



DEVON & SOMERSET FIRE & RESCUE AUTHORITY

M. Pearson
CLERK TO THE AUTHORITY

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

(see below)

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DEVON & SOMERSET FIRE & RESCUE AUTHORITY

Wednesday 29 July 2015

A 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

PLEASE REFER TO THE NOTES AT THE END OF THE AGENDA LISTING SHEETS

1. **Apologies**
2. **Minutes** of the Annual and Ordinary meetings held on 28 May 2015 attached (pages 5 and 9 respectively).
3. **Items Requiring Urgent Attention**
Items which, in the opinion of the Chair, should be considered at the meeting as matters of urgency.

PART 1 – OPEN COMMITTEE

4. **Questions and Petitions by the Public**

In accordance with Standing Orders, to consider any questions and petitions submitted by the public. Questions must relate to matters to be considered at 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 (e-mail address: clerk@dsfire.gov.uk) **by midday on Friday 24 July 2015.**

5. **Addresses by Representative Bodies**

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

6. **Questions by Members of the Authority**

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

7. **Minutes of Committees**

(a) Human Resources Management & Development Committee

The Chair of the Committee, Councillor Bown, to **MOVE** the Minutes of the meeting held on 11 June 2015 attached (page 15).

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

(b) Commercial Services Committee

The Chair of the Committee, Councillor Healey, to **MOVE** the Minutes of the meeting held on 15 June 2015 attached (page 19).

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

(c) Audit & Performance Review Committee

The Chair of the Committee, Councillor Radford, to **MOVE** the Minutes of the meeting held on 10 July 2015 attached (page 21).

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

8. **Appointments to Committees**

Report of the Clerk to the Authority (DSFRA/15/15) attached (page 25)

9. **Redundancy Compensation Rates**

Report of the Director of People and Commercial Services (DSFRA/15/16) attached (page 27)

10. **Commercial Activities - Governance Options**

Report of the Joint Report of the Chief Fire Officer and Clerk to the Authority (DSFRA/15/17) attached (page 35)

11. **Firefighters Pensions Schemes Discretions**

Report of the Joint Report of the Chief Fire Officer and the Clerk to the Authority (DSFRA/15/18) attached (page 53)

12. **Local Government Pension Scheme (LGPS) Discretions**

Report of the Joint Report of the Chief Fire Officer and the Clerk to the Authority (DSFRA/15/19) attached (page 93)

13. **Chairman's Announcements**

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

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Healey (Chair), Ball, Bown, Burridge-Clayton, Chugg, Colthorpe, Dyke, Eastman, Edmunds, Ellery, Greenslade, Hill, Horsfall, Knight, Leaves, Radford, Randall Johnson, Redman, Singh, Thomas, Way, Wheeler, Woodman and Yeomans

| NOTES | |
|--------------|--|
| 1. | <p><u>Access to Information</u> Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact the person listed in the "Please ask for" section at the top of this agenda.</p> |
| 2. | <p><u>Reporting of Meetings</u> Any person attending a meeting may report (film, photograph or make an audio recording) on any part of the meeting which is open to the public – unless there is good reason not to do so, as directed by the Chairman - and use any communication method, including the internet and social media (Facebook, Twitter etc.), to publish, post or otherwise share the report. The Authority accepts no liability for the content or accuracy of any such report, which should not be construed as representing the official, Authority record of the meeting. Similarly, any views expressed in such reports should not be interpreted as representing the views of the Authority. Flash photography is not permitted and any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Democratic Services Officer in attendance so that all those present may be made aware that is happening.</p> |
| 3. | <p><u>Disclosable Pecuniary Interests (Authority Members only)</u> If you have any disclosable pecuniary interests (as defined by Regulations) in any item(s) to be considered at this meeting then, unless you have previously obtained a dispensation from the Authority's Monitoring Officer, you must:</p> <ul style="list-style-type: none"> (a) disclose any such interest at the time of commencement of consideration of the item in which you have the interest or, if later, as soon as it becomes apparent to you that you have such an interest; (b) leave the meeting room during consideration of the item in which you have such an interest, taking no part in any discussion or decision thereon; and (c) not seek to influence improperly any decision on the matter in which you have such an interest. <p>If the interest is sensitive (as agreed with the Monitoring Officer), you need not disclose the nature of the interest but merely that you have a disclosable pecuniary interest of a sensitive nature. You must still follow (b) and (c) above.</p> |
| 4. | <p><u>Part 2 Reports</u> Members are reminded that any Part 2 reports as circulated with the agenda for this meeting contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Committee Secretary at the conclusion of the meeting for disposal.</p> |
| 5. | <p><u>Substitute Members (Committee Meetings only)</u> Members are reminded that, in accordance with Standing Order 35, the Clerk (or his representative) must be advised of any substitution prior to the start of the meeting. Members are also reminded that substitutions are not permitted for full Authority meetings.</p> |

DEVON & SOMERSET FIRE & RESCUE AUTHORITY
(Annual Meeting)

28 May 2015

Present:-

Councillors Ball, Bown, Burrige-Clayton, Colthorpe, Dyke, Eastman, Edmunds, Ellery, Greenslade, Healey, Horsfall, Knight, Leaves, Radford, Randall Johnson, Redman, Singh, Way, Wheeler, Woodman and Yeomans

Apologies:-

Councillors Chugg and Hill

DSFRA/1. Election of Chair

Nominations were requested for the post of Authority Chair for the forthcoming (2015-16) municipal year. Councillor Greenslade proposed, with Councillor Yeomans seconding, that Councillor Healey be elected. There being no other nominations, it was

RESOLVED that Councillor Healey be elected Authority Chair until the Annual Meeting of the Authority in 2016.

DSFRA/2. Minutes

RESOLVED that the Minutes of the Budget meeting held on 20 February 2015 be signed as a correct record.

DSFRA/3. Outgoing and New Members

The Authority paid tribute to former Member Stephen Brooksbank and welcomed Councillors Redman and Wheeler as new Authority Members.

DSFRA/4. Election of Vice-Chair

The Chair requested nominations for the post of Authority Vice-Chair for the forthcoming (2015-16) municipal year. Councillor Ellery proposed, with Councillor Way seconding, that Councillor Greenslade be elected. There being no other nominations, it was

RESOLVED that Councillor Greenslade be elected Authority Vice-Chair until the Annual Meeting of the Authority in 2016.

DSFRA/5. Review of Constitutional Governance Framework Documents

The Authority considered a report of the Clerk to the Authority (DSFRA/15/9) on the outcome of the latest annual review of the Authority's constitutional governance framework documents. While the vast majority of the documents remained current and fit for purpose, amendments were proposed to:

- Standing Orders in relation to the procedure for disciplinary action against the Authority's statutory officers (prompted by recent Regulatory changes in this respect); and

- replace the former Procurement and Contract Regulations with a new document, Contract Standing Orders, drafted to reflect recent legislative changes (notably the new European Procurement Regulations which came into force on 26 February 2015), the development of a new Corporate Procurement Strategy for the Devon & Somerset Fire & Rescue Service and internal changes in responsibilities, working practices and systems stemming from the new Procurement Strategy.

RESOLVED

- that the proposed revision to Standing Order 43 (Disciplinary Action), as set out at paragraph 3.5 of report DSFRA/15/9 be approved;
- that, linked to (a), the proposed procedure for investigating allegations of misconduct by the Authority's Head of Paid Service (Chief Fire Officer), Monitoring Officer and Chief Finance Officer (Treasurer), as set out in Appendix A to the report, be approved;
- that the Contract Standing Orders attached as Appendix C to the report be approved (to replace the Contract and Procurement Regulations); and
- that, subject to (a) to (c) above, the constitutional governance framework documents as identified at paragraph 1.1 of this report be endorsed.

DSFRA/6.

Schedule of Appointments to Committees, Outside Bodies Etc.

The Authority considered a report of the Clerk to the Authority (DSFRA/15/10) seeking endorsement to the Authority's current committee structure and associated Terms of Reference, together with appointments to committees etc. and outside bodies for the forthcoming (2015-16) municipal year.

RESOLVED

- that, in accordance with Standing Orders, appointments be made to Committees etc. as shown below for the 2015-16 municipal year, the term of office to be until the Authority annual meeting in 2016:

Audit & Performance Review Committee

Councillors Ball, Edmunds, Healey, Horsfall, Radford, Randall Johnson, Singh and Way.

Commercial Services Committee

Councillors Ball, Dyke, Edmunds, Healey, Leaves, Randall Johnson and Woodman.

Community Safety & Corporate Planning Committee

Councillors Bown, Colthorpe, Eastman, Ellery, Hill, Leaves and Redman.

Determinations & Dispensations Committee

Councillors Bown, Horsfall, Randall Johnson, Redman and Wheeler.

Human Resources Management & Development Committee

Councillors Bown, Burrige-Clayton, Chugg, Horsfall, Knight and Wheeler (NOTE: one vacancy outstanding – indicative Conservative appointee).

Resources Committee

Councillors Burridge-Clayton, Chugg, Dyke, Greenslade, Singh and Yeomans (NOTE: one vacancy outstanding – indicative Conservative appointee).

Capital Programme Working Party

Councillors Bown, Greenslade, Randall Johnson and Woodman

Equality & Diversity Member Champion

Councillor Randall Johnson

Climate Change & Sustainability Member Champion

Councillor Horsfall

- (b) that the appointment of Mr. David Watson as the Authority's Independent Person as required by the procedures introduced by the Localism Act 2011, for a further twelve months until the Authority's annual meeting in 2016, be confirmed;
- (c) that appointments be made to Outside Bodies as shown below for the 2015-16 municipal year, the term of office to be until the Authority's annual meeting in 2016 unless otherwise indicated:

LOCAL GOVERNMENT ASSOCIATION (LGA)

Fire Commission (2 direct appointments)

Authority Chairman and Councillor Ellery.

General Assembly

Authority Chairman (exercising two Service and one Corporate vote); Councillors Dyke, Randall Johnson and Woodman (each exercising 1 Service vote).

DEVON STRATEGIC PARTNERSHIP BI-ANNUAL WORKSHOP

Councillor Radford.

SOUTH WEST COUNCILS

Authority Chairman.

SOUTH WEST PROVINCIAL COUNCIL

Chair of the Human Resources Management & Development Committee (once appointed).

SOUTH WEST FORUM OF FIRE AUTHORITIES

Authority Chairman.

- (d) that the Terms of Reference for the Authority Committees etc. as set out Appendix B to report DSFRA/15/10 be confirmed.

DSFRA/7. Draft Calendar of Meetings 2015-16

RESOLVED that the draft Authority Calendar of Meetings for the 2015-16 municipal year, as appended to report DSFRA/15/11, be approved.

The meeting started at 10.00hours and finished at 10.25hours.

DEVON & SOMERSET FIRE & RESCUE AUTHORITY

(Ordinary Meeting)

28 May 2015

Present:-

Councillors Healey (Chair), Ball, Bown, Burrige-Clayton, Colthorpe, Dyke, Eastman, Edmunds, Ellery, Greenslade, Horsfall, Knight, Leaves, Radford, Randall Johnson, Redman, Singh, Way, Wheeler, Woodman and Yeomans

Apologies:-

Councillors Chugg and Hill.

DSFRA/8. Minutes of Committees

(a) Commercial Services Committee

The Committee Chair, Councillor Healey, **MOVED** the Minutes of the meeting held on 18 March 2015 which had considered, amongst other things:

- an update on commercial leads and opportunities being progressed as at February 2015;
- an update on the financial performance of commercial activities for the current (2014-15) financial year; and
- a proposed commercial business plan for the 2015-16 financial year.

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

(b) Audit & Performance Review Committee

The Committee Chair, Councillor Radford, **MOVED** the Minutes of the meeting held on 12 May 2015 which had considered, amongst other things:

- an update from the Authority's external auditors (Grant Thornton);
- a report of the Treasurer on materiality and the preparation of group accounts specifically with regard to Red One Ltd.;
- a year-end report on internal audit work undertaken during 2014-15;
- a report on the proposed approach to audit and internal audit plan for 2015-16;
- a year-end report of performance by the Devon & Somerset Fire & Rescue Service during 2014-15 against measures contained in the approved Corporate Plan 2013-14 to 2014-15; and
- a verbal report by the Director of Operations on the evolving culture of performance management within the organisation

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

(c) Resources Committee

The Committee Chair, Councillor Dyke, **MOVED** the Minutes of the meeting held on 14 May 2015 which had considered a report on the provisional financial outturn for the 2014-15 financial year.

RESOLVED

- (i) that the recommendation at Minute RC/19 (Draft Financial Outturn 2014-15) be considered in conjunction with the 2014-15 provisional financial outturn item elsewhere on the agenda for this meeting;
- (ii) that, subject to (i) above and in accordance with Standing Orders, the Minutes be adopted.

(SEE ALSO MINUTE DSFRA/9 BELOW)

DSFRA/9. Provisional Financial Outturn 2014-15

The Authority considered a report of the Treasurer (DSFRA/15/12) on the provisional financial outturn provision (subject to audit) for revenue and capital expenditure as against the approved budgets for 2014-15.

An underspend of £2.051m (2.71%) against the approved revenue budget was anticipated (based on the spending figures at the end of March 2015). This significant saving was largely attributable to continued implementation of Corporate Plan changes approved by the Authority in July 2013 together with a strategy for budget holders to identify in-year savings wherever possible. Some £2.3m had been removed from the base budget when setting the 2015-16 revenue budget to reflect on-going budget savings. The report detailed variations in excess of £50,000 against individual budget lines together with the reasons for those variations.

The report also identified the requirement for an accounting adjustment in relation to the provision of £1.525m established to meet pension liability costs arising from the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000. The Department for Communities and Local Government had indicated that funding for accrued liabilities would be met from employers' contributions using valuations in future years rather than needing to be repaid as a lump-sum as originally anticipated. Consequently, in these circumstances, the £1.525m provision established to cover accrued liabilities would no longer be required and it was proposed that this sum should instead be used to establish an earmarked reserve to fund future pension liabilities. To facilitate this, however, it was necessary to reverse the initial transfer from the revenue budget used to establish the provision.

Government grant funding to the Authority had reduced by £8.7m over the three years to 2015-16, with the Chancellor's Autumn Statement in December 2014 confirming that austerity measures to reduce the structural deficit would continue until at least 2017-18. The Authority had secured cumulative, recurring revenue savings of £9.6m since 2011 but, in light of the Chancellor's Autumn Statement, the Authority's Medium Term Financial Plan indicated further savings of £5.8m per annum would be required by 2018-19.

Capital spending during 2014-15 was £2.797m against a revised, approved programme of £7.614m. The report identified the main reasons for the "slippage" of £4.817m in 2014-15 (linked to the appliance replacement programme and delays in chassis delivery arising from safety regulation changes). No prudential indicators had been breached.

An earlier version of the provisional outturn report had been considered by the Resources Committee at its meeting held on 14 May 2015 which had resolved to make a number of recommendations to the Authority in relation to utilisation of the £2.051m underspend against the approved 2014-15 revenue budget.

RESOLVED that, as recommended by the Resources Committee, the following be approved:

- (a) that the provisional underspend of £2.051m against the 2014-15 revenue budget be used to fund the following transfers to Earmarked Reserves, as outlined in paragraph 10.1 of report DSFRA/15/12:
 - (i) transfer of £0.506m to an Earmarked Reserve to fund Essential Spending Pressures not included in the 2015-16 base budget (Para 10.1(d));
 - (ii) transfer of the remaining £1.545m to the Comprehensive Spending Review (CSR) Reserve (Para 10.1(f));
- (b) that the £1.525m from the Provision originally set aside to fund the potential liability for Retained Pension Costs emanating from the Employment Tribunal relating to Part-Time Workers be reversed and a sum of this amount transferred from the 2014-15 revenue budget to a new Earmarked Reserve for Retained Pension Liability (Para 10.1(h));
- (c) that, following a review of Earmarked Reserve requirements, an amount of £0.079m be transferred from Earmarked Reserves to General Reserve (Para. 10.1i)
- (d) that, as set out in Section 17 of the report, the following capital determinations in relation to funding of the 2014-15 capital programme be approved:
 - (i) that an amount of £1.398m is capitalised and funded from external grant; and
 - (ii) that an amount of £1.399m is capitalised and funded from revenue contributions to capital spending, either directly from the 2014-15 revenue budget or from balances in Earmarked Reserves;
- (e) That, subject to (a) and (d) above, the following be noted:
 - (i) the draft position in respect of the 2014-15 Revenue and Capital Outturn position, as indicated in this report; and
 - (ii) That the underspend figure of £2.051m is after:
 - (A) a transfer of £0.202m to the Grants Unapplied Reserve, as required under International Financial Reporting Standards (IFRS) relating to grants received during the financial year but not utilised (Para.10.1a);
 - (B) a transfer of £0.500m to Earmarked Reserves for 2014-15 Budget Carry Forwards to fund planned projects not completed by 31 March 2015 (Para. 10.1b and 10.1c);
 - (C) a transfer of £1.088m revenue underspend on Capital to Earmarked Reserve (Para. 10.1e); and
 - (D) additional provisions relating to pensions liabilities of £0.228m (Para 10.1j).

(SEE ALSO MINUTE DSFRA/8(c) ABOVE).

DSFRA/10. Annual Treasury Management Report 2014-15

(Adam Burleton, Capita, in attendance for this item).

The Authority received for information Report of the Treasurer (DSFRA/15/13) summarising Authority treasury management activities during 2014-15 in accordance with the requirements of the CIPFA Code of Practice on Treasury Management.

A prudent approach had been taken to investment decisions during the year with priority being given to liquidity and security over yield. Against a backdrop of continued uncertainty in the aftermath of the 2008 financial crisis, a cautious approach had been followed whereby investments were determined by risk considerations resulting in relatively low returns compared to the borrowing rates. Despite this, however, the Authority still secured returns on investment above the London Inter-Bank Bid Rate (LIBID) 3 month rate (the bench mark return for short-term investments) and no Prudential Indicator had been breached.

DSFRA/11. Chair's Announcements

The Authority received, for information, a list of activities undertaken by the Chair on behalf of the Authority since its last meeting.

DSFRA/12. Chief Fire Officer's Announcements

The Chief Fire Officer reported for information on:

- discussions initiated with the Treasury to explore the potential for joint working with the health sector on prevention initiatives (e.g. “slips, trips and falls” guidance). A business case was being developed with a view to progressing this initiative;
- the opportunity for the Service to secure, at no cost, a museum that could also assist in promoting community fire safety messages;
- an incident in Plymouth on 9 May where, thanks to the professionalism, skill and dedication of the Service three lives had been saved.

DSFRA/13. Principal Officer Pay Review 2015

(John Gay [Hay Group] in attendance for this item).

The Committee considered a report of the Clerk to the Authority (DSFRA/15/14) on the outcome of a review of Principal Officer’s pay. The Authority’s approved Pay Policy Statement indicated how the review would be undertaken. To assist in this, a small Working Group comprising the Authority Chair and Vice-Chair together with each of the Committee Chairs had been established.

This Working Group had met on two occasions. At its first meeting the Working Party had considered initial benchmarking data and in light of this felt it would be prudent to commission the Hay Group to:

- evaluate the Chief Fire Officer’s role using the Hay Group Method of Evaluation;
- undertake remuneration market benchmarking using the Hay Group’s Public and Not for Profit data base and analyse and include where appropriate the data about Chief Fire Officer pay obtained initially by the Service; and
- provide a summary report comparing the Service’s current remuneration level with the market and providing advice on options for consideration.

A copy of the summary report subsequently produced by Hay was appended to the report. This had been considered initially by the Members Working Group at a second meeting together with further information providing comparison with fire and rescue services with both a +/- 0.5m and +/- 0.1m narrower population variation to Devon and Somerset.

The report set out recommendations of the Member Working Group in relation to Principal Officers' pay reached following consideration of the data referred to above together with other factors including:

- savings of £329,000 being realised by reductions in the top management team in 2010 and 2013;
- income of £79,200 generated for the Authority by virtue of the Chief Fire Officer serving as Chief Fire and Rescue Adviser to the Welsh Government; and
- whether the Chief Fire Officer and other Principal Officers should be eligible to undertake other roles outside the Service.

Councillor Yeomans **MOVED**, with Councillor Eastman seconding, that the recommendations of the Member Working Group as set out in the report be approved. Councillor Greenslade **MOVED** that the recommendations be **AMENDED** by the addition of the following:

“that consideration be given at a future meeting to removing the link in salary of the posts of Director of Corporate Services and Director of People and Commercial Services to the salary of the Chief Fire Officer with a view to replacing this with a remuneration package for those posts based on the requirements of the role coupled with a performance-based aspect.”

This amendment was accepted unanimously.

Following extensive debate, Councillor Edmunds **MOVED**, with Councillor Randall Johnson seconding, that the recommendations be further **AMENDED** by limiting the pay increases proposed for the Principal Officers to 2.5% of their current salaries.

This amendment was put to the vote which was initially tied with 10 votes for, 10 against and one abstention. In accordance with Standing Orders, the Chair then exercised a second, casting vote **AGAINST** the amendment moved by Councillor Edmunds whereupon it was declared **LOST** by 11 votes to 10.

A vote was then taken on the substantive motion as moved by Councillor Yeomans and amended by Councillor Greenslade whereupon it was

RESOLVED, by 11 votes for to 8 against, with two abstentions,

(a) that the following recommendations of the Members Working Group be approved:

- (i) that the salary of the Chief Fire Officer be set at £146,031 with effect from 1 April 2015;
- (ii) that the percentages of the Chief Fire Officer's salary used to set the salaries of the other Principal Officers be restored to the lower levels previously determined by the Authority, as follows (again with increases to take effect from 1 April 2015):

Director of Operations at 75% (£109,523);

Director of Corporate Services at 68.75% of 5/6th (£83,664); and

Director of People & Commercial Services at
68.75% of 5/6th (£83,664)

- (iii) that the Chief Fire Officer, and other Principal Officers, be permitted to undertake roles outside of the Service, subject to:
- any such work being undertaken whilst on annual leave;
 - there being no conflict of interest with the business of the Authority, Red One Ltd. or any company or other body that the Authority might establish from time to time;
 - compliance with the requirements of the Local Government Act 1972 in relation to the recording of interests in contracts; and
 - all roles outside the Service being recorded in a register of interests kept for that purpose;
- (b) that consideration be given at a future meeting to removing the link in salary of the posts of Director of Corporate Services and Director of People and Commercial Services to the salary of the Chief Fire Officer with a view to replacing this with a remuneration package for those posts based on the requirements of the role coupled with a performance-based aspect.

(NOTE: In accordance with Standing Order 24(3), Councillor Way requested that his vote AGAINST the decision recorded at (a) above be recorded).

The meeting started at 10.45hours and finished at 12.34 hours.

HUMAN RESOURCES MANAGEMENT AND DEVELOPMENT COMMITTEE

(Devon and Somerset Fire and Rescue Authority)

11 June 2015

Present:-

Councillors Bown, Burridge-Clayton, Healey (vice Chugg), Horsfall and Knight

Apologies:-

Received from Councillors Chugg and Wheeler.

***HRMDC/1. Election of Chair**

RESOLVED that Councillor Bown be appointed Chair of this Committee until the first meeting after the Annual Meeting of the Authority in 2016.

***HRMDC/2. Minutes**

RESOLVED that the Minutes of the meeting held on 26 November 2014 be signed as a correct record.

***HRMDC/3. Election of Vice Chair**

RESOLVED that Councillor Chugg be appointed Vice Chair of this Committee until the first meeting after the Annual Meeting of the Authority in 2016.

***HRMDC/4. Equality Strategy: 'Safer Lives, Brighter Futures' Monitoring Report**

The Committee considered a report of the Director of Operations (HRMDC/15/1) that set out the progress made in terms of the Equality Strategy and in ensuring that the Authority was meeting its legal duties under the Equality Act 2010 and Public Sector Equality Duty.

The work that was highlighted in the report included, amongst others:

- The Service was successful in remaining in the top 100 employers within the Stonewall Equality Index competing with almost 400 public and private sector organisations;
- A positive action plan had been set out to improve gender diversity within the Service;
- There had been a review of the Service's Core Values which had previously been agreed nationally but work had been undertaken to introduce locally agreed core values and a behavioural framework to back this up;
- Dyslexia awareness training was being undertaken;
- Peer assessment against the "Excellent" level of the national Fire and Rescue Service Equality Framework which provided a means of measuring and evidencing good practice whilst allowing thorough consideration of the different needs of people in the Service. Although this continued to be utilised as a guide for good practice, it had been decided not to proceed with the peer assessment against the "excellent" level of the framework as this was too resource intensive in this financial year.

RESOLVED

- (a) That the decision not to undertake the planned peer assessment against the Excellent level of the Equality Framework in 2015/16 be approved; and
- (b) Subject to (a) above, the report be noted.

***HRMDC/5. Retirement and Re-Employment**

The Committee considered a report of the Director of People and Commercial Services (HRMDC/15/2) that set out requests that had been made by both uniformed and non-uniformed support staff for retirement and re-employment in accordance with the requirements of the Authority's Pay Policy Statement.

RESOLVED that the requests for retirement & re-employment as identified in paragraphs 2.4 and 3.2 of this report be approved.

***HRMDC/6. Pensions Discretions**

The Committee received for information a report of the Director of People and Commercial Services (HRMDC/15/3) that outlined the changes that had been made to public sector pension schemes and specifically, to the Local Government Pension Scheme and the various Firefighter Pension Schemes.

Given the considerable number of changes to the schemes, the Committee noted that a separate workshop was to be convened to discuss the issues with Members. A date would be agreed for this prior to the next meeting of the Fire and Rescue Authority on 29 July 2015 at which the appropriate pensions discretions would be determined.

***HRMDC/7. Appointments to the Internal Disputes Resolution Panel**

The Committee considered a report of the Director of People and Commercial Services (HRMDC/15/4) in respect of the proposed appointments to the Internal Disputes Resolution Panel (IDRP) which had delegated authority to consider and determine complaints made by individuals under Stage 2 of the Firefighters' Pensions Scheme Internal Disputes Resolution Procedure.

RESOLVED that Councillors Bown, Burridge-Clayton and Knight be appointed to the IDRP Panel with delegated authority to consider and determine complaints made by individuals under Stage 2 of the Firefighters' Pensions Scheme Internal Dispute Resolution Procedure.

***HRMDC/8. Absence Management**

The Director of People and Commercial Services gave a presentation at the meeting that set out the work that was being undertaken to manage the level of sickness within the Service as compared against the measures set out within the Authority's approved Corporate Plan which sought a continuing reduction in absence levels.

The Committee noted that there had been a reducing trend on sickness absence since combination in 2007 reaching its lowest point in 2013/14 when this reached 6.86 days lost per person. In 2014/15, however, this increased to 9.78 days lost per and therefore, an action plan had been set out to redress performance in this area.

The action plan contained the following measures:

- Continued measuring and monitoring of absence levels;
- Analysis of absence management data;
- Measures to address the cultural aspects within the service, including the development of an Organisational Development Strategy;
- The need to improve communications on absence with staff;
- The availability of supportive health and wellbeing initiatives;
- Staff training.

Reference was made to issues that had been experienced with the new software for reporting sickness absence and the action that was being taken to remedy this. An amendment to the software was required but this had been delayed due to other more pressing projects within the Service such as the implementation of the Networked Fire Control Systems Project (NFCSP) and the Training Records System, both of which were risk critical and had to be prioritised above other work. The Committee indicated that it would wish to see the software changes instigated as soon as possible and enquired as to the current timescales for this. It was understood that this work would be undertaken in July 2015 and the Committee requested a report to its next meeting setting out the progress made with this.

The Committee also received a presentation at the meeting by Firefighter Richard McGhee in respect of the work that he had been undertaking in conjunction with MIND in respect of the Blue Light “Time to Change” campaign which was aimed at raising awareness of mental health issues within the emergency services.

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

The meeting started at 10.00hours and finished at 11.45hours

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

15 June 2015

Present:-

Councillors Ball, Dyke, Edmunds, Leaves, Randall Johnson and Woodman.

Apologies:-

Councillor Healey.

***CSC/1. Election of Chair**

Councillor Dyke **MOVED**, with Councillor Edmunds seconding, that Councillor Healey be elected Chair.

There being no other nominations, it was

RESOLVED that Councillor Healey be elected Chair of the Committee until its first meeting following the Authority annual meeting in 2016.

(Councillor Dyke in the Chair for the remainder of the meeting)

***CSC/2. Minutes**

RESOLVED that the Minutes of the meeting held on 18 March 2015 be signed as a correct record.

***CSC/3. Election of Vice-Chair**

Councillor Edmunds **MOVED**, with Councillor Woodman seconding, that Councillor Dyke be elected Vice-Chair.

There being no other nominations, it was

RESOLVED that Councillor Dyke be elected Vice-Chair of the Committee until its first meeting following the Authority annual meeting in 2016.

***CSC/4. 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 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 and other companies.

***CSC/5.**

Commercial Update May 2015

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

The Committee received, for information, a report of the Commercial Services Manager (CS/15/5) on commercial leads and opportunities currently being progressed. The report also indicated commercial financial performance for the 2015-16 financial year as at 5 June 2015.

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

The meeting started at 09:30hours and finished at 10.35hours.

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

10 July 2015

Present:-

Councillors Edmunds, Greenslade (vice Singh), Healey, Horsfall, Radford, Randall Johnson and Way.

***APRC/1. Election of Chair**

RESOLVED that Councillor Radford be elected Chair of the Committee until the first meeting after the Annual General Meeting of the Authority in 2016.

***APRC/2. Minutes**

RESOLVED that the Minutes of the meeting held on 12 May 2015 be signed as a correct record.

***APRC/3. Election of Vice Chair**

RESOLVED that Councillor Edmunds be elected Chair of the Committee until the first meeting after the Annual General Meeting of the Authority in 2016.

***APRC/4. Grant Thornton Update**

The Authority's external auditor, Grant Thornton, submitted for information a report setting out the progress made in delivering its responsibilities to the Devon and Somerset Fire and Rescue Authority up to 1 July 2015. Peter Barber, representing Grant Thornton, attended the meeting to present the report, which covered emerging issues and developments, including:

- The progress made on the interim accounts and the 2014-15 final accounts audits, together with the Value for Money conclusion;
- A new document that had been issued by Grant Thornton entitled "Spreading their Wings" which was aimed at providing advice and guidance on setting up a local authority trading company and making it successful, and;
- A document setting out Member guidance on the accounts, including explanations of the key features of the primary statements and notes that make up the financial statements.

***APRC/5. Draft Annual Statement of Assurance 2014-15**

The Committee considered a report of the Audit and Review Manager (APRC/15/8) to which was appended the draft 2014-15 Annual Statement of Assurance. The document had been prepared to satisfy the requirements of the Accounts and Audit (England) Regulations 2011 and the current iteration of the Fire and Rescue National Framework for England. It set out the measures taken by this Authority to ensure appropriate business practice, high standards of conduct and sound governance and was both backward and forwards looking, identifying issues from the 2014-15 financial year that needed to be addressed.

The document also reflected guidance issued by the Chartered Institute of Public Finance Accountancy (CIPFA) and the Society for Local Authority Chief Executives (SOLACE) on effective corporate governance.

The Committee raised a number of questions in relation to the draft Annual Statement of Assurance for 2014-15, including:

- How it could be assured that the document provided a true reflection of the Authority's performance;
- Why there had not been any progress made with assurance on Information & Communications Technology (ICT) issues in 2014-15;
- What level of assurance would the Authority receive from the audit work to be undertaken on ICT in percentage terms;
- What was the position in respect of the Authority's Corporate Risk Register where these issues should be logged.

The Audit and Review Manager responded that a Corporate Governance Group consisting of key service managers had met several times to discuss the content of the Statement of Assurance and the progress made. It was suggested, however, that Member involvement in this process would assist in giving the assurance required. The Clerk indicated that a Workshop could be set up prior to formal approval of the Statement of Assurance on 28 September 2015 and that Members would be invited to participate.

In relation to the ICT audit assurance work, the Audit & Review Manager advised that this would be carried out by the Devon Audit Partnership (DAP) as part of the Shared Service approach to delivering the Internal Audit Plan. DAP had been asked to complete a risk assessment of the current ICT control environment and this would be used to draw up a specific ICT Audit Plan as a basis on which to schedule future ICT assurance work. The Clerk reported that a new ICT Strategy was being prepared and this would be circulated to the Committee at an early stage. In terms of the Corporate Risk Register, the Clerk advised that the Committee already had delegated power to consider this and that this could be added as a regular item on the agenda for consideration.

Councillor Randall Johnson **MOVED** (and was seconded by Councillor Healey) that:

"the recommendations in report APRC/15/8 be amended to include additional points as follows:

- (a) that a Workshop be arranged for early September 2015 to review the draft Statement of Assurance with a particular focus on the Information and Communications Technology aspects and that the Committee be invited to participate;
- (b) that the Authority's Corporate Risk Register be added as a standing item on the agenda for future meetings of this Committee; and,

with the remainder of the recommendations as printed".

Upon a vote, the motion was **CARRIED** unanimously.

RESOLVED

- (a) that a Workshop be arranged for early September 2015 to review the draft Statement of Assurance with a particular focus on the Information and Communications Technology aspects and that the Committee be invited to participate;

- (b) that the Authority's Corporate Risk Register be added as a standing item on the agenda for future meetings of this Committee; and,
- (c) that, subject to (a) above, the Authority's draft Annual Statement of Assurance 2014-15, prepared to satisfy the requirements of the Accounts and Audit (England) Regulations and the Fire & Rescue Service National Framework and as appended to report (APRC/15/8), be approved in principle;
- (d) that the Statement be submitted as part of the audit process for the 2014-15 Statement of Accounts and a further report submitted to the September 2015 meeting seeking approval to the final Statement, subject to incorporation of any issues identified during the audit process.

***APRC/6. Draft Statement of Accounts 2014-15**

The Committee considered a report of the Treasurer (APRC/15/9) to which was appended, in the format required by the International Financial Reporting Standards (IFRS), the Authority's Statement of Accounts for 2014-15.

The Treasurer drew particular attention as part of a presentation at the meeting to the following four key statements within the accounts:

- the Comprehensive Income and Expenditure Statement (CIES);
- the Movement in Reserves Statement (MIRS);
- the Balance Sheet; and
- the Cash Flow Statement

each of which was expanded on in the report. He also referred to an explanation of the position on pensions which had been included as an Appendix to the report for reference.

The Accounts and Audit Regulations 2011 required the draft Statement of Accounts to be prepared and certified by the Chief Finance Officer as a true and fair record by 30 June each year; and formally be approved by the Authority, following audit, by 30 September each year.

The 2014-15 accounts were presented to the Committee at this stage as a matter of good practice and would be submitted for formal approval, following audit, at the meeting scheduled for 28 September 2015.

Reference was made to the number of pension schemes that the Service had to deal with and the point that staff were able to be retired and re-employed and still join the Local Government Pension Scheme. The question was asked as to whether the Service could offer a different pension scheme in these circumstances. The Treasurer undertook to report back at the meeting in September 2015 on this matter.

A further question was raised as to the reason for the significant increase in the pension liability of over £100m as included in the latest balance sheet. The Treasurer advised that this was as a result of the latest actuarial assessment of the firefighter pension schemes which had forecast an increase in the long term liability of the scheme. He undertook to bring back a fuller explanation to the September meeting.

RESOLVED that the Committee notes the draft 2014-2015 Statement of Accounts_

***APRC/8. New Style Performance Report**

The Committee received for information a presentation given by the Area Manager (Analysis and Development) at the meeting in respect of the progress that had been made with the new style performance report. This encompassed details of the proposed new performance management framework to which the Service's vision, mission statement and aims were being aligned. A copy of the draft Shadow Performance Report based on the statistics for 2014-15 was circulated at the meeting for information.

The Committee supported this document as a basis on which the performance reporting could be moved forward and noted the progress made.

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

The meeting started at 10:00hours and finished at 12.12hours

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| REPORT REFERENCE NO. | DSFRA/15/15 |
| MEETING | DEVON & SOMERSET FIRE & RESCUE AUTHORITY |
| DATE OF MEETING | 29 JULY 2015 |
| SUBJECT OF REPORT | APPOINTMENTS TO COMMITTEES |
| LEAD OFFICER | Clerk to the Authority |
| RECOMMENDATIONS | <i>that the Authority appoints to the vacancies on the Human Resources Management & Development and Resources Committees, the term of office of the appointment to be until the Annual Authority meeting in May 2016</i> |
| EXECUTIVE SUMMARY | This report seeks appointments to the vacancies on the Authority's Human Resources Management & Development and Resources Committees. |
| RESOURCE IMPLICATIONS | None. |
| EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA) | The contents of this report are considered compatible with existing human rights and equalities legislation. |
| APPENDICES | Nil. |
| LIST OF BACKGROUND PAPERS | Minutes of the Annual Authority meeting held on 28 May 2015 |

1. VACANCIES ON HUMAN RESOURCES MANAGEMENT & DEVELOPMENT AND RESOURCES COMMITTEES

- 1.1 At its Annual Meeting on 28 May 2015, the Authority made appointments to its Committees for the forthcoming (2015-16) municipal year. At that time, however, confirmation was still awaited from Torbay Council of its appointee to replace Councillor Stephen Brooksbank on the Authority. Councillor Brooksbank had previously served on the Authority's Human Resources Management & Development and Resources Committees.
- 1.2 In light of the circumstances, the Authority resolved to defer making appointments to the vacancies on the Human Resources Management & Development and Resources Committees pending confirmation of Councillor Brooksbank's replacement on the full Authority.
- 1.3 Torbay Council has subsequently confirmed the appointment of Councillor David Thomas (Conservative) to the Authority.
- 1.4 Application of the political proportionality principles of the Local Government and Housing Act 1989 would indicate that the vacancies on both Committees should be filled by a Conservative councillor. Appointment of a Torbay Conservative Councillor to at least one of the two vacancies would also provide to conserve a proportionate allocation of Committee seats in terms of constituent authorities, albeit there is no statutory foundation for this.
- 1.5 The Authority is invited to consider the above and make appointments to the vacancies on the Human Resources Management & Development and the Resources Committees, the term of office of the appointment to be until the Annual Authority meeting in 2016.

MIKE PEARSON
Clerk to the Authority

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| REPORT REFERENCE NO. | DSFRA/15/16 |
| MEETING | DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY |
| DATE OF MEETING | 29 JULY 2015 |
| SUBJECT OF REPORT | REDUNDANCY COMPENSATION RATES |
| LEAD OFFICER | Director of People and Commercial Services |
| RECOMMENDATIONS | <p><i>That the Authority considers the contents of this report with a view to:</i></p> <p><i>(a) confirming that, for the current (2015-16) financial year, the same redundancy compensation rate (i.e. a multiplier of 2) should apply (as in the previous financial year);</i></p> <p><i>(b) continuing to review the compensation rates on an annual basis, with any future changes being considered by the full Authority.</i></p> <p><i>(c) noting that any future proposed revision to the redundancy compensation rates would be the subject of consultation with the trade unions.</i></p> |
| EXECUTIVE SUMMARY | <p>At its meeting on 22 January 2014 the Authority considered and approved a recommendation from the Human Resources Management & Development Committee to confirm, following a review, the redundancy multiplier to operate for Support Staff for the 2014-15 financial year.</p> <p>This paper sets out the background on how the redundancy compensation payments are applied and includes comparisons with other public sector organisations within the South West.</p> |
| RESOURCE IMPLICATIONS | Dependent upon the number of redundancies and multiplier that is used. |
| EQUALITY RISK & BENEFITS ASSESSMENT | The redundancy compensation rates are in accordance with the statutory formula relating to age and service. |
| APPENDICES | A Redundancy Compensation Rates within the South West |
| LIST OF BACKGROUND PAPERS | None |

1. INTRODUCTION

- 1.1 At its meeting held on 22 January 2014, the Human Resources Management & Development (HRMD) Committee considered the matter of Redundancy Compensation rates to apply and resolved (Minute HRMDC/15 refers):

“(a) That the Devon and Somerset Fire and Rescue Authority be recommended to approve that there should be no change to the current redundancy compensation rates (a multiplier of 2), and;

“(b) That the Committee continues to monitor progress with the reduction in staff numbers associated with the implementation of the Corporate Plan, and how the use of voluntary redundancies can support this, with a view to further reviewing the redundancy compensation rates in the next financial year.”

These recommendations were approved by the Authority at its meeting on 24 February 2014 (Minute DSFRA/44(b)(i) refers)

- 1.2 The Human Resources Management & Development Committee would normally consider on an annual basis the outcome of a review of redundancy compensation rates and make a recommendation as appropriate to the full Authority as to the rates to operate for the financial year in question.
- 1.3 This paper, which was omitted in error from the agenda for the last meeting of the Human Resources Management & Development Committee, provides an explanation of how redundancy compensation is applied and sets out the findings of the most recent review which involved comparisons with other authorities in the South West.

2. REDUNDANCY MULTIPLIER

- 2.1 The Service employs the majority of staff on two sets of terms and conditions which are commonly referred to as the ‘Grey Book’ (mainly, operational staff) and ‘Green Book’ (mainly support staff). There are also four different pension schemes:

- the Firefighters’ Pension Scheme 1992 (FPS) (which is now closed to new members);
- the New Firefighters’ Pension Scheme 2006 (NFPS);
- the Firefighters Pension Scheme 2015; and
- the Local Government Pension Scheme (LGPS).

As previously indicated, the firefighters’ pensions schemes are available to operational staff and the LGPS for all other support (non-uniformed) employees and also the Control Room staff.

- 2.2 The rules of the LGPS require that the Service has a policy on pension discretions to apply in certain situations including that of redundancy. As such, the Devon & Somerset Fire & Rescue Service has a policy on pension discretions and following the previous Authority decision and consultations with trade unions, the multiplier was set at a rate of 2 for staff who are eligible to join the LGPS. The Firefighters’ Pension Schemes do not include any such requirement for a policy on pension discretions and do not contain any reference to discretions for enhanced redundancy pay.
- 2.3 As a reminder, the statutory redundancy pay for an employee with at least 2 years’ continuous service is based on the employee’s age, salary (subject to a salary maximum) and the length of service.

- Up to the age of 21: 0.5 week's pay for each completed year of service.
- 22–40 years of age: 1 week's pay for each completed year of service.
- 41+ years of age: 1.5 weeks' pay for each completed year of service.

A "week's pay" is subject to the statutory maximum (currently £464 and increasing to £475 from the 6th April 2015).

- 2.4 For staff within the LGPS, there is additional legislation in relation to redundancy payments in the The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 ("the Regulations"). Almost all public sector organisations and many in the private sector have previously introduced schemes which offer more than the statutory redundancy pay referred to above, however, in recent years organisations have regularly reviewed their schemes and have reduced the multipliers that are applied. The maximum payment permitted under the Regulations is 104 weeks.
- 2.5 Most enhanced redundancy schemes in the public sector use the actual week's pay in the calculation (rather than the £464 statutory limit) and apply a multiplier to the number of weeks calculated using the statutory redundancy pay formula referred to above ("the multiplier"). This was modified in 2006 as the previous calculation of enhanced redundancy pay was not acceptable under the Age Discrimination Regulations.
- 2.6 The Authority is currently committed to using the actual weekly pay levels in its Reorganisation, Review, Redeployment and Redundancy ("4Rs") policy agreed with all the recognised unions and approved by the Authority on combination. This policy, however, is silent on any multiplier to be used since it was envisaged this would be included in a future redundancy policy. Such a policy was not introduced since the 4Rs policy has been sufficient for the organisational changes that have been made.
- 2.7 Prior to combination, staff currently within the Service were employed either by Somerset Fire & Rescue Service (FRS) (which was part of Somerset County Council - SCC) or by Devon Fire & Rescue Service which was an independent Combined Authority. From 1 April 2007 all staff within the Service became part of the newly constituted and independent Devon & Somerset Fire & Rescue Authority, a combined fire and rescue authority with its own stated position for redundancy payments. This was originally set at a multiplier of 2.5 but was subsequently reduced to a multiplier of 2. Had those staff that were within Somerset FRS continued their employment with SCC then the multiplier would be a current level of 1 but with a minimum payment of £1,500. For those staff in the former Devon FRS, the multiplier had previously been based on the rate used by Devon County Council (DCC), which used an enhanced redundancy payment in accordance with the Regulations by applying a multiplier of 2. This rate is currently under review but no further details are available at this time.
- 2.8 The Regulations state that the maximum number of weeks of redundancy compensation is limited to 104 weeks. Since the statutory weeks of redundancy compensation is limited to 30 weeks, the maximum multiplier that could be applied would be 3.46. Appendix A to this report details the multiplier and weekly pay calculation currently in use by other South West public sector organisations.

- 2.9 For this Authority, it was previously determined that a balance had to be struck between the lowest cost to the Authority, what would be suitable compensation for staff whose positions were at risk of redundancy on a compulsory basis and what might be considered as a level likely to be attractive to staff who may be willing to consider voluntary redundancy. Following the Corporate Plan in 2013, the Service sought volunteers for redundancy and since this time 17 support staff have left the Service under these terms. A further 29 wholetime staff have accepted voluntary redundancy and 2 from Control. The Service is still receiving requests for voluntary redundancy with a further 5 wholetime staff pending. From a Service perspective, it would be preferable to maintain the existing multiplier levels for the time being with the option to continue to review the situation on an annual basis.

3. REDUNDANCY MULTIPLIER FOR OPERATIONAL STAFF

- 3.1 As set out in paragraph 2.2 above, the firefighters pensions schemes do not require any pension discretions policy or provide for enhanced redundancy pay. The advice from the National Employers own in-house employment law advisers is that the discretionary compensation regulations exclude operational firefighters as shown in the extract below:

“The compensation provisions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 currently apply in relation to:

*a) Employees of bodies listed in Part 1 of Schedule 2 to The Local Government Pension Scheme (Administration) Regulations 2008 (as amended). This includes local government employees and, among others, employees of police authorities, fire and rescue authorities, and further and higher education corporations (**but excludes** councillors, the Mayor of London, a member of the London Assembly, teachers, **operational firefighters** and uniformed police officers);”*

- 3.2 There are no powers in the Firefighters' Pension Schemes or any related statutory provisions along the lines of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England & Wales) Regulations. This means that Fire & Rescue Authorities have no powers to increase a redundancy payment over and above that provided for under the Employment Rights Act 1996 or to augment pensions.
- 3.3 Where the Service has uniformed staff who have retired and been re-employed then, if they are at Station Manager or above, they become eligible to join the Local Government Pension Scheme and therefore are also eligible to the enhanced redundancy compensation for periods of employment where they are re-employed.
- 3.4 Nationally, there have been discussions as to whether the redundancy compensation for uniformed staff could be enhanced. The last communication on this matter was from the National Employers in July 2013 (Circular EMP/08/13). Within the circular it was stated that if there was agreement to implement enhanced redundancy rates, then Authorities would have the discretion to determine whether to introduce this locally. A further update on this has been requested as there does not appear to have been any further reporting since that time.
- 3.5 Since this Service has already set a redundancy level for its staff, if the situation does change nationally for uniformed staff then the Service redundancy rates would be applied with a multiplier of 2 and the actual weekly rate of pay. The maximum redundancy payments for a Firefighter would therefore increase from the statutory level of £13,920 to £33,440.

4. CONCLUSIONS

- 4.1 The Service needs to review the current level of our redundancy multiplier as set out in this paper. The rate applied would, currently, only be for those staff eligible to join the LGPS.
- 4.2 All other uniformed staff are currently only entitled to the statutory redundancy pay although, in this respect, the Authority is asked to note the contents of paragraphs 3.4 and 3.5 above.

LEE HOWELL
Chief Fire Officer

REDUNDANCY COMPENSATION RATES WITHIN THE SOUTH WEST

| Organisation | Redundancy Compensation Dec 2010 | Redundancy Compensation Feb 2012 | Redundancy Compensation Jan 2014 | Redundancy Compensation Mar 2015 |
|-------------------------|---|---|--|---|
| Devon and Somerset FRS | The 4R's policy commits the Service to using the actual week's pay rather than the statutory limit but is silent on what multiplier should be used. | Initially a multiplier of 2.5 was used and this was reduced from Apr 2011 to a multiplier of 2 using the actual week's pay. | A multiplier of 2 using the actual week's pay. | Currently a multiplier of 2 using the actual week's pay. |
| Devon County Council | Multiplier of 2 using the actual week's pay. | Multiplier of 2 using the actual week's pay. | No change | Under review but no further details are available at this time. |
| Somerset County Council | Multiplier of 2 using the actual week's pay but under review. | Reviewed in April 2011 and reduced to a multiplier of 1 using the statutory weekly pay for compulsory redundancies and the actual weekly pay for voluntary redundancies. A min payment of £1500 is applied. | No change | No change |
| Plymouth City Council | Multiplier of 2 | Reviewed in Nov 2011 and reduced to a multiplier of 1 using the statutory weekly pay ie no additional enhancement. | No change | No change |
| Torbay Council | Multiplier of 1 using the actual week's pay but under review. | Multiplier of 1 using the actual week's pay. | No change | No change |
| Cornwall Council | Up to April 2010 multiplier of three times actual weeks pay. Post April 2010 it is 1.75 times based on the actual week's pay. | Reviewed in May 2011 and kept to a multiplier of 1.75 using the actual week's pay. | No change | No change |

| Organisation | Redundancy Compensation Dec 2010 | Redundancy Compensation Feb 2012 | Redundancy Compensation Jan 2014 | Redundancy Compensation Mar 2015 |
|--------------------------------|--|--|--|----------------------------------|
| Dorset County Council | Multiplier of 2.5 using the actual week's pay but under review. | Reviewed in Apr 2011 and reduced to a multiplier of 1.75 using the actual week's pay. | No change | No change |
| Gloucestershire County Council | Multiplier of 2.2 using the actual week's pay. | Reduced to a multiplier of 2 and from Apr 2012 will be a multiplier of 1.75 using the actual week's pay. | Multiplier of 1.75 using the actual week's pay. | No change |
| Wiltshire FRS | Multiplier of 1 with actual week's pay | Reviewed in 2011 and modified to a multiplier of 1.75 using the actual week's pay. | No change but NB Voluntary Redundancy is with a multiplier of 1.75 and a limit of 52 weeks, Compulsory Redundancy is with a multiplier of 1. Both use the actual week's pay. | No change |
| Dorset FRS | Multiplier of 2.5 using the actual week's pay. | Multiplier of 2.5 using the actual week's pay. | Multiplier reduced to 1.75 using the actual week's pay. | No change |
| Avon FRS | Multiplier of 2.5 using the actual week's pay (maximum compensation equivalent to 75 weeks pay). | Multiplier of 2.5 using the actual week's pay (maximum compensation equivalent to 75 weeks pay). | No change | No change |

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| REPORT REFERENCE NO. | DSFRA/15/17 |
| MEETING | DEVON & SOMERSET FIRE & RESCUE AUTHORITY |
| DATE OF MEETING | 29 JULY 2015 |
| SUBJECT OF REPORT | COMMERCIAL ACTIVITIES – GOVERNANCE OPTIONS |
| LEAD OFFICER | JOINT REPORT OF THE CHIEF FIRE OFFICER AND CLERK TO THE AUTHORITY |
| RECOMMENDATIONS | <p>(a) <i>that the Authority considers the content of this report on potential commercial services governance options and in particular the model preferred by the Members of the Commercial Services Committee and Authority and Committee Chairs, as identified at paragraph 7. 2 of this report;</i></p> <p>(b) <i>that, should the Authority be minded to adopt this preferred governance model, the following be approved to give effect to it:</i></p> <ol style="list-style-type: none"> 1. <i>that, as the single shareholder in Red One Ltd and in accordance with Article 19 of the Articles of Association of the company, the Authority resolves in principle to appoint an independent non-executive director to the Board of Red One Ltd and indicates (in accordance with Article 20) the level of remuneration it would wish applied to the post of independent non-executive director;</i> 2. <i>the Chief Fire Officer and Director of People and Commercial Services, in consultation with the Authority Chair, be delegated authority to determine an appropriate job description and advertise for the appointment of an independent non-executive director on the Board of Red One Ltd.;</i> 3. <i>that a small group of Members be appointed to undertake interviews for the role of Independent non-executive director on the Board of Red One Ltd. and make a recommendation for appointment to a future meeting of the Authority;</i> 4. <i>that, in accordance with the provisions of Article 4(1) of the Articles of Association of Red One Ltd., the Authority resolves to direct the existing Board of Red One Ltd. that the independent non-executive director so appointed shall serve as Chair of the Board of Red One Ltd.;</i> 5. <i>that, similarly and also in accordance with the provisions of Article 4(1) of the Articles of Association of Red One Ltd., the Authority resolves to direct the Board that the Managing Director of Red One Ltd. shall be, ex officio, the Director of People and Commercial Services;</i> |

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| | <p>6. that the Clerk to the Authority be authorised to notify, in due course, the Board of Directors of Red One Ltd. of the following:</p> <ul style="list-style-type: none"> a. the appointment of the independent non-executive director (once made) (NOTE: Article 19 of the Articles of Association of Red One Ltd. requires this notification to be in writing); and b. that the Authority has resolved, in accordance with Article 4(1) of the Articles of Association of Red One Ltd., that: <ul style="list-style-type: none"> i. the independent non-executive director shall serve as Chairman of the Board; ii. that the Managing Director of Red One Ltd. shall be, ex officio, the Director of People and Commercial Services; <p>7. that a report be submitted to a future meeting of the Authority (prior to the Annual Meeting in 2016 and to be informed by the views of the independent non-executive director, once appointed) further clarifying the revised governance arrangements (e.g. final number of non-executive directors; remuneration and appointment process; exercise of “residual” Commercial Services Committee functions by the Resources Committee) to operate for commercial services activities in future.</p> <p>8. that, pending the new governance arrangements being effected, the Commercial Services Committee be retained both to provide oversight of commercial activities and to assist as required in the transition and that, in respect of the latter, the Terms of Reference for the Committee be amended to include the following:</p> <p>“To assist as required in establishing governance arrangements to operate for commercial activities, including the composition of the Board Directors of Red One Ltd.”</p> |
| EXECUTIVE SUMMARY | <p>This report identifies the current position in relation to commercial trading and governance of this by the Authority, the background to the issue, relevant legislative and other considerations.</p> <p>It identifies alternative governance arrangements that could operate moving forwards, including a model for which the Members of the Commercial Services Committee and the Authority and Committee Chairs have expressed a preference and which forms the basis of the recommendations as set out in this report.</p> |
| RESOURCE IMPLICATIONS | <p>Dependent upon which option is preferred. Expenses relating to remuneration of non-executive directors on the Board of Red One Ltd. would, however, fall directly on the company and not on the Authority.</p> |

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| EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA) | The contents of this report are considered compatible with existing human rights and equalities legislation. |
| APPENDICES | <ul style="list-style-type: none"> A. Extract from the Articles of Association for Red One Ltd. B. Commercial Services Committee Terms of Reference. C. Extract from the Members Code of Conduct – The Nolan Principles of Public Life. D. List of legislation relevant to local authority commercial activities |
| LIST OF BACKGROUND PAPERS | <p>The Articles of Association of Red One Ltd.</p> <p>The Devon & Somerset Fire & Rescue Authority Code of Members' Conduct</p> <p>The Cadbury Report</p> <p>The Higgs Report</p> <p>The UK Corporate Governance Code</p> <p>The Chartered Institute of Personnel and Development guidance on the role of the non-executive director.</p> |

1. BACKGROUND AND INTRODUCTION

1.1 In 2010 the Authority embarked on an initiative to use powers under the Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (the Order) to raise additional funds to seek to safeguard frontline services in light of the announcement by the government to cut public sector spending by up to 25%. This Authority is classified as a “best value” authority by virtue of the Local Government Act 1999.

1.2 The Order imposes the following conditions on the power to trade:

- the local authority must prepare and approve a business case on the proposed exercise of the power; and
- the authority **MUST** recover the costs of any accommodation, goods, services, staff or other thing supplied to a company to facilitate exercising the power to trade.

1.3 Sections 95 and 96 of the Local Government Act 2003 (under which the Order was made) specified that the power to trade must be exercised through a separate company. This has subsequently been confirmed in the Fire & Rescue Services Act 2004, as amended by the Localism Act 2011.

1.4 To comply with this, a separate company limited by shares – Red One Limited – with generic Articles of Association has been established by the Authority. Although wholly owned by the Authority, Red One Ltd. is a legal entity and body corporate in its own right. The Authority is the sole share-holder and the Articles confer on the Authority:

- a power (under Article 19) to appoint or remove directors (**NOTE:** Directors of Red One are currently all serving officers of the Devon & Somerset Fire & Rescue Service (the Service). Historically, any vacancies on the Board of Red One Ltd. are filled by the remaining directors in accordance with Article 17); and
- a reserve power, under Article 4, to direct Board Directors to take or refrain from taking any specified action.

Attached at Appendix A is an extract from the Articles of Association for Red One Ltd. dealing with appointment of Directors and Chairing

1.5 At its meeting on 29 July 2011, the Authority considered report DSFRA/11/18 (Commercial Services Governance and Management). This report noted, amongst other things, that:

“It is now considered timely and appropriate, given the level of services now being traded, that these activities are now undertaken through Red One Ltd. Linked with this, therefore, it is necessary to consider in greater detail both the mechanism for governance and oversight of Red One Ltd activities by the Authority....”

1.6 In light of this report, the Authority resolved to establish a Commercial Services Committee, comprising seven Members, as another vehicle to provide governance and oversight of commercial activities being undertaken via Red One Ltd. The Authority also resolved that, to recognise the additional time commitment associated with this Committee, those appointed to it should each receive a Special Responsibility Allowance (currently 1.5 x the basic allowance amounting to £3, 871 per annum), subject to the costs of this allowance to be funded from profits realised from commercial activities (Minute DSFRA/21 refers). The Terms of Reference for this Committee have evolved over time – the current version is attached at Appendix A to this report.

1.7 In addition to the Commercial Services Committee and powers available to the Authority by virtue of being sole share-holder in Red One Ltd. (see paragraph 1.4 above), commercial activities are also subject to a formal Trading Contract (“the Trading Contract”) between the Authority and Red One Ltd. (governing, amongst other things, the terms under which Authority resources may be used by Red One Ltd. to facilitate trading). The Trading Contract was approved initially by the Authority at its meeting on 17 February 2012 (Minute DSFRA/74(b) refers) and subsequently, following revision and in accordance with the terms of the Agreement, by the Authority at its meeting on 20 February 2015 (Minute DSFRA/52 refers).

1.8 Commercial activities undertaken by Red One Ltd. on behalf of the Authority have now reached a sufficient level of maturity that it would seem appropriate to revisit the existing governance arrangements. The remainder of this report addresses relevant legislative and other considerations (conflict of interest) in exploring other governance options.

2. **RELEVANT LEGISLATIVE AND OTHER CONSIDERATIONS**

Local Government Act 1972 – Section 116

2.1 As applied to this Authority by virtue of the Combination Scheme Order, this section prohibits a Member, while in office and for a period of twelve months after leaving office, from being a paid employee of the Devon & Somerset Fire and Rescue Authority and, by extension, of Red One Ltd. (being a company wholly owned by the Authority).

The Local Authorities (Members’ Allowances) (England) Regulations 2003

2.2 Govern the payment of allowances to Members and provide that every Authority Member must receive a Basic Allowance. The Regulations also allow for the payment of Special Responsibility Allowances in specific, defined circumstances (e.g. for holding office of Chairman) and includes “...acting as a member of a committee or sub-committee of the authority which meets with exceptional frequency or for exceptionally long periods”.

The Local Authorities (Companies) Order 1995

2.3 Amongst other things, restricts the remuneration a councillor (Member) may receive by virtue of being appointed as a director to a local authority controlled company to “...the greatest amount which would for the time being be payable by the relevant authority in respect of a comparable duty performed on behalf of the Authority, less any amount payable by that authority in respect of the relevant duty to the...director in question” (i.e. a Special Responsibility Allowance). Similarly, this Order restricts reimbursement of travel and subsistence associated with performing the director role to that which would otherwise be payable by the relevant authority for approved duties as a Member of the authority.

Localism Act 2011 – Members’ Code of Conduct

2.4 As required, this Authority has adopted Code of Conduct compliant with the requirements of the Act and relevant Regulations made under it. The Code applies to all Authority Members (when acting in that capacity), enshrines the Nolan Principles of Public Life (reproduced at Appendix B) and lists those disclosable pecuniary interests which must be declared by virtue of the relevant Regulations. Members with such disclosable pecuniary interests in any business of the Authority must, if the business is to be discussed at an Authority meeting:

- (a). disclose to that meeting the existence and nature of that interest;
- (b). disclose any interest in accordance with the Authority’s reasonable requirements, no later than the commencement of the consideration of the business in which the interest exists, or (if later) the time at which the interest becomes apparent;

- (c). withdraw from the meeting at the commencement of the consideration of that business in which the interest exists, or (if later) the time at which the interest becomes apparent; and
- (d). not seek to influence improperly any decision about that business.

2.5 One such disclosable pecuniary interest, as defined in the relevant Regulations, is holding “any employment, **office**, trade, profession or vocation carried on for profit **or gain** by you or a relevant person”.

Conflicts of Interest

2.6 In addition to the Nolan Principles of Public Life (enshrined in the Members’ Code of Conduct) which, amongst other things, establish a fairly broad duty to avoid conflicts of interest, Section 175 of the Companies Act 2006 places a duty on a company director to avoid conflicts of interest:

- “(1) A director of a company must avoid a situation in which he has, or can have, a direct or indirect interest that conflicts, or possibly may conflict, with the interests of the company.
- (2) This applies in particular to the exploitation of any property, information or opportunity (and it is immaterial whether the company could take advantage of the property, information or opportunity).

3. GOVERNANCE OPTIONS

3.1 As indicated in Section 1 of this report, Authority commercial activities via Red One Ltd. are currently governed by the following three mechanisms:

- (1). the powers as contained the Articles of Association for Red One Ltd. (see para. 1.4);
- (2). the formal Trading Contract between the Authority and Red One Ltd. (see para. 1.7); and
- (3). the Commercial Services Committee (in essence, the Authority’s overview and scrutiny arrangements).

3.2 This report proposes no changes in relation to (1) and (2) above, but suggests and explores the following three options in relation to the Authority’s overview and scrutiny arrangements. Options 3 and 4 as set out below also contain a number of variations.

4. OPTION ONE – STATUS QUO

4.1 The Commercial Services Committee, comprising seven Members, would be retained. It would continue to meet monthly (alternating every other month between formal and informal, workshop-type meetings), with a Special Responsibility Allowance (SRA) attracting to Committee membership.

5. OPTION TWO – ALTER THE SIZE/FREQUENCY OF THE COMMERCIAL SERVICES COMMITTEE

5.1 This option has a number of variations as explored in paragraphs 5.2 to 5.11 inclusive below.

(a) Same-size Commercial Services Committee but meeting less frequently

- 5.2 The Terms of Reference for the Committee provide, amongst other things, for it to:
- approve an overarching business case;
 - approve an Annual Commercial Services Business Plan;
 - consider and approve any business case required to facilitate commercial trading in accordance with current legislation;
 - 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; and
 - make recommendations to the Authority on the use of any year-end trading surplus generated by commercial activities.
- 5.3 The Trading Contract provides for the Chief Fire Officer (or any officer so delegated by him) to enter into actual contracts to deliver commercial activities (subject to these being within the remit of a business case already approved by the Committee), albeit the Chief Fire Officer may refer any contract for Committee approval should this be felt appropriate.
- 5.4 Historically there has not been a monthly need to approve new business cases and should a priority need arise to do so, this could be resolved by calling an urgent Committee meeting. Other aspects of the work of the Committee, as indicated above, are annual with the exception of the performance monitoring. It may be felt, however, that experience of commercial activities has now matured sufficiently for such monitoring to be undertaken on a quarterly basis, in much the same way as the Resources Committee receives quarterly monitoring reports on financial performance against the approved revenue and capital budgets.
- 5.5 Should the number of meetings per year be reduced, consideration should be given as to whether any Special Responsibility Allowance would be attached to membership of the Committee. Such consideration would need to take account of the criteria by which Special Responsibility Allowances are permissible under the existing Regulations.

(b) Smaller Commercial Services Committee

- 5.6 Assuming a reduced-size Committee continued to operate in the same manner as existing (i.e. alternating between a formal, monthly meeting and informal, workshop meeting), this option would, by virtue of reduced membership, reduce the number of SRAs payable.

(c) Smaller Commercial Services Committee meeting less frequently

- 5.7 The main issues here are as per (a) above – see paragraphs 6.2 to 6.5 inclusive. The Authority might also wish to consider whether a smaller committee would be sufficiently representative in light of the subject matter concerned.

(d) Dissolve the Committee and report commercial matters either to the full Authority or other established Committee (e.g. Resources)

- 5.8 This would facilitate the requirement for transparency for the whole Authority on commercial services matters and reduce SRA costs, but it has the potential to reduce the level of Member focus on commercial activities.

5.9 If the preference was to report commercial matters to another Committee, then it would be necessary to amend the Terms of Reference of the Committee to reflect responsibilities previously exercised by the Commercial Services Committee (e.g. six-monthly financial monitoring reports; approval of business plans to commence commercial trading in new areas).

(e) Dissolve the Committee and establish ad-hoc working party, meeting as and when required and reporting to either full Authority or designated Committee Committee (e.g. Resources)

5.10 This would be, in effect, the same mechanism as is in place for the Capital Programme Working Party. This option would provide for a “fleetness of foot” approach in addressing emerging issues.

5.11 Were this option to be adopted, the same considerations regarding SRAs as identified at Option (a) would also need to be taken account of (see paragraph 6.5 above).

6. OPTION THREE – APPOINTMENT OF NON-EXECUTIVE DIRECTORS

6.1 As with the previous option, there are a number of variations with this option. These are explored below in paragraphs 6.11 to 6.18 inclusive.

6.2 In May 1991 the Financial Reporting Council, the London Stock Exchange and the accountancy profession established a Committee under the Chairmanship of Sir Adrian Cadbury to investigate the British Corporate Governance system and suggest improvements to restore investor confidence in the system in light of a number of high-profile governance failures.

6.3 The final report of the Committee, published in 1992 and known as the Cadbury Report, resulted in establishment of a Corporate Governance Code which continues to be administered by the Financial Reporting Council and which forms part of a framework of legislation, regulation and best practice standards which aims to deliver high quality corporate governance with in-built flexibility for companies to adapt their practices to take into account their particular circumstances.

6.4 The Cadbury Report highlighted the importance of non-executive directors on company boards to ensure probity and effective governance. In 2002, the Department for Trade and Industry commissioned Derek Higgs to review and report on the role and effectiveness of non-executive directors. The resultant report contained the following definition of the role and responsibilities of non-executive directors which has subsequently been incorporated into the most recent version of the UK Corporate Governance Code:

“Non-executive directors have responsibilities in the following areas:

- **Strategy:** Non-executive directors should constructively challenge and contribute to the development of strategy.
- **Performance:** Non-executive directors should scrutinise the performance of management in meeting-agreed goals and objectives and monitoring and, where necessary, removing senior management, and in succession planning.
- **Risk:** Non-executive directors should satisfy themselves that financial information is accurate and that financial controls and systems of risk management are robust and defensible.
- **People:** Non-executive directors are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in

appointing and where necessary removing senior management, and in succession planning.

Non-executive directors should also provide independent views on:

- Resources
- Appointments
- Standards of conduct”

- 6.5 There is no legal distinction between executive and non-executive directors, with the same duties and liabilities applying to each. As indicated above, the distinction lies in the role, with non-executive directors usually standing back from the day-to-day running of the business, drawing alongside the executive team as required to facilitate the strategic decision-making process.
- 6.6 The Chartered Institute of Personnel and Development (CIPD) has produced guidance on the role of the non-executive director. This guidance provides, amongst other things, that, in seeking to “recruit” a non-executive director, a company should...”ensure it recruits non-executive directors that complement the balance of skills and experience of the existing board...[and] that individuals are chosen on the basis of what they can contribute to the company, i.e. their business experience, perspective and acumen”.
- 6.7 The guidance also comments that it is best practice for non-executive directors to be provided with a framework and ground rules on the relationship between the company and the non-executive director, clearly defining the boundaries in relation to control of the company and specifying, for example, hours to be worked, expectations, key performance indicators (if appropriate) and the notice period.
- 6.8 Non-executive directors may be remunerated for time spent fulfilling their duties. However, the CIPD advises that the contribution such remuneration makes to a non-executive director’s overall income should not be significant, otherwise their ability to be an independent voice on a company’s board may be jeopardised.
- 6.9 Research carried out recently by the Institute of Directors found that an average remuneration for a non-executive director is £17,320 but this can vary, according to the size of the company, between £15,000 and £26,061. Some public and voluntary sector companies do not pay remuneration at all albeit that travel and some subsistence allowances are usually reimbursed. As set out in paragraph 2.3, however, the Local Authorities (Companies) Order 1995 restricts the remuneration a councillor (Member) may receive by virtue of being appointed as a director to a local authority controlled company. In essence, any such remuneration must accord with the level of Special Responsibility Allowances payable by the Authority in respect of a comparable duty performed on behalf of the authority. Similar restrictions apply to the reimbursement of travel and subsistence expenses.
- 6.10 The Authority may, therefore, wish to consider the appointment of non-executive directors to the Board of Red One Ltd. The non-executive directors could be totally independent of the Authority or could be existing Authority Members but if the Authority was minded to explore this, due consideration would need to be given to the following:
- the number of non-executive directors to sit on the Board of Red One Ltd.;
 - that Member non-executive directors would, by their nature, be ex-officio, only serving on the Board for as long as they remain Members of the Authority;

- ensuring an appropriate “fit” between the skills and attributes of the non-executive director(s) and the executive directors on the Board of Red One Ltd., to ensure the non-executive directors perform effectively in role and add value to the process;
- the drafting of an appropriate “job description” setting out clear expectations of the role of independent non-executive director(s) on the Board of Red One Ltd.;
- in relation to remuneration (in this respect, it should be noted that Article 20 of the Articles of Association for Red One Ltd. provide for the shareholder [i.e. the Authority] to determine matters of remuneration for the Board directors):
 - for an external, independent non-executive director, setting the remuneration at a level that balances affordability with ensuring appointment of a person with appropriate knowledge, skills, business acumen and gravitas;
 - for Members to be appointed as non-executive directors:
 - the restrictions imposed by Local Authorities (Companies Order) 1995 in respect of the maximum amounts payable;
 - the real prospect, should remuneration be payable directly by Red One Ltd., of creating for the Member non-executive director a disclosable pecuniary interest requiring the Member to withdraw and not participate in any Authority business addressing issues relating to Red One Ltd. Conversely, should there be no remuneration attracting to the post, then no disclosable pecuniary interest would arise enabling the Member(s) concerned to participate in any discussions and decision making on Red One Ltd. matters at Authority meetings ;
- Generally, for Members appointed as non-executive directors, the need to avoid conflicts of interest between the duties and activities of the Authority and those of Red One Ltd.

(a) - Dissolve Commercial Services Committee, appoint Non-Executive Directors to the Board of Red One Ltd and report on commercial services matters either to the full Authority or an existing Committee to oversee commercial activities (e.g. Resources Committee)

- 6.11 Should the Authority be minded to pursue the option of appointment of non-executive directors to the Board of Red One Ltd. and dissolution of the Commercial Services Committee, it would be necessary to determine where the functions currently exercised by the Commercial Services Committee, as identified in paragraph 5.2 above, would be exercised. Approval of the overarching plan and annual business plan could rest with the full Authority with, for example, the Resources Committee being empowered to exercise the monitoring role and authorise any business cases as required.
- 6.12 Depending on the nature and number of the non-executive director(s) appointed and the associated level of remuneration, this option would impact on costs falling in Red One Ltd and thereby the level of potential dividend available for allocation to the Authority.
- (b) - appoint non-executive directors to the Board of Red One Ltd. and retain a Commercial Services Committee meeting as is***
- 6.13 This would create an additional governance overhead for the operation of Red One Ltd. It would also be likely to increase costs falling on Red One Ltd. and thereby reduce the level of potential dividend available for allocation by the Authority.

6.14 If, however, this option is preferred then it is suggested that, to avoid duplication of effort, the Terms of Reference for the Committee should nonetheless be modified to remove the monitoring function (as this is, effectively, part of the role of the non-executive director).

(c) - appoint non-executive directors to the Board of Red One Ltd. and retain the Commercial Services Committee, meeting less frequently

6.15 Depending on the nature and number of the non-executive director(s) appointed and the associated level of remuneration, this could increase costs falling in Red One Ltd but again consideration would need to be given as to SRAs attaching to membership of the Committee. Again, though, this would create an additional governance overhead and that, as with sub-option (b) (see paragraph 6.14 above), removal from the Committee of the monitoring role apply should apply.

(d) - appoint non-executive directors to the Board of Red One Ltd. and have a smaller Commercial Services Committee meeting as is

6.16 Comments as per option 3(b) – paragraph 6.13 - above.

(e) appoint Non-Executive Directors to the Board of Red One Ltd and retain a smaller Commercial Services Committee, meeting less frequently

6.17 As indicated in sub-option 2(a) (paragraph 5.5 above), under this option consideration would have to be given to whether membership of the (reduced) Commercial Services Committee would, of itself, attract a Special Responsibility Allowance. In addition, the issues identified in paragraph 6.15 (additional governance overhead; removal of monitoring roll from Committee) would require due consideration.

(f) - formally dissolve the Commercial Services Committee, appoint Non-Executive Directors to the Board of Red One Ltd. and establish a small ad-hoc working party meeting as and when required and reporting either to the full Authority or Committee (e.g. Resources Committee)

6.18 This would have the similar advantages and issues as per Option 2(e) – see paragraphs 5.10 and 5.11 above.

7. VIEWS OF COMMERCIAL SERVICES COMMITTEE AND AUTHORITY AND COMMITTEE CHAIRS

7.1 The options identified in this paper were shared with Members of the Commercial Services Committee at a workshop on 13 July 2015. The Chief Fire Officer has also taken the opportunity to apprise the Authority and Committee Chairs of the options. The following paragraphs set out the views of the Commercial Services Committee and the Authority and Committee Chairs.

7.2 The Authority and Committee Chairs suggested that an appropriate governance model for commercial service activities going forwards might feature dissolving, in due course, the Commercial Services Committee with governance being exercised by a Red One Ltd. Board comprising both executive directors, independent non-executive directors and Member non-executive directors and further that:

- one of the independent non-executive directors should serve as Chair of the Board of Red One Ltd. Articles 19 and 4(1) of the Articles of Association of Red One Ltd. (see Appendix A) would facilitate such a course of action, subject to the Authority passing the requisite resolutions;
- that the independent Chair, once appointed, should assist in informing the remaining composition of the Board in terms of Member and other independent non-executive directors;

- the Managing Director should be, ex officio, the Director of People and Commercial Services who should work to clearly defined and agreed expectations;
- that, once the new arrangements are effected, any residual Commercial Services Committee functions (e.g. approval of Annual Commercial Services Business Plan; receipt of annual report on financial issues; approval of business cases 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) be delegated to the Resources Committee;
- that, in the interim, the Commercial Services Committee should be retained to provide oversight of commercial activities pending the new arrangements being effected and to assist as required in the transition.

7.3 The Members concerned also indicated that it might be helpful to have any new governance arrangements fully determined and ready to be effected by the next Annual Meeting of the Authority in 2016.

7.4 If the Authority is minded to put in place the governance arrangements indicated in paragraph 7.2 above, then – taking account of those issues identified in paragraphs 6.1 to 6.10 above - it may wish at this stage:

1. as the single shareholder in Red One Ltd and in accordance with Article 19 of the Articles of Association of the company, to resolve in principle to appoint an independent non-executive director to the Board of Red One Ltd and to indicate (in accordance with Article 20) the level of remuneration it would wish applied to the post of independent non-executive director;
2. to delegate to the Chief Fire Officer and Director of People and Commercial Services, in consultation with the Authority Chair, authority to determine an appropriate job description and advertise for the appointment of an independent non-executive director on the Board of Red One Ltd.;
3. to appoint a small group of Members to undertake interviews for the role of Independent non-executive director on the Board of Red One Ltd. and make a recommendation for appointment to a future meeting of the Authority;
4. to resolve, in accordance with the provisions of Article 4(1) of the Articles of Association of Red One Ltd., to direct the existing Board of Red One Ltd. that the independent non-executive director so appointed shall serve as Chair of the Board of Red One Ltd.;
5. that, similarly and also in accordance with the provisions of Article 4(1) of the Articles of Association of Red One Ltd., to resolve to direct the Board that the Managing Director of Red One Ltd. shall be, ex officio, the Director of People and Commercial Services
6. to authorise the Clerk to the Authority to notify, in due course, the Board of Directors of Red One Ltd. of the following:
 - i. the appointment of the independent non-executive director (once made) (NOTE: Article 19 of the Articles of Association of Red One Ltd. requires this notification to be in writing); and
 - ii. that the Authority has resolved, in accordance with Article 4(1) of the Articles of Association of Red One Ltd., that:

- (a) the independent non-executive director shall serve as Chairman of the Board; and
 - (b) that the Managing Director of Red One Ltd. shall be, ex officio, the Director of People and Commercial Services;
7. to request submission of a report to a future meeting of the Authority (prior to the Annual Meeting in 2016 and to be informed by the views of the independent non-executive director, once appointed) further clarifying the revised governance arrangements (e.g. final number of non-executive directors; remuneration and appointment process; exercise of “residual” Commercial Services Committee functions by the Resources Committee) to operate for commercial services activities in future.
8. to retain, pending the new governance arrangements being effected, the Commercial Services Committee both to provide oversight of commercial activities and to assist as required in the transition and that, in respect of the latter, the Terms of Reference for the Committee be amended to include the following:
- “To assist as required in establishing governance arrangements to operate for commercial activities, including the composition of the Board Directors of Red One Ltd.”

8. CONCLUSION

- 8.1 This report identifies the current position in relation to commercial trading and governance of this by the Authority, the background to the issue, relevant legislative and other considerations.
- 8.2 Additionally, it identifies a range of other governance options for commercial services activities together with a “preferred option” as indicated by the Members of the Commercial Services Committee and the Authority and Committee Chairs and which forms the basis of the recommendations as set out in this report.
- 8.3 The Authority is invited to consider the contents and indicate how it would wish to proceed.

LEE HOWELL
Chief Fire Officer

MIKE PEARSON
Clerk to the Authority

EXTRACT FROM THE ARTICLES OF ASSOCIATION FOR RED ONE LTD.

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.

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.

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.

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.

COMMERCIAL SERVICES COMMITTEE – TERMS OF REFERENCE

Advisory ONLY

1. To recommend to the Authority in the first instance appropriate levels of delegation for variations on the commercial services budget (including approval to additional resources, subject to these being matched by additional income) and thereafter any revisions to levels of delegation, as may arise during the course of operations during the financial year in question in order to maximise commercial opportunities.
2. 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

3. To approve both the overarching Business Case for commercial trading and, in line with the financial planning calendar, the Annual Commercial Services Business Plan.
4. 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.
5. 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.
6. To authorise the entering into of contracts as may be referred by the Chief Fire Officer from time to time.
7. 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).
8. 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 and in compliance with the agreed delegated levels of additional resource.
9. 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.

EXTRACT FROM THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY CODE OF MEMBERS' CONDUCT

THE NOLAN PRINCIPLES OF PUBLIC LIFE

When acting in your capacity as a Member or Co-opted Member of the Authority, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal Judgment, Respect for others, Duty to Uphold the Law, Stewardship and Leadership.

When acting in your capacity as a Member or Co-opted Member of the Authority:

- (a). you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
- (b). you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
- (c). when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
- (d). you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;
- (e). you must be as open as possible about your decisions and actions and the decisions and actions of the Authority and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority or contained in its constitutional governance documents;
- (f). you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Section B of this Code;
- (g). you must, when using or authorising the use by others of the resources of the Authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Authority's reasonable requirements;
- (h). you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Authority;
- (i). you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

LIST OF LEGISLATION RELEVANT TO LOCAL AUTHORITY COMMERCIAL ACTIVITIES

The Local Government Act 1972

The Local Authorities (Companies) Order 1995

The Local Government Act 1999

The Local Government Act 2003

The Local Authorities (Members' Allowances) (England) Regulations 2003

The Fire & Rescue Services Act 2004 (as amended)

The Companies Act 2006

The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009

The Localism Act 2011

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

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| REPORT REFERENCE NO. | DSFRA/15/18 |
| MEETING | DEVON & SOMERSET FIRE & RESCUE AUTHORITY |
| DATE OF MEETING | 29 JULY 2015 |
| SUBJECT OF REPORT | FIREFIGHTERS PENSIONS SCHEMES DISCRETIONS |
| LEAD OFFICER | Joint report of the Chief Fire Officer and the Clerk to the Authority |
| RECOMMENDATIONS | <p>(a) That the contents of this report be considered with a view to approving:</p> <p>(i) those recommendations as set out at Section 2 and relating to Firefighters Pensions Schemes prior to 1992;</p> <p>(ii) approving the proposed general policy (as indicated) to apply in relation to those discretions from the Firefighters' Pensions Scheme as set out in Schedule 1 to this report</p> <p>(iii) that those discretions of a more Scheme administration or individualised, case-by-case nature as identified in Schedule 2 to this report be exercised either by the full Authority, the Human Resources Management & Development Committee or the Chief Fire Officer be as indicated in that Schedule;</p> <p>(b) that, pending approval at the Authority, the Clerk be authorised to make any consequential changes to Authority constitutional framework documents – notably Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations – to reflect the decisions taken in relation to (a) above.</p> |
| EXECUTIVE SUMMARY | <p>This report advises Members of changes over recent years to Firefighters' Pension Schemes and specifically:</p> <ul style="list-style-type: none"> • Identifies discretions available to the Authority under the various Schemes; and • Makes recommendations as to the exercise of those discretions. |
| RESOURCE IMPLICATIONS | Financial implications will be dependent on the exercise of specific discretions and will be reported to the Authority as and when required. |
| EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA) | The contents of this report are considered compatible with existing equalities and human rights legislation. |

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| APPENDICES | <p>A. Schedule 1 - Firefighters Pensions Schemes Discretions – Proposed General Policies.</p> <p>B. Schedule 2 - Firefighters Pensions Schemes – Other Discretions</p> |
| LIST OF BACKGROUND PAPERS | Report DSFRA/15/5 to the Authority budget meeting on 20 February 2015. |

1. BACKGROUND AND INTRODUCTION

- 1.1 In recent years there have been a considerable number of changes to public sector pension schemes and specifically, from the perspective of this Authority, various Firefighters' Pension Schemes (FPSs). These changes have included (not exhaustively):
- amendments to the 1992 and 2006 Firefighters' Pensions Schemes, by virtue of the Firefighters' Pension Scheme (England)(Amendment)(No.2) Order 2013;
 - introduction of the Firefighters Compensation Scheme Order 2006; and
 - the introduction of a new Firefighters' Pension Scheme as of April 2015 (by virtue of the Firefighters' Pension Scheme (England) Regulation 2014.
- 1.2 At its budget meeting on 20 February 2015, the Authority considered report DSFRA/15/5 on the establishment, in accordance with the requirements of the Firefighters' Pension Scheme (England) Regulations 2014, of a local pension board by the Authority ("the Scheme Administrator" for Firefighter Pension Schemes) to assist the Authority in securing compliance with the provisions of the various Firefighters' Pension Schemes and ensure effective and efficient governance of the schemes. In this respect, the local pension board is not a decision-making body but rather will exercise a scrutiny-type roll.
- 1.4 The report as submitted to the Authority also highlighted, however, that each of the Firefighters' Pension Schemes provide for a number of instances whereby the Authority can exercise discretion over what action it takes.
- 1.5 Given the considerable changes to these Schemes over recent years, together with the current political and economic climate in which the Authority operates, a review has been undertaken of these Schemes and particularly the discretions afforded with a view to ensuring these discretions are exercised in the most appropriate way. The remainder of this report sets out the outcome of this review and specifically makes recommendations as to the exercise of discretions under the Schemes.

2. FIREFIGHTERS' PENSION SCHEMES PRE-1992

- 2.2 Prior to 1992, there were a number of other Firefighter Pension Schemes in existence, namely:
- The Fire Brigade Pensions Act 1925
 - The Firemen's Pension Scheme 1948
 - The Firemen's Pension Scheme 1952
 - The Firemen's Pension Scheme 1956
 - The Firemen's Pension Scheme 1964
 - The Firemen's Pension Scheme 1966
 - The Firemen's Pension Scheme 1971
 - The Firemen's Pension Scheme 1973
- 2.3 It is highly unlikely that there remains anyone connected with the Devon & Somerset Fire & Rescue Service who is entitled to benefits under any of the above schemes.
- 2.4 Should any individual(s) be so entitled, however, then it is recommended:

- (a) that the Fire & Rescue Authority assess and pay any benefits due in accordance with the relevant Act/Scheme this provisions; and
- (b) In the event that this involves the exercise of a discretionary power, this will be done in accordance with any similar discretionary powers and policies made under the Firefighters' Pension Scheme 1992 (or successor Schemes) or Compensation Scheme 2006 as set out in the Schedules to this report. If there is no such parallel discretionary provision, it will be considered at an appropriate level as informed by the Authority's approved Scheme of Delegations and Financial Regulations, having regard to the circumstances of the case.

3. FIREFIGHTERS' PENSION SCHEMES POST-1992

3.1 As indicated earlier, with effect from 1 April 2015 there are, in essence, three main Firefighters' Pension Schemes:

- the Firefighters' Pension Scheme 1992 (hereafter referred to as "the 92 Scheme");
- the Firefighters' Pension Scheme 2006 (hereafter referred to as "the 06 Scheme"); and
- the Firefighters' Pension Scheme 2015 (hereafter referred to as "the 15 Scheme").

3.2 Additionally, the Firefighters Compensation Scheme Order 2006 (hereafter referred to as "the Compensation Scheme"), made under Section 34 of the Fire & Rescue Services Act 2004, provides a scheme for the payment of pensions, allowances and gratuities to and in respect of persons who die or are permanently disabled as the result of an injury sustained or disease contracted while employed by a fire and rescue authority.

3.3 Each of the Schemes mentioned above contain matters over which the Authority may exercise discretion over how it would wish to act. Broadly speaking, these discretions fall into two areas:

1. discretions of a more generalised nature (e.g. whether or not to treat certain matters as pensionable for the purposes of additional pensionable benefits; discretion to remove or withdraw payments in certain circumstances) in relation to which the Authority may wish to determine a particular policy position; and
2. discretions either of a Scheme administration type or of a more individualised, case-by-case nature where the Authority may wish to determine the appropriate level at which the discretion is exercised.

3.4 The following sections of this report address these in order.

4. FIREFIGHTERS' PENSION SCHEMES – PROPOSED AUTHORITY POLICY DETERMINATION FOR GENERALISED DISCRETIONS

4.1 Schedule 1 to this report sets out those discretions from the Firefighters Pension Schemes and the Compensation Scheme where it is suggested that the Authority may wish to adopt a general policy together with a proposal as to what the policy may be.

4.2 For ease of reference and to ensure consistency of approach, discretions in each Scheme of a similar nature have been grouped together wherever possible.

4.3 In each case, it is proposed that – once the Authority has determined the policy to apply – the actual administration involved be delegated to the Chief Fire Officer.

5. FIREFIGHTERS' PENSION SCHEMES – OTHER DISCRETIONS

5.1 Schedule 2 to this report sets out those discretions from each of the Firefighters' Pension Schemes and the Compensation Scheme which are either:

- of a more routine, Scheme-administration type nature. Where this is the case, then it is recommended that these should be exercised by the Chief Fire Officer
- of a more individualised, case-by-case nature and which could involve additional financial implications for the Authority. Depending on the potential magnitude of these, it is recommended (as indicated in the Schedule) that these discretions are exercised either by the full Authority or by the Human Resources Management & Development Committee, or by the Chief Fire Officer depending upon the quantum of the financial implication and aligned to the thresholds for settling employee claims as set out in the Authority's approved Financial Regulations, namely;
 - for amounts up to £25,000 – Chief Fire Officer;
 - for amounts between £25,000 and £75,000 – Human Resources Management & Development Committee; and
 - for amounts in excess of £75,000 – the full Authority

5.2 It is also intended that, for all cases where the Chief Fire Officer exercises a discretion having a financial implication, this will be reported to the next appropriate meeting of the Human Resources Management & Development Committee for information.

5.3 As with the generalised discretions, for ease of reference and to ensure consistency of approach, discretions in each Scheme of a similar nature have been grouped together wherever possible.

6. CONCLUSION

6.1 There are now in existence several firefighters pensions schemes, all of which are complex and two of which have undergone considerable changes in recent years. This report seeks to identify the various discretions available to the Authority under each Scheme currently in force and make recommendations as to how these discretions might most appropriately be addressed.

LEE HOWELL
Chief Fire Officer

MIKE PEARSON
Clerk to the Authority

FIREFIGHTERS’ PENSIONS SCHEMES DISCRETIONS – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|------------------|----------------|----------------|----|--|--|
| 92 | 06 | COMP. | 15 | | |
| K4 | Part 9, Rule 3 | Part 9, Rule 3 | - | discretion to the Authority to withdraw the whole or part of any persons personal pension (not that of a spouse or civil partner) during any period to which the person entitled to the pension is employed by any fire and rescue authority in any capacity. Guidance on abatement (i.e. pension reduction) principles in the event of re-employment exists in both the 92 and 06 Schemes, in Firefighters’ Pension Scheme Circular 10/2009 and in HM Treasury Guidance aimed at ensuring that a person’s income following re-employment plus any pension they are in receipt of should not exceed the level of their final salary prior to initial retirement. | <i>that, in the event of re-employment following retirement, any personal pension payable under either the Firefighters’ Pension Schemes 1992 and 2006, or the Firefighters Compensation Scheme Order 2006, be abated in accordance with the provisions of the relevant Schemes/Order, the Firefighters’ Pension Scheme Circular 10/2009 and in HM Treasury guidance.</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|--|--|--------|---|--|
| 92 | 06 | COMP. | 15 | | |
| <i>Discretions on awards, associated review periods and adjustments</i> | | | | | |
| D5(3) and D5(9)(c) K1(1) and (2) K1(3) K3 (1) | Part 9, Rule 1, para 1 Part 9, Rule 1, paragraph 2 and Rule 2 | Part 4, Rule 3, paragraph 5(c) Part 9, Rule 1, paras 1 and 3 Part 9 Rule 2 | Reg 68 | <p>Rules D5(3) and D5(9)(c) of the 92 Scheme and Part 4, Rule 3, para. 5(c) of the Compensation Scheme provide discretion to determine award of a child’s allowance for a child aged 18 or over who was dependent on a deceased Scheme member by reason of permanent disablement, to review any award so made and to cease payment of the award if the Authority is satisfied that the child is no longer permanently disabled and not entitled to a child’s special allowance under any of the other provisions of the Pensions Schemes.</p> <p>Rule K1 (1) and (2) of the 92 Scheme require the Authority to have policy on reviewing whether a person under age 60 and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier ill-health pension, whether that person has become capable of undertaking regular employment.</p> <p>Part 9, Rule 1, para. 1 of the 06 Scheme require the Authority to have a policy for reviewing whether a person under State pensionable age and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds, and of undertaking regular employment.</p> | <p><i>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</i></p> <p><i>(i) nature and level of disablement/injury;</i></p> <p><i>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</i></p> <p><i>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual’s contribution to infirmity) or following a review;</i></p> <p><i>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</i></p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|------------------|----|-------|----|---|---|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>Part 9, Rule 1, paras 1 and 3 of the Compensation Scheme require the Authority to have a policy to review, periodically, whether or not a person's degree of disablement that has resulted in the making of an injury award under the Scheme has substantially altered and if so to review the pension payable and discretion to determine, 5 years after an injury pension first becomes payable, that no further review of degree of disablement should take place.</p> <p>Rule K1(3) of the 92 Scheme requires the Authority to have a policy for reviewing whether a person under age 60 who is receiving early payment of a deferred pension on health grounds, has become capable of firefighting and performing any other duties appropriate to his/her former role as a firefighter.</p> <p>Part 9, Rule 1, paragraph 2 and Rule 2 of the 06 Scheme require the Authority to have a policy for reviewing whether a person under normal benefit age (65) who is in receipt of a deferred pension paid early on permanent disablement, has become capable of carrying out any duty appropriate to their former role, and of undertaking regular employment</p> | <p>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</p> <p>(i) nature and level of disablement/injury;</p> <p>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</p> <p>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual's contribution to infirmity) or following a review;</p> <p>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|------------------------------------|-----------------|-------|----|--|---|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>Reg. 68 of the 15 Scheme requires the Authority to have a a policy for reviewing, the award of ill-health pensions where the recipient is under deferred pension age and has been receiving the award for less than 10 years and for reviewing the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age.</p> <p>Rule K3(1) of the 92 Scheme gives the Authority discretion to reduce the level of an ill-health pension to not less than half of the full amount where firefighter contributed to infirmity by own default. The amount of the reduced pension would be increased to the level of a notional deferred pension when the person attains age 60.</p> <p>Part 9, Rule 2 of the Compensation Scheme gives the Authority discretion to reduce an injury award to not less than half of the full amount where a person who is permanently disabled contributed to the infirmity by his/her own default</p> | <p>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</p> <p>(i) nature and level of disablement/injury;</p> <p>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</p> <p>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual’s contribution to infirmity) or following a review;</p> <p>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</p> |
| Additional Pension Benefits | | | | | |
| B5C | Part 3 Rule 7B, | - | - | <p>discretion to determine that the following be treated as pensionable for credit to the person concerned of Additional Pension Benefit:</p> <p>(a.) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter member’s duties under the contract of employment but are within the wider functions of the job;</p> | <p>That in all cases, the Additional Pension Benefit will not be applied to any allowances or emoluments other than that of Continual Professional Development payments which are the subject of a national collective agreement.</p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|---|--------------------------|-------|---------------|--|--|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>(b.) the difference between the firefighter member’s basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role;</p> <p>(c.) any performance related payment which is not consolidated into his standard pay.</p> <p>Both Schemes restrict this discretion in respect of where the allowance or supplement paid was being treated as pensionable before 1 July 2013 but was not pensionable pay as defined elsewhere in the Schemes, then the allowance or supplement should continue to be treated as pensionable only for so long as the person continues to receive it without any break in pension.</p> | |
| <i>Payment of additional contributions to count periods of unpaid absence as pensionable service</i> | | | | | |
| F2(5) | Part 10, Rule 4, para. 3 | - | 19(c) and 111 | Each of the Schemes contains a similar discretion in essence for the Authority to require an employee who has requested to pay contributions to count periods of unpaid absence towards pensionable service to meet both the employee AND employer costs. | <i>That, in all cases where an employee seeks to pay additional pension contributions to cover periods of unpaid absence, in accordance with the relevant Scheme provisions, the employee be required to meet both employee and employer contributions.</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|---|--|-------|-------------------|--|--|
| 92 | 06 | COMP. | 15 | | |
| <i>Discretion to withhold pension in cases of murder/manslaughter of deceased scheme member</i> | | | | | |
| D5 | Part 4 Rule 7 | | 172 | <p>Rule D5 of the 92 Scheme and Rule 7, Part 4 of the 06 Scheme give the Authority discretion to withhold all or part of a child’s pension, permanently or temporarily, where the child is convicted of the manslaughter of the deceased Scheme member.</p> <p>Regulation 172 of the 15 Scheme gives the Authority discretion, to withhold the pension, permanently or temporarily, in the event of the surviving partner or eligible child being convicted of manslaughter.</p> <p>For each Scheme, however, where the discretion to withhold pension is exercised, the Authority must revoke this decision in the event of the manslaughter conviction subsequently being quashed and pay arrears of pension accrued from the day after that on which the deceased died.</p> | <i>that, in cases of manslaughter, the discretion to withhold a pension either from a surviving partner or eligible child, as provided for by the relevant Scheme, be exercised subject to the conditions of each relevant Scheme, including reinstatement of pension on subsequent quashing of the conviction.</i> |
| <i>Discretion to withhold sums in cases of fraud, theft, negligence, other offence or dismissal (for disciplinary offence)</i> | | | | | |
| Rule L5(6) to (9) | Part 14 Rule 6, Paras 4 to 7 of | | 174 and 175 | <p>Rule L5(6) to (9) of the 92 Scheme and Rule 6, Paragraphs 4 to 7 of Part 14 of the 06 Scheme give the Authority discretion to withhold all or part of any sums becoming due to a Scheme member in respect of a pension in cases where there has been a loss of funds to the Authority as a result of fraud, theft or negligence on the part of the Scheme member, subject to certain conditions including the total amount withheld not exceeding the amount of loss.</p> | <i>(a) that in all cases of financial loss to the Authority arising from fraud, theft or negligence on the part of the Scheme member, the Authority will withhold the maximum amount of any award permissible in accordance with the conditions of the relevant schemes</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|------------------|----|-------|----|---|---|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>Regulation 174 of the 15 Scheme gives the Authority discretion to withhold benefits payable under the Scheme to a person, to such extent and for such duration as the Authority considers appropriate, where the person concerned has a relevant monetary obligation or has caused a relevant monetary loss to the Authority. "Relevant monetary obligation" and "relevant monetary loss" are defined in the Regulation and both must feature a criminal, negligent or fraudulent act on the part of the Scheme member concerned.</p> <p>Similarly, Regulation 175 of the 15 Scheme gives the Authority discretion to off-set a monetary obligation against the member's entitlement to benefits under the Scheme. In this instance, however, in addition to the member's criminal, negligent or fraudulent act or omission giving rise to the monetary obligation, there is also a monetary obligation arising from a payment made in error by the Authority to the Scheme member.</p> <p>There are limits to these discretion, e.g. the amount withheld may only be that which exceeds the person's guaranteed minimum pension and the Authority may only act if there is no dispute about the amount or, if there is, there is a court order or the award of an arbitrator.</p> | <p><i>(b) that recovery in cases where a monetary obligation arises from an overpayment error made by the Authority (15 Scheme only) be referred to the Human Resources Management & Development Committee to determine.</i></p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|--|-------------------|----|---|---|
| 92 | 06 | COMP. | 15 | | |
| <i>Forfeiture of award on conviction of certain offence</i> | | | | | |
| | Part 9 Rule 6, | Rule 5, Part 9 | | discretion for the Authority to require such amount of pension as is considered appropriate in the circumstances where a person is convicted of an offence under Section 34(6) of the Fire & Rescue Services Act. Section 34(6) of the Fire & Rescue Services Act 2004 makes it an offence for a person, either by their act or omission, to injure themselves deliberately for the purpose of obtaining either for themselves or another a pension or injury award). | <i>That, in accordance with the relevant Scheme provisions, forfeiture in full be required of any pension, in all cases where the person concerned has been convicted of an offence under Section 34(6) of the Fire & Rescue Services Act 2004.</i> |
| <i>Discretion to disallow payment of deferred pension following dismissal</i> | | | | | |
| | Part 3, Rule 3, para. 4 and Part 9 Rule 4 | | | discretion to disallow early payment of a deferred pension (i.e payment of a deferred pension to a wholetime firefighter before age 65, or before age 60 in the case of a special retained firefighter) in cases where the firefighter concerned has been dismissed from the Authority's employment. The reason for "dismissal" is not mentioned and as such it is proposed that the Authority differentiates between dismissal because of a disciplinary offence and dismissal because of medical capability (where the person would not be entitled to an ill-health award). | <i>(a) That early payment of a deferred pension be not permitted in cases of dismissal arising from disciplinary action;</i> <i>(b) That the Human Resources Management & Development Committee be delegated authority to determine on a case-by-case basis the early payment of a deferred pension in those cases of dismissal due to medical capability where the person concerned would not be entitled to an ill-health award.</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|---|-----------------------|-------------------------------|-----------------------|--|--|
| 92 | 06 | COMP. | 15 | | |
| <i>Discretion to claim medical appeal board expenses</i> | | | | | |
| Sch 9, Part 1, Paras 8(2) and 8(2)(A) | Paras 10(2) and 10(3) | Sch 5, Paras 9(2) and 9(3) of | Regs 160, 161 and 165 | <p>Paragraphs 8(2) and 8(2)(A) of Part 1 of Schedule 9 to the 92 Scheme, Paragraphs 10(2) and 10(3) of the 06 Scheme and Regulations 160, 161 and 165 of the 15 Scheme each give discretion for the Authority to require a Scheme member who has submitted an appeal to the Medical Appeal Board to meet expenses incurred by Authority on fees and allowances payable to the Board incurred in dealing with the appeal where:</p> <ul style="list-style-type: none"> the Board decides in favour of the Authority and declares that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded; or the appellant withdraws the appeal or requests cancellation, postponement or adjournment of the date appointed for an interview or medical examination by the Board less than 22 working days before the appointed date or the appellants acts or omissions cause the Board to cancel, postpone or otherwise adjourn less than 22 working days before the appointed date. <p>Paragraphs 9(2) and 9(3) of Schedule 5 of the Compensation Scheme provide similar discretions in relation to frivolous, vexatious or manifestly ill-founded or where the appellant withdraws the appeal within 21 working days of the date of the interview or medical examination.</p> | <p><i>that the Authority require payment in full of any fees an allowances payable to the Medical Appeal Board, as provided for by the relevant Schemes, in cases where the appeal is found by the Board to be frivolous, vexatious or manifestly ill-founded or where the appeal is withdrawn, cancelled, postponed or adjourned by the appellant within less than 22 (21) days, as the case may be depending on the Scheme in question.</i></p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|---|-------|--------|--|---|
| 92 | 06 | COMP. | 15 | | |
| <i>Discretion to require payment for administrative expenses incurred</i> | | | | | |
| Rule G6(4) Rule B9(6) Rule B12 and Part 1A | Part 3, Rule 11, para 6(a) Part 3 Rule 12 Chapter 2, Part 12, Rule 3, para 6 | | Reg 73 | <p>Each of the Schemes provides discretions for the Authority to require payment for certain types of administrative expense incurred. Specifically:</p> <ol style="list-style-type: none"> 1. Rule G6(4) of the 92 Scheme provides discretion not to accept a firefighter's election to purchase increased benefits through the payment of additional contributions unless the firefighter has undergone a medical examination at his/her own expense and satisfied the Authority as to his/her good health; 2. Rule B9(6) of the 92 Scheme, Part 3, Rule 11, paragraph 6(a) of the 06 Scheme and Regulation 73 of the 15 Scheme provide that, if a member of the Scheme in question wishes to allocate a portion of pension in favour of a beneficiary, that member must satisfy the Authority as to his/her normal life expectancy at the time of the request; 3. Rule B12 and Part 1A of the 92 Scheme and Part 3 Rule 12 of the 06 Scheme require the Authority to provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and to take appropriate steps to record and administer any Attachment Orders that may be made by a Court. The Authority may determine a charge payable for the administration costs associated with this; and | <p>(a) That, in relation to Rule G6(4) of the 92 Scheme (medical examination prior to permitting election to purchase increased benefits), the Authority policy be to require evidence of good health prior to agreeing any such purchase, with the individual concerned required to meet the costs of any medical examination entailed;</p> <p>(b) That for Rule B9(6) of the 92 Scheme, Rule 11, Part 3, paragraph 6(a) of the 06 Scheme and Regulation 73 of the 15 Scheme (allocation of portion of pension in favour of a beneficiary), the Authority policy be to require its Occupational Health provider to confirm normal life expectancy at the time of the request and to require from the applicant payment of any charges associated with this;</p> <p>(c) That, in relation to:</p> <ol style="list-style-type: none"> 1. Rule B12 and Part 1A of the 92 Scheme and Part 3, Rule 12 of the 06 Scheme (administrative charge for providing pension valuations and administering Attachment Orders etc); and 2. Part 12, Chapter 2, Rule 3, paragraph 6 of 06 Scheme (third request for transfer value statement during a twelve-month period) |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|---|----------------|----------------|---------|--|--|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>4. Chapter 2, Part 12, Rule 3, paragraph 6 of the 06 Scheme provides that, where, in any period of twelve consecutive months, a Scheme member has made and not withdrawn two applications for a statement of transfer value entitlement, the Authority has discretion not to supply a third or subsequent statement during that twelve-month period unless the applicant pays such fee as the Authority may reasonably require.</p> <p>In relation to (1) and (2) above, there is no detail of how this should be done, e.g. a medical opinion from the firefighters' GP, or the Occupational Health Physician or IQMP, and so the Authority has discretion to determine the method of proof.</p> | <p><i>the Chief Fire Officer be asked to determine the appropriate charge to apply in each case.</i></p> |
| <i>Discretion on stage one and stage 2 decision makers under firefighters’ pension internal dispute resolution procedure</i> | | | | | |
| Rule H3 | Part 6, Rule 5 | Part 6, Rule 3 | Reg 163 | <p>Rule H3 of the 92 Scheme, Part 6, Rule 5 of the 06 Scheme and Regulation 163 of the 15 Scheme each require certain pensions disagreements not involving medical issues to be dealt with in accordance with the two-stage Internal Dispute Resolution Procedure. The Authority has discretion under the Schemes, however, to determine who the Stage 1 and Stage 2 decision makers will be.</p> <p>Part 6, Rule 3 of the Compensation Scheme requires the Authority to reconsider, at person's request, his/her claim to an award where the Authority does not admit the claim at all, or does not admit it to its full extent.</p> | <p><i>That the existing policy be confirmed i.e. that Stage 1 Internal Dispute Resolution Procedure decisions be taken by the Director of People and Commercial Services with Stage 2 decisions taken by a small Member Panel appointed annually by the Human Resources Management & Development Committee.</i></p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|------------------------------|------------------------|-----|---|--|
| 92 | 06 | COMP. | 15 | | |
| | | | | <p>The “reconsideration” is under the Internal Dispute Resolution Procedure and again the Authority has discretion to determine who the Stage 1 and Stage 2 decision makers will be. If the person’s grievance lies in the content of the medical opinion upon which the Authority based their decision, the person should use the process set out in Part 6 Rule 2 “Appeal to Medical Appeal Board” of the Order.</p> <p>Existing policy is that Stage 1 decisions are undertaken by the Director of People and Commercial Services; with Stage 2 determinations being considered by a small Panel of Members appointed annually by the Human Resources Management & Development Committee.</p> | |
| <i>Extensions of time for medical appeals</i> | | | | | |
| H2(4)(c) Sch 9, Part 1, para 1(2) | Part 8, Rule 4, para 4 | Sch 5, para 1(2) | 155 | <p>The 92, 06 and 15 Schemes each provide a period of 28 days for an individual to lodge an appeal against a decision based on a medical opinion. The Schemes also provide discretion for fire and rescue authorities to extend this 28 day period for up to a further six months from the date of issue of those documents prompting the appeal. The 92 Scheme also requires the Authority to be satisfied, prior to granting any extension, that the failure to meet the 28 day deadline was not due to the individual’s own default.</p> <p>The Compensation Scheme contains similar provisions on extension (by up to six months) but only allows an initial 14 days in which to submit the medical appeal.</p> | <p><i>That no extension be allowed to the time limit (28 days) for submitting appeals under the 92, 06 and 15 Schemes but – to seek to secure consistency across each of the Schemes –an automatic 14 day extension be allowed for medical appeals submitted under the Compensation Scheme, subject to establishing that the failure to meet the required 14 day deadline was through no fault of the individual concerned.</i></p> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|--------------------------------|-------|----|---|---|
| 92 | 06 | COMP. | 15 | | |
| | | | | As with the 92 Scheme, the Authority needs to be satisfied, prior to granting any extension, that the failure to meet the 14 day deadline was not due to the individual’s own default. | |
| <i>Adjustment of Transfer Values</i> | | | | | |
| Rule F6A(6) | Part 12, Ch 5, Rule 14, para 6 | | | discretion in certain circumstances (i.e. under the “mis-selling transfer rules) to adjust the amount of any transfer value accepted by the Authority to ensure that there is no duplication of pensionable service credited. | <i>That any transfer values accepted by adjusted as necessary to avoid duplication of pensionable service credited.</i> |
| <i>Discretion on deductions for outstanding contributions</i> | | | | | |
| Sch 6, Part 1, para 1(4) | Part 11, Rule 4, paras 6 and 7 | | | Schedule 6, Part 1, paragraph 1(4) of the 92 Scheme provides the Authority with discretion to deduct from a pension award any outstanding balance of payments in respect of previous service. Similarly, Part 11, Rule 4, paragraphs 6 and 7 of the 06 Scheme give the Authority discretion to deduct contributions for unpaid additional maternity, paternity or adoption leave from any death grant payable where the member concerned dies without giving notice within the election period that they wish to pay such contributions. | <i>That, in accordance with the Schemes in question, any outstanding pension contributions be recovered either from any award made under the 92 Scheme, prior to its payment, or from any death grant payable under the 06 Scheme.</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|---|-------------------------|-------|---------|--|--|
| 92 | 06 | COMP. | 15 | | |
| <i>Overpayment on death of pensioner</i> | | | | | |
| | Part 14, Rule 3, para 5 | | | discretion to recover all or part of any overpayment arising from the Authority not being informed of the death of a pensioner. The overpayment may be recovered by making an off-set against any other awards payable under the 06 Scheme in respect of the deceased. | <i>that in the event of an overpayment arising from the Authority not being informed of the death of a pensioner, recovery the full amount of any such overpayment, using the most appropriate method including off-set against any other awards payable under the 06 Scheme in respect of the deceased, will be required.</i> |
| <i>Repayment of Aggregate Pension Contributions</i> | | | | | |
| L3(9) | Part 14, Rule 3, para 6 | | | If a person is entitled to the repayment of aggregate pension contributions, the Authority is not obliged to make the payment until the expiration of a year from the date of retirement if the person does not make an earlier request for payment. | <i>that, where a person is entitled under Part 3, Rule 8 of the Scheme to the repayment of aggregate pension contributions but does not make an earlier request for this repayment, the repayment will only be made following the expiry of one year from the date of retirement.</i> |
| <i>Requirement for proof of identity and continuing entitlement to award</i> | | | | | |
| | Part 15, Rule 3 | | Reg 184 | discretion to require a person who is, or may be, entitled to a pension or a lump to provide the Authority with supporting evidence as to identity and continuing entitlement to any payment under the Scheme. The Authority also has discretion to withhold the whole or part of any amount due where a person fails to comply with this requirement. | <i>That, should the individual circumstances dictate, a person in receipt of, or potentially entitled to, either a pension or lump sum under either the 06 or 15 Schemes be required to provide evidence as to identity and continuing entitlement to any such award, with the whole of any amount due being withheld where the person fails to comply with this request.</i> |

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION | PROPOSED POLICY |
|--|--|-------|---------|--|--|
| 92 | 06 | COMP. | 15 | | |
| <i>Suspension/recovery of award for false declaration or suppression of material fact</i> | | | | | |
| | | | Reg 101 | discretion to suspend and recover a pension awarded and paid under the Scheme to a surviving partner and/or eligible child when, after making the award and payment, it later appears to the Authority that the member or person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award. | <i>that, in the event of an award made to a surviving partner and/or eligible child under the 15 Scheme where it later appears to the Authority that the member or person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award, then the Authority will exercise its discretion under Regulation 101 to cease payment and recover all amounts paid under the pension.</i> |
| <i>Acceptance of Transfer Values</i> | | | | | |
| F6A(3) (b) F7(1) (subject to Rule F7(2) and (3)) | Part 12, Ch. 3 Rule 9(1)(c) (ii) Rule 10, para 1 subject to paras 3 and 4 and Part 10, Rule 2 paras 2 and 3 Part 12, Chs. 4 and 5, Rules 14 paras 3 of each Ch. | | 141 | Each of the Schemes gives the Authority discretion on acceptance of transfer values relating to non-occupational pensions. The Schemes also provide various conditions relating to extensions of time limits for individuals to apply to have a transfer value accepted. | <i>That, given that acceptance of a transfer value would ultimately result in increased costs for the Authority upon retirement of the individual concerned, the policy of the Authority be not to accept transfer values and accordingly not to exercise any of the associated discretions relating to extensions of time limits to request transfer values etc.</i> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES - OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|-----------------------------|--|---|-----|---|
| 92 | 06 | COMP | 15 | |
| Rule B7(5A) | - | - | - | <p>Discretion to consent to one quarter pension being commuted in the case of a firefighter who, upon retirement, would otherwise not be permitted to commute such portion of pension as would provide a greater lump sum than two and a quarter times the full amount of pension.</p> <p>Before exercising this discretion, the Authority must have regard to the economical, effective and efficient management of its functions and the costs to the Authority likely to be incurred in any particular case.</p> <p>These costs will include a sum equal to the difference between the lump sum which the Scheme member wishes to receive and the lump sum payable in the absence of the Authority’s consent; such a sum would be transferrable to the Firefighters Pension Fund by the Authority in accordance with Rule LA2(10) of the Firemen’s Pension Scheme Order 1992. There may also be tax charges to be paid by both the firefighter and the Authority which arise from permitting the greater lump sum to be paid.</p> |
| Rules B8, E5, E6, IA(2) (1) | Part 3, Rule 10 Part 4, Rules 5 and 12 Part 6 Rule 2 | Part 2, Rule 4 Part 5, Rules 3 and 4 | 167 | <p>Discretion to commute small pensions/awards for “trivial” lump sum</p> <p>Each of the Schemes contains provision to commute, in certain circumstances as indicated in the Scheme and subject to advice from the Scheme Actuary, a small pension award for a trivial lump sum.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----------------------------------|-------------------------------|----|--|
| 92 | 06 | COMP | 15 | |
| Rule B9(2)(b) | Part 3, Rule 11 paras 2(b) and 3 | - | 72 | <p>A Scheme member may allocate a portion of pension for a dependant other than a spouse or civil partner.</p> <p>Before giving consent to the allocation, the Authority must be satisfied that the nominee is a person “substantially dependent” on the member. There is no guidance in the Scheme Rules as determining substantial dependency and it is proposed that this should be at the discretion of the Chief Fire Officer to determine on a case by case basis.</p> |
| Rule C8(6) | - | Part 3, Rule 4, Paras 6 and 7 | - | <p>Discretion to increase level of spouse's or civil partner's pension/award for such period as the Authority thinks fit where the firefighter and spouse or civil partner were living separately at the date of death and where the normal level of benefit is reduced under the Scheme in question</p> |
| Rule C8(7) | - | - | - | <p>Discretion to allow a gratuity to be paid, in whole or in part, to the surviving spouse or civil partner where it would otherwise not be payable because husband and wife, or civil partners, were living separately at the date of death.</p> |
| C9 | - | Part 3, Rule 5, paras 1 and 2 | - | <p>Discretion to reinstate all or part of a spouse's or civil partner's pension/award or gratuity for such period as the Authority thinks fit if - following termination of the pension or gratuity on marriage, remarriage, formation of a civil partnership or subsequent civil partnership – the subsequent marriage, remarriage or civil partnership is dissolved OR the other party to the subsequent marriage or civil partnership dies.</p> <p>The Authority would have to decide what confirmatory evidence should be provided by the applicant, whether to allow the full award to be reinstated and the date from which reinstatement payment should be made.</p> |
| E3 | - | - | - | <p>Discretion to make an award of dependent relative's gratuity to a dependent relative who is not entitled to any other award under the Firemen’s Pension Scheme Order 1992 in respect of the same firefighter.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|----|--|
| 92 | 06 | COMP | 15 | |
| E9(6) | - | - | - | <p>Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.</p> <p>In the exceptional circumstances that this issue should come up for consideration, the Authority has discretion to make such an award.</p> |
| F4(3) (c) | - | - | - | <p>Extension of 6-month time limit for election to pay certain sums in order that earlier pensionable service may count on rejoining the Fire & Rescue service.</p> <p>The Authority has discretion to permit the extension of the 6-month time limit for an election to pay certain sums in order that earlier pensionable service may count upon a firefighter rejoining the Fire & Rescue service.</p> |
| F5(1) | - | - | - | <p>Discretion to extend period in which a firefighter may make a payment to count as pensionable service a period during which an injury award was payable.</p> <p>If a firefighter is entitled under Rule F5 to pay to the Authority the amount required in accordance with Schedule 6, Part I, paragraph 1 of the Firemen’s Pension Scheme Order 1992 in respect of a period during which the firefighter was entitled to receive an injury pension, in order that it may count as pensionable service on re-employment, the Authority has discretion to extend the period in which the election to pay and payment must be made (within six months of resuming service).</p> |
| F9(2) | - | - | - | <p>Extension of 6 month time limit for a former firefighter, or serving firefighter who has opted out of the Firefighters’ Pension Scheme 1992, to request payment of a transfer value to another pension scheme.</p> <p>If a former firefighter or a serving firefighter who has opted out of the Firefighters’ Pension Scheme 1992 becomes subject to another pension scheme and requests that the Fire & Rescue Authority should pay a transfer value to that other scheme, the written request must be made within 6 months of becoming subject to the other scheme. However, the Authority has discretion to extend this time limit.</p> |
| F9(5) | - | - | - | <p>Extension of 12-month time limit after leaving in which a former firefighter must be subject to a new scheme if a transfer value based upon a returned refund of pension contributions or gratuity is to be</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|-----------------------------|------|-----|--|
| 92 | 06 | COMP | 15 | |
| | | | | <p>permitted.</p> <p>If a former firefighter has received a refund of pension contributions or a gratuity under Part B of the Firemen’s Pension Scheme Order 1992 and wishes to return the contributions/gratuity to reinstate pensionable service for the purposes of a transfer value to a new scheme, he/she must have become subject to that scheme within 12 months of ceasing to serve as a regular firefighter. The Authority has discretion to extend this 12-month time limit.</p> |
| G2(2) | Part 11, Rule 3, Para 6 | - | 114 | <p>Discretion to deduct pension contributions from instalments of pensionable pay.</p> <p>The Authority’s pensions provider will normally administer all Scheme aspects, including collection of pension contributions and payment of pension in instalments.</p> <p>Contributions are normally deducted from instalments of pay but the Authority has discretion to collect the contributions due by other means should the need arise (for example, an individual may wish to pay by way of a lump sum an amount equating to payment of additional contributions to enable periods of unpaid leave to count towards pensionable service).</p> |
| G2A(3) | Part 11, Rule 4, Para 3 | - | - | <p>Discretion to extend 30-day time limit in which an election to pay contributions in respect of unpaid additional maternity, paternity or adoption leave must be made.</p> |
| G7(3) | - | - | - | <p>Discretion to agree to discontinuance of payment of periodical contributions for increased benefits where the payment is causing, or likely to cause, the firefighter financial hardship.</p> |
| K5(1) | Part 9 Rule 5, Paras 1 to 3 | - | 171 | <p>Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.</p> <p>The Authority has discretion to withdraw a pensioner’s pension under the Scheme (or any pension payable under the Scheme to a spouse or civil partner where the offence is committed <u>after</u> the death of the pensioner) in whole or in part where the pensioner has been convicted of:</p> <ul style="list-style-type: none"> • the offence of treason; or |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|--------------------|---------------------------------|--------------------------------|------|---|
| 92 | 06 | COMP | 15 | |
| | | | | <ul style="list-style-type: none"> one or more offences under the Official Secrets Act where the person has received either a single or consecutive sentences of at least 10 years; or an offence committed in connection with the member’s scheme employment and which is certified by the Secretary of State as being gravely injurious to the interests of the State or likely to lead to serious loss of confidence in the public service. |
| Rule K5(5) | Part 9 Rule 5, Para 4 | - | - | Discretion to restore, at any time and to such extent as the Authority think fit, a pension withdrawn under either Rules K5(1) of the 92 Scheme or Part 9, Rule 5 paras 1 – 3 of the 06 Scheme to the pensioner or to apply it for the benefit of any dependant of the pensioner. |
| L3(1) | Part 14, Rule 3 para 2(b) | Part 10, Rule 2, Para. 1 | - | <p>Determination of intervals at which instalments of pension, allowance or award shall be paid.</p> <p>In practice, this is a Scheme administration-type matter and would in the main be undertaken by the Authority’s pensions provider (currently Peninsula Pensions), with payments made monthly in arrears for pensions (but in advance for injury awards under the Compensation Scheme).</p> <p>The Fire & Rescue Authority has discretion, however, to determine the intervals at which instalments of pension or allowance should be paid.</p> |
| Rule L3(1) | Part 14, Rule 3 para 2(a) | Part 10, Rule 2, Para. 1 | - | Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire & Rescue Authority's liability. |
| Rule L3(7) and (8) | - | - | - | Discretion to decide an earlier payment date for survivors' benefits than the date prescribed (the first anniversary of the date of death) where the deceased received a gratuity or lump sum, and an option to pay a gratuity in instalments rather than as a single lump sum. |
| L5(1) | Part | - | Reg. | Payment of awards – minors. |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|----------------------------|--------------------------------|--------------------|----------|---|
| 92 | 06 | COMP | 15 | |
| | 14, Rule 5 para 1 | | 100 | The Authority may, at its discretion and as it thinks fit, pay a minor's pension to such other person as it may determine. The Authority may give directions to that person as to the application of the pension for the minor's benefits. |
| Rule L5(2) | Part 14, Rule 5, Para 2. | - | Reg. 168 | <p>Payment of awards – discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.</p> <p>If it appears to the Authority that a person entitled to the payment of an award is, by reason of mental disorder or otherwise, incapable of managing his/her affairs, the Authority may use their discretion to</p> <p>(a) pay the benefits or any part of them to a person having care of the person entitled, or such other person as the Authority may determine, or</p> <p>(b) apply the benefits in such manner as the Authority may determine for the benefit of the person entitled, or his/her dependants.</p> |
| Rule L5(3) | Part 14, Rule 6, Para 1. | - | Reg. 169 | <p>Payment of awards – discretion, following death of a person, as to recipient(s) of sums less than amount specified in the Administration of Estates (Small Payments) Act 1965.</p> <p>Upon the death of a person to whom there was due an award not exceeding (currently) £5,000, then the Authority may pay the sum due to the person or persons as the Authority thinks fit without requiring Grant of Probate or any other proof of entitlement.</p> |
| Sch. 9, Part 1, para. 4(5) | Annex 2, para. 6(5) | Sch. 5, Para. 5(5) | Reg. 157 | Discretion to decide the Fire & Rescue Authority's representation at a Medical Appeal Board interview. |
| Sch. 9, Part 1, para. 5 | Annex 2, para. 7(1) | Sch. 5, Para. 6(1) | Reg. 157 | Discretion to decide whether or not to submit written evidence or a written statement to a Medical Appeal Board. |
| - | Part 2, | Part 2, | Reg. | Discretion, subject to other Scheme qualifications as appropriate, to accept the status of “nominated |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|------------------|------------------|---------|--|
| 92 | 06 | COMP | 15 | |
| | Rule 1(6) to (9) | Rule 3, para. 10 | 76 | partner” or “surviving partner” where the Scheme member and partner had been in a relationship for less than 2 years. |
| - | Part 3, Rule 5 | - | - | <p>Pension on member-initiated early retirement.</p> <p>If a firefighter member, other than a special firefighter member, satisfies an eligibility condition, is awarded a deferred pension, and at age 55 or over but before normal benefit age (65) requests early payment by giving written notice to the Fire & Rescue Authority, the Authority has discretion to refuse the request if the pension as reduced by the appropriate amount of actuarial reduction is likely to be less than the guaranteed minimum pension that would be payable from State pensionable age.</p> |
| - | Part 3, Rule 6 | - | Reg. 62 | <p>Authority-initiated early retirement.</p> <p>The Fire & Rescue Authority, having regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in a particular case, can determine that a firefighter (other than a special firefighter member for the 06 Scheme) who is at least age 55 but under normal pension age (60):</p> <ul style="list-style-type: none"> • 06 Scheme - should be retired from the Authority’s employment with immediate payment of a pension calculated on the same principles as an ordinary pension under Part 3, Rule 1 of the Firefighter’s Pension Scheme (England) Order 2006. <p>If the Authority is considering making a determination under the comparable provision in the Firefighters’ Pension Scheme 2015, it must also consider making a determination under this provision.</p> <ul style="list-style-type: none"> • <i>15 Scheme</i> - and who is dismissed from scheme employment by reason of business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency, should receive immediate payment of retirement pension without the early retirement reduction. In accordance with Regulation 120 of the 15 Scheme, if the Authority uses this discretion to make an early payment of retirement pension, it will have responsibility for payment of an employer initiated retirement additional contribution calculated in accordance with Regulation 120(2). This would be paid into the Firefighters’ Pension Fund as required by Regulation 123. <p>If the Authority is considering making an award under Regulation 62 for a connected member of the</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|--------------------------|------|----|---|
| 92 | 06 | COMP | 15 | |
| | | | | Firefighters' Pension Scheme 2006, it must also consider employer initiated retirement under Part 3, Rule 6 of the Firefighters' Pension Scheme (England) Order 2006. |
| - | Part 5, Rules 1 and 2 | - | - | <p>Discretion as to recipient of death grant and post-retirement death grant.</p> <p>Upon the death of a firefighter member or pensioner member, the Fire & Rescue Authority may pay a death grant assessed in accordance with Part 5, Rules 1 and 2 of the 06 Scheme to such person or persons as the Authority think fit, in accordance with Part 5, Rule 1, paragraph 10 of the Order.</p> |
| - | Part 5, Rule 1, para. 12 | - | - | <p>Discretion to pay part of any death grant not paid in full, to a person whose conviction for murder or manslaughter of the deceased has been quashed.</p> <p>If a person's conviction for murder or manslaughter is quashed on appeal the Authority may, if the death grant has not at that time been paid in full and having regard to the circumstances of the case, pay part of it to the person whose conviction has been quashed.</p> |
| - | Part 6, Rule 5, para. 2 | - | - | <p>Discretion to pay a post-retirement death grant in respect of a pension credit member to such person or persons as the Fire & Rescue Authority think fit.</p> <p>If a pension credit member dies within five years of their entitlement to a pension credit pension coming into payment and before their 75th birthday and there is a difference between</p> <ul style="list-style-type: none"> • the amount that is five times the pension, calculated at the annual rate effective on the day that it came into payment, and • the instalments of pension that have been paid <p>the Authority can pay a post-retirement death grant of the amount of the difference to such person or persons as the Authority think fit.</p> |
| - | Part 11, Rule 5, para. 5 | - | - | <p>Discretion to allow a part-time regular firefighter to pay contributions at a part-time rate to purchase additional service.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|--------------------------------------|------|----|---|
| 92 | 06 | COMP | 15 | |
| - | Part 11, Rule 5, para. 6 | - | - | Discretion to allow a retained or volunteer firefighter to purchase additional service by periodical contributions based on the firefighters reference pay. |
| - | Part 11, Rule 5A | - | - | Purchase of service during the limited period. Discretions for estimation of service for duration of special retained firefighter exercise only. |
| - | Part 11, Rule 8 | - | - | Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provided this is solely on the grounds of the member's financial circumstances, and decision as regards timing of recommencement of payment of additional contributions to purchase service where agreed with member that discontinuance should be no greater than 6 months. |
| - | Part 11, Rule 9, para. 4(c) | - | - | The payment of contributions in respect of periods of unpaid service or absence, and discretion to extend the time limit in which the firefighter must pay. If a firefighter member who elected to pay additional contributions to “purchase” additional service has a period of unpaid service or unpaid leave (i.e. maternity, paternity, adoption leave or other absence without pay) and consequently there is no pay from which the additional contributions can be deducted, he/she can apply to the Fire & Rescue Authority to pay the contributions. The application must be made no later than one month after the end of the period of unpaid absence. The additional contributions may be paid directly to the Authority during the unpaid leave, or collected within 6 months of the firefighter’s return to duty after the absence. The Authority has discretion to extend this time limit. |
| - | Part 15, Rule 4 | - | - | Decision as to date of issue of annual benefit statements and relevant date for the pension illustration. The Fire & Rescue Authority can determine the timing of the issue of annual benefit statements. The Authority may also decide the relevant date for the pension illustration (except in the case of pension credit members). In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions). |

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| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|---------------|--|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 5 | <p>Delegation.</p> <p>In accordance with Regulation 5(2), the Fire & Rescue Authority may delegate any of their functions including the power to delegate.</p> |
| - | - | - | Reg. 12(5) | <p>Opting into the Scheme. Discretion to vary date at which pensionable service commences.</p> <p>The Fire & Rescue Authority has discretion to determine the date at which a person's pensionable service will commence if the person opts into the Scheme and the Authority considers that beginning of the first pay period after the option is exercised would be inappropriate.</p> |
| - | - | - | Reg. 16(2)(b) | <p>Opting out of the Scheme. Discretion to determine date at which pensionable service ceases.</p> <p>The Fire & Rescue Authority has discretion to determine the date at which a person's pensionable service will cease if the person opts out of the Scheme and the Authority consider that the first day of the first pay period beginning on or after the date on which the option is exercised would be inappropriate.</p> |
| - | - | - | Reg. 28(2) | <p>Establishment of pension accounts: general. Discretion to keep in such form as the Fire & Rescue Authority consider appropriate.</p> <p>The Fire & Rescue Authority must establish and maintain pension accounts for members in accordance with the Regulations but may be kept in the form it considers appropriate.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions).</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|---------|---|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 37 | <p>Closure and re-establishment of active member's account. Fire & Rescue Authority's discretion to select appropriate account where more than one account held.</p> <p>In accordance with Regulation 37(3) and (4), if a member has more than two active member's accounts with the Authority and ceases pensionable service with less than three months' qualifying service in respect of one account, the Authority shall close that account and aggregate benefits with one of the others; the member may select which one. In accordance with Regulation 37(5), if the member fails to make a choice, the Authority may make a decision on the member's behalf, selecting whichever appears to be the most appropriate account in the circumstances.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority's pensions provider (currently Peninsula Pensions).</p> |
| - | - | - | Reg. 49 | <p>Closure of deferred member's account after gap in pensionable service not exceeding 5 years. Discretion to select which account is to be closed where more than one account is held.</p> <p>If a deferred member re-enters pensionable service under the Scheme after a gap in pensionable service not exceeding 5 years, the Fire & Rescue Authority shall close the deferred member's account and re-establish the person's active member's account with the appropriate entries in accordance with Regulation 49.</p> <p>If the person had more than one relevant deferred member's account, he/she must select – within three months of re-entering Scheme employment - which one should close. If the person fails to make a selection, the Fire & Rescue Authority may make the choice for them in accordance with Regulation 49(4).</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority's pensions provider (currently Peninsula Pensions).</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|---------|---|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 63 | <p>Exercise of partial retirement option - Discretion as to form in which notice must be given.</p> <p>Agreement of the Fire & Authority with member concerned as to date on which the partial retirement option in accordance with Regulation 63 is to be exercised. Regulation 63 allows a member aged at least 55 and who would be entitled, if s/he left, to immediate payment of a retirement pension in relation to a continuous period of pensionable service to opt to continue in pensionable service under the Scheme and claim the whole of the pension accrued prior to exercise of the option. The member concerned must give prior notice to the Authority of the wish to exercise this option.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions).</p> |
| - | - | - | Reg. 70 | <p>Commencement of pensions. Discretion to determine date of commencement of payments.</p> <p>In accordance with Regulation 70(1) and (2), where an active member has not claimed payment of the retirement pension before the date on which they retire, the Fire & Rescue Authority shall, determine the date on which payment will commence and will notify the member accordingly.</p> <p>In accordance with Regulation 70(8), if a member requests deferral of payment of a deferred pension beyond deferred pension age (Regulation 70(5)(a)), or requests early payment with an early payment reduction before deferred pension age (Regulation 70(5)(b)), the Authority shall decide the payment date after the claim for payment has been made.</p> |
| - | - | - | Reg. 75 | <p>Adjustment of allocated benefit. Discretion to adjust allocated benefit if member dies after reaching age 75.</p> <p>If a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the Fire & Rescue Authority has discretion to adjust it in such manner as they may determine.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|----------|--|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 95 | <p>Person to whom lump sum death benefit payable. Discretion of Fire & Rescue Authority to select recipients.</p> <p>Regulation 95 gives the Fire & Rescue Authority absolute discretion to pay any lump sum death benefit to or for the benefit of the member's nominee, personal representative or any person appearing to have been a relative or dependent of the member.</p> |
| - | - | - | Reg. 102 | <p>Provisional awards of eligible child’s pensions: Discretion for later adjustments.</p> <p>If the Fire & Rescue Authority has paid children's pensions under the Scheme to certain persons on the basis that they were eligible children at the date of the member's death and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child, the Authority has discretion to adjust the amount of pensions as required in view of the facts as they subsequently appear. The adjustments may be made retrospectively.</p> |
| - | - | - | Reg. 104 | <p>Discretion to adjust benefits to comply with Finance Act 2004 where members die over age 75.</p> <p>If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the Fire & Rescue Authority has discretion to adjust the benefit payable to the person so that it would qualify as a dependant's scheme pension in accordance with that section of the Act.</p> |
| - | - | - | Reg. 110 | <p>Member contributions. Discretion to specify circumstances where a reduction in pensionable pay shall be disregarded for purposes of determining member contributions.</p> <p>Regulation 110(7)(h) give the Authority discretion to specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|------------------|---|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 135 | <p>Statement of transfer value entitlement. Discretion to extend period in which guarantee date falls.</p> <p>In accordance with Regulation 135 (statement of entitlement) of the Regulations 2014, the Authority must specify in a statement of entitlement the "guarantee date" date by reference to which the cash equivalent or club transfer value is calculated; this date must fall within the three months beginning with the date of the member's application for the statement of entitlement and within ten days ending with the date on which the member is provided with the statement.</p> <p>The Authority also has discretion to extend this date to within six months of the date of the member's application if, for reasons beyond the Authority's control, the information needed to calculate the transfer value cannot be obtained before the end of the three month period.</p> |
| - | - | - | Regs 142 and 144 | <p>Transfer statement and club transfer value statement. Discretion to require member to request manager of other pension scheme to provide statement of transfer value.</p> <p>In accordance with Regulations 142(2) and 144(2) the Authority may require that, before making a transfer payment request, the member must ask the scheme manager of the other scheme to provide a statement of the amount of transferred pension that the person would be entitled to count if the transfer were to proceed.</p> |
| - | - | - | Reg. 165 | <p>Recovery of overpayment of benefits. Discretion to decide means of recovery of overpayment resulting from a percentage decrease in earnings in a revaluation order.</p> <p>In accordance with Regulation 165 of the Firefighters' Pension Scheme (England) Regulations 2014 if, in a financial year, a percentage decrease in earnings is specified in an order made under section 9 of the Public Service Pensions Act 2013 ("revaluation"), the Authority must recover any overpayment of benefits that has occurred as a result of the application of the retirement index adjustment for that year. The Authority can determine, however, the method of recovery e.g. by reducing the amount of each instalment of pension until recovery is completed, or omitting to pay any increase in the amount of any pension due until the amount of overpayment is recovered.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------|----------|---|
| 92 | 06 | COMP | 15 | |
| - | - | - | Reg. 173 | <p>Forfeiture of lump sum death benefit: offences committed by other persons: discretion to restore any benefit withheld</p> <p>If a person is convicted of a relevant offence (i.e. the murder, manslaughter or any other offence of unlawful killing of a Scheme member), the Fire & Rescue Authority must withhold all of any lump sum death benefit payable to that person. If the conviction is subsequently quashed on appeal, however, the Authority has discretion, on appeal by the person and to such extent and to such duration as it thinks fit, restore to the person the amount of benefit withheld. Any such restoration is, however, cancelled in the event of the person subsequently being convicted of a relevant offence.</p> |
| - | - | - | Reg. 178 | <p>Payment by the Fire & Rescue Authority, on behalf of a Scheme member, of a “lifetime allowance” charge</p> <p>The Authority may, at the request of a Scheme member, pay on behalf of the member any amount payable by way of a “lifetime allowance” charge under Section 214 of the Finance Act 2004, subject to the member either:</p> <ul style="list-style-type: none"> (a) paying to the Authority the amount in question prior to the “lifetime allowance” charge becoming payable; or (b) authorising the Authority to deduct the amount from a lump sum becoming payable to the Member under the Scheme at the time the “lifetime allowance” charge becomes payable. |
| - | - | - | Sch. 1 | <p>Payments for Added Pension</p> <p>In accordance with this Schedule, the Authority has discretion to:</p> <ul style="list-style-type: none"> • cancel, upon written notice, any election by a Scheme member to pay periodical payments for added pension where it appears to the Authority that the overall limit for extra pension will be exceeded if the member continues to make periodical payments (paragraph 4(2)); • determine the minimum periodical payment for added pension (paragraph 7(3)); • agree with Scheme member method of payment for additional pension other than periodical payments deducted from pensionable pay; and |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|--------------------------------------|----------------------------|--|
| 92 | 06 | COMP | 15 | |
| | | | | <ul style="list-style-type: none"> extend the period of notice (6 months from the end of any period of assumed pensionable pay or period of reduced pay) for a Scheme member to authorise deduction of aggregated payments which would have been made during any period of assumed pensionable pay or period of reduced pay. |
| - | - | - | Sch 2: Part 1, Para. 3(3). | <p>Discretion to determine tapered protection date in some cases.</p> <p>In accordance with Paragraph 3(3), the Authority can use its discretion to determine a tapered protection closing date for a tapered protection member of the Firefighters' Pension Scheme 2006 to whom Paragraphs 9(5) or 21 apply (members returning to pensionable service) according to the circumstances of the case.</p> |
| - | - | Part 1, Rule 11, paras. (5) and (6): | - | <p>Determining pensionable pay in certain cases (retained firefighters).</p> <p>Where the Authority is unable to determine the period of a person's service from their records and do not hold records of that person's pay for any period and the necessary documents cannot be obtained from the person, the Authority may estimate the person's pensionable pay from records it holds and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.</p> |
| - | - | Part 2, Rule 3, para. 6 | - | <p>Discretion to reduce compensation for death or permanent incapacity while on duty if the firefighter's serious and culpable negligence or misconduct contributed to the circumstances in which the injury was sustained.</p> <p>The Authority has discretion to reduce the amount or sum referred to in paragraph 2 or 4 of Rule 3 by such amount as it considers appropriate where the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained, if it is felt appropriate according to the circumstances of any case which falls within the terms of Part 2, Rule 3.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|---------------------------------------|----|--|
| 92 | 06 | COMP | 15 | |
| - | - | Part 3, Rule 2, paras. 2 (b) and (c): | - | <p>Discretion to pay augmented award to spouse or civil partner where specific conditions of eligibility are not met.</p> <p>Where a person who is or has been a firefighter dies from the effects of a qualifying injury or infirmity of mind or body occasioned by a qualifying injury where the injury was received in the execution of duties performed in circumstances where there was an intrinsic likelihood of the firefighter receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life, an augmented award would be paid to the surviving spouse or civil partner.</p> <p>According to the circumstances of an individual case, if the Authority is of the opinion that the above conditions <u>may</u> have been satisfied and that this Rule should apply, or that it would be inequitable if this Rule were not to apply, it can consider paying an augmented award.</p> |
| - | - | Part 5, Rule 1 | - | <p>Discretion to award an adult dependent relative's special pension for such period(s) as the Fire & Rescue Authority may determine.</p> <p>Discretion for the Authority to consider, according to the circumstances of an individual case, the payment of a dependent relative’s special pension to an adult dependent relative not entitled to any other award in respect of the same firefighter. It would be calculated in accordance with Schedule 4, Part 1 of the Order.</p> |
| - | - | Part 5, Rule 2, para. 3 | - | <p>Discretion to award a dependent relative's gratuity.</p> <p>The Authority has discretion to pay a dependent relative’s gratuity to a dependent relative not entitled to any other award in respect of the same firefighter according to the circumstances of an individual case. The gratuity or gratuities payable must not exceed the amount of the deceased’s contributions.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------------------------------------|----|--|
| 92 | 06 | COMP | 15 | |
| - | - | Part 7, Rule 2 and Rule 4 | - | <p>Discretion to increase an award for a serviceman who, at the end of his/her forces period, is permanently disabled by a qualifying injury or injury received during his/her forces period.</p> <p>Should a serviceman be permanently disabled at the end of his/her forces period and the infirmity that occasioned his/her incapacity for the performance of duty was occasioned by an injury received during his/her forces period or by a qualifying injury, the Authority may consider paying or increasing any pension payable under the Firemen’s Pension Scheme Order 1992, the Firefighters’ Pension Scheme (England) Order 2006 and the Firefighters’ Pension Scheme (England) Regulations 2014 in accordance with Part 7, Rule 2 and Rule 4 of the Firefighters’ Compensation Scheme (England) Order 2006, having regard to the limitations in Schedule 6.</p> |
| - | - | Part 7, Rule 3 and Rule 4 | - | <p>Discretion to increase dependants’ benefits under the Firefighters’ Pension Scheme 1992 to the level of a flat-rate award if a serviceman dies from the effects of an injury received during his/her forces period or a qualifying injury.</p> <p>Should a serviceman –</p> <ul style="list-style-type: none"> (a) die during his/her forces period, or (b) be permanently disabled at the end of that period, not since have been a firefighter, and die from the effects of an injury that occasioned his/her incapacity for the performance of duty or while in receipt of a pension, <p>the may consider increasing any dependants’ benefits as allowed under Part 7, Rule 3 and Rule 4 of the Firefighters’ Compensation Scheme (England) Order 2006, having regard to the limitations in Schedule 6.</p> |
| - | - | Part 7A, Rules 2 and 4 | - | <p>Discretion to increase an award to a reservist who is permanently disabled as a result of an injury received during his/her forces period or as a result of a qualifying injury.</p> <p>If a person takes up employment with the Authority on or after 6 April 2006 or, having been employed before that date, becomes a member of the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015 and becomes a reservist, for the purposes of the Firefighters’ Compensation Scheme 2006 he/she shall be treated as if they had continued to be a firefighter during the period of relevant service in the armed forces (the “forces period”).</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|------------------------|----|---|
| 92 | 06 | COMP | 15 | |
| | | | | <p>If at the end of the forces period or subsequently after resuming service as a firefighter the person is permanently disabled and the infirmity that occasioned his/her incapacity for the performance of duty was occasioned by an injury received during the forces period or by a qualifying injury, the Fire & Rescue Authority may, according to the circumstances of the case, consider increasing the amount of pension payable under the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015, subject to the limitations of Schedule 7 of the 2006 Order.</p> |
| | | Part 7A, Rules 3 and 4 | | <p>Discretion to increase dependants’ benefits if a reservist dies from the effects of an injury received during his/her forces period or a qualifying injury.</p> <p>If a person takes up employment with the Authority on or after 6 April 2006 or, having been employed before that date becomes a member of the Firefighters’ Pension Scheme 2006 and becomes a reservist, for the purposes of the Firefighters’ Compensation Scheme 2006 he/she shall be treated as if they had continued to be a firefighter during the period of relevant service in the armed forces (the “forces period”).</p> <p>If the person dies during the forces period or is permanently disabled at the end of the forces period and dies from the effect of an injury that occasions incapacity for the performance of duty the Fire & Rescue Authority may, according to the circumstances of the case, consider increasing the amount of pension payable under the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015, subject to the limitations of Schedule 7 of the Firefighters’ Compensation Scheme (England) Order 2006.</p> |
| - | - | Part 8, Rule 1 | - | <p>Discretion to pay an injury award to or in respect of an employee of a Fire & Rescue Authority who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of duties as an employee of the Authority.</p> <p>If an employee who is not a firefighter suffers an injury without their own default –</p> <ul style="list-style-type: none"> (a) while in attendance at a fire, and (b) in the execution of their duties as an employee of the Fire & Rescue Authority, and (c) has to retire in consequence of the injury <p>the Authority, having regard to the circumstances of the case, may grant such pension or gratuity under the Firefighters’ Compensation Scheme (England) Order 2006 as the Authority think fit.</p> |

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

| SCHEME/RULE REF. | | | | NARRATIVE/DESCRIPTION |
|------------------|----|---------------------------------|----|---|
| 92 | 06 | COMP | 15 | |
| | | | | <p>If in the circumstances outlined in (a) and (b) above, the person dies from the effect of the injury, either before or after retiring from the employment, the Authority, having regard to the circumstances of the case, may grant such pension, gratuity or allowance as they think fit to a surviving spouse, civil partner and/or child.</p> <p>If granted, such awards would be subject to the terms and limits of Part 8, Rule 1 of the Firefighters’ Compensation Scheme (England) Order 2006.</p> |
| - | - | Part 9, Rule 4, para. 4 | - | <p>Discretion to restore at any time and to such extent as the Fire & Rescue Authority think fit, a pension withdrawn under Part 9, Rule 4, paragraphs 1 to 3, to the pensioner or to apply it for the benefit of any dependant of the pensioner.</p> <p>If the Authority withhold a pension in whole or in part, under Part 9, Rule 4, paragraphs 1 to 3 of the Firefighters’ Compensation Scheme (England) Order 2006, according to the circumstances of the case they may determine, at such time as they think fit, to restore it to the pensioner or to apply it for the benefit of any dependant of the pensioner.</p> |
| | | Part 10, Rule 2, para. 7 | | <p>Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and over such reasonable period as the Authority thinks fit.</p> |

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| REPORT REFERENCE NO. | DSFRA/15/19 |
| MEETING | DEVON & SOMERSET FIRE & RESCUE AUTHORITY |
| DATE OF MEETING | 29 JULY 2015 |
| SUBJECT OF REPORT | LOCAL GOVERNMENT PENSIONS SCHEME (LGPS) DISCRETIONS |
| LEAD OFFICER | Joint report of the Chief Fire Officer and the Clerk to the Authority |
| RECOMMENDATIONS | <p>(a) <i>That the contents of this report be considered with a view to approving those recommendations as set out within Appendix A relating to the Local Government Pension Scheme Regulations which require a policy and also those additional recommendations set out in section 2 where a policy is beneficial to clarify the Authority position.</i></p> <p>(b) <i>That, pending approval at the Authority, the Clerk be authorised to make any consequential changes to Authority constitutional framework documents notably Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations to reflect the decisions taken in relation to (a) above.</i></p> <p>(c) <i>That where any such decisions involve additional financial implications to the Authority then the thresholds within the Authority Financial Regulations will be applied.</i></p> |
| EXECUTIVE SUMMARY | This report advises the Authority of pension discretions that can be applied to the Local Government Pension Scheme and makes recommendations as to the exercise of those discretions. |
| RESOURCE IMPLICATIONS | Financial implications will be dependent on the exercise of specific discretions and will be reported to the Authority as and when required. |
| EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA) | The contents of this report are considered compatible with existing equalities and human rights legislation. |
| APPENDICES | <p>A. Summary of Discretion Recommendations where a policy is required.</p> <p>B. Draft Service Policy incorporating the Discretion Decision recommendations for the Local Government Pension Scheme (page numbered and enclosed separately with agenda for meeting).</p> |
| LIST OF BACKGROUND PAPERS | Report DSFRA/15/5 to the Authority budget meeting on 20 February 2015. |

1. **BACKGROUND AND INTRODUCTION**

- 1.1 In recent years there have been a considerable number of changes to public sector pension schemes and in particular as a result of The Public Service Pension Act 2013 reforms which emanated from the report by the Independent Public Service Pensions Commission chaired by Lord Hutton.
- 1.2 The Local Government Pension Scheme (LGPS) has moved from a final salary scheme to a Career Average Re-valued Earnings (CARE) Scheme from 1 April 2014. The Service has previously had a policy in place setting out how the discretions will be applied and this links in to the Authority Pay Policy Statement. The Service is required to update this policy in accordance with the changes in the Regulations for the Scheme and the revised full policy is set out in Appendix B. For the purposes of the Authority decision making, the key aspects to these discretions are set out in Appendix A.
- 1.3 The Regulations to which these discretions relate are covered within the following legislation:
- The LGPS Regulations 2013
 - The LGPS Regulations 2014 (Transitional Provisions & Savings)
 - The LGPS Regulations 2008 (Benefits, Membership and Contributions)
- 1.4 There are also additional discretions which do not require a policy but for which it is beneficial to clarify the Authority position and these are set out in section 2 below.

2. **ADDITIONAL DISCRETION RECOMMENDATIONS**

- 2.1 As well the discretions shown in Appendix A, there are a number of other regulations which the Service would wish to have an Authority determination. The first relates to the application of The Local Government (Early Termination of Employment) (Discretionary Compensation) (England And Wales) Regulations 2006. If the Authority terminates an employee by reason of redundancy, the employee, if aged 55, will become automatically entitled to the immediate payment of accrued pension benefits without any reduction for early payment. There are two pension regulations relating to this namely Regulation 5 and 6.
- Regulation 5 – Power to increase statutory redundancy payments***
- 2.2 This allows authorities to base redundancy payments on an actual week's pay if greater than the statutory maximum. The Service currently applies the actual week's pay to the redundancy pay calculation for support staff and this is set out in the collective agreement within the Reorganisation, Review, Redeployment and Redundancy policy which is referred to as the 4R's policy.
- Regulation 6 – Discretionary compensation payment for redundancy***
- 2.3 This allows the employer to grant a lump sum payment of up to 104 weeks' pay. The Service currently uses the statutory redundancy payment scheme to calculate the number of weeks paid and this is enhanced with a multiplier of 2. This rate is reviewed annually by the Authority and is the subject of a separate paper at the Authority meeting and therefore is purely for information within this report.

Other Non-Compulsory Employer Discretions

- 2.4 Any other discretions (as included in the policy within Appendix B) will be considered on a case by case basis but in general will only be agreed if there will be no significant net cost to the Authority or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.

Requests to Extend the Normal Time Limit for Acceptance of a Transfer Value Beyond 12 Months from Joining the LGPS – Regulation 100(68)

- 2.5 Any such request will automatically not be accepted since such a request could extend the Service pension liability.

Re-employment of Support Staff

- 2.6 This is relevant to the Pension Discretions Policy since the Regulations refer to Flexible Retirement which is the equivalent of Retirement/Re-employment for uniformed staff. For staff within the LGPS Scheme, where an individual is re-employed on the same salary as previously, the same abatement rules are currently applied as to those within the Firefighters Pension Schemes and this is stated within the Pay Policy Statement. However, the Pay Policy Statement also refers to the Pension Discretions Policy stating that the pension “may be subject to abatement during such time as the individual remains employed by the Service”. This allows the Authority to use flexible retirement opportunities where key employees may wish to continue working as they get older but step down in grade or reduce their working hours. This can be beneficial to the Authority in retaining key skills, knowledge and experience whilst also reducing costs. The authorisation of any such flexible retirement is subject to approval through the Human Resources Management & Development Committee or full Authority for Executive Board post-holders.
- 2.7 The Pay Policy Statement is reviewed annual and therefore this matter is for information only within this report since it is referred to within the Discretions Policy.

3. AUTHORITY FINANCIAL REGULATIONS

- 3.1 Where any such decisions are required for employees which could involve additional financial implications for the Authority then these will be taken in accordance with the Authority’s Financial Regulation thresholds for authorisation as follows:
- for amounts up to £25,000 – Chief Fire Officer;
 - for amounts between £25,000 and £75,000 – Human Resources Management & Development Committee; and
 - for amounts in excess of £75,000 – the full Authority.
- 3.2 It is also intended that, for all cases where the Chief Fire Officer exercises a discretion having a financial implication, this will be reported to the next appropriate meeting of the Human Resources Management & Development Committee for information.

4. CONCLUSIONS

- 4.1 The Authority is required to make a determination on the discretions that will be applied to the Local Government Pension Scheme and these are set out within this document. Once decisions have been made by the Authority then the Service will communicate the changes through the recognised trade union UNISON and directly with staff.

LEE HOWELL
Chief Fire Officer

MIKE PEARSON
Clerk to the Authority

SUMMARY OF DISCRETION RECOMMENDATIONS

| REGULATION REF. AND NARRATIVE | POLICY POSITION |
|---|---|
| <p>Regulation R16(2)(e) & R16 (4)(d) Shared Cost Additional Pension Scheme</p> <p>An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC)</p> | <p>The discretion to establish a shared cost Additional Pension Scheme will not be exercised.</p> |
| <p>Regulation R17(1) & TP15(1)(d) & A25(3) Shared Cost Additional Voluntary Contribution Arrangement</p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into on or after 1st April 2014 via a shared cost AVC.</p> <p>An employer can choose to pay for or contribute towards a member's Additional Voluntary Contribution arrangement entered into before 1st April 2014 via a shared cost AVC.</p> | <p>The discretion to establish a shared cost AVC arrangement will not be exercised.</p> |
| <p>Regulation R30(6) & TP11(2) Flexible Retirement</p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p> | <p>The Authority will consider exercising its discretion to approve a flexible retirement application where it incurs no significant net cost or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</p> |

SUMMARY OF DISCRETION RECOMMENDATIONS

| REGULATION REF. AND NARRATIVE | POLICY POSITION |
|--|--|
| <p>Regulation R30(8)</p> <p>Waiving of actuarial reduction</p> <p>Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.</p> <p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age</p> <p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.</p> | <p>The Authority will consider waiving an actuarial reduction where it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</p> |
| <p>Regulation TPSch 2, para 2(2) & 2(3)</p> <p>Power of employing authority to 'switch on' the 85 Year Rule</p> <p>An employer can choose whether to "switch on" 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60.</p> | <p>The Authority will consider approving early retirement applications where it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</p> |
| <p>Regulation R31</p> <p>Power of employing authority to grant additional pension</p> <p>An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500* per annum)</p> <p>(* the figure of £6,500 will be increased each April under Pensions Increase orders)</p> | <p>This will only be considered as an alternative to redundancy payments if this is acceptable to the employee(s) concerned and either it would not involve a significant net cost to the Authority, or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</p> |

SUMMARY OF DISCRETION RECOMMENDATIONS

| REGULATION REF. AND NARRATIVE | POLICY POSITION |
|---|---|
| LOCAL GOVERNMENT PENSION SCHEME 2008 DISCRETIONS | |
| <p>Regulation B18 Flexible retirement</p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p> | <p>The Authority will consider exercising its discretion to approve a flexible retirement application where it incurs no significant net cost or where a formal business case has been presented to the Authority by the Chief Fire Officer which, in its opinion, demonstrates that to do so would be in the best interests of the Service.</p> |
| <p>Regulation B30 Choice of early payment of pension</p> <p>B30(2) Employers can also allow the early payment of deferred benefits to former members of the LGPS between the ages of 55 and 59.</p> <p>Please note where a deferred member left the LGPS before 1 April 2008 the employer policy under the 1997 Regulations will apply.</p> <p>B30A(3) Employers may also grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60.</p> <p>B30(5) & B30A(5) In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights.</p> | <p>These regulations would apply to members who have already left the Service and so any consideration would be on compassionate grounds rather than through a business case and the best interests of the Service. Such decisions would be on a case-by-case basis with due consideration of the costs to the Authority and the merits of the case. Such decisions would be considered in accordance with the levels that are normally applied through the Service Financial Regulations.</p> |