

**M. Pearson
CLERK TO THE AUTHORITY**

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

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RESOURCES COMMITTEE
(Devon and Somerset Fire and Rescue Authority)

Thursday 19 November 2015

A meeting of the Resources Committee will be held on the above date, **commencing at 09:30 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 2 September 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. **Treasury Management Performance 2015-2016: Quarter 2**
Report of the Treasurer (RC/15/10) attached (page 7).
5. **Financial Performance Report 2015-2016: Quarter 2**
Report of the Treasurer to the Authority (RC/15/11) attached (page 16).

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

Membership:-

Councillors Dyke (Chair), Burridge-Clayton, Chugg, Greenslade, Singh, Yeomans

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

RESOURCES COMMITTEE

(Devon and Somerset Fire and Rescue Authority)

2 September 2015

Present:-

Councillors Burridge-Clayton, Dyke, Greenslade, Healey (vice Chugg), Singh, Thomas and Yeomans

Apologies:-

Councillor Chugg

***RC/1. Election of Chair**

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

***RC/2. Minutes**

RESOLVED that the Minutes of the meeting held on 14 May 2015 be signed as a correct record.

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

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

***RC/4. Treasury Management Performance 2015-2016: Quarter 1**

The Committee received for information a report of the Treasurer (RC/15/7) that set out the treasury management activities of the Authority for the first quarter of the current financial year (2015-16) to June 2015. The Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Treasury Management advocated that public authorities should receive a report on treasury management activities at least twice a year and preferably quarterly. This report therefore gave the assurance that the Authority was embracing best practice in accordance with the Code of Practice.

Adam Burlington, representing Capita – the Authority's Treasury Management Adviser – was present at the meeting and he gave an overview of the performance to date as measured against the approved Treasury Management Strategy. The key points made were:

- performance during the first quarter of the current financial year demonstrated a prudent approach to investment decisions, with priority being given to liquidity and security over yield;
- investment returns were still small as a consequence of the continuing low interest rates, but the Service was outperforming the LIBID 3 benchmark return of 0.44% with a performance of 0.52%;
- no Prudential Indicators had been breached, and;
- the level of external borrowing was £25.9million but this was anticipated to reduce to £25.8million as a result of forthcoming scheduled repayments.

Members commented in particular on the ongoing uncertainties facing the financial markets particularly in the light of the recent disaster in China and the pressure on European economies as a result of the current migration crisis. Reference was also made to the need for the Authority, wherever practicable, to seek reductions in its level of external borrowing in view of the associated, ongoing cost of this debt on the Authority's Revenue Budget. It was noted that the position on external borrowing was being monitored with a view to achieving reductions as soon as the cost of early repayment made this financially viable. No further external borrowing was planned in the current financial year and new and innovative options for financing the Estate were already under consideration as part of the work being undertaken by the Authority's Capital Programme Working Party.

RC/5. Financial Performance Report 2015-2016: Quarter 1

The Committee considered a report of the Treasurer (RC/15/8) that set out on financial performance for the first quarter (April to June) as against those agreed targets for the current (2015-16) financial year.

At this stage, it was anticipated that revenue spending would be £73.444million which was some £1.267million (1.70%) less than the approved Revenue Budget for 2015-16. This aligned to the approved strategy to deliver in-year savings wherever possible to enhance reserve balances, with the underspend being largely attributable to savings on staffing costs arising primarily from continued implementation of Corporate Plan proposals approved in July 2013.

The Treasurer reported that given the early stage in the financial year, no recommendation was made to the Committee in terms of how this predicted underspend should be utilised. In relation to capital spending the Treasurer referred to the fact that the Capital Programme for 2015-16 to 2017-18 was being revised down to £8.178million (Minute RC/6 below refers), and that at this stage spending was anticipated to be to this revised figure. Reference was made to the impact of the settlement under the Part Time Workers (Prevention of Less Favourable Treatment) Employment Tribunal. 405 employees had indicated that they would be taking up the offer of a backdated pension which was more than had been included with the original funding model. The Department for Communities and Local Government (DCLG) had confirmed that any future liabilities arising from this would be met through employer's pension contributions by using pension valuations in future years. At this time it was forecast that the total liability will be in the region of £10million, to be spread over the next 15 years. The Treasurer also reported that the DCLG had stated that further consideration of the funding of the total liability will be included as part of Comprehensive Spending Review 2015.

Attention was drawn to the recommendations for budget virements as set out in paragraphs 5.3 and 5.5 of this report which were:

- an in year budget virement of £116,000 to transfer the additional grant income from the Grants and Reimbursements budget to the Earmarked Reserve for NNDR smoothing;
- an in year budget virement of £110,000 to increase the Training budget with a corresponding increase in Grant income.

The Treasurer also referred to Section C of the report covering other financial indicators and in particular, the debts outstanding for more than 85 days. Members of the Committee commented that, since some of this may be related to commercial debt, the Authority had the ability to send in the bailiff to recover outstanding claims without recourse through the courts. Additionally, the Committee requested that the wording in existing contracts of sale be checked as this should already include coverage of retention of ownership issues. The Chief Fire Officer undertook to look into this matter and to report back to the Committee at the next meeting.

RESOLVED

- (a) that the two budget virements (in excess of £50,000), as outlined in Paragraph 5.3 and 5.5 of report RC/15/8, be approved;
- (b) Subject to (a) above, that the monitoring position in relation to projected spending against the 2015-2016 revenue and capital budgets be noted;
- (c) That the performance against the 2015-2016 financial targets be noted.

NB. Minute RC/6 below refers.

RC/6. Revision to Capital Programme 2015-16 to 2017-18

The Committee considered a report of the Director of Corporate Services and Treasurer (RC/15/9) seeking approval of the Authority to revise the Capital Programme for 2015-16 to 2017-18 to reflect slippage and savings in spending already identified as part of the financial monitoring process. The proposed changes did not require any additional external borrowing and therefore there was no further burden on the Authority's approved Revenue Budget.

The proposed changes to the Capital Programme reflected:

- a) Slippage in spending in 2014-15 and 2015-16 of £1.65m more than had been anticipated when setting the original programme for 2015-16 to 2017-18.
- b) An increase of £114,000 in 2015-16 to cover the cost of two additional capital schemes to be funded from earmarked reserves as agreed at the 2014-15 year end; specifically £84,000 for the construction of training containers at the Exeter airport site and £30,000 for Brake Testing equipment;
- c) Budget managers have now identified savings of £623,000 from the previously agreed programme. As Avon and Somerset Police are no longer committed to site sharing in Ilminster, an amount of £241,000 of Estates expenditure for the remodelling of the Fire station is no longer required. In relation to the Fleet programme, £393,000 of savings has been identified, primarily from a review of the number of Specialist Support vehicles used throughout the service.

In response to points raised by Members in relation to the need for clarity in respect of the level of capital funding required each year, the Chief Fire Officer advised that the Service was completing a pilot in respect of options for the fleet presently. The information obtained from this Pilot would facilitate the accurate prediction of the funding needed in the future which would be aligned to a clear strategy for capital spending.

RESOLVED that the Devon and Somerset Fire and Rescue Authority be recommended to approve the revised capital programme and associated prudential indicators for 2015-16 to 2017-18, as included in report RC/15/9 (and as appended to this report for reference).

NB. Minute RC/5 above also refers.

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

The meeting started at 10:00hours and finished at 11.20hours

REPORT REFERENCE NO.	RC/15/10
MEETING	RESOURCES COMMITTEE
DATE OF MEETING	19 NOVEMBER 2015
SUBJECT OF REPORT	TREASURY MANAGEMENT PERFORMANCE 2015-2016 – QUARTER 2
LEAD OFFICER	TREASURER
RECOMMENDATIONS	<i>That the performance in relation to the treasury management activities of the Authority for 2015-2016 (to September) be noted.</i>
EXECUTIVE SUMMARY	The Chartered Institute of Public Finance and Accountancy (CIPFA) issued a Code of Practice for Treasury Management. The Code suggests that members should be informed of Treasury Management activities at least twice a year, but preferably quarterly. This report therefore ensures this Authority is embracing Best Practice in accordance with CIPFA's Code of Practice.
RESOURCE IMPLICATIONS	As indicated within the report.
EQUALITY IMPACT ASSESSMENT	An initial assessment has not identified any equality issues emanating from this report.
APPENDICES	Appendix A – Investments held as at 30 September 2015.
LIST OF BACKGROUND PAPERS	Treasury Management Strategy (including Prudential and Treasury Indicators) Report DSFRA/15/3 – as approved at the meeting of the Fire & Rescue Authority meeting held on the 20 February 2015 (Minute DSFRA/44(c) refers).

1. **INTRODUCTION**

- 1.1 The Treasury Management Strategy for Devon and Somerset Fire & Rescue Authority has been underpinned by the adoption of the Chartered Institute of Public Finance and Accountancy's (CIPFA) 2011 Treasury Management in Public Services Code of Practice (the Code) and the CIPFA Prudential Code. The Authority fully complies with the primary requirements of the Code, which includes:
- The creation and maintenance of a Treasury Management Policy Statement, which sets out the policies and objectives of the Authority's treasury management activities;
 - The creation and maintenance of Treasury Management Practices, which set out the manner in which the Authority will seek to achieve those policies and objectives;
 - The Receipt by the full Authority of an annual Treasury Management Strategy Statement - including the Annual Investment Strategy and Minimum Revenue Provision Policy - for the year ahead, a Mid-year Review Report and an Annual Report (stewardship report) covering activities during the previous year;
 - The delegation by the Authority of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
- 1.2 Treasury management in this context is defined as:
- "The management of the local authority's cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks. "*
- 1.3 The preparation of this report demonstrates that the Authority is implementing best practice in accordance with the code.

2. **ECONOMIC BACKGROUND**

Economic performance

- 2.1 UK Gross Domestic Product (GDP) growth rates in 2013 of 2.2% and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and the 2015 growth rate is likely to be a leading rate in the G7 again, possibly being equal to that of the US. However, quarter 1 of 2015 was weak at +0.4% (+2.9% y/y) though there was a rebound in quarter 2 to +0.7% (+2.4% y/y).
- 2.2 Growth is expected to weaken marginally to about +0.5% in quarter 3 as the economy faces headwinds for exporters from the appreciation of Sterling against the Euro and weak growth in the European Union (EU), China and emerging markets, plus the dampening effect of the Government's continuing austerity programme, although the pace of reductions was eased in the May Budget. However, the Purchasing Manager's Index, (PMI), for services issued on 5 October would indicate an even lower growth rate of around +0.3%, in quarter 4, which would be the lowest growth rate since the end of 2012.

- 2.3 Despite these headwinds, the Bank of England August Inflation Report had included a forecast for growth to remain around 2.4 – 2.8% over the next three years. This is driven mainly by strong consumer demand as the squeeze on the disposable incomes of consumers has been reversed by a recovery in wage inflation at the same time that Consumer Prices Index (CPI) inflation has fallen to, or near to, zero over the last quarter. Investment expenditure is also expected to support growth. Since then, worldwide economic statistics have been distinctly weak so it would not be a surprise if the next Inflation Report in November were to cut those forecasts.
- 2.4 The August Bank of England Inflation Report forecast was notably subdued with inflation barely getting back up to the 2% target within the 2-3 year time horizon. However, with the price of oil taking a fresh downward direction and Iran expected to soon re-join the world oil market after the impending lifting of sanctions, there could be several more months of low inflation still to come, especially as world commodity prices have generally been depressed by the Chinese economic downturn.
- 2.5 There are therefore considerable risks around whether inflation will rise in the near future as strongly as previously expected. This will make it more difficult for the central banks of both the US and the UK to raise rates as soon as had been expected, especially given the recent major concerns around the slowdown in Chinese growth. The knock on impact on the earnings of emerging countries from falling oil and commodity prices and the volatility seen in equity and bond markets in 2015 so far could potentially spill over to impact the real economies rather than just financial markets.
- 2.6 The American economy made a strong comeback after a weak first quarter's growth at +0.6% (annualised), to grow by no less than 3.9% in quarter 2 of 2015. Whilst there had been confident expectations during the summer that the Federal Reserve could start increasing rates at its meeting on 17 September, or if not by the end of 2015, the recent downbeat news about Chinese and Japanese growth and the knock on impact on emerging countries that are major suppliers of commodities, was cited as the main reason for the Federal Reserve's decision to pull back from making that start. The nonfarm payrolls figures for September and revised August, issued on 2 October, were disappointingly weak and confirmed concerns that US growth is likely to weaken.
- 2.7 This has pushed back expectations of a first rate increase from 2015 to 2016. However, there are increasing concerns, both in the US and UK, that the growth rates currently being achieved are only being achieved with monetary policy being highly aggressive with central rates at near zero and huge Quantitative Easing (QE) in place. This is causing an increasing debate as to how realistic it will be for central banks to start on reversing such aggressive monetary policy. This may be deferred, therefore, until such time as strong growth rates are more firmly established and confidence increases that inflation is going to get back to around 2% within a 2-3 year time horizon.
- 2.8 In the Eurozone (EZ), the European Commission Bank (ECB) fired its big bazooka in January 2015 in unleashing a massive €1.1 trillion programme of quantitative easing to buy up high credit quality government and other debt of selected EZ countries. This programme of €60bn of monthly purchases started in March 2015 and it is intended to run initially to September 2016. This already appears to have had a positive effect in helping a recovery in consumer and business confidence and a start to a significant improvement in economic growth.

- 2.9 GDP growth rose to 0.5% in quarter 1 2015 (1.0% y/y) but came in at +0.4% (+1.5% y/y) in quarter 2 and looks as if it may maintain this pace in quarter 3. However, the recent downbeat Chinese and Japanese news has raised questions as to whether the ECB will need to boost its QE programme if it is to succeed in significantly improving growth in the EZ and getting inflation up from the current level of around zero to its target of 2%.

Interest Rate Forecasts

- 2.10 The Council's treasury advisor, Capita Asset Services, has provided the following forecast:

	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18
Bank rate	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.50%	1.50%	1.75%	1.75%
5yr PWLB rate	2.40%	2.50%	2.60%	2.80%	2.90%	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%
10yr PWLB rate	3.00%	3.20%	3.30%	3.40%	3.50%	3.70%	3.80%	3.90%	4.00%	4.10%	4.20%
25yr PWLB rate	3.60%	3.80%	3.90%	4.00%	4.10%	4.20%	4.30%	4.40%	4.50%	4.60%	4.60%
50yr PWLB rate	3.60%	3.80%	3.90%	4.00%	4.10%	4.20%	4.30%	4.40%	4.50%	4.60%	4.60%

- 2.11 Capita Asset Services undertook a review of its interest rate forecasts on 11 August after the August Bank of England Inflation Report. This latest forecast includes no change in the timing of the first increase in Bank Rate as being quarter 2 of 2016. With CPI inflation now likely to be at or near zero for most of 2015, it is difficult for the Monetary Policy Committee to make a start on increasing Bank Rate when the Inflation Report forecast was also notably subdued with inflation barely getting back up to the 2% target within the 2-3 year time horizon.

- 2.12 Despite average weekly earnings ticking up to 2.9% y/y in the three months ending in July, (as announced in mid-September), this is unlikely to provide ammunition for the Monetary Policy Committee to take action to raise Bank Rate soon as labour productivity growth meant that net labour unit costs are still only rising by about 1% y/y. The significant appreciation of Sterling against the Euro in 2015 has also acted as a dampening to UK growth while sharp volatility in financial markets since the Inflation Report has depressed equity prices, raised bond prices and lowered bond yields (and Public Works Loan Board rates).

- 2.13 The Governor of the Bank of England, Mark Carney, has repeatedly stated that increases in Bank Rate will be slow and gradual. The Monetary Policy Committee is concerned about the impact of increases on many heavily indebted consumers, especially when average disposable income is only just starting a significant recovery as a result of recent increases in the rate of wage inflation, though some consumers will not have seen that benefit come through for them.

TREASURY MANAGEMENT STRATEGY STATEMENT

Annual Investment Strategy

- 3.1 The Authority's Annual Investment Strategy, which is incorporated in the Treasury Management Strategy Statement (TMSS) was approved by the Authority on the 20th February 2015 (Minute DSFRA/44(c) refers). It outlines the Authority's investment priorities as follows:
- Security of Capital
 - Liquidity
- 3.2 The Authority will also aim to achieve the optimum return on investments commensurate with the proper levels of security and liquidity. In the current economic climate it is considered appropriate to keep a significant proportion of investments short term to cover short term cash flow needs but also to seek out value available in significantly higher rates in periods up to 12 months with highly credit rated financial institutions using the Capita suggested creditworthiness matrices, including Credit Default Swap (CDS) overlay information provided by Capita.
- 3.3 A full list of investments held as at 30 September 2015 are shown in Appendix A.
- 3.4 Investment rates available in the market have been broadly stable during the quarter and have continued at historically low levels as a result of the ultra-low.
- 3.5 The average level of funds available for investment purposes during the quarter was £34.399m (£33.566m in previous quarter). These funds were available on a temporary basis, and the level of funds available was mainly dependent on the timing of precept payments, receipt of grants and progress on the Capital Programme.

Benchmark	Benchmark Return	Authority Performance	Investment interest to quarter 2
3 Month LIBID	0.43%	0.56%	£49,949

- 3.6 As illustrated, the Authority outperformed the 3 month LIBID benchmark by 0.13bp. It is also forecast that the Authority's budgeted investment target for 2015-2016 of £0.116m will be overachieved.

Borrowing Strategy

Prudential Indicators:

- 3.7 It is a statutory duty for the Authority to determine and keep under review the "Affordable Borrowing Limits". The Authority's approved Prudential Indicators (affordability limits) are outlined in the approved Treasury Management Strategy Statement.
- 3.8 A full list of the approved limits (as amended) are included in the Financial Performance Report 2015-2016, considered elsewhere on the agenda, which confirms that no breaches of the Prudential Indicators were made in the period to September 2015 and that there are no concerns that they will be breached during the financial year.

Current external borrowing

- 3.9 External borrowing as at 30 September 2015 was £25.880m (£25.944m in previous quarter), and forecast to reduce to £25.817m as at 31 March 2016 as a result of debt repayments. All of this debt was at fixed rate with the remaining principal having an average rate/life of 4.231%/30.09 years.

Loan Rescheduling

- 3.10 No debt rescheduling was undertaken during the quarter. The Authority has carried out some options appraisal work to determine if there are opportunities to repay existing loans but the current Public Works Loan Board early repayment rates mean there is no benefit in undertaking premature loan repayment. It will be kept under review and further updates will be provided in the quarterly Treasury Management reports.

Borrowing in Advance of Need

- 3.11 The external borrowing position at the end of the previous financial year of £25.943m exceeded the Capital Financing Requirement of £22.582m, which reflects that borrowing of £3.361m had been taken out in advance of spending. This was as a result of slippage against the 2013-14 and 2014-15 capital programme being more than forecast. As was reported to the Authority at its meeting in May 2015, in considering the final Treasury Management Performance Report for 2014-15, this does not represent a breach of prudential indicators, as borrowing is permitted to be above current Capital Financing Requirement as long as future Capital Financing Requirement estimates for current and next two financial years will utilise these loans.
- 3.12 For the current financial year it is forecast that by 31 March 2016 external borrowing will be £25.817m, which will match the Capital Financing Requirement figure as at the same date. This will mean that there will be no over-borrowing position by the end of the current financial year. .

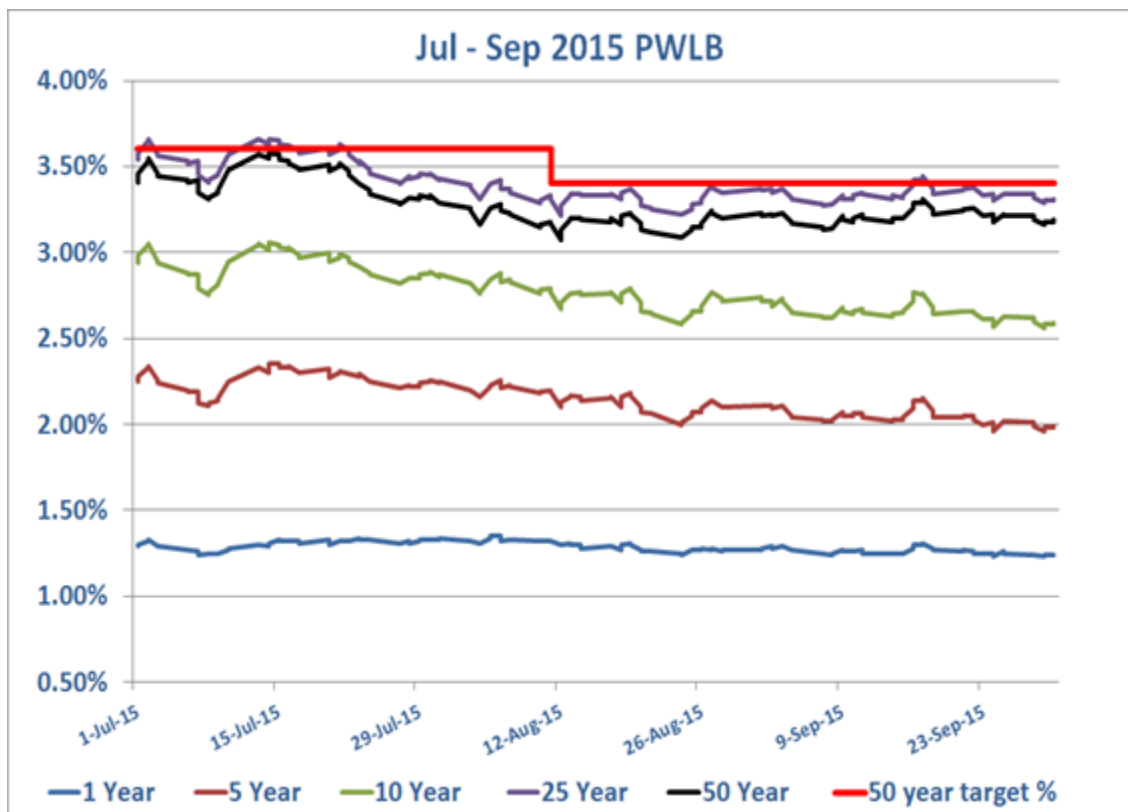
New Borrowing

- 3.13 As outlined below, the general trend in Public Works Loan Board rates has been an increase in interest rates during the first quarter but then a fall during the second quarter. The 50 year Public Works Loan Board target (certainty) rate for new long term borrowing, for the quarter ending 30th September, fell slightly from 3.60% to 3.40% after the August Bank of England Inflation report. No new borrowing was undertaken during the quarter and none is planned during 2015-16. It is anticipated that use of internal borrowing will avoid the need to borrow from the Public Works Loan Board in year; however this will be subject to certainty rates on offer and the delivery of the capital programme.
- 3.14 Public Works Loan Board certainty rates for the quarter ended 30 September 2015 are shown overleaf. Devon & Somerset Fire & Rescue Authority is eligible to borrow at certainty rates.

Public Works Loan Board rates quarter ended 30 September 2015

	1 Year	5 Year	10 Year	25 Year	50 Year
Low	1.23%	1.96%	2.56%	3.21%	3.07%
Date	24/09/2015	24/09/2015	29/09/2015	12/08/2015	12/08/2015
High	1.35%	2.35%	3.06%	3.66%	3.58%
Date	05/08/2015	14/07/2015	14/07/2015	02/07/2015	14/07/2015
Average	1.29%	2.15%	2.78%	3.40%	3.28%

3.15 Borrowing rates for this quarter are shown below.



4. SUMMARY

- 4.1 In compliance with the requirements of the CIPFA Code of Practice of Treasury Management, this report provides members with the first quarter report of the treasury management activities for 2015-2016 to September 2015. As is indicated in this report, none of the Prudential Indicators have been breached, and a prudent approach has been taken in relation to investment decisions taken so far, with priority being given to liquidity and security over yield. Whilst investment returns are still low as a consequence of the fall in interest rates, the Authority is anticipating that investment returns will over achieve the budgeted target.

KEVIN WOODWARD
Treasurer

APPENDIX A TO REPORT RC/15/10

Investments as at 30 September 2015					
Counterparty	Maximum to be invested	Total amount invested	Call or Term	Period invested	Interest rate(s)
	£m	£m			
Bank of Scotland	5.000	2.100	T	1 yr	1.000%
		1.400	T	1 yr	1.000%
		1.500	T	6 mths	0.700%
Goldman Sachs	5.000	4.000	T	3 mths	0.540%
Barclays	8.000	2.500	T	6 mths	0.690%
		3.300	T	6 mths	0.660%
		2.000	T	6 mths	0.700%
Santander	5.000	1.000	T	6 mths	0.750%
		2.000	T	3 mths	0.700%
		2.000	T	6 mths	0.690%
Coventry Building Society	2.000	2.000	T	6 mths	0.600%
Nationwide Building Society	2.000	2.000	T	6 mths	0.660%
Yorkshire Building Society	2.000	2.000	T	3 mths	0.470%
Black Rock Money Market Fund	5.000	1.725	C	Instant Access	Variable
Ignis Sterling Liquidity Money Market Fund	5.000	4.841	C	Instant Access	Variable
Total invested as at 30 September 2015		30.366m			

REPORT REFERENCE NO.	RC/15/11
MEETING	RESOURCES COMMITTEE
DATE OF MEETING	19 NOVEMBER 2015
SUBJECT OF REPORT	FINANCIAL PERFORMANCE REPORT 2015-2016 – QUARTER 2
LEAD OFFICER	Treasurer to the Authority
RECOMMENDATIONS	<p>(a) <i>That it be recommended to the Devon & Somerset Fire & Rescue Authority that a transfer be made to Earmarked Reserves of £1.5m for future funding of Capital Expenditure;</i></p> <p>(b) <i>That, subject to (a) above, the monitoring position in relation to projected spending against the 2015-2016 revenue and capital budgets be noted;</i></p> <p>(c) <i>That the performance against the 2015-2016 financial targets be noted.</i></p>
EXECUTIVE SUMMARY	<p>This report provides the Committee with the second quarter performance (to September 2015) against agreed financial targets for the current financial year. In particular, it provides a forecast of spending against the 2015-16 revenue budget with explanations of the major variations. It is forecast that, after a transfer to Earmarked Reserves of £1.5m, spending will be £0.547m less than budget.</p> <p>This saving is largely attributable to the ongoing crewing changes as a result of the last Corporate Plan together with a strategy to hold vacancies when staff leave the organisation.</p>
RESOURCE IMPLICATIONS	As indicated in the report.
EQUALITY IMPACT ASSESSMENT	An initial assessment has not identified any equality issues emanating from this report.
APPENDICES	<p>A. Summary of Prudential Indicators 2015-2016.</p> <p>B. DSFRA Debt Recovery Procedure</p> <p>C. DSFRA Standard Terms and Conditions for Sale of Goods or Services</p>
LIST OF BACKGROUND PAPERS	None.

1. INTRODUCTION

1.1 This report provides the second quarterly financial monitoring report for the current financial year, based upon the position as at the end of September 2015. As well as providing projections of spending against the 2015-16 revenue and capital budget, the report also includes forecast performance against other financial performance indicators, including the prudential and treasury management indicators.

1.2 Table 1 below provides a summary of performance against the key financial targets.

TABLE 1 –PERFORMANCE AGAINST KEY FINANCIAL TARGETS 2015-2016

	Key Target	Target	Forecast Outturn		Forecast Variance	
			Quarter 2	Previous Quarter	Quarter 2 %	Previous Quarter %
Revenue Targets						
1	Spending within agreed revenue budget	£74.710m	£74.163m	£73.444m	(0.73%)	(1.70%)
2	General Reserve Balance as %age of total budget (minimum)	5.00%	7.06%	7.06%	(2.06)bp*	(2.06)bp*
Capital Targets						
3	Spending within agreed capital budget (<i>revised</i>)	£8.178m	£7.933m	£8.178m	(3.00%)	0.00%
4	External Borrowing within Prudential Indicator limit (<i>revised</i>)	£29.477m	£25.817m	£25.943m	12.42%	15.13%
5	Debt Ratio (debt charges over total revenue budget)	3.76%	3.76%	3.76%	(0.00)bp*	(0.00)bp*

*bp = base points

1.3 The remainder of the report is split into the three sections of:

- **SECTION A** – Revenue Budget 2015-16.
- **SECTION B** – Capital Budget and Prudential Indicators 2015-16.
- **SECTION C** – Other Financial Indicators.

1.4 Each of these sections provides a more detailed analysis of performance, including commentary relating to the major variances.

2. SECTION A - REVENUE BUDGET 2015-2016

2.1 Table 2 overleaf provides a summary of the forecast spending against all agreed subjective budget heads, e.g. employee costs, transport costs etc. This table indicates that spending by the year end will be £74.163m compared with an agreed budget figure of £74.710m, representing a saving of £0.547m, equivalent to 0.73% of the total budget. It should be noted that this forecast is net of a proposed budget virement of £1.5m as outlined in paragraph 9.3 of this report.

TABLE 2 – REVENUE MONITORING STATEMENT 2015-16**DEVON & SOMERSET FIRE AND RESCUE AUTHORITY**
Revenue Budget Monitoring Report 2015/16

Line No		2015/16 Budget £000 (1)	Year To Date Budget £000 (2)	Spending to Month 6 £000 (3)	Projected Outturn £000 (4)	Projected Variance over/ (under) £000 (5)
SPENDING						
EMPLOYEE COSTS						
1	Wholetime uniform staff	28,315	14,472	13,953	28,060	(255)
2	Retained firefighters	12,138	5,898	5,483	12,010	(128)
3	Control room staff	1,647	815	847	1,703	57
4	Non uniformed staff	9,970	5,126	4,825	9,745	(225)
5	Training expenses	1,186	538	484	1,230	43
6	Fire Service Pensions recharge	2,887	1,677	1,659	2,905	18
		56,143	28,526	27,251	55,653	(490)
PREMISES RELATED COSTS						
7	Repair and maintenance	1,308	654	739	1,324	16
8	Energy costs	630	268	356	617	(13)
9	Cleaning costs	445	223	347	457	12
10	Rent and rates	1,661	969	944	1,668	7
		4,044	2,113	2,386	4,066	22
TRANSPORT RELATED COSTS						
11	Repair and maintenance	607	303	171	588	(19)
12	Running costs and insurances	1,344	870	565	1,326	(18)
13	Travel and subsistence	1,540	678	662	1,507	(33)
		3,491	1,850	1,398	3,421	(70)
SUPPLIES AND SERVICES						
14	Equipment and furniture	2,693	1,346	906	2,722	29
16	Hydrants-installation and maintenance	128	64	89	188	60
17	Communications	2,114	1,057	1,620	2,069	(45)
18	Uniforms	610	305	218	620	10
19	Catering	220	110	92	204	(16)
20	External Fees and Services	106	53	54	100	(6)
21	Partnerships & regional collaborative projects	190	95	43	186	(4)
		6,061	3,030	3,022	6,089	28
ESTABLISHMENT COSTS						
22	Printing, stationery and office expenses	380	213	148	397	17
23	Advertising	39	20	8	36	(3)
24	Insurances	341	321	163	337	(4)
		760	553	319	770	10
PAYMENTS TO OTHER AUTHORITIES						
25	Support service contracts	568	263	396	622	54
		568	263	396	622	54
CAPITAL FINANCING COSTS						
26	Capital charges	3,823	887	1,176	3,728	(95)
27	Revenue Contribution to Capital spending	2,133	-	-	2,133	0
		5,956	887	1,176	5,861	(95)
28	TOTAL SPENDING	77,023	37,223	35,948	76,481	(541)
INCOME						
29	Treasury management investment income	(117)	(58)	(50)	(170)	(53)
30	Grants and Reimbursements	(3,219)	(1,772)	(1,848)	(3,135)	84
31	Other income	(998)	(499)	(346)	(1,037)	(39)
32	Internal Recharges	(30)	(15)	(11)	(28)	2
33	TOTAL INCOME	(4,363)	(2,345)	(2,255)	(4,369)	(6)
34	NET SPENDING	72,660	34,878	33,694	72,113	(547)
TRANSFERS TO EARMARKED RESERVES						
35	Transfer to Earmarked Reserve	2,051	58	551	2,051	-
		2,051	58	551	2,051	-
38	NET SPENDING	74,710	34,936	34,244	74,163	(547)

- 2.2 These forecasts are based upon the spending position at the end of September 2015, historical trends, and information from budget managers on known commitments. It should be noted that, whilst every effort is made for projections to be as accurate as possible, some budget lines are susceptible to volatility in spending patterns during the year e.g. retained pay costs which are linked to activity levels, and it is inevitable therefore that final spending figures for the financial year will differ than those projected in this report.
- 2.3 This projection for an underspend of £0.547m, net of a proposed £1.5m transfer to reserves, is largely attributable to savings on staffing costs primarily as a result of in year leavers and retirees not being replaced per the Corporate Plan implementation. It has been reported previously that, whilst full implementation of these proposals will deliver on-going savings of £6.8m, it is recognised that this full saving would take a number of years dependent on the natural turnover of staff through retirements.
- 2.4 In addition all budget managers have been tasked by the Chief Fire Officer and Executive Board to reduce spending 'in year' and managers are responding accordingly.
- 2.5 Explanations of the more significant variations from budget (over £0.050m variance) are explained below in paragraphs 3 to 7.

3. EMPLOYEE COSTS

Wholetime Staff

- 3.1 At this stage it is projected that spending on wholetime pay costs will be £0.255m less than budget largely as a result of more staff retirements and leavers during the year than had been budgeted, reducing staffing levels towards those required post Corporate Plan crewing changes. This projection includes the impact of the agreed 1% pay award from July 2015.

Retained Pay Costs

- 3.2 At this stage in the financial year spending is forecast to be under budget by £0.128m. In making this projection an assumption has been made that activity levels in the remainder of the financial year are consistent with the average for the same period for the last three financial years. It should be emphasised that by its very nature retained pay costs can be subject to significant variations e.g. volatility to spending caused from spate weather conditions.

Control Room Staff

- 3.3 It is forecast that the Control Room will be £0.057m over spent on its staffing budget. This is due to a number of employees electing to join the Local Government Pension scheme since the start of the year, where the associated employer cost was not budgeted.

Non Uniformed Pay

- 3.4 It is forecast that savings of £0.225m will be achieved against non-uniformed pay costs primarily as a result of staffing vacancies and management action to challenge whether vacancies are filled.

4. SUPPLIES AND SERVICES

Hydrants Installation and Maintenance

- 4.1 Hydrants Installation and Maintenance is forecast to be £0.060m overspent for the year. This variance is due to a backlog of maintenance work with South West Water, slipped from previous years, which has now been committed to in this financial year.

5. PAYMENTS TO OTHER AUTHORITIES

Support Services Contracts

- 5.1 Forecast expenditure of £0.622m against budget of £0.568m, an overspend of £0.054m, is due to an increase in payments to the third party Occupational Health Service and fees due to Pensions Administrators for updating their systems to accommodate the introduction of the Modified Firefighters Pension Scheme.

6. CAPITAL FINANCING COSTS

Capital charges

- 6.1 Current forecast of spending on Capital Charges is £3.728m, representing a saving of £0.095m. This as a consequence of slippage in capital spending in 2014-15 and fewer leased vehicles, resulting in a reduction in debt charges in year.

7. INCOME

Treasury Management Income

- 7.1 Due to better than forecast cash balances resulting from revenue underspend and capital slippage and stronger investments yields, treasury management income is forecast to be £0.053m better than budgeted.

Grants & Reimbursements

- 7.2 It is anticipated that there will be a £0.084m shortfall against a budget of £3.219m due to a £0.040m grant reduction (offset by lower contract expenditure) from the Department for Communities and Local Government associated with the Airwave communications contract, and fewer courses being run for Job Centre Plus (again offset by savings from expenditure lines such as non-uniformed advocate pay).

8. RESERVES AND PROVISIONS

- 8.1 As well as the funds available to the Authority by setting an annual budget, the Authority also holds reserve and provision balances.

Reserves

- 8.2 There two types of Reserves held by the Authority:
Earmarked Reserves – these reserves are held to fund a **specific** purpose and can only be used to fund spending associated with that specific purpose. Should it transpire that not all of the agreed funds are required then the agreement of the Authority would be sought to decide how any remaining balance is to be utilised.

General Reserve – usage from this Reserve is **non-specific** and is held to fund any unforeseen spending that had not been included in the base budget e.g. excessive operational activity resulting in significant retained pay costs.

Provisions

- 8.3 In addition to reserves the Authority may also hold provisions which can be defined as:

Provisions – a Provision is held to provide funding for a liability or loss that is known with some certainty will occur in the future, but the timing and amount is less certain.

- 8.4 A summary of predicted balances on Reserves and Provisions is shown in Table 3. These figures include in-year transfers to/from the revenue budget in the current financial year.

TABLE 3 – FORECAST RESERVES AND PROVISION BALANCES 31 MARCH 2016

	Balance as at 1 April 2015 £000	Approved Transfers £000	Proposed Transfers £000	Spending to P6 £000	Projected Spend 2015-16 £000	Proposed Balance as at 31 March 2016 £000
RESERVES						
Earmarked reserves						
Grants unapplied from previous years	1,707	-	-	492	963	744
Change & improvement programme	938	-	-	107	459	478
Budget Carry Forwards	727	-	-	0	442	285
Commercial Services	192	-	-	-	20	172
Direct Funding to Capital	7,175	-	1,500	-	515	8,160
Comprehensive Spending Review*	4,955	-	-	-	-	4,955
Community Safety Investment	215	-	-	33	175	40
PPE & Uniform Refresh	996	-	-	-	-	996
Pension Liability reserve	1,525	-	-	-	-	1,525
NNDR Smoothing Reserve	62	551	-	-	-	613
Total earmarked reserves	18,492	551	1,500	631	2,574	17,969
General reserve						
General fund balance	<u>5,271</u>	-	-	-	-	<u>5,271</u>
Percentage of general reserve compared to net budget						7.06%
TOTAL RESERVE BALANCES	<u>23,763</u>					<u>23,240</u>
PROVISIONS						
Fire fighters pension schemes	784	-	-	-	75	709
PFI Equalisation	295	-	-	-	-	295
TOTAL PROVISIONS	1,079			0	75	1,004

* The CSR Reserve has been established to provide additional financial contingency during the period of austerity, which is now anticipated to go beyond the current CSR 2010 period until at least 2017-18. Given the ongoing need to implement staff reductions arising from the changes within the Corporate Plan, this Reserve will be utilised over the period of austerity measures to fund the necessary changes to staffing models, including voluntary and/or compulsory redundancy costs, where required. It also provides further contingency in the event that government grant reductions are larger than included in the Authority's Medium Term Financial Plan.

9. **SUMMARY OF REVENUE SPENDING**

- 9.1 At this stage it is forecast that spending will be £0.547m (net of transfer to earmarked reserve) less than the agreed budget figure for 2015-16, which aligns with the strategy adopted to deliver in-year savings in order to enhance Reserve balances and prepare the Authority for future austerity measures.
- 9.2 In line with the published strategy to reduce future debt exposure and the resulting impact on debt charges, Members of the Resources Committee are requested to recommend to the Authority that an amount of £1.5m be transferred to an Earmarked Reserve to support future Capital Expenditure, with associated budget virements as outlined in paragraph 9.3.

- 9.3 Table 4 below provides details of the proposed transfers between subjective budget headings to fund the proposed transfer of £1.5m to the earmarked reserve to be used to fund future capital spending. Financial Regulations require that in-year virements between subjective budget lines in excess of £50,000 require the approval of the Resources Committee, and the full Authority where the amount exceeds £150,000 (Regulations A19 and A20 refers). The budget figures in Table 2 include the impact of these virements on the basis that Member approval is granted.

TABLE 4 – PROPOSED BUDGET VIREMENTS

Line (Table 2)	Budget	Requested Budget Virement
		£m
1	Wholetime Uniformed Staff	(0.700)
2	Retained Firefighters	(0.300)
3	Non Uniformed staff	(0.300)
26	Capital Charges	(0.200)
35	Transfer to Earmarked Reserve	1.500

10. SECTION B – CAPITAL PROGRAMME AND PRUDENTIAL INDICATORS 2015-16

Monitoring of Capital Spending in 2015-16

- 10.1 Table 5 below provides a summary of forecast spending against the 2015-16 capital programme. Latest projection is for capital spending to be £7.933m (£8.178m in Q1) against a revised programme of £8.178m.

TABLE 5 – CAPITAL OUTTURN 2015-16

Item	PROJECT	2015/16 £000 Revised Budget	2015/16 £000 Forecast Outturn	2015/16 £000 Forecast Slippage	2015/16 £000 Over/ (under) spend
Estate Development					
1	Major Projects - Training Facility at Exeter Airport	421	421	0	0
2	Minor improvements & structural maintenance	1,620	1,374	(120)	(126)
Estates Sub Total		2,041	1,795	(120)	(126)
Fleet & Equipment					
3	Appliance replacement	4,502	4,502	0	0
4	Community Fire Safety	0	0	0	0
5	Specialist Operational Vehicles	344	344	0	0
6	Equipment	953	953	0	0
7	ICT Department	245	246	0	1
8	Water Rescue Boats	93	93	0	0
Fleet & Equipment Sub Total		6,137	6,138	0	1
Overall Capital Totals		8,178	7,933	(120)	(125)
Programme funding					
Earmarked Reserves:		1,047	802	(120)	(125)
Revenue funds:		2,134	2,134	0	0
15	Borrowing	4,997	4,997		0
Total Funding		8,178	7,933	(120)	(125)

Slippage in 2015-16

- 10.2 As is illustrated in Table 5 it is anticipated that there will be slippage against the 2015-16 programme. At this stage, savings of £0.125m are being declared against the Capital Programme for projects which are not going ahead in 2015/16. Additionally there is forecast slippage of £0.120m due to some delays in a number of Estates projects which are on hold pending revisions to the Property Strategy. It is a common feature of capital spending that individual projects included in the programme can be subject to delays, for instance as a consequence of weather delays, or pending planning consents. Under the Prudential Code this does not cause any funding problems as slippage can be carried forward into the following years. In fact, slippage in capital spending has a positive impact against the revenue account in so much as it defers borrowing requirements and the associated debt charges.

Prudential Indicators (including Treasury Management)

- 10.3 Total external borrowing with the Public Works Loan Board (PWLB) as at 30 September 2015 stands at £25.880m (from £25.944m in Q1), and forecast to reduce to £25.817m as at 31 March 2016. This level of borrowing is well within the Authorised Limit for external debt of £30.953m (the absolute maximum the Authority has agreed as affordable). No further external borrowing is planned in this financial year.
- 10.4 Investment returns in the quarter yielded an average return of 0.56% which outperforms the LIBID 3 Month return (industry benchmark) of 0.43%. It is forecast that investment returns from short-term deposits is anticipated to exceed the budgeted figure of £0.117m by 31 March 2016.
- 10.5 Appendix A provides a summary of performance against all of the agreed Prudential Indicators for 2015-2016, which illustrates that there was no breach of any of these indicators.

11. SECTION C - OTHER FINANCIAL PERFORMANCE INDICATORS

Aged Debt Analysis

- 11.1 Total debtor invoices outstanding as at Quarter 2 were £288,769 (previous quarter £48,190). Table 6 below provides a summary of all debt outstanding as at 30 September.
- 11.2 Of this figure an amount of £10,518 (£8,346 as at 30 June) was due from debtors relating to invoices that are more than 85 days old, equating to 3.64% (17.32% as at 30 June) of the total debt outstanding. Table 7 overleaf provides an analysis of all debt in excess of 85 days.

TABLE 6 – OUTSTANDING DEBT AS AT 30 SEPTEMBER 2015

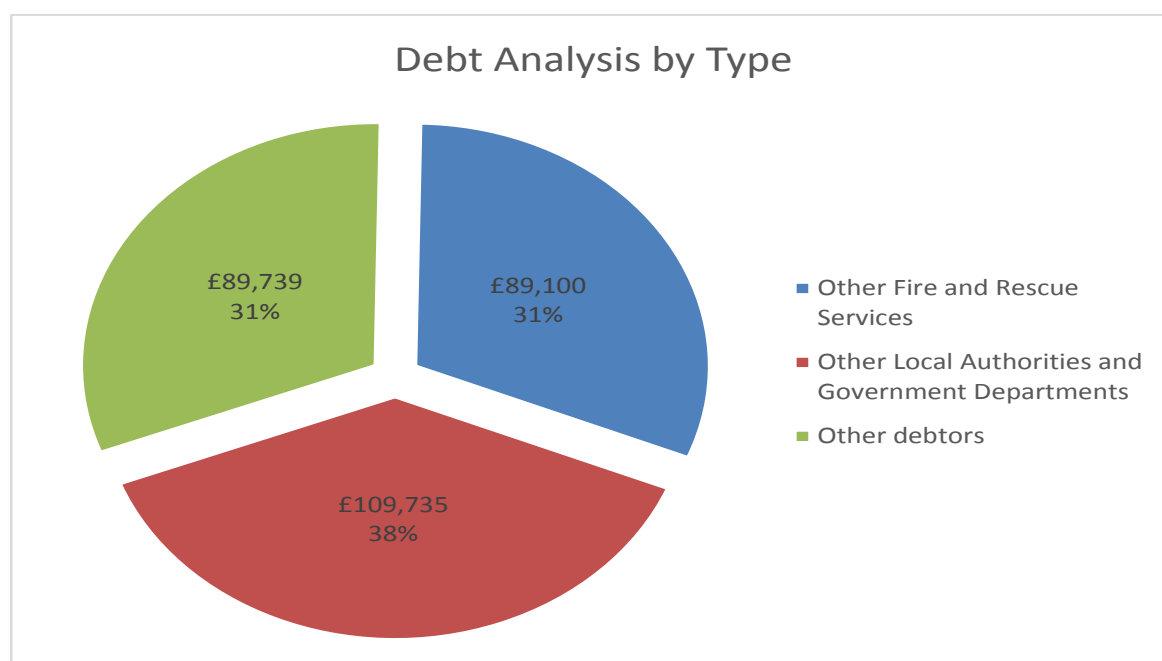
	Total Value £	%
Current (allowed 28 days in which to pay invoice)	257,180	89.06%
1 to 28 days overdue	-	0.00%
29-56 days overdue	42	0.01%
57-84 days overdue	21,029	7.29%
Over 85 days overdue	10,518	3.64%
Total Debt Outstanding as at 30 September 2015	288,769	100.00%

TABLE 7 – DEBTS OUTSTANDING FOR MORE THAN 85 DAYS

	No	Total Value	Action Taken
Individual Debts less than £1,000	6	£959	Each debt being pursued by the Risk and Insurance Officer.
South West Ambulance Trust	1	£9,559	Monies due in relation to station site sharing costs. Finance Team currently working with SWAST to secure immediate payment.

Debt Recovery Process

11.3 Following discussions on outstanding debt at the last meeting of this Committee further information was requested to be considered at the next meeting in relation to the types of debt and the debt recovery process applied. Chart 1 below provides an analysis of total debt as at 30 September by Debtor Type.



11.4 As is illustrated by Chart 1 a significant proportion of debt (69%) relates to debt from other public sector organisations and can be considered low risk in terms of the potential for non-payment. The remaining debt from other debtors (31%) relates to a range of services provided by the Service for which it is able to recover costs e.g. fire cover at Glastonbury Festival. It should be emphasised that none of this debt relates to any commercial activities which is recovered and monitored separately through the commercial company RedOne Ltd.

- 11.5 At this time there is no reason to suggest that any of the debts listed above will result in non-payment. However given the potential for an increased risk of non-payment in the current economic climate, it is important that robust debt recovery processes are in place to ensure that all reasonable steps are taken to collect debts within agreed timescales. A summary of the Service Debt Recovery Procedures, as contained within Service Policy Documents, is provided at Appendix B and a copy of the Service standard Terms and Conditions is provided at Appendix C.
- 11.6 To date the Service has a good track record of collecting debts due, with only a small number of instances of debt write-off.
- 11.7 Given this track record and the types of debtors associated with Service debt levels it is considered that the current debt recovery process is proportionate to the level of risk of non-payment. No proposals to change this process are therefore considered at this time.

Payment of Supplier Invoices within 30 days

- 11.8 There is a statutory requirement for the Authority to pay undisputed invoices within 30 days. Actual performance to the end of September 2015 was 89.94% compared to the previous reported figure of 92.04% as at 30 June 2015. Officers recognise the importance of this measure to ensure that suppliers are being paid promptly. Whilst the drop in performance is, in the main, attributable to significant staffing issues within the Finance Team, measures are being put in place to improve Service performance.

KEVIN WOODWARD
Treasurer to the Authority

APPENDIX A TO REPORT RC/15/11

PRUDENTIAL INDICATORS 2015-2016

Prudential Indicators and Treasury Management Indicators		Forecast Outturn £m	Target £m	Variance (favourable) /adverse
Capital Expenditure		8.178	7.933	(£0.245m)
External Borrowing vs Capital Financing Requirement (CFR) - Total		27.261	27.261m	£0.000m
- Borrowing		25.817	25.817	
- Other long term liabilities		1.444	1.444	
External borrowing vs Authorised limit for external debt - Total		27.261	30.993	(£3.732m)
- Borrowing		25.817	29.477	
- Other long term liabilities		1.444	1.516	
Debt Ratio (debt charges as a %age of total revenue budget)		3.76%	3.76%	(0.0)bp
Cost of Borrowing – Total		1.096	1.096	(£0.000m)
- Interest on existing debt as at 31-3-15		1.096	1.096	
- Interest on proposed new debt in 2015-16		0.000	0.000	
Investment Income – full year		0.170	0.116	(£0.053m)
		Actual (30 Sept 2015) %	Target for quarter %	Variance (favourable) /adverse
Investment Return		0.56%	0.43%	(0.13)bp
Prudential Indicators and Treasury Management Indicators	Forecast (30 March 2015) %	Target Upper limit %	Target Lower limit %	Variance (favourable) /adverse %
Limit of fixed interest rates based on net debt	100.00%	100.00%	70.00%	0.00%
Limit of variable interest rates based on net debt	0.00%	30.00%	0.00%	(30.00%)
Maturity structure of borrowing limits				
Under 12 months	0.49%	30.00%	0.00%	(29.51%)
12 months to 2 years	0.36%	30.00%	0.00%	(29.14%)
2 years to 5 years	1.08%	50.00%	0.00%	(48.92%)
5 years to 10 years	8.22%	75.00%	0.00%	(66.78%)
10 years and above	89.86%	100.00%	50.00%	(10.14%)
- 10 years to 20 years	17.55%			
- 20 years to 30 years	14.26%			
- 30 years to 40 years	21.97%			
- 40 years to 50 years	36.07%			

DSFRA DEBT RECOVERY PROCEDURES

ACTION	RESPONSIBILITY
<p>Debtor invoices are raised using the processes and reports within the finance system.</p>	<p>Commands and Departments.</p>
<p>If payment has not been received within the specified time period (normally 28 days), the following action is to be taken:</p> <ol style="list-style-type: none"> (1) A reminder letter is to be generated using the Finance System INTEGRA and sent to the debtor, together with a copy of the original invoice. (2) After further 7 days (if payment has not been received) the debtor is to be contacted by telephone, to ascertain that both the original invoice and/or the reminder letter have been received. At this point questions are to be asked regarding when settlement of the outstanding amount can be expected. Further copies of invoices can be sent if necessary, but payment should be requested "by return". (3) After a further 7 days (if payment has still not been received) the matter is to be referred to the Finance Section at Service Headquarters. 	<p>Commands and Departments</p>
<p>The Finance Section is responsible for taking the debt recovery procedure forward to the point where professional assistance is likely to be required. This will involve.</p> <ol style="list-style-type: none"> (4) On receipt of the referral from Commands or Departments Admin Section, the debtor is to be contacted by telephone to check that documentation originated by Commands or Departments has been received and asking when the outstanding amount is likely to be settled. Depending upon information given by the debtor, additional time may be given (and specified) for the payment to be made. (5) When any time limits have been exceeded or if payment has still not been received, a final demand letter is to be sent, with a copy of the original invoice. Depending upon who the debtor is and the nature of the debt, the letter may contain an offer that payments could be made by specified instalments, together with a time limit to accept this arrangement. The letter will also state that legal action will be taken, should payment not be forthcoming. 	<p>Finance Section at Service Headquarters</p>

<p>(6) When no further progress at this level can be made, all relevant information is to be forwarded to the Insurance and Risk Manager who will arrange for appropriate legal action to be taken for debt recovery.</p>	
<p>(7) Assess whether it is economical to refer to solicitors for legal action.</p> <p>(8) If legal action is to be pursued then debt is referred to our nominated solicitor who write to the debtor giving them a specified time period to pay the debt. If payment is not made then there are various legal options available depending on value.</p>	<p>Insurance and Risk Manager at Service Headquarters</p>
<p>(9) In the event that a position is reached that the debt is considered uneconomical to pursue then a request is made by the Risk and Insurance Manager to the Treasurer for consideration of a debt write-off.</p> <p>(10) Agreement to any proposal for the write-off of any individual debt will be considered in line with DSFRA Financial Regulations:</p> <ul style="list-style-type: none"> - Up to £10,000 – Treasurer - £10,001 to £50,000 - Resources Committee - More than £50,001 – Full Authority 	<p>Insurance and Risk Manager and Treasurer</p>

DSFRA STANDARD TERMS AND CONDITIONS FOR SALE OF GOODS OR SERVICES

1. Definitions

The following words and expressions have the following meaning unless inconsistent with the context:-
“the Authority” means Devon and Somerset Fire and Rescue Authority; “the Contract” means the Contract between the Authority and the Contractor to supply the goods and /or services consisting of these terms and conditions and any such other terms and the Contract Documentation; “the Contractor” means the person or organisation to provide the Goods and/or Services in accordance with the Contract; “Contract Documentation” includes, amongst other things, the Specification, Invitation to Tender, the Tender, these terms and conditions, any Special Conditions and the Official Purchase Order; “Goods” means the goods to be supplied by the Contractor (or by the Contractor’s sub-contractor) as specified in the Specification.; “Invitation to Tender” means the invitation issued by the Authority to submit a tender or quotation for the provision of the Goods and/or Services during the Contract Period; “Official Purchase Order” means an order issued by the Authority for the goods, works and/or services during the Contract Period; “Services” means the services to be supplied as specified in the Specification; “Specification” means the detailed specification for the Goods and/or services prepared by the Authority; “Special Conditions” means any additional conditions which the Authority may apply to the Contract and which will form part of the Contract documentation; “Supervising Officer” means the Authority’s officer responsible for ensuring that the Contractor carries out the Contract in accordance with these terms and conditions; “Supporting Documentation” means such evidence and other information as the Authority may reasonably require from time to time to be submitted in support of an invoice; “Tender Price” means the price(s) for providing the Goods, and/or Services as set out in the Tender and accepted by the Authority; “Tender” means the Tender or quotation submitted by the Contractor for the provision of the Goods and/or Services.

2. Parties to the Contract

2.1 The Contract is between the Contractor and the Authority each a Party and together the Parties.

2.2 A person who is not a party to the Contract (including without limitations any employee, officer, agent, representative or sub-contractor or either the Authority or the contractor) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on them without the prior agreement in writing of both Parties. For avoidance of doubt, the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract.

3. Contract Period

3.1 Unless terminated earlier in accordance with these terms and conditions, the period of the Contract shall be as agreed by the parties in writing (“the Contract Period”).

4. Agreement

4.1 The Contract Documentation sets out the entire agreement and understanding between the Parties in respect of the subject matter of the Contract. No variation of the Contract shall be effective unless it is agreed in writing and signed by authorised officers for each Party. No terms and conditions put forward at any time by the Contractor shall form any part of the Contract.

4.2 In the event of any conflict between these terms and conditions and the Special Conditions, the provisions of the Special Conditions shall prevail.

5. Contract Standards

5.1 The Contractor shall provide the Goods and/or Services for the Contract Period in accordance with the Contract Documentation and to the satisfaction of the Authority, using the skill, judgement and experience of a person fully qualified and experienced in all relevant areas of the Contractor’s business.

5.2 The Services will be carried out in a good, substantial and workmanlike manner. Anything supplied will be of satisfactory quality. If the Authority has indicated that it requires something for a specific purpose, it will be provided fit for that purpose. Anything described in the Tender or any other representation made to the Authority will comply with that description and anything sold by reference to a sample will be as good as or

better than the sample.

5.3 Work will be done and Goods delivered in accordance with any timetable that was stipulated by the Authority or formed part of the Tender. If there was no such timetable agreed then the Services will be carried out and Goods delivered in a timely fashion. Time shall be of the essence of the Contract unless specifically agreed otherwise.

5.4 Where there is a current appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institute or equivalent European standard, all Goods and materials used or supplied and all workmanship will meet that standard unless the Authority agrees otherwise.

5.5 So long as the Contractor complies with this clause 5 and clause 19, the Authority shall pay to the Contractor any monies owed for the proper provision of the Goods and/or Services and any other sums lawfully due under the Contract.

6. Supply of Goods and Property Transfer

6.1 The Contractor shall supply to the Authority the Goods as stated in the Contract Documentation as agreed by the Authority. The property and risk in such Goods shall not pass to the Authority until they have been delivered to the specified location and, following a reasonable time for inspection, accepted by the Supervising Officer or his/her authorised representative and deemed to meet quality requirements and deemed to be fit for purpose.

6.2 The Contractor shall transfer good title to the Authority for anything supplied, unencumbered and without any reservation to anyone else.

7. Rejected Goods

7.1 The Authority may reject Goods which, in its opinion, do not meet the Contract Standards, are not what was ordered or which have not been provided in accordance with the Authority's instructions. The Authority shall notify the Contractor in writing of this decision at the earliest opportunity.

7.2 Rejected goods shall constitute a breach of contract and shall be remedied by, and at the expense of, the Contractor upon seven (7) days' notice given to the Contractor that the Goods are rejected by the Authority. Any remedy offered by the Contractor must be agreed with the Authority in advance and to its satisfaction.

8. Delivery, Packaging and Disposal

8.1 The Contractor shall be responsible for the delivery of Goods to the Authority and shall proactively operate to minimise the carbon impact of delivery. No charge will be made for delivery unless this was set out in the Tender and has been agreed by the Authority. If a third party is used to transport or deliver the Goods, they are agent to the Contractor and the Contractor is responsible for their actions or failures. Goods remain at the Contractor's risk until delivered in accordance with the Contract.

8.2 The Contractor shall use all reasonable efforts to minimise the use of packaging, which shall be preferably recoverable by the Contractor or where this is not practicable shall be reusable or recyclable by the Authority.

8.3 In the event that the Contractor is required to dispose of the Authority's existing assets, including but not limited to; electrical goods, waste products, lighting, consumables, the Contractor must dispose of these in accordance with the relevant legislation and must provide the Authority with copies of documentary evidence of legal compliance.

9 Performance of Services

9.1 The Contractor shall ensure that the Services shall be performed in accordance with the highest professional standards and shall conform to any and all codes of practice, performance ratings, and quality standards as are laid down in the Contract Documentation or relate to the nature of the work performed.

9.2 The Contractor shall notify the Supervising Officer promptly of any issue that does or could prevent or hinder the Contractor in the performance of the Services or where the Contractor becomes aware of any failure on its part to perform all or part of the Contract.

9.3 The Contractor shall be responsible for any costs incurred in rectifying service faults.

9.4 The Contractor shall at all times perform the Services strictly in accordance with the Specification.

9.5 The Contractor shall supervise all work, which forms part of the services by management or supervisory staff who satisfy the requirements set out in the Specification.

10 Failure of Delivery or Non-attendance

10.1 Where the Contractor is unable to provide the Goods and/or Services on any particular date (for whatever reason) then the Contractor shall propose an alternative date to be agreed with the Authority, and time shall be of the essence.

10.2 The Authority reserves the right to engage an alternative supplier to provide the Goods and/or Services in any event and in particular in the event of the Contractor being unable to offer an acceptable date

10.3 In the event that the Authority engages an alternative supplier under clause 10.1, the Authority shall not be liable to pay the Contractor for the Goods and Services that the Contractor did not deliver on the particular date and shall not be liable for any losses incurred by the Contractor.

11 Staffing

11.1 The Contractor must ensure that all personnel involved in the delivery of the Goods or Services:

- i. have relevant experience and training and qualifications to enable them to deliver the Goods and/or Services appropriately
- ii. maintain strict discipline and good order and shall not engage in behaviour or activities which could be contrary to or detrimental to the Authority's interests;
- iii. abide by the standards, rules and regulations established by the Contractor, including completion of time recording requirements and all safety and other regulations;
- iv. where provided with details of keys, security codes or other security details, keep the same secure at all times and not release or disclose the same (as the case may be) otherwise than to the Supervising Officer or to another person engaged by Contractor in the provision of the Contract who reasonably requires the release or disclosure in order to perform the contract.
- v. be available to the Authority, in the case of managers, either by telephone or in person, to discuss and manage issues concerning the provision of the Contract during normal office hours i.e. Monday to Friday, excluding public holidays, between 08:00 hours and 16:30 hours.

11.2 The Authority reserves the right to require removal from the Contract of any individual or sub-contractor used by the Contractor whose continued involvement in the delivery of the Goods, works and/or Services would in the reasonable opinion of the Supervising Officer be undesirable.

12 Contractor's Status

12.1 In carrying out the Contract the Contractor shall be acting as principal and not as the agent of the Authority.

12.2 The Contractor shall not in any circumstances hold itself out as being the servant or agent of the Authority or hold itself out as being authorised to enter into any Agreement on behalf of the Authority or in any other way to bind the Authority.

13 Advertising

13.1 The Contractor shall not advertise the fact that it is providing Goods, and/ or Services to the Authority under the Contract other than with the written permission of the Supervising Officer.

14 Use of Premises

14.1 The Authority may, during the period of the Contract, permit the Contractor to use as the Authority's storage space, office facilities and equipment as may from time to time be designated by the Authority for use by the Contractor. In such an event the parties agree that there is no intention on the part of the Authority to create a tenancy of whatsoever nature in favour of the Contractor or their staff and that no such tenancy shall come into being. The Authority can revoke this permission at any time during the Contract Period.

15 The Authority's Responsibilities

15.1 The Authority will from time to time appoint a Supervising Officer and will notify the Contractor of the identity and contact details of such person and will also notify the Contractor of all others authorised to act on behalf of or in place of the Supervising Officer.

16 Quality Monitoring

16.1 The Authority may monitor the performance of the Contractor by any means, which are practical and reasonable.

16.2 The Contractor shall ensure that a suitable member of the Contractor's personnel attends periodic monitoring meetings, together with such other meetings as are reasonably required by the Authority in relation to the performance of the Contractor under the Contract.

17 Complaints Procedure

17.1 The Contractor shall ensure provision of a procedure that will allow a fast and effective resolution of any problems encountered under the Contract. This could be attained through direct daily contact with the local staff, senior management and regular contract meetings, as appropriate.

17.2 The Contractor shall maintain a log of complaints detailing;

- i. time and date of receipt of complaint and sufficient details to allow the Authority's Supervising Officer to determine to nature of the complaint, location and person who has raised the complaint
- ii. time at which the complaint was resolved
- iii. results of investigations
- iv. actions taken (if any) to remedy the defects
- v. responses to the person raising the complaint, including time at which response given to complainant

18 Currency

18.1 The Contract Price shall be paid in sterling.

19 Official Purchase Orders and Payments

19.1 The Authority will provide the Contractor with an Official Purchase Order, in advance, for the supply of Goods and /or Services.

19.2 The Official Purchase Order shall state the order number for those Goods or Services ("the Official Order Number"). The Official Order Number must be quoted on all invoices. No Goods or Services shall be supplied or carried out unless the Authority has issued the Contractor with an official purchase order. No payment will be made or liability accepted by the Authority in respect of Goods supplied or delivered and/or services carried out other than in accordance with this clause.

19.3 An invoice accompanied by the Supporting Documentation shall be submitted by the Contractor to the Supervising Officer, in arrears, either on completion of the whole order or, if expressly agreed by the Authority, or at the end of each month of the Contract Period and thereafter until all Goods, and/or Services have been provided. The invoice shall clearly identify separately:

- i. the value identified in the Tender of the goods and/or Services provided during that month then ended in accordance with the Contract Documentation.
- ii. the calculation of the matters in 20.1
- iii. the official order number

19.4 The Authority shall pay to the Contractor the amount properly due to the Contractor under the terms of this Contract within thirty (30) days of receipt of a valid invoice and the required supporting documentation.

20 Value Added Tax

20.1 The Authority shall in addition pay to the Contractor any Value Added Tax ("VAT") properly chargeable on the sums correctly invoiced within the time specified in clause 19 subject to the receipt of a valid VAT invoice.

21 Force Majeure

21.1 In the event of an act of God or force majeure (which shall include acts of government, fire, tempest, acts of war and related matters, which are both beyond the control of the Contractor and are such that the Contractor with the application of all due diligence and foresight could not prevent) which causes the cessation of or substantial interference with the provision of the Goods, and/or services by the Contractor, the duty of the Contractor to provide the Goods and/or Services shall be suspended until such circumstances have ceased. The Authority shall not be liable to make any payment to the Contractor in respect of such suspension and any such sum already paid in respect of any part of the Goods and/or Services not yet provided shall be held to the credit of the Authority and returned to the Authority.

21.2 If the period of suspension under clause 21.1 lasts for longer than one (1) month, either Party may serve upon the other one (1) month's written notice of termination of the Contract. Unless the Contractor shall have resumed the provision of the Goods and/or Services in accordance with the Contract, the Contract shall terminate in accordance with such notice.

22 Assignment and Subcontracting

22.1 This Contract and all rights under it may be assigned or transferred by the Authority.

22.2 The Contractor may not assign or sub-contract any of its rights or duties under this Contract without the express written approval of the Supervising Officer.

23 Observance of Statutory Requirements

23.1 The Contractor shall comply with all relevant legal provisions, whether in the form of Orders, Regulations, Statutes, Statutory Instruments, Codes of Practice, Byelaws, Directives or the like, to be observed and performed in connection with the Goods and Services provided under the Contract, and shall indemnify the Authority accordingly against any loss or damage caused by non-compliance with any such legal provisions.

23.2 The contractor shall operate at all times in such a way so as not to bring the Authority into disrepute.

24 Health and Safety

24.1 The Contractor shall at all times, in the provision of the Goods and Services, comply with the requirements of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999, the Electricity at Work Regulations 1999, and of any other legal provisions pertaining to the health and safety of its own staff, the Authority's employees and others who may be affected by its performance of the this Contract.

24.2 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Authority shall promptly notify the contractor of any health and safety hazards which may exist or arise at the premises and which may affect the Contractor in the performance of its obligations under the Contract.

25 Intellectual Property

25.1 All and any intellectual property rights developed under the Contract or arising from the provision of the Services by the Contractor shall belong to the Authority (except where otherwise agreed in writing by the Parties) and the Contractor agrees that it shall execute or cause to be executed (by its personnel if necessary) all deeds, documents and acts required to vest said intellectual property rights in the Authority.

26 Data Protection

26.1 The Contractor warrants that it will observe all its obligations under the Data Protection Act 1998 ("the DPA") and any regulations made thereunder, which arise in connection with the Contract.

26.2 Where the Contractor receives any Personal Data (as defined by the DPA) from the Authority, it shall ensure that it fully complies with the provisions of the DPA and only deals with any Personal Data provided to it by the Authority in order to fulfil its obligations under the Contract.

26.3 The contractor shall indemnify the Authority for any breach of the DPA which renders the latter liable for any costs, claims or expenses.

27 Conflicts of Interest

27.1 The Contractor shall operate a system for dealing with potential conflicts of interest. The Contractor shall take appropriate steps to ensure that neither the Contractor nor any staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

28 Provision of information

28.1 The Contractor shall recognise that the Authority has obligations to third parties to provide information concerning the proper performance of its functions and is subject to the requirements of the Freedom of Information Act 2000 and Environmental Information Regulations 2004 and shall assist and cooperate with the Authority (at the Contractor's expense) to enable the Authority to comply with these obligations.

28.2 The Contractor acknowledges and accepts that the Authority may be obliged to publish information, from time to time, relating to Contracts that it has entered and payments made to Contractors

28.3 The provisions contained in this clause 30 shall survive the expiry or termination of this Contract howsoever caused and shall continue thereafter in full force and effect.

29 Information on Re-tendering and Migration of Services

29.1 The Contractor shall promptly provide free of charge to the Authority or any subsequent provider of the services (as appropriate) such information and records as it shall reasonably require to ensure a smooth transition and continued efficient provision of the services to the Authority by a subsequent provider.

29.2 At the end of the Contract Period all records and documents relating to the provision of the Goods and Services shall vest in the Authority.

29.3 Where it has been identified that Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply on the migration to a new contractor of services, the Contractor shall, at its own expense, promptly provide to the Authority any and all relevant and accurate information as the Authority may reasonably require at any time during a tendering exercise in relation to employees of the Contractor engaged in performing the Contract.

30 Assistance in Legal Proceedings

30.1 If requested to do so by the Supervising Officer, the Contractor shall co-operate fully with the Authority (including, but not limited to the provision of documentation and statements from staff) in connection with any legal proceedings, Ombudsman enquiries, inquiry, arbitration tribunal or court proceedings in which the Authority may become involved, or any relevant disciplinary hearing internal to the Authority, arising out of

the provision of the services, and the Contractor shall if requested by the supervising officer give evidence in such inquiries, arbitration, proceeding or hearings.

31 Insurance, Liability and Indemnities

31.1 Neither Party excludes or limits liability to the other party for death or personal injury caused by its negligence, fraud, fraudulent misrepresentation or any breach of any obligations implied by section 2 of the Supply of Goods and Services Act 1982.

31.2 The Contractor shall indemnify and keep indemnified the Authority from and against any liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person howsoever arising out of, or in the course of, or caused by the execution of the Contract, and from and against any action, claims, demands, damages, loss, costs or expenses whatsoever or howsoever which may be brought against the Authority or which the Authority may be called upon to pay arising out of or in connection with the contract unless caused by the negligence of the Authority or its employees.

31.3 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss.

31.4 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or willful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

31.5 The requirements imposed by this clause 33 shall continue in full force and effect and be enforceable by the Authority for a minimum period of twelve (12) months (or as agreed by the Parties) after the contract period has expired or after termination of the Contract for whatever reason.

32 Notices

32.1 No notice to be served upon the Authority shall be valid or effective unless it is addressed by name to the Supervising Officer and sent to them at Service Headquarters, The Knowle, Clyst St George, EX3 0NW (or as otherwise notified to the Contractor in writing) by recorded delivery post or delivered by hand to Service Headquarters.

32.2 Any notice to be served upon the Contractor shall be valid and effective if it is addressed to the Contractor and sent by recorded delivery post or delivered by hand to the registered office or principal place of business of the Contractor, or to the premises of the Contractor from which the provision of the Goods, and/or Services are organised; or is delivered by hand to a partner, director, or other authorised member of the Contractor's staff.

33 Business Continuity Plan and Disaster Recovery

33.1 The Contractor shall ensure that a Disaster Recovery Plan, acceptable to the Authority, is in place for its own organisation, premises and operations.

33.2 The Contractor shall ensure that Business Continuity Plans, acceptable to the Authority, are in place to ensure the continued supply of goods, works and/or services to the Authority according to the quality and timelines specified within the contract

33.3 The Contractor shall provide the Authority, on request, with a copy of its Disaster Recovery and Business Continuity Plans.

34 Dispute resolution

34.1 If there is any dispute concerning either Party's material non-conformance with its obligations or interpretation of the Contract, the Parties shall use their reasonable endeavours to reduce the time to reach a resolution of the dispute.

34.2 The dispute shall be referred to the first management level (the supervising officer) for discussion and resolution and that meeting shall take place within five (5) working days of the written request by the requesting party.

34.3 If the dispute is not resolved at this level at the meeting, the dispute shall be referred to the second management level, who must meet within five (5) working days of the reference to attempt to resolve the dispute.

34.4 If any of the above is unable to attend a meeting, a substitute shall attend and such substitute will have at least the same seniority and be authorised to settle the unresolved dispute.

34.5 If the dispute remains unresolved after the above process has been followed, the dispute shall then be referred to mediation. Mediation shall take place through a recognised mediation provider, such as ACAS, as agreed by both parties. Neither party shall seek to refer the dispute to an expert or to the courts unless the mediation process fails to resolve the dispute.

34.6 The provisions contained in this clause 24 shall survive the expiry or termination of this contract howsoever caused and shall continue thereafter in full force and effect.

35 Termination

35.1 This Contract shall terminate at the end of the Contract Period unless terminated earlier by either Party giving not less than three (3) months' notice in writing to terminate at any time.

35.2 Without prejudice to any other rights and remedies it may possess the Authority shall be entitled forthwith upon the happening of any of the following events to terminate this Contract by notice in writing, such events being:

- i. discovery of a material misrepresentation by the Contractor during the tendering process;
- ii. persistent minor breaches of the contract by the Contractor;
- iii. the Contractor having failed to perform a substantial part of the Contract or having committed any other breach of Contract which in the reasonable opinion of the supervising officer justifies termination of the Contract;
- iv. the Contractor suffering any distress or process of execution to be levied on its goods;
- v. the Contractor consists of one or more individuals, any one of them committing any act of bankruptcy or having a bankruptcy order made against him/her;
- vi. the Contractor entering into (whether an individual or a body corporate) any arrangement, agreement or composition with and for the benefit of its creditors (including a voluntary arrangement under the provisions of the Insolvency Act 1986);
- vii. the Contractor consists of a body corporate, the Contractor or its parent company having a winding-up order made or (except for the purpose of amalgamation or reconstruction) a resolution passed for voluntary winding-up;
- viii. the Contractor having an application made for the appointment of an administrator, administrative receiver or receiver having been appointed over the whole or any part of its business and/or assets; or having a provisional liquidator, receiver or manager of the whole or any part of its business appointed;
- ix. the Contractor having possession taken of any of its property comprised in a floating charge by or on behalf of the holders of any debentures secured by the floating charge.

35.3 Termination of the Contract for any reason shall not affect any rights, which have accrued to either Party at the date of termination.

35.4 The provisions contained in this clause 35 shall survive the expiry or termination of this Contract howsoever caused and shall continue thereafter in full force and effect.

36 Severability

36.1 If any part of the Contract is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part will be severed from the remainder of the contract which will continue to be valid and enforceable to the fullest extent permitted by law.

37 Waiver

37.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

38 Headings

38.1 The headings to the clauses shall not affect their interpretation.

39 Applicable Law

39.1 This Contract shall be governed by English Law in every particular including formation and interpretation and shall be deemed to have been made in England.

40 Survival of Terms

40.1 No term shall survive expiry or termination of this Contract unless expressly provided.