation, working with key partner organisations to determine the appropriate strategic governance arrangements for national resilience might be.

3.3 The draft Framework also highlights that fire and rescue authorities must have effective business continuity arrangements in place to meet the full range of service delivery risks. It also makes clear that business continuity plans should not be developed on the basis of Armed Forces assistance being available.

4. ACCOUNTABLE TO COMMUNITIES

4.1 This section of the draft Framework reiterates the need to make integrated risk management plans accessible to communities. In addition, it states that "...fire and rescue authorities must have arrangements in place to ensure that their decisions are open to scrutiny. The draft Framework goes on to say that, in practice, this means "...fire and rescue authorities need to satisfy themselves that the arrangements they put in place provide the level of scrutiny their communities expect." The draft Framework provides some examples of scrutiny arrangements but, as a result prior intervention by the Local Government Association, does not stipulate or impose any particular arrangements.

4.2 Scrutiny is a statutory duty for shire fire and rescue authorities (by virtue of the Local Government Act 2000) but not for combined fire and rescue authorities such as Devon & Somerset. That having been said, it has been widely recognised that scrutiny by external organisations acting as critical friends can help drive service improvement, promote community engagement and, by fostering open and transparent governance, can help build trust between service providers and users. Recent examples of this for the Devon & Somerset Fire & Rescue Authority include the initial assessment against the European Framework for Quality Management (EFQM), undertaken as part of the Service drive for "excellence", and the Peer Challenge which has seen the Authority being designated at "achieving level" against the Fire & Rescue Services Equality Framework.

4.3 In relation to the scrutiny aspect of the draft Framework, the Authority may wish to note that the Local Government Association (LGA) has commissioned the Centre for Public Scrutiny to produce a good practice guide which it is intended should be launched at the forthcoming annual Fire Conference in March 2012. The LGA considers this to be a better way of promoting ideas and challenge rather than prescribing in the Framework a specific scrutiny approach. It is suggested the Authority may also wish to endorse this approach.

5. **ASSURANCE**

5.1 The Framework sets out a requirement that fire and rescue authorities must publish an annual statement of assurance on financial, governance and operational matters. The draft Framework indicates that government will work with the sector to determine the precise nature of the assurance statements but also expresses the view that the contents of such statements already exist in information held or published by fire and rescue authorities already (e.g. as part of an annual report or service plan). At this stage, though, it is not clear if the requirement for assurance statements simply complements existing processes or imposes a significant new burden on fire and rescue authorities. The LGA is currently exploring this issue with CLG officials.

6. **COMMENTS**

6.1 By way of general comment, it is perhaps pleasing to note that the draft Framework appears to build on the good practice and existing activities of fire and rescue authorities. Where the document is prescriptive (i.e. fire and rescue authorities **must**), this prescription is at a high strategic level and the precise means of complying with the prescription are – in line with the overall ethos of localism – for fire and rescue authorities themselves to determine.

6.2 The Integrated Risk Management Plan (IRMP) remains the means by which fire and rescue authorities identify and assess all relevant risks and demonstrates how prevention, protection and response activities will best be used to mitigate the impact of risk. For the Devon & Somerset Fire & Rescue Authority, the IRMP has for a number of years been incorporate into the Service Corporate Plan which is refreshed annually and subject to extensive stakeholder consultation. It is suggested, as such, that this Authority has already made considerable strides towards making its IRMP accessible to communities.

6.3 The Authority has on previous occasions been informed that the Service already has in place robust business continuity plans designed to address any continuity event without the need for reliance upon the armed forces. As indicated in paragraph 4.2 above, this Authority is no stranger to the concept of external scrutiny and actively welcomes it. In terms of a more formal approach, however, it is suggested the view of the LGA – that this should be a matter for individual authorities to determine, perhaps with the benefit of some “best practice” guidance – should be supported.

6.4 While the draft Framework reflects discussions that have taken place to date between CLG and the sector on “national functions”, and encompasses a greater level of devolution to fire and rescue authorities on operational issues, it also includes some additional and potentially significant changes particularly around governance of national resilience arrangements.

- 6.5 It should also be noted that both the Chief Fire Officers Association (CFOA) and the LGA are still formulating their responses to the draft Framework and that, for some areas (e.g. assurance) further information/clarification is being sought. Consequently, while this report outlines some considerations in relation to an Authority response, it does not propose a definitive response itself. Rather, it is intended that such a response should be as informed as possible – taking account of the views of other interested parties such as CFOA and the LGA.
- 6.6 It is proposed, therefore, the Chief Fire Officer be delegated authority to respond to the draft Framework consultation by the deadline of 19 March 2012 and that Members be invited to submit views, by 12 March 2012, to help inform and shape this Authority's final response.

LEE HOWELL
Chief Fire Officer