

**M. Pearson
CLERK TO THE AUTHORITY**

**To: The Chair and Members of the
Human Resources Management and
Development Committee
(see below)**

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

Wednesday 16 September 2015

A meeting of the Human Resources Management and Development Committee will be held on the above date, **commencing at 10:00 hours in Conference Room B 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 meeting held on 11 June 2015 attached (Page 4).
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. **Absence Management**
Report of the Director of Corporate Services (HRMDC/15/5) attached (page 7).
5. **Redundancy Compensation Rates**
Report of the Director of Corporate Services (HRMDC/15/6) attached (page 20).

6. **Firefighters' Pensions Schemes - Exercise of Discretions - Further Considerations**

Report of the Director of Corporate Services (HRMDC/15/7) attached (page 26).

7. **Retirement & Re-Employment**

Report of the Director of Corporate Services (HRMDC/15/8) attached (page 63).

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Bown (Chair), Burrige-Clayton, Chugg, Horsfall, Knight, Thomas and Wheeler

NOTES	
1.	<p><u>Access to Information</u></p> <p>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></p> <p>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></p> <p>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></p> <p>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></p> <p>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>

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

REPORT REFERENCE NO.	HRMDC/15/5
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2015
SUBJECT OF REPORT	ABSENCE MANAGEMENT
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<i>That the significant additional activity outlined within the action plan directed towards reducing down sickness absence be noted.</i>
EXECUTIVE SUMMARY	<p>Absence Management is a standing item on the Human Resources Management and Development Committee agenda.</p> <p>During 2014/15, the Service saw an increase in sickness absence levels and is taking action to redress this in 2015/16.</p>
RESOURCE IMPLICATIONS	Diverted staffing time associated with the action plan.
EQUALITY RISK & BENEFITS ASSESSMENT	The Absence Management policy has had an equality impact assessment.
APPENDICES	Appendix A: Action Plan
LIST OF BACKGROUND PAPERS	<p>There is a wide range of research and papers available on sickness absence. Recent notable works include:</p> <p>Working for a healthier tomorrow Dame Carol Black's Review of the health of Britain's working age population, 17th March 2008</p> <p>Health at work – an independent review of sickness absence, Dame Carol Black and David Frost CBE, November 2011</p>

1. INTRODUCTION

1.1 Like many organisations, the Service recognises that employee absence has a significant cost to the organisation and is therefore something that we need to measure, understand and be able to address. Whilst we all recognise that some absence is inevitable due to genuine sickness, we require our staff to be able return to work as soon as possible and provide the necessary support for them to do so. We also will take appropriate action regarding any non-genuine sickness absence.

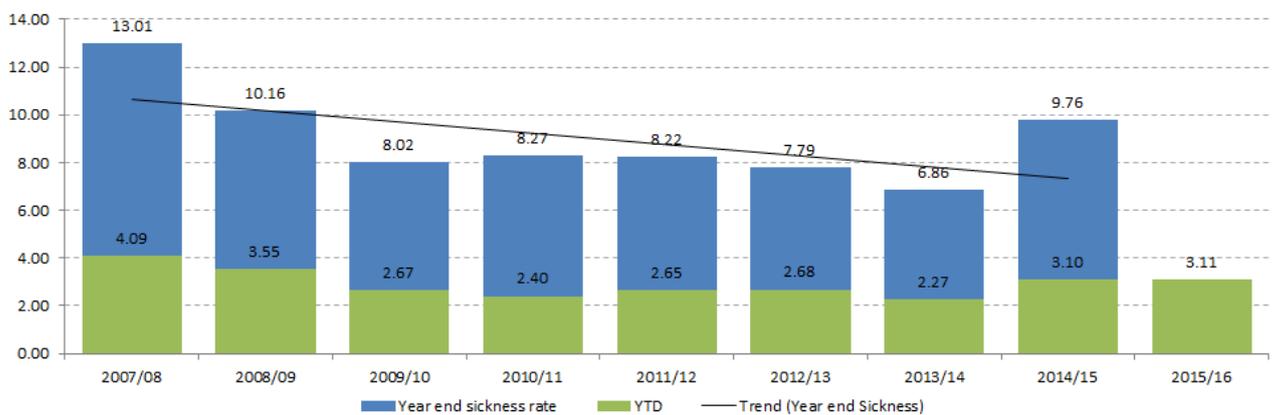
1.2 The Service performance for Absence Management has been included as a standing item on the members Human Resources Management and Development (HRMD) Committee agenda since combination and has also featured within the Audit & Performance Review Committee (APRC) performance report. With the declining performance in 2014/15, the Service has put in place an action plan to redress this performance in 2015/16.

1.3 Absence levels have been a high profile measure for the Service since combination when, during our first year, we experienced an average of 13 days absence per person per annum. This was the first year following a significant upheaval for many staff in terms of the organisation, workplace location and cultural changes. Prior to combination, Somerset FRS had a better level of attendance than Devon FRS. For Devon, the absence levels were:

	2003/4	2004/5	2005/6	2006/7 (Forecast)
Wholetime Absence	9.8 days/shifts	10.7	12.3	11.4
All Staff Absence	9.3 days/shifts	9.9	11.6	11.2

For Somerset the sickness levels were on average **8.48 days** per person in 2005/6 and **9.47 days** in 2006/7 in the lead up to combination.

Following combination, the levels have been as follows:

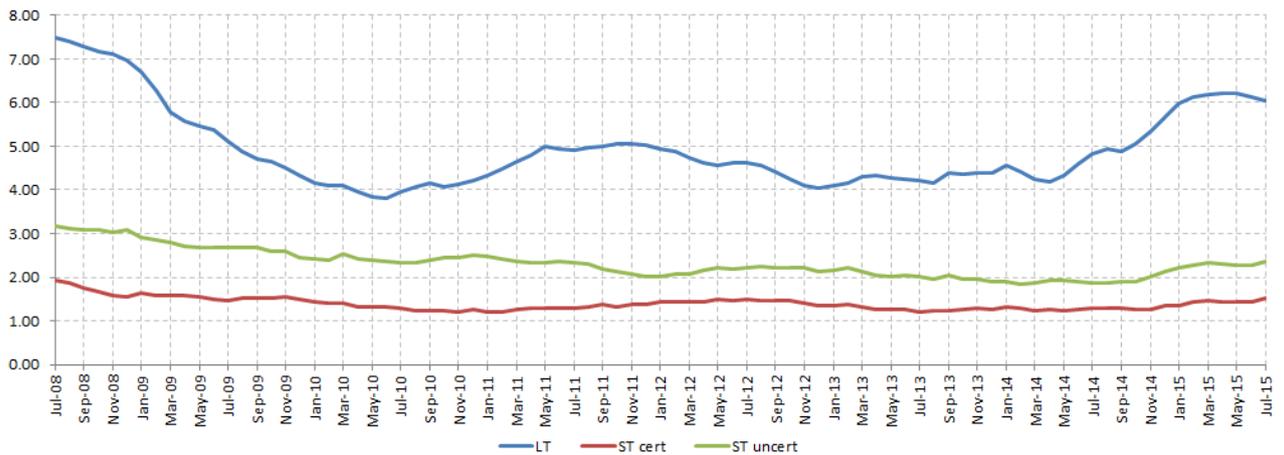


1.4 A very positive downward trend in sickness absence levels, with an exceptionally good year in 2013/14, existed until 2014/15. The significantly higher absence levels in 2014/15 has prompted the development of an action plan to redress the position. It is noted that 2014/15 followed a year of considerable changes within the Service with significant reductions in staffing levels as a result of needing to meet Government grant reductions. It should also be recognised that whilst it remains the Service’s long term aim to drive down sickness, the current absence levels are similar to other Fire Services (see 3.1 below). The extended period of unease related to the national strike over pension changes is thought to have had an impact on morale and this may be reflected in higher sickness levels for the period in question as well as the impact of the organisational changes in relation to the crewing of appliances. In seeking to determine what the Service should do about the increasing levels of sickness, the Service Leadership Team has reviewed the Absence Management processes and put an action plan in place. Essentially, the key to effective absence management is measuring and monitoring absence levels, communicating the importance of good attendance and taking actions that will support a culture of good attendance.

2. **2014/15 ABSENCE PERFORMANCE**

2.1 The graph below shows the 12-month rolling sickness rate as measured at the end of each month. As this is a rolling rate it removes any monthly peaks and troughs and enables us to see performance trends more clearly. This rolling rate has plateaued and our action plan is aimed at addressing this performance. The marked increase in the long-term sickness rate is very obvious although the rolling rate for short term sickness has also increased. There are 3 categories of sickness shown in the graph:

- **Short-term uncertified sickness** – periods of sickness up to 7 days
- **Short-term certified sickness** – periods of sickness between 8 and 28 days for which a GP certificate is required
- **Long-term sickness** – periods of over 28 days

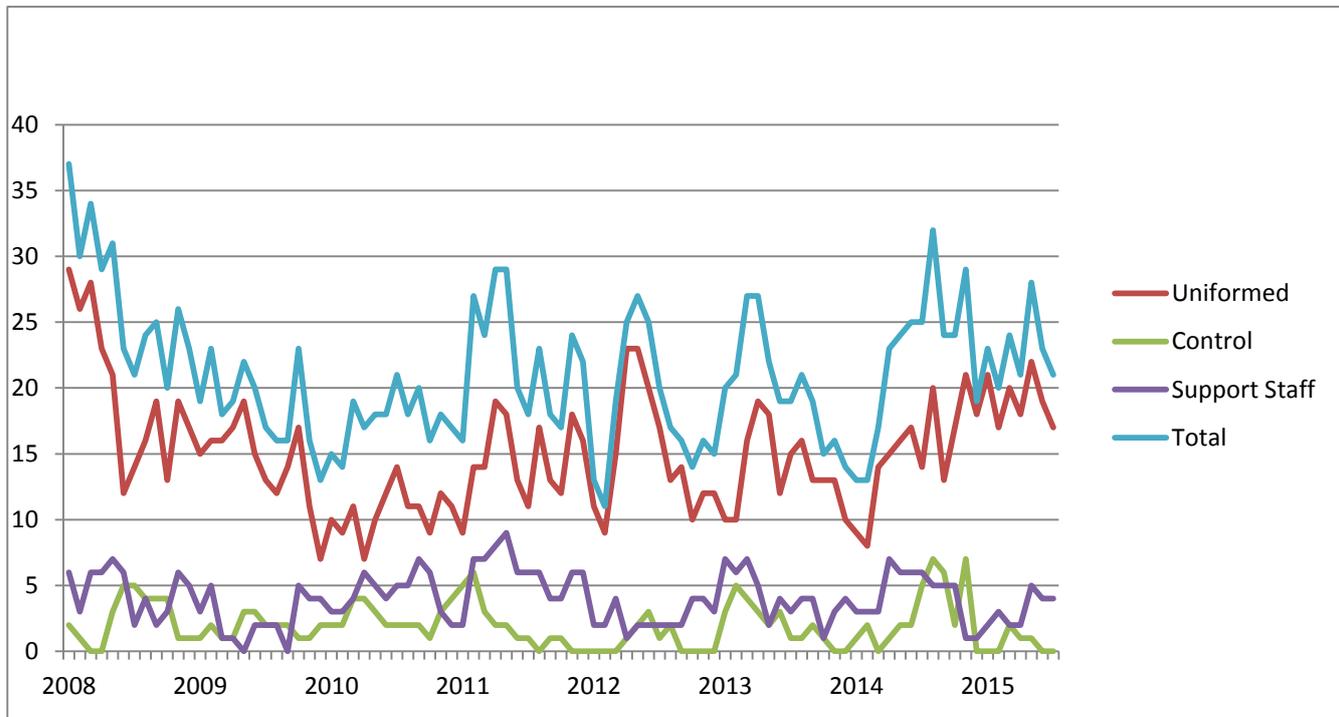


Average sick days taken per person, per year

2.2

In order to understand how a small number of staff on long term sickness can have a big impact on absence levels, we can consider the number of staff that are on long-term sickness and these are shown below with a range for uniformed staff of typically between 10 and 20 staff at any one time. However, it should be noted that with uniformed staff we have seen a reduction in staffing numbers and so proportionally this level will have a greater impact on our absence levels.

Numbers of staff on Long Term Sickness



3. BENCHMARKING DATA

3.1 The Service participates in a National Fire & Rescue Service Occupational Health Performance Report along with 33 other Fire & Rescue Services. This report includes the main causes of sickness across the UK by staff category and the results of the top 5 in each staff category for 2014/15 are as follows:

Wholetime

Cause of Sickness Absence	% of total days/shifts lost
Musculoskeletal	45%
Mental Health	14%
Respiratory	9%
Gastro-Intestinal	9%
Hospital/Post-Operation	3%

On-call

Cause of Sickness Absence	% of total days/shifts lost
Musculoskeletal	57%
Mental Health	12%
Respiratory	7%
Gastro-Intestinal	4%
Hospital/Post-Operation	3%

Non-uniformed staff

Cause of Sickness Absence	% of total days/shifts lost
Mental Health	26%
Musculoskeletal	22%
Respiratory	9%
Gastro-Intestinal	7%
Hospital/Post-Operation	5%

Fire Control

Cause of Sickness Absence	% of total days/shifts lost
Mental Health	25%
Musculoskeletal	22%
Respiratory	9%
Gastro-Intestinal	7%
Cancer and Tumours	6%

- 3.2 These results are pretty much what we would expect with musculoskeletal being a predominate cause of sickness absence for firefighters. For Control and Support staff, mental health is a significant cause of absence, which includes anxiety, stress and depression. Within the Service, musculoskeletal and mental health are the highest reason for long-term sickness. However, in 2014/15 absence data was not complete because of the non-mandatory requirements of the new reporting system. This has now been resolved following the release of an update to the system.
- 3.3 Absence levels for the Service are benchmarked against three southwest fire and rescue authorities and 30 others nationwide. In the following tables, we have referred to the other participating southwest authorities as 1, 2 and 3 because they will wish to determine when and how they publish their data.

Number of days/shifts lost per person

Wholetime	No. of days 14/15	Position in league of 34 (NB higher rankings are better)
Devon & Somerset FRS	9.74	4
South West FRS 1	8.31	12
South West FRS 2	9.55	5
South West FRS 3	10.92	2

Non-uniformed	No. of days 14/15	Position in league of 34 (NB higher rankings are better)
Devon & Somerset FRS	7.99	22
South West FRS 1	15.67	2
South West FRS 2	8.96	17
South West FRS 3	8.96	16

Control	No. of days 14/15	Position in league of 34 (NB higher rankings are better)
Devon & Somerset FRS	18.89	3
South West FRS 1	3.51	26
South West FRS 2	21.24	2
South West FRS 3	22.57	1

4. **MEASURING AND MONITORING ABSENCE LEVELS**

- 4.1 Having accurate data for absence management is absolutely key to knowing what the current levels are and being able to make internal comparisons within the Service. At the start of the 2014/15 financial year, a new process for sickness reporting was introduced with the intent of reducing management time, supporting the capture of data and streamlining the process. However, there were some issues with system user data entry that have led to a deterioration in the quality of the data that we hold. In particular data on the reason codes; of the entries made for 2014/15, 18.5% did not provide a reason code.
- 4.2 Addressing this system issue was one of the significant improvement actions that members of the Committee wanted to see completed as soon as was possible. We can now confirm that the systems upgrades have been successfully designed and implemented, which will assist in ensuring the accurate measurement and monitoring of absence levels in the future.
- 4.3 The recent system upgrade also resolves other issues around updating changes to reflect the current line manager and enabling certain tasks to be delegated, e.g. from the Watch Manager to Crew Manager.

5. **ANALYSIS OF ABSENCE MANAGEMENT DATA**

- 5.1 The data associated with sickness records is complex and the Data Hub normally has to utilise a degree of data manipulation in order to provide reports and analysis. Work is in-hand to automate this and when completed it will help with the extraction of relevant information.
- 5.2 There are particular areas of focus that we need to regularly be able to analyse:
- Long-term sickness reason codes.** The sickness reason was not previously always recorded and this has been corrected.
- Duration of long-term sickness.** We have previously reported to the Committee the number of cases within the Wholetime, Control, Support and On-call staff and whether they reached 6, 12, 18 or 24 months. Such monitoring allows the Service to support staff in returning to work or progress with an ill-health retirement.

Sickness League tables for commands, stations, departments for overall sickness levels and short-term sickness.

Local level data again for station/departments on a monthly basis and compared with tolerance levels. At present our existing performance system does not support control graphs and so we are left with year to date comparisons with the previous year or a rolling 12 month basis.

Benchmarking of sickness data. The Service participates in a national fire survey which is produced on a quarterly basis. The Service also obtains the CIPD annual survey available in July of each year. There is also an Office for National Statistics (ONS) sickness report. The current (ONS) report is for October 2012 to September 2013 and so is out of sync with the period we are reviewing.

Sickness patterns. This is particularly difficult to identify and analyse. Patterns that might indicate a need for action include short-term absences around weekends, public holidays, start/finish of duty tours, sporting events, and good weather. This analysis is most effectively done at a local level based on line managers' knowledge of an individual.

6. **COMMUNICATIONS**

- 6.1 It is important that we have regular messages to staff that reinforce that absence is measured and is important to the Service. Earlier this year in the February Alert No. 210, the Chief Fire Officer made reference to the absence levels with the following quotation:

“Despite these challenging times we are performing relatively well. Our quarter three performance report shows that our key measures are heading in the right direction, all apart from sickness levels which appears to be rising. I have asked for this to be looked into and the underlying causes identified. The need to bring sickness level rates down will feature within some of our future change projects but we also look to support staff wherever possible”.

- 6.2 The Service has subsequently produced a further Alert in June setting out the importance of the health and wellbeing of our employees and the initiatives, interventions and policies in place to ensure that employees have a safe and supportive working environment. The Alert also sets out that we need to strike a reasonable balance between the genuine needs of employees to take occasional periods of sickness because of ill-health and our ability to continue to fulfil our role in serving our communities. The Alert specifically highlights the support available through MIND, which is a mental health charity, and the last government invested up to £4m in the provision of mental health support to the Blue Light Services. Staff who work in the emergency services are at a higher risk of experiencing a mental health problem than the general population and hence our desire to support this initiative to raise awareness of mental health issues and tackle stigma and provide training.
- 6.3 Making reference to our absence levels through our organisation will ensure that there is a focus on sickness. The Commands have been operating with a ‘Performance on a page’ approach and it is important that absence features as part of this. However, to support this we need to be able to access absence data, particularly local data, more easily.
- 6.4 The Service Leadership Team has been highlighting this measure and it is being cascaded through the organisation. As part of our communications, we will release more frequent Service wide messages.

7. CULTURAL ASPECTS

- 7.1 Often, with absence in organisations, there is a culture as to how organisations respond to sickness and the normative levels of sickness. The culture in an organisation will also have an impact with staff engagement, job satisfaction, morale, relationships with colleagues all having an effect on sickness levels. Periods of change can be unsettling for staff and lead to increases in absence levels. Where absence control is given a lower priority absence levels are likely to be higher.
- 7.2 The Service Leadership Team previously commissioned a sub-group to consider the cultural aspects related to sickness and the initial considerations were around the differences between private and public organisations. Private organisations typically have less attractive occupational sick pay schemes and also lower levels of sickness. Some organisations take a much more punitive approach through sanctions and for example using trigger points which result in automatic disciplinary processes. This can have a short-term impact in improving absence levels but it was considered as inappropriate to seek to compel genuinely sick employees in the fire and rescue service to attend work and the subsequent impact on morale. It is recognised, however, that there is a fine line with such sensitive matters.
- 7.3 The Service has a 'light-touch' project into Fire Fighter fitness which is intended to create a fitness culture within the organisation.

8. SUPPORTIVE HEALTH AND WELLBEING INITIATIVES

- 8.1 As part of a supportive approach, there are steps that organisations can take to assist staff with an early return to work and preventative provisions that avoid the sickness occurring in the first place.
- 8.2 There has been much research into sickness absence with Dame Carol Black leading much of the significant recent national reviews both in 2008 and 2011. This led to the introduction of the 'fit note' which replaced the sick note and recommendations for an additional government funded Independent Assessment Service. Dame Carol Black identified that for most people of working age, work, the right kind of work, is good for their health and well-being. Secondly, that for most people worklessness is harmful. Thirdly, much sickness absence and inactivity follows common health conditions which, given the right support, are compatible with work, although sometimes it means a different kind of work.
- 8.3 As part of her findings, Dame Carol Black proposed indicators that would show whether organisations were improving the promotion of better health and wellbeing at the workplace. These included:
- Health & Wellbeing initiatives and support
 - Flexible working policies
 - Stress management
 - Attendance management programmes
 - Employee engagement
 - Satisfaction with work

- 8.4 The Service does have an impressive number of provisions for staff including annual leave allocation, flexible working for non-station based staff, an occupational pension scheme, sick pay, access to occupational health services, health screening, physiotherapy, workplace adjustments, counselling, stress management support, critical incident defusing, an employee paid healthcare scheme, gym equipment, discounted gym membership and time for fitness training for certain staff categories.
- 8.5 As part of encouraging fitness, the Service has previously operated a cycle scheme through a salary sacrifice scheme to enable employees to purchase cycles. However this scheme was ceased due to the upfront running costs. There are benefit providers who could support us with such schemes through a Total Rewards System that can make such schemes cost-neutral. Salary sacrifice schemes such as Cycles and Childcare could, within a Total Rewards Scheme, also support the provision of an Employee Assistance Programme (EAP) and annual benefit statements for staff. Employee Assistance Programmes generally provide online and helpline services which provide information, advice and counselling on a variety of issues which can cause absence and/or performance problems. Such a proposal would need to be submitted through the Service Improvement Framework to scope out this work.
- 8.6 With regard to attendance management, we do support a phased return and workplace adjustments but these interventions are typically when someone has become long-term sick, i.e. after 28 days, and we are seeking to bring such interventions forward.
- 8.7 The Service has a range of support associated with mental health problems with counselling, stress facilitators, staff supporters, workplace stress risk assessment (RA10), mediation services, and a dedicated Welfare Officer.
- 8.8 A “you-tube” video has been produced featuring staff from the fire and rescue service, police and ambulance service talking about their experiences as part of the MIND campaign. There are other resources which include a bespoke mental health training package for managers as well as frontline staff and volunteers across the emergency services and a helpline service which we need to tap into.
- 8.9 The Independent Assessment Service that Dame Carol Black recommended is coming into fruition through the Fit for Work scheme which includes web based information and a telephone line but also a means for GPs to refer individuals for a free occupational health assessment. This support is likely to be more beneficial to Small and Medium Enterprises without an occupational health provider but we are exploring whether there are additional benefits for the Service.
- 8.10 The Service also has a range of discretionary leave arrangements which staff may not be aware of e.g. compassionate leave. We also have family leave e.g. time off for dependants, paternity and maternity leave etc. and staff will be reminded of these policies.
- 8.11 Some organisations have a separate category for disability related sickness and the Service could introduce this. Where sickness is related to disability it would be discounted from trigger points and any potential disciplinary or performance management related discussions.
- 8.12 Creating a more stable workplace would also be beneficial and whilst the Service still has some way to go, we are intending to reduce the number of temporary promotions which has impacted upon the mental health of some of our staff. At the same time, we have an objective to create a more flexible workforce with more rounded officers and the ability for staff to move around the service is a key aspect of this.

- 8.13 As part of our Performance Management, we need to ensure that our staff fully understand what is required from them through their line manager so that in a shrinking organisation we clarify the priorities and ensure that this is the focus of our efforts. The use of appraisals (PPDs) and regular 1:1s with line managers will support this. This will reduce stress levels and ensure the Service remains focused on what is most important.

9. SICK PAY & OVERTIME ARRANGEMENTS

- 9.1 For Grey book staff, sick pay benefits are available from day one of employment whereas for Green book staff the duration of sick pay increases each year over the first 5 years of service. These are contractual benefits that are provided through national agreements and so we would be in breach of contract should we remove this benefit. However, there is a discretionary element around the extension of sick pay and we will continue to comply with the Grey book provisions regarding sick pay by only considering an extension to sick pay in exceptional situations. We have discussed this aspect with the FBU and agreed an alternative approach to the existing sick pay review panels that we currently operate.
- 9.2 Where staff have not provided the appropriate fit note or declined to attend a medical then it would be reasonable for the Service to state that in such circumstances sick pay will be stopped.
- 9.3 For support staff, we have a grading structure with annual automatic increments. It may be possible to link these increments to attendance performance and this is a matter that we will explore further with UNISON. For uniformed staff we will review the CPD payment and again the linkage to attendance.

10. CONCLUSION

- 10.1 A very positive downward trend in sickness absence levels, with an exceptionally good year in 2013/14, existed until 2014/15. The significantly higher absence levels in 2014/15 has prompted the development of an action plan to redress the position. It is noted that 2014/15 followed a year of considerable changes within the Service with significant reductions in staffing levels as a result of needing to meet Government grant reductions. It should also be recognised that whilst our long term aim continues to be to drive down sickness absence, current levels are being experienced in other fire and rescue services. The extended period of unease related to the national strike over pension changes is thought to have had an impact on morale and this may be reflected in higher sickness levels for the period in question. We will, therefore, be seeking to address the increase in sickness in 2014/15 and in doing so improve staff welfare and reduce our costs as set out within the Action Plan in Appendix A.

MIKE PEARSON
Director of Corporate Services

Sickness Absence Management Action Plan

Category	Action
Measuring and monitoring absence levels	Complete the testing and implementation of version 2 of the sickness reporting system.
Measuring and monitoring absence levels	Determine the next system development requirements to incorporate external accessibility for on-call staff, link with the Gartan system and the automatic sign-off of Return-to-work interview forms within 3 days.
Measuring and monitoring absence levels	Ensure return to work interviews are always completed by line managers and reasons for absence recorded.
Measuring and monitoring absence levels	Provision of Long-term sickness data to all Service Leadership Team leads on a monthly basis.
Analysis of absence management data	Undertaking further analysis of absence management data in relation to long-term sickness duration and reason codes, sickness league tables, local level data, and hot-spots.
Analysis of absence management data	Benchmarking of sickness data with the National FRS Occupational Health Performance Report, National Office of Statistics and CIPD surveys.
Analysis of absence management data	At a local level, line mgrs review sickness patterns related to weekends, start/finish of shifts, good weather, sporting events etc
Cultural aspects	Develop and introduce an Organisational Development Strategy and a 'Working Together' agreement for managers and staff.
Cultural aspects	Introduce a new a shorter but more frequent staff survey which will enable us to get employee feedback on how well they feel engaged, managed, and their job satisfaction.
Cultural aspects	Develop a further mini-survey on staff attitudes to booking sickness and that of colleagues taking time off.
Cultural aspects	Create a fitness culture through the implementation of the Firefighter Fitness project.
Cultural aspects	Provide Performance information within PIMS on the status of attendance at Fitness tests/3 yearly medical
Cultural aspects	Provide Service Leadership Team with annual listings of Fitness tests/3 yearly medicals that require scheduling.
Communications	Regular communication messages from the CFO including the impact upon the Service.
Communications	Regularly engage and provide staff with information that is likely to impact upon staff.
Communications	Advertise to staff the other forms of discretionary leave that can be taken and also family leave.

Sick pay & overtime arrangements	Continue to comply with the Grey Book provisions regarding sickness arrangements by only considering an extension to sick pay in exceptional situations.
Sick pay & overtime arrangements	Review the Sickness Absence Management policy and update with the changes relating to the action plan.
Sick pay & overtime arrangements	Factor attendance records into the granting of overtime and review whether support staff increments should be linked to satisfactory attendance and performance.
Sick pay & overtime arrangements	Remove sick pay where staff have not provided the appropriate fit note or declined to attend a medical.
Sick pay & overtime arrangements	Introduce charging for staff that decline to attend medicals and do not inform OH or the Service.
Sick pay & overtime arrangements	Explore further with UNISON the linking of support staff increments to performance including attendance. For uniformed staff review the CPD payment and again the linkage to attendance.
Supportive health and wellbeing initiatives	Investigate the introduction of a Total Rewards employee benefits package.
Supportive health and wellbeing initiatives	Review the Occupational Health working arrangements to ensure that we get the expected Service levels with timely access to medicals and that the additional services of physiotherapy and counselling are providing a return on investment by enabling staff to return to full fitness sooner. Review points will be introduced within the provision of Physiotherapy and counselling to ensure that the support is being effective.
Supportive health and wellbeing initiatives	There should be a minimal delay in making an assessment of an individual's capability to work and the Service will make early contact with the employee and if appropriate meet the employee to understand the reason for the absence and consider pathways to returning to work e.g. a phased return or workplace adjustments including changing from shift based work to the day duty.
Supportive health and wellbeing initiatives	Utilise the Firefighters' Charity that can now support mental health issues.
Supportive health and wellbeing initiatives	MIND have received lottery funding for supporting the emergency services through the Blue Light 'Time to Change' campaign. As part of this we will pledge our support to the Time to Change campaign and create an action plan around this. One of our staff is featured in the video and he is prepared to help promote this.
Supportive health and wellbeing initiatives	Utilise Blue Light resources including mental health training packages.
Supportive health and wellbeing initiatives	Explore the potential benefits of promoting and supporting the government Fit for Work scheme.
Supportive health and wellbeing initiatives	Create a more stable workplace by reducing the number of temporary promotions.

Supportive health and wellbeing initiatives	Promote the Benenden healthcare scheme and support the FBU healthcare scheme
Supportive health and wellbeing initiatives	As part of our Performance Management, ensure that our staff fully understand what is required from them so that in a shrinking organisation we clarify the priorities and ensure that this is the focus of our efforts. The use of appraisals (PPDs) and regular 1:1s with line managers will support this.
Supportive health and wellbeing initiatives	Introduce a separate category for disability related sickness and the Service. Where sickness is related to disability it would be discounted from trigger points and any potential disciplinary or performance management related discussions.
Training	Update the sickness management e-learning package incorporating the use of the portal and make a mandatory unit for all managers.

REPORT REFERENCE NO.	HRMDC/15/6
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2015
SUBJECT OF REPORT	REDUNDANCY COMPENSATION RATES
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p><i>That the Committee reviews the current redundancy compensation rate with a view to recommending that the Authority:</i></p> <ul style="list-style-type: none"> <i>(a) retains its current compensation rate (a multiplier of 2 using actual week's pay) for staff eligible to the compensation provisions under the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;</i> <i>(b) extends this multiplier to uniformed staff;</i> <i>(c) endorses, subject to (d) below, that further reviews of the compensation rates should be undertaken on an annual basis by the Human Resources Management & Development Committee, with any recommended changes to the compensation rate [and associated date for application of any revised compensation rate] being made to the full Authority</i> <i>(d) That any future proposed revision of the compensation rates would be subject to consultation with the trade unions.</i>
EXECUTIVE SUMMARY	<p>At the Authority meeting on the 22 January 2014 the redundancy multiplier for Support Staff was reviewed and left unchanged. It is intended that the multiplier is reviewed on an annual basis by this committee, with appropriate recommendations then being made to the full Authority.</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 This Committee, at its meeting on 22 January 2014, 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.*
- 1.2 The intention is that redundancy compensation rates are reviewed annually by this Committee, which then makes appropriate recommendations to the full Authority. This paper includes an explanation of how redundancy compensation is applied and makes comparisons with other authorities in the South West.
- 1.3 Voluntary redundancy has been used to date as a managerial tool allowing the Service to reduce down staffing numbers at a greater rate than would otherwise have been the case. Reductions in voluntary redundancy rates, however, will have an impact on the effectiveness of this managerial tool in reducing down workforce numbers both now and in the future.

2. **REDUNDANCY MULTIPLIER**

- 2.1 The Service employs the majority of staff on two sets of nationally-agreed terms and conditions commonly referred to as the 'Grey Book' (for uniformed staff) and 'Green Book' (for non-uniformed staff). There are also several pension schemes covering the different categories of staff. For uniformed staff there is the Firefighters' Pension Scheme 1992 and the New Firefighters' Pension Scheme 2006 (both now closed to new members) together with the recently-introduced Firefighters' Pension Scheme 2015. For non-uniformed support staff there is the Local Government Pension Scheme (LGPS). The Firefighter's Pension 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 LGPS requires that the Service has a policy on pension discretions to apply in certain situations including that of redundancy. As part of its discretionary policies under the LGPS, this Service currently enhances redundancy payments using a multiplier of 2, as agreed by the Authority and following consultation with the trades unions. The Firefighters' Pension Schemes 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 £475).*

- 2.4 For staff within the LGPS, there is additional legislation in relation to redundancy payments in 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 reviewed their schemes and some organisations 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 £475 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 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.
- 2.8 For this Authority, it was previously determined that a balance had to be struck between the 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 that time 20 Support Staff have left the Service under these terms. A further 30 wholetime staff have accepted voluntary redundancy and 2 from Control. The Service is still receiving a small number of requests for voluntary redundancy. From a Service perspective, the existing multiplier level provides an effective basis to incentivise employees to take voluntary redundancy, which reduces the risk of having to consider making compulsory redundancies. To date, the incidence of redundancies has not been significantly high (staff reductions being largely achieved through natural turnover) and so there is little risk to the Authority, for the time being, in maintaining the existing multiplier level with the proviso that the situation continues to be reviewed at least on an annual basis.

3. REDUNDANCY MULTIPLIER FOR OPERATIONAL STAFF

- 3.1 As set out in paragraph 2.2 above, the Firefighters’ Pension Schemes are silent on the issue of pension discretions for enhanced redundancy pay. Previous advice from the National Employers was that the discretionary compensation regulations specifically exclude operational firefighters as shown in the following extract:

“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 was previously thought to mean that fire & rescue authorities have no powers to increase a redundancy payment over and above that provided for under the Employment Rights Act 1996.
- 3.3 This position was recently challenged by two fire and rescue authorities and the Counsel opinion obtained is unequivocal in advising that enhanced redundancy payments to operational staff **are** lawful by virtue of the general power of competence as set out in Section 5A of the Fire & Rescue Services Act 2004 (as amended by the Localism Act). The Counsel advice also indicates that the only limit to such an enhanced payment would be the “Wednesbury” principle (i.e. provided that the enhancement was not so unreasonable that no reasonable person, acting reasonably, could have determined the level of enhancement).
- 3.4 This unequivocal Counsel opinion can be relied on by the Authority should it wish to apply exactly the same rate of redundancy compensation to both uniformed and non-uniformed staff. An example of the impact of such redundancy compensation for a firefighter at age 45 years with maximum service for redundancy purposes (20 years) would be to increase the compensation payable from £10,450 to £24,728.

4. CONCLUSIONS

- 4.1 The Authority has determined to review the level of redundancy multiplier to be applied on an annual basis. Other public bodies in the South West apply redundancy multipliers that vary to some extent and there is no common approach other than multiplier levels have reduced, to a greater or lesser extent, over the past five years as has the rate applied by the Authority.
- 4.2 The existing multiplier level has to date provided an effective incentive for employees to take voluntary redundancy, thereby mitigating the risk of having to consider making compulsory redundancies. The incidence of voluntary redundancies so far has not been significantly high (staff reductions being largely achieved through natural turnover) and so there is little risk to the Authority, for the time being, in maintaining the existing multiplier level.
- 4.3 The recent, unequivocal, Counsel opinion that enhanced redundancy payments to operational staff are lawful can be relied on by the Authority should it now wish to apply exactly the same rate of redundancy compensation to both uniformed and non-uniformed staff.

MIKE PEARSON
Director of Corporate Services

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 i.e. 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 week's 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

REPORT REFERENCE NO.	HRMDC/15/7
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2015
SUBJECT OF REPORT	FIREFIGHTERS PENSIONS SCHEMES – EXERCISE OF DISCRETIONS – FURTHER CONSIDERATIONS
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<p><i>that the contents of this report be considered with a view to recommending that the Authority approves:</i></p> <p><i>(a) the proposed general policies to apply in relation to those discretions from each of the Firefighters Pensions Schemes from 1992 onwards, as set out in Schedule 1 to this report;</i></p> <p><i>(b) that those discretions in the Firefighters Pensions Schemes from 1992 onwards of a more Scheme administrative or individualised, case-by-case basis, as identified in Schedule 2 to this report, be exercised in accordance with Section 2, paragraphs 2.5 and 2.6 of this report;</i></p> <p><i>(d) authorising the Clerk, pending approval of the above recommendations, to make any consequential changes to the Authority Constitutional Framework documents (notably, the Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations), to reflect the above approvals; and</i></p> <p><i>(d) those recommendations as set out in Section 3 of this report and relating to Firefighters’ Pensions Schemes prior to 1992.</i></p>
EXECUTIVE SUMMARY	<p>The full Authority, at its meeting on 29 July 2015, considered a joint report of the Chief Fire Officer and Clerk to the Authority identifying discretions available to the Authority under the various Firefighters Pensions Schemes from 1992 onwards and proposing either a general policy or alternative methodology for discharging those discretions.</p> <p>The Authority resolved to defer determination of this matter pending the opportunity for the proposals to be considered and commented on by the Local Pensions Board established to assist the Authority (as Scheme Manager) in securing compliance with Regulations relating to Firefighters Pensions Schemes and ensuring the effective and efficient governance and administration of the Schemes (Minutes DSFRA/46 [20 February 2015 meeting] and DSFRA/20 [29 July 2015 meeting] refer).</p> <p>This matter was duly considered by the Local Pensions Board at its meeting on 4 September 2015. The revised Schedules to this report reflect the consensus agreed at that meeting and the Committee is invited to consider them, along with the contents of this report, with a view to recommending approval by the Authority.</p>

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. Schedule 1 – Firefighters’ Pensions Schemes – Proposed General Policies</p> <p>B. Schedule 2 – Firefighters’ Pensions Schemes – Other Discretions.</p>
LIST OF BACKGROUND PAPERS	Report DSFRA/15/18 to the meeting of the full Authority held on 29 July 2015.

1. BACKGROUND AND INTRODUCTION

- 1.1 The full Authority, at its meeting on 29 July 2015, considered a joint report of the Chief Fire Officer and Clerk to the Authority identifying discretions available to the Authority under the various Firefighters Pensions Schemes from 1992 onwards and proposing either a general policy or alternative methodology for discharging those discretions.
- 1.2 The Authority resolved to defer determination of this matter pending the opportunity for the proposals to be considered and commented on by the Local Pensions Board established, in accordance with the relevant Regulations, by the Authority at its meeting on 20 February 2015 to assist the Authority (as Scheme Manager) in securing compliance with Regulations relating to Firefighters Pensions Schemes and ensuring the effective and efficient governance and administration of the Schemes (Minutes DSFRA/46 [20 February 2015 meeting] and DSFRA/20 [29 July 2015 meeting] refer).

2. CONSIDERATION BY LOCAL PENSIONS BOARD

- 2.1 The Local Pensions Board met on 4 September 2015 to consider, amongst other things, the report and recommendations to the Authority in terms of the exercise of discretions under the Firefighters Pensions Schemes.
- 2.2 These were considered at some length by the Board. The outcome was that, whilst there was consensus in relation to the majority of the proposed general policies to be applied in relation to certain of the discretions, it was felt that some areas could more accurately reflect or convey the spirit of the Regulations. This has resulted in re-wording of some of the proposed general policies and the moving of two issues (relating to the discretion to withhold sums in cases of fraud, theft, negligence etc; and discretion to require forfeiture of award on conviction of certain offences) from the "General Policies" schedule to the "Other Discretions" schedule as it was considered that these were more suited to being exercised on an individual, case-by-case basis rather than being subject to a more restrictive general policy.
- 2.3 Attached to this report, therefore, are two revised Schedules. In both Schedules, the changes proposed by the Local Pensions Board are shown in **yellow highlighting**.
- 2.4 Schedule 1 indicates those discretions where it is suggested a general policy would be helpful in terms of exercise of the discretion while Schedule 2 identifies those discretions which are either more routine, Scheme administration in nature or where a more individualised, case-by-case approach to discharging the discretion would be more appropriate. As both Schedules deal with several Firefighters Pensions Schemes, similar discretions in each individual Scheme have been grouped together to promote ease of reference and consistency of approach.
- 2.5 In relation to Schedule 2, it is proposed that:
- those discretions of a more routine, Scheme administration type be exercised by the Chief Fire Officer; and
 - that those individualised, case-by-case discretions which could involve additional financial implications for the Authority should be exercised either by the Chief Fire Officer, the Human Resources Management & Development Committee or the full Authority depending on the quantum of the financial implications and alignment to the thresholds, as set out in the Authority's approved Financial Regulations, for settling employee claims, namely:
 - for amounts up to £25,000 – Chief Fire Officer

- for amounts between £25,000 and £75,000 – the Human Resources Management & Development Committee;
- for amounts in excess of £75,000 – the full Authority.

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

3. FIREFIGHTERS' PENSION SCHEMES PRE-1992

3.1 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

3.2 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 but, should any individual(s) be so entitled, then it is recommended that:

- (a) the Fire & Rescue Authority assess and pay any benefits due in accordance with the provisions of the relevant Act/Scheme; 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.

4. CONCLUSION

4.1 Firefighters Pensions Schemes have evolved over the years and there are now several Schemes in existence, each containing a number of discretions. Best endeavours have been taken to identify the discretions in the four most recent Schemes (from 1992 onwards) and to propose an appropriate methodology for exercising these discretions.

4.2 The outcome of this exercise has now been considered by the Local Pensions Board, as recommended by the full Authority at its last meeting. The Board, in turn, has suggested several changes to the initial proposals. These are shown highlighted in the revised Schedules attached. The Committee is invited to consider these with a view to commending them, together with the suggested approach in relation to Schemes pre-1992 as outlined in Section 3 of this report, to the full Authority for approval.

MIKE PEARSON
Director of Corporate Services

SCHEDULE 1 - 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>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and subject to:</p> <p>(i) a final review before deferred pension age (as specified in each Scheme); and</p> <p>(ii) advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</p> <p>(a) nature and level of disablement/injury;</p> <p>(b) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</p> <p>(c) appropriate level(s) of reduction to apply as recommended either at the commencement of award 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>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><u>[POLICY AS PER PREVIOUS PAGE]</u></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 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>	[POLICY AS PER PREVIOUS PAGE]
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>	That the general policy be that Additional Pension Benefit (APB) 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) UNLESS an individual requests APB in relation to a temporary promotion, in which case the request shall be approved.

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 disallow payment of deferred pension following dismissal</i>					
	Part 3, Rule 3, para. 4 and Part 9 Rule 4			<p>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.</p> <p>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).</p>	<p>(a) <i>That early payment of a deferred pension be not permitted in cases of dismissal arising from disciplinary action;</i></p> <p>(b) <i>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></p>

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 the Chief Fire Officer be delegated authority to grant an extension of up to six months to the time limit by which an individual is required to lodge an appeal against a decision based on a medical opinion, subject to compliance with any other Scheme requirements in relation to this discretion and particularly to the individual establishing that the failure to meet the deadline was not due to their own default.</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>
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>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
Rule C8(6)	-	Part 3, Rule 4, Paras 6 and 7	-	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
Rule C8(7)	-	-	-	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.
C9	-	Part 3, Rule 5, paras 1 and 2	-	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. 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.
E3	-	-	-	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.
E9(6)	-	-	-	Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive. In the exceptional circumstances that this issue should come up for consideration, the Authority has discretion to make such an award.
F4(3) (c)	-	-	-	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. 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.
F5(1)	-	-	-	Discretion to extend period in which a firefighter may make a payment to count as pensionable service

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				<p>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 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>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
G2A(3)	Part 11, Rule 4, Para 3	-	-	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.
G7(3)	-	-	-	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.
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 • 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>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
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 14, Rule 5 para 1	-	Reg. 100	Payment of awards – minors. 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	Payment of awards – discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs. 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 (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 (b) apply the benefits in such manner as the Authority may determine for the benefit of the person entitled, or his/her dependants.
Rule L5(3)	Part 14, Rule 6, Para 1.	-	Reg. 169	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. 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.

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
Rule L5(6) to (9)	Part 14 Rule 6, Paras 4 to 7		174 and 175	<p>Discretion to withhold sums in cases of fraud, theft, negligence, other offence or dismissal (for disciplinary offence)</p> <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 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> <p>Regulation 174 of the 15 Scheme gives discretion to withhold benefits payable under the Scheme to a person, to such extent and for such duration as is considered 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 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>
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, Rule 1(6) to (9)	Part 2, Rule 3, para. 10	Reg. 76	Discretion, subject to other Scheme qualifications as appropriate, to accept the status of “nominated partner” or “surviving partner” where the Scheme member and partner had been in a relationship for less than 2 years.

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	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"> • 15 Scheme - 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 Firefighters’ Pension Scheme 2006, it must also consider employer initiated retirement under Part 3, Rule 6 of the Firefighters’ Pension Scheme (England) Order 2006.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	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 9 Rule 6,	Rule 5, Part 9	-	<p>Forfeiture of award on conviction of certain offence</p> <p>These rules provide discretion to require such amount of pension as is considered appropriate where a person is convicted of an offence under Section 34(6) of the Fire & Rescue Services Act (i.e. whereby the person, either by their act or omission, injures themselves deliberately for the purpose of obtaining, either for themselves or another, a pension or injury award).</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).
-	-	-	Reg. 5	Delegation. In accordance with Regulation 5(2), the Fire & Rescue Authority may delegate any of their functions including

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
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				the power to delegate.
-	-	-	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>
-	-	-	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>

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SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
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				<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>
-	-	-	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>

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SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
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				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.
-	-	-	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>

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SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
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-	-	-	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>
-	-	-	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</p>

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				recovery is completed, or omitting to pay any increase in the amount of any pension due until the amount of overpayment is recovered.
-	-	-	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

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SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
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				<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>
-	-	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</p>

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				<p>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>
-	-	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> <p>(a) die during his/her forces period, or</p> <p>(b) be permanently disabled at the end of that period, not since have been a firefighter, and die from the</p>

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				<p>effects of an injury that occasioned his/her incapacity for the performance of duty or while in receipt of a pension,</p> <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> <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</p>

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				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.
-	-	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> <p>(a) while in attendance at a fire, and</p> <p>(b) in the execution of their duties as an employee of the Fire & Rescue Authority, and</p> <p>(c) has to retire in consequence of the injury</p> <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> <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		Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and

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		10, Rule 2, para. 7		over such reasonable period as the Authority thinks fit.

REPORT REFERENCE NO.	HRMDC/15/8
MEETING	HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE
DATE OF MEETING	16 SEPTEMBER 2015
SUBJECT OF REPORT	RETIREMENT & RE-EMPLOYMENT
LEAD OFFICER	Director of Corporate Services
RECOMMENDATIONS	<i>That the request for retirement & re-employment as identified in paragraph 2.4 of this report be approved.</i>
EXECUTIVE SUMMARY	<p>At its meeting on 20 February 2015, the Authority approved – in accordance with the requirements of the Localism Act – its Pay Policy Statement to operate for the 2015-16 financial year (Minute DSFRA/48 refers).</p> <p>The Pay Policy Statement requires, amongst other things, for all requests for re-employment following retirement, for employees up to Executive Board posts, to be approved by this Committee.</p> <p>This report provides more information on the Authority's position in relation to retirement and re-employment and sets out specific requests for approval.</p>
RESOURCE IMPLICATIONS	Contained within the body of the report.
EQUALITY RISK & BENEFITS ASSESSMENT	The Retirement & Re-Employment Policy has had an equalities assessment.
APPENDICES	Nil.
LIST OF BACKGROUND PAPERS	Report DSFRA/14/6 - "Localism Act – Pay Policy Statement 2015-16" as considered by the meeting of the Authority held on 20 February 2015.

1. **INTRODUCTION**

1.1 At its meeting on 20 February 2015, the Authority approved – in accordance with the requirements of the Localism Act – its Pay Policy Statement (PPS) to operate for the 2015-16 financial year (Minute DSFRA/48 refers). This PPS includes the following stated position on the retirement and re-employment of employees:

“8.3 The Authority will, in principle, allow the re-employment of employees who have retired, subject to a break in service of at least one month, because it is recognised that this often represents an effective way of retaining specialist knowledge and skills without any increase in cost to the Authority (and noting that costs to the Pension Scheme are no more than would be the case for normal retirement). The re-employment of any employee who has retired will, however, be subject to:

- *the approval of the Human Resources Management and Development Committee for all employees up to Executive Board posts; or*
- *the approval of the full Authority for any Executive Board post-holder.*

8.4 *Where retired uniformed staff are re-employed, then the Fire-Fighters’ Pension shall be abated such that the income from the gross annual rate of pay whilst re-employed together with the gross annual pension (after commutation) will not exceed the gross annual rate of pay immediately prior to retirement. For staff within the Local Government Pension Scheme, where an individual is re-employed on the same terms and conditions [salary] as previously, the same abatement rules as apply to those within the Fire Fighters Pension Scheme will be applied. However, the Authority’s policy on Pension Discretions refers to flexible retirement and states that this “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 arrangements will be subject to the approval mechanism detailed above.*

8.5 *The appointment, or re-employment, of any members of the Executive Board (the Chief Fire Officer, Assistant Chief Fire Officer, Director of Corporate Services and Director of People and Commercial Services) will always be subject to approval of the full Authority and any re-employment following redundancy or retirement will be subject to consideration of a robust business case and fully scrutinised against the above criteria”.*

1.2 This paper includes details of an application for retirement/re-employment in accordance with the approved policy.

2. **RETIREMENT AND RE-EMPLOYMENT**

2.1 The Service policy on Retirement & Re-employment is linked to workforce planning arrangements. Approval by the Authority of the 2013/14 – 2014/15 Corporate Plan at its meeting on 10 July 2013 (Minute DSFRA/20 refers) required a reduction of 149 whole-time posts. The Service has progressed well with reducing the staffing levels against this target to date.

2.2 The Authority has a balanced budget for this financial year which supports the existing levels of staff. In light of this, it is considered appropriate for the Service to continue the reduction in staff numbers through natural turnover but at the same time using retirement and re-employment opportunities where appropriate.

2.3 The Firefighter Pension Scheme provides for employees to receive their maximum pension benefits after 30 years' service. As there is no longer a fixed age for retirement, however, it is difficult to predict precisely when individuals are likely to leave the Service. The use of retirement and re-employment opportunities encourages individuals to commit to an end retirement date, giving the Service more control over actual retirement and natural turnover. Through this process, employees have a 1 month break in service before returning on a fixed-term contract - either on a full-time basis or as a job share. In either case, the maximum contract term is normally 12 months. Where employees return on a job share basis, we see an immediate reduction in the workforce staffing levels.

2.4 The Service has received an expression of interest from a uniformed employee:

Role	Station /Dept	Interested in Job Share
WM	Research & Development	No

2.5 There are no additional financial costs for the organisation since this employee has reached the point at which they can retire and are therefore entitled to receive their pension lump sum on retirement. The pension payments would be abated if re-employed. In addition to giving certainty to a leaving date, the retirement and re-employments represent a saving to both the Service and employee as pension contributions are either:

- removed as the employee opts out of future pension contributions, or;
- they are reduced since staff from Firefighter to Watch Manager would join the 2015 Firefighters' Pension Scheme for which the employer contributions are lower than the previous 1992 Firefighters' Pension Scheme.

2.6 For positions at Station Manager or above, the employee would be eligible to join the LGPS. Once these employees leave the organisation, the Service will not recruit replacement personnel externally so these reductions will contribute to the required reductions in staffing numbers.

3. **RECOMMENDATIONS**

3.1 That the request for retirement & re-employment as identified in paragraphs 2.4 of this report be approved.

MIKE PEARSON
Director of Corporate Services