



# DEVON & SOMERSET FIRE & RESCUE AUTHORITY

M. Pearson  
CLERK TO THE AUTHORITY

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

(see below)

SERVICE HEADQUARTERS  
THE KNOWLE  
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Your ref :  
Our ref : DSFRA/MP/SY  
Website : www.dsfire.gov.uk

Date : 20 April 2018  
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## **DEVON & SOMERSET FIRE & RESCUE AUTHORITY**

**Monday, 30 April, 2018**

A meeting of the Devon & Somerset Fire & Rescue Authority will be held on the above date, **commencing at 10.00 am in Conference Rooms, Service Headquarters, Exeter** 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 (Pages 1 - 16)**

of the previous meeting held on 16 February 2018 attached.

**3 Items Requiring Urgent Attention**

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

## **PART 1 - OPEN COMMITTEE**

### **4 Questions and Petitions from the Public**

In accordance with [Standing Orders](#), to consider any questions and petitions submitted by the public. Questions must relate to matters to be considered at this meeting of the Authority. Petitions must relate to matters for which the Authority has a responsibility or which affects the Authority. Neither questions nor petitions may require the disclosure of confidential or exempt information. Questions and petitions must be submitted in writing or by e-mail to the Clerk to the Authority (e-mail address: [clerk@dsfire.gov.uk](mailto:clerk@dsfire.gov.uk)) by **midday Wednesday 25 April 2018**.

### **5 Addresses by Representative Bodies**

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

### **6 Questions from Members of the Authority**

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

### **7 Minutes of Committees**

#### **a Human Resources Management & Development Committee (Pages 17 - 28)**

The Chair of the Committee, Councillor Bown, to **MOVE** the Minutes of the meeting held on 23 March 2018

#### ***RECOMMENDATIONS***

- (i) that the recommendation at Minute HRMDC/24 (Provision of Vehicles to Employees), reproduced below for ease of reference, be approved;  
“**RESOLVED** that the Devon & Somerset Fire & Rescue Authority be recommended to approve:
  - (a) discontinuation of the Contract Car Hire Schemes for both uniformed and non-uniformed employees;
  - (b) the introduction of a Car Allowance option for eligible officers (as defined in the report) who wish to have a vehicle for both business and private use;
  - (c) subject to (b) above, consultation with employees on and subsequent implementation of Car Allowance payments and mileage rates on the basis of the options as set out in Appendix A to report HRMDC/17/21;
  - (d) payment of an Essential User Allowance, on the basis of the options identified in Appendix A to the report, for other employees not covered by (b) above but who are required to provide a vehicle for business use.”

***(NOTE: A copy of report HRMDC/18/21 – Provision of Vehicles to Employees – as considered by the Committee is attached as Appendix A to these Minutes)***
- (ii) that, subject to (i) above, the Minutes be adopted in accordance with Standing Orders.

**b**     **Determinations & Dispensations Committee (Pages 29 - 64)**

The Chair of the Committee, Councillor Thomas, to **MOVE** the Minutes of the meeting held on 9 April 2018.

**RECOMMENDATIONS**

- (i).       that the recommendations at Minute DDC/2 (Review of Current Standards Arrangements), reproduced below for ease reference, be approved

“**RESOLVED** that, subject to incorporation of those amendments as indicated at the meeting, the Authority be recommended to approve:

- (a).   the revised Code of Conduct as set out at Appendix A to report DDC/18/1;
- (b).   the revised form for Declaration of Members’ Registerable Interests as set out at Appendix B to the report;
- (c).   the revised Guide to Making a Complaint as set out at Appendix C to the report;
- (d).   the renaming of the Committee to the Standards Committee;
- (e).   the revised Terms of Reference for the Standards Committee as set out at Appendix D to the report; and
- (f).   authorisation for the Clerk to make consequential amendments stemming from (a) to (e) above.”

- (ii).      that the recommendations at Minute DDC/3 (Consultation on Review of Local Authority Ethical Standards), reproduced below for ease of reference, be approved;

“**RESOLVED** that the Authority be recommended:

- (a).   to approve the draft response to the Committee on Standards in Public Life consultation on local government ethical standards, as appended to report DDC/18/2 but amended as indicated at the meeting; and
- (b).   to authorise the Clerk to submit the approved response on behalf of the Authority.”

***(NOTE: The documents referred to in recommendations (i) and (ii) above, amended as required by the Committee, are attached as Appendices A to E of these Minutes);***

- (iii).     that, subject to (i) and (ii) above, the Minutes be adopted in accordance with Standing Orders.

**c**     **Resources Committee (Pages 65 - 66)**

The Chair of the Committee, Councillor Coles, to **MOVE** the non-restricted Minutes of the meeting held on 11 April 2018 attached.

**RECOMMENDATION** that the non-restricted Minutes be adopted in accordance with Standing Orders.

***(SEE ALSO AGENDA ITEM 15 BELOW).***

**d**     **Audit & Performance Review Committee**

The Chair of the Committee, Councillor Wheeler, to **MOVE** the Minutes of the meeting held on 26 April 2018 (**TO FOLLOW**).

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

**8**     **The "Molly" Principle (Pages 67 - 68)**

Report of the Chief Fire Officer (DSFRA/18/6) attached.

**9**     **Consultation on Police & Crime Commissioner Membership of Fire & Rescue Authorities - Further Considerations (Pages 69 - 72)**

Report of the Director of Corporate Services (DSFRA/18/7) attached.

**10**    **Process for Appointment of Non-Executive Directors from Authority Membership to the Board of Red One Ltd. (Pages 73 - 74)**

Report of the Director of Corporate Services (DSFRA/18/8) attached.

**11**    **Remuneration of Non-Executive Directors appointed from Authority Membership to the Board of Red One Ltd. (Pages 75 - 76)**

Report of the Director of Corporate Services (DSFRA/18/9) attached.

**12**    **Convention Relating to Appointment of Non-Executive Directors from the Authority Membership to Authority-owned Companies (Pages 77 - 80)**

In accordance with Standing Order 18, the Authority Chair (Councillor Randall Johnson) has asked that an item be placed on the agenda for this meeting to enable the Authority to consider whether it wishes to introduce a convention whereby, to aid in managing potential conflicts of interest, neither the Chair nor Vice Chair should be eligible for appointment as Authority-appointed non-executive directors on any company owned by the Authority.

Report of the Director of Corporate Services (DSFRA/18/10) attached.

**13**    **Chair's Announcements**

**14**    **Exclusion of the Press and Public**

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

**PART 2 - ITEMS WHICH MAY BE CONSIDERED IN THE ABSENCE OF THE PRESS AND PUBLIC**

**15     Resources Committee (Pages 81 - 136)**

The Chair of the Committee, Councillor Coles, to **MOVE** the restricted Minutes of the Special Meeting held on 11 April 2018.

***RECOMMENDATIONS***

- (a) that the recommendation at Minute RC/23 (“Red One Update”) be approved;
- (b) that, subject to (a) above, the restricted Minutes be adopted in accordance with Standing Orders.

***(NOTE: A copy of report RC/18/8 (“Red One Update”) is attached as Appendix A to these Restricted Minutes).***

**MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER**

Membership:-

Councillors Randall Johnson (Chair), Best, Biederman, Bown, Clayton, Chugg, Coles, Colthorpe, Eastman, Ellery, Greenslade, Hannaford, Healey MBE (Vice-Chair), Hendy, Hosking, Leaves, Napper, Peart, Prowse, Redman, Riley, Saywell, Thomas, Trail BEM, Vijeh and Wheeler

**NOTES**

<b>1.</b>	<b><u>Access to Information</u></b> 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.
<b>2.</b>	<b><u>Reporting of Meetings</u></b> 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.
<b>3.</b>	<b><u>Declarations of Interests (Authority Members only)</u></b>
	<b>(a). <u>Disclosable Pecuniary Interests</u></b> 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: <ul style="list-style-type: none"><li>(i). 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;</li><li>(ii). 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</li><li>(iii). not seek to influence improperly any decision on the matter in which you have such an interest.</li></ul> 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 (ii) and (iii) above.
	<b>(b). <u>Other (Personal) Interests</u></b> Where you have a personal (i.e. other than a disclosable pecuniary) interest in any matter to be considered at this meeting then you must declare that interest no later than the commencement of the consideration of the matter in which you have that interest, or (if later) the time at which the interest becomes apparent to you. If the interest is sensitive (as agreed with the Monitoring Officer), you need not disclose the precise nature of the interest but merely declare that you have a personal interest of a sensitive nature.  If the interest is such that it might reasonably be perceived as causing a conflict with discharging your duties as an Authority Member then, unless you have previously obtained a dispensation from the Authority's Monitoring Officer, you must not seek to improperly influence any decision on the matter and as such may wish to leave the meeting while it is being considered. In any event, you must comply with any reasonable restrictions the Authority may place on your involvement with the matter in which you have the personal interest.
<b>4.</b>	<b><u>Part 2 Reports</u></b> 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.
<b>5.</b>	<b><u>Substitute Members (Committee Meetings only)</u></b> 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.

## **DEVON & SOMERSET FIRE & RESCUE AUTHORITY** (Budget)

16 February 2018

### Present:-

Councillors Randall Johnson (Chair), Best, Biederman, Bown, Clayton, Chugg, Coles, Colthorpe, Eastman, Ellery, Greenslade, Hannaford, Healey MBE (Vice-Chair), Hendy, Hosking, Leaves, Peart, Prowse, Saywell, Thomas, Trail BEM, Vijeh and Wheeler.

### Apologies:-

Councillors Napper, Redman and Riley.

#### **DSFRA/60 Minutes**

**RESOLVED** that the Minutes of the meeting held on 18 December 2017 be signed as a correct record.

#### **DSFRA/61 Questions and Petitions from the Public**

In accordance with Standing Order 11, the Authority received a question from Mrs. E. F. Morris of Westward Ho! on the recently-held consultation on the draft Integrated Risk Management Plan and specifically on the accuracy of certain information contained in the draft Plan.

As Mrs. Morris was unable to attend the meeting, the question was read out by the Clerk who also indicated that a written response (a copy of which was circulated to those Authority Members present at the meeting) would be provided to Mrs. Morris.

***(SEE ALSO MINUTE DSFRA/70 BELOW).***

#### **DSFRA/62 Address by the Fire Brigades Union**

In accordance with Standing Order 12, the Authority received an address from the Fire Brigades Union expressing concern over the consultation process recently undertaken for the proposed Integrated Risk Management Plan.

***(SEE ALSO MINUTE DSFRA/70 BELOW).***

#### **DSFRA/63 Minutes of Committees**

##### **a Audit & Performance Review Committee**

The Chair of the Committee, Councillor Wheeler, **MOVED** the Minutes of the meeting held on 17 January 2018 which had considered, amongst other things:

- a proposal for a meeting of the Committee on 27 July 2018;
- an update on work undertaken by the Authority's external auditor, Grant Thornton;
- The Annual Audit Letter for the Authority (for the year ended 31 March 2017) as provided by Grant Thornton;
- a report on group accounts for the Authority and Red One Ltd.;
- a report on progress against the approved internal audit plan for the current (2017-18) financial year;

- an update on the Corporate Risk Register;
- a report on performance of the Devon & Somerset Fire & Rescue Service during Quarter 2 of the current financial year against measures adopted by the Authority; and
- an audit and review progress report on IT security.

#### **RESOLVED**

- that the recommendation at Minute APRC/17 (Additional Meeting Date 2018) be approved;
- that, subject to (i) above, the Minutes be adopted in accordance with Standing Orders.

#### **b Community Safety & Corporate Planning Committee**

The Vice-Chair of the Committee, Councillor Eastman, **MOVED** the Minutes of the meeting held on 1 February 2018 which had considered, amongst other things:

- results from the recently-held consultation on the draft Integrated Risk Management Plan (IRMP); and
- a proposed new planning framework for the Authority (to include a community-facing Integrated Risk Management Plan and an organisational Fire & Rescue Plan).

For information purposes, a copy of report CSCPC/182 (New Planning Framework) was included with the agenda for this Authority meeting.

#### **RESOLVED**

- that the recommendation at Minute CSCPC/9 (Draft Integrated Risk Management Plan 2018 – 2022 Consultation Results) be considered in conjunction with Minute DSFRA/70 below;
- that the recommendation at Minute CSCPC/10 (New Planning Framework) be approved;
- that, subject to (i) and (ii) above, the Minutes be adopted in accordance with Standing Orders.

***(SEE ALSO MINUTE DSFRA/70 BELOW)***

#### **c Resources Committee**

The Chair of the Committee, Councillor Coles, **MOVED** the Minutes of the budget meeting held on 8 February 2018 (as tabled at the meeting) which had considered, amongst other things:

- a report on financial performance as at the third quarter of the current (2017-18) financial year;
- a report on the proposed revenue budget and council tax levels for the forthcoming (2018-19) financial year;
- a report on the proposed Capital Programme 2018-19 to 2020-21;
- a report on the proposed Treasury Management Strategy (including prudential and treasury indicators) for the forthcoming financial year;
- a report on treasury management performance as at Quarter 3 of the current financial year; and



- a financial statement for Red One Ltd. to Quarter 3 of the current financial year.

## **RESOLVED**

- (i). that the recommendation at Minute RC/12 (“Financial Performance Report 2017-18: Quarter 3) relating to budget transfers in excess of £150,000, as shown in the Appendix to the Minutes of the meeting, be approved;
- (ii). that the recommendations at Minutes RC/13 (“2018-19 Revenue Budget and Council Tax Levels”), RC/14 (“Capital Programme 2018-19 to 2020-21”) and RC/15 (“Treasury Management Strategy [including Prudential and Treasury Indicators] Report 2018-19 to 2020-21”) be considered in conjunction with Minutes DSFRA 64 (a), (b) and (c) respectively;
- (iii). that, subject to (i) and (ii) above, the Minutes be adopted in accordance with Standing Orders.

***(SEE ALSO MINUTES DSFRA/64 (a), (b) AND (c) AND DSFRA/70 BELOW).***

### **DSFRA/64 Revenue and Capital Budgets**

#### **a 2018-19 Revenue Budget and Council Tax Levels**

The Authority considered a joint report of the Director of Finance (Treasurer) and Chief Fire Officer (DSFRA/18/1) on the proposed revenue budget and associated Council Tax levels for 2018-19.

A provisional local government settlement for 2018-19 of £22.618m had been announced on 19 December 2017, as part of a four-year grant settlement. The Settlement Funding Assessment represented a reduction for 2018-19 of 5.3% over 2017-18 and an overall reduction of 25.4% by 2019-20 when compared to the settlement for 2015-16. The Director of Finance (Treasurer) confirmed at the meeting that the provisional settlement as announced on 19 December had subsequently been confirmed as the final settlement for 2018-19.

The government had also announced a threshold of 3% for Council Tax increases for the next two financial years, beyond which local authorities would be required to hold a referendum. This was a 1% increase over the 2017-18 threshold, possibly in recognition of likely pay awards. The proposed budget contained provision for a 3% pay award for uniformed staff. Each 1% pay award equated, for this Authority, to a cost of £0.517m which was greater than the income that an additional 1% Council Tax increase would generate (£0.487m). The report also identified, however, the view of the Director of Finance (Treasurer) that, in light of an indicative cost of £2.3m to hold a referendum, consideration of a Council Tax increase in excess of 3% was not a viable option for this Authority.

A core budget requirement of £75.871m (representing a 4.51% [£3.275m] increase over the 2017-18 budget) for 2018-19 had been identified and, in light of the referendum threshold, two associated Council Tax options were proposed:

**Option A** – freeze Council Tax at the 2017-18 level (£81.57 for a Band D property);

**Option B** – increase Council Tax by 2.99% above the 2017-18 level (£84.01 for a Band D property).

Even with a 2.99% increase, the core budget requirement exceeded available funding. Consequently, the report identified savings of £0.711m and also proposed that, depending on the decision on the level of Council Tax to be set, the remaining shortfall in funding required to set a balanced budget in 2018-19 should, as a short-term solution (given the need to maintain the Comprehensive Spending Review earmarked reserve to fund future change activity), be met by reducing the revenue budget contribution to capital funding as indicated:

**Option A (Council Tax freeze)** – reduction of £2.571m;

**Option B (2.99% Council Tax increase)** – reduction of £1.289m.

While the four-year settlement afforded greater certainty for future funding, the Authority's Medium Term Financial Plan indicated that further savings would be required beyond 2018-19 to deliver a balanced budget, with the actual level of savings ranging between £8.4m (2.99% Council Tax increase) to £14.6m (Council Tax Freeze).

As required by the Local Government Finance Act 1992, non-domestic rate payers had been consulted on the proposals for Council Tax levels. Additionally, as previously agreed by the Authority, public consultation had also taken place. The consultation had been conducted by telephone surveys and by using social media, within the budget of £13,500 as previously agreed by the Authority. The results of the consultation, which ran from 13 November to 18 December 2017, were, in summary:

- for the telephone survey, the majority of business respondents (62%) and the public (63%) felt that it would be reasonable for the Authority to increase its precept to lessen the impact of funding cuts;
- 73% of on-line responses were supportive of increasing the precept;
- the majority of business respondents (50%) and the public (60%) were in favour of a flat-rate £5 precept increase, with this being supported by 48% of the respondents to the online survey;
- the Twitter poll resulted in responses of 30% support for a £5 flat-rate increase, 21% support for a 2% increase, 15% support for a 1% increase, with 34% being in favour of no increase at all.

The report also featured a statement on the robustness of the budget estimates and adequacy of the level of the Authority's reserves prepared by the Proper Financial Officer in accordance with the requirements of the Local Government Act 2003.

The 2018-19 revenue budget and council tax levels and been considered by the Resources Committee (Budget) meeting held on 8 February 2018 which had resolved (Minute RC/13 refers)

*“that it be recommended to the Authority that the level of Council Tax in 2018-19 for a Band D property be set at £84.01, as outlined in Option B of report RC/18/7, representing a 2.99% increase over 2017-18”.*

Following debate on the matter, Councillor Hannaford **MOVED**, with Councillor Greenslade seconding:

*“that the Authority approves Option B – a 2.99% increase in Council Tax for the 2018-19 financial year.”*

Members then debated proposals to amend this Motion to the effect of:

- making representations to the Government expressing disappointment that, for the forthcoming (2018-19) financial year the Authority had not been afforded the same flexibility on the Council Tax referendum limit as had applied to other authorities with similar sized budgets (despite having made representations to this effect); and
- that, for the 2019-20 financial year, the Authority should develop a business case on Council Tax referendum limits reflecting Service need requirements, with local Members of Parliament engaged in both supporting and promoting this business case.

Councillor Hannaford indicated that he was prepared to accept an amendment to this effect. The Motion as duly amended was then put to the vote and declared **CARRIED**, unanimously, whereupon it was

### RESOLVED

- that, as recommended by the Resources Committee meeting held on 8 February 2018 (Minute RC/13 refers), the level of Council Tax in 2018-19 for a Band D property be set at £84.01, as outlined in Option B of report DSFRA/18/1, representing a 2.99% increase over 2017-18;
- that, accordingly, a Net Revenue Budget Requirement for 2018-19 of £73,870,800 be approved;
- that, as a consequence of the decisions at (i) and (ii) above:
  - the tax base for payment purposes and the precept required from each billing authority for payment of a total precept of £50,329,338 (Option B), as detailed on page 2 of the respective budget booklet (circulated separately with the agenda for the meeting) and reproduced in the following table, be approved:

Billing Authority	Tax Base Used for Collection	Surplus/ (Deficit) for 2017-18	Precepts due 2018-19	Total due 2018-19
East Devon	58,669.00	59,458	4,928,783	4,988,241
Exeter	36,547.00	80,000	3,070,313	3,150,313
Mendip	39,599.15	78,384	3,326,725	3,405,109
Mid Devon	28,297.74	16,985	2,377,293	2,394,278
North Devon	33,436.99	32,715	2,809,042	2,841,757
Plymouth City	71,932.00	35,792	6,043,007	6,078,799
Sedgemoor	40,077.97	79,381	3,366,950	3,446,331
South Hams	37,851.93	28,000	3,179,941	3,207,941
South Somerset	59,988.28	21,364	5,039,615	5,060,979
Taunton Deane	41,486.30	31,326	3,485,264	3,516,590
Teignbridge	48,577.00	46,637	4,080,954	4,127,591
Torbay	44,865.89	124,817	3,769,183	3,894,000
Torridge	23,552.45	5,000	1,978,641	1,983,641
West Devon	20,117.85	28,000	1,690,101	1,718,101
West Somerset	14,087.92	18,932	1,183,526	1,202,458
	<b>599,087.47</b>	<b>686,791</b>	<b>50,329,338</b>	<b>51,016,129</b>

- that the Council Tax for each property band A to H associated with the total precept of £50,329,338 (Option B), as detailed on page 2 of the respective budget booklet and reproduced in the following table, be approved:

Valuation Band	Ratio	Government Multiplier %	Council Tax (£.p)
A	6/9	0.667	56.01
B	7/9	0.778	65.34
C	8/9	0.889	74.68
<b>D</b>	<b>1</b>	<b>1.000</b>	<b>84.01</b>
E	11/9	1.222	102.68
F	13/9	1.444	121.35
G	15/9	1.667	140.02
H	18/9	2.000	168.02

- (iv). that the Treasurer's "Statement of the Robustness of the Budget Estimates and the Adequacy of the Authority's Reserve Balances", as set out at Appendix B to the report and reproduced at Appendix A to these Minutes, be endorsed;
- (v). that the Director of Finance (Treasurer) be asked to write on behalf of the Authority to the Ministry for Housing, Communities and Local Government expressing disappointment that, for the forthcoming (2018-19) financial year the Authority had not been afforded the same flexibility on the Council Tax referendum limit as had applied to other authorities with similar sized budgets (despite having made representations to this effect); and
- (vi). that, for the 2019-20 financial year, a business case on Council Tax referendum limits (reflecting Service need requirements) be developed, with local Members of Parliament engaged in both supporting and promoting this business case.

**(SEE ALSO MINUTE DSFRA/63(c) ABOVE).**

**b Capital Programme 2018-19 to 2020-21**

The Authority considered a joint report of the Chief Fire Officer and the Director of Finance (Treasurer) (DSFRA/18/2) on proposals for the Authority's three-year Capital Programme 2018-19 to 2020-21. All aspects of the proposed programme as set out in the report had been constructed in accordance with the Authority-set Prudential Indicator that debt charges from external borrowing should not exceed 5% of the Authority's approved revenue budget. The Authority had set a strategy to reduce reliance on external borrowing and the proposed Capital Programme for 2018-19 to 2020-21 (together with an indicative programme for 2021-22 to 2023-24, as set out in the report for illustrative purposes only) had been produced on the basis that no new borrowing would occur within that period.

The proposed programme detailed indicative capital expenditure on estates using information from the Estates review after appropriate consultation to ensure that the programme would meet all operational and risk considerations. The Fleet replacement programme provided for the introduction of smaller type appliances to be continued (with 25 Rapid Intervention Vehicles to be completed during 2018-19) together with other appliance replacements.

The report also summarised the Prudential Indicators associated with proposed Programme, which had been commended for approval by the Resources Committee at its budget meeting held on 8 February 2018 (Minute RC/14 refers).

**RESOLVED** that, as recommended by the Resources Committee at its budget meeting held on 8 February 2018:

- (i). the draft Capital Programme 2018-19 to 2020-21 and associated Prudential Indicators, as detailed in report DSFRA/18/2 and summarised in Appendices B and C respectively to these Minutes, be approved; and
- (ii). that, subject to (i) above, the forecast impact of the proposed Capital Programme (from 2021-22 onwards) on the 5% debt ratio Prudential Indicator, as indicated in the report, be noted.

***(SEE ALSO MINUTES DSFRA/63(c) ABOVE AND DSFRA/64(c) BELOW)***

**c Treasury Management Strategy (including Prudential and Treasury Indicators) Report 2018-19 to 2020-21**

The Authority considered a report of the Director of Finance (Treasurer) (DSFRA/18/3) setting out, amongst other things:

- a treasury management and investment strategy for 2018-19, with associated indicators; and
- a Minimum Revenue Provision statement for 2018-19.

The Local Government Act 2003 and supporting regulations required the Authority:

- to ensure that its capital investment plans were affordable, prudent and sustainable; and
- to establish a treasury management strategy setting out its policies for borrowing and managing its investments, giving priority to the security and liquidity of those investments.

In doing so, the Authority was required to “have regard to” the Prudential and Treasury Management Codes produced by the Chartered Institute for Public Finance Accountancy (CIPFA). The strategy and prudential indicators as set out in the report were compliant with the latest iterations of the CIPFA Codes.

The proposed Treasury Management Strategy, Annual Investment Strategy and Minimum Revenue Provision Statement for 2018-19 had been considered by the Resources Committee meeting held on 8 February 2018 which had resolved to recommend their approval to the Authority (Minute RC/15 refers).

At the conclusion of the debate on this item, the Authority asked that their appreciation for the work of the Director of Finance (Treasurer) and the finance team in producing the budget reports be placed on record.

**RESOLVED** that, as recommended by the Resources Committee:

- (i). the Treasury Management and Annual Investment Strategy for 2018-19 as detailed in report DSFRA/13/3 be approved;
- (ii). the Prudential Indicators and Treasury Management Indicators as detailed in the report and set out at Appendix C to these Minutes be approved; and
- (iii). the Minimum Revenue Provision (MRP) statement for 2018-19, as set out in the report and attached to these Minutes as Appendix D, be approved.

***(SEE ALSO MINUTES DSFRA/63(c) AND DSFRA/64(b) ABOVE)***

## **DSFRA/65 Integrated Risk Management Plan 2018 - 2022**

The Authority considered a report of the Chief Fire Officer (DSFRA/18/4) to which was appended the proposed Integrated Risk Management Plan (IRMP) 2018 – 2022. The draft Plan, as approved by the Authority at its meeting on 20 October 2017 (Minute DSFRA/40 refers), had been subject to an eight week consultation the results of which had been considered by the Community Safety & Corporate Planning Committee at its meeting on 1 February 2018. The Committee had subsequently resolved to recommend the IRMP to the Authority for approval (Minute CSCPC/9 refers).

Councillor Eastman **MOVED** (with Councillor Ellery seconding):

“that the Integrated Risk Management Plan 2018 – 2022, as appended to report DSFRA/18/4, be approved”.

Some Authority Members commented on concerns expressed by the FBU and one member of the public as to the consultation process undertaken for the draft Integrated Risk Management Plan. Additionally, Councillor Hannaford expressed concern over the high-level, strategic nature of the document and **MOVED** (with Councillor Biederman seconding) that the Motion before the Authority be **AMENDED**:

“by replacement of words “be approved” by the words “be deferred” i.e. the Motion to read that the that the Integrated Risk Management Plan 2018 – 2022, as appended to report DSFRA/18/4, be deferred”.

In debating this issue further, Members commented that the draft Plan had been considered both by the Community Safety & Corporate Planning Committee and the full Authority prior to the consultation period commencing.

The Director of Service Improvement confirmed that the plan was evidence-based and that the outcome of the consultation was that the majority (70%) of respondents either agreed or strongly agreed that the plan accurately identified risks to be addressed and high-level mitigating actions to deal with these risks. The draft Plan had been subject to a full consultation process (including engagement and responses from representative bodies).

The Director of Service Improvement advised that the “Risk Category – Efficient and effective use of our resources” section of the Plan, “Did you know...?” third bullet point would be amended to read “One two-pump on-call station has attended 170 RTC incidents in five years, whereas another two-pump on-call station attended only one”.

Detailed action plans arising from the Integrated Risk Management Plan would be subject to further consultation as required and in line with Best Value Statutory guidance.

The amendment as moved by Councillor Hannaford was then put to the vote and declared **LOST**.

Members commented that the Community Safety & Corporate Planning Committee would consider and recommend detailed proposals arising from the Integrated Risk Management Plan and that there might also be merit in establishing a Task and Finish Group, to be open to all Authority Members, to consider the potential consequences of implementation of such proposals.

Councillor Eastman indicated that he would be prepared to accept an amendment to this effect. The Motion, amended as indicated, was then put to the vote and declared **CARRIED** whereupon it was

## RESOLVED

- (a). that, subject to the amendment as indicated at the meeting by the Director of Service Improvement, the Integrated Risk Management Plan 2018 – 2022, as appended to report DSFRA/18/4, be approved;
- (b). that detailed proposals arising from the Integrated Risk Management Plan 2018 – 2022 be subject to appropriate consultation and approval by the Authority, through the Community Safety & Corporate Planning Committee;
- (c). that a Members Task and Finish Group (open to all Authority Members) be established to examine the potential consequences of implementation of any such proposals.

***(IN ACCORDANCE WITH STANDING ORDER 24(3), COUNCILLOR HANNAFORD REQUESTED THAT HIS VOTE AGAINST APPROVAL OF THE INTEGRATED RISK MANAGEMENT PLAN 2018 – 2022 BE RECORDED).***

### **DSFRA/66 Consultations - Fire & Rescue Service National Framework for England and Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) Inspection Programme and Framework 2018-19**

The Authority considered a report of the Chief Fire Officer (DSFRA/18/5) to which was appended, amongst other things, proposed responses to the consultations on:

- the Fire & Rescue National Framework for England (the deadline for responding had been extended for this Authority, following a request to the Home Office, to 16 February 2016); and
- Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) Inspection Programme and Framework 2018-19 (deadline for responding: 19 February 2018).

The Chair proposed that both draft consultation responses should be amended by the addition of a paragraph (as tabled at the meeting) setting out contextual details of the Devon & Somerset Fire & Rescue Authority (geography and population, resources, risks faced).

**RESOLVED** that, subject to inclusion of the additional contextual paragraph (as amended further at the meeting), the responses to the consultations on the Fire & Rescue National Framework for England and on Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) Inspection Programme and Framework 2018-19, as appended to report DSFRA/18/5, be approved and the Chief Fire Officer authorised to submit them on behalf of the Authority.

### **DSFRA/67 Chair's Announcements**

The Authority received, for information, details of events attended by both the Chair and Vice-Chair since the last Authority meeting.

### **DSFRA/68 Chief Fire Officer's Announcements**

The Chief Fire Officer reported, for information on:

- the recent road traffic fatalities on the M5 motorway and A30 and specifically "defusing" afforded to Service staff involved in attending those incidents; and
- a fire fatality in the Tiverton area involving an elderly male.

**DSFRA/69 Exclusion of the Press and Public**

**RESOLVED** that the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act, namely information relating to the financial and business affairs of any particular person – including the authority holding that information.

**DSFRA/70 Resources Committee 8 February 2018 - Restricted Minutes**

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

(Councillors Healey MBE, Saywell and Thomas each declared a personal, non-pecuniary interest in this matter by virtue of their being Authority-appointed non-executive directors on the Board of Red One Ltd).

Councillor Coles **MOVED** the restricted minutes of the meeting of the Resources Committee held on 8 February 2018 (as tabled at the meeting) which had considered, amongst other things, an update on the performance of Red One Ltd.

**RESOLVED** that the restricted Minutes be adopted in accordance with Standing Orders

***(SEE ALSO MINUTE DSFRA/63(c) ABOVE)***

The Meeting started at 10.00 am and finished at 12.20 pm



**APPENDIX A TO THE MINUTES OF THE BUDGET MEETING OF THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY MEETING HELD ON 16 FEBRUARY 2018**

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

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

**THE ROBUSTNESS OF THE 2018-19 BUDGET**

The net revenue budget requirement for 2018-19 has been assessed as £73.870m (Option B in report). In arriving at this figure a detailed assessment has been made of the risks associated with each of the budget headings and the adequacy in terms of supporting the goals and objectives of the authority as included in the Corporate Plan. It should be emphasised that these assessments are being made for a period up to the 31 March 2018, in which time external factors, which are outside of the control of the authority, may arise which will cause additional expenditure to be incurred. For example, the majority of retained pay costs are dependent on the number of call outs during the year, which can be subject to volatility dependent on spate weather conditions. Other budgets, such as fuel are affected by market forces that often lead to fluctuations in price that are difficult to predict. Details of those budget heads that are most at risk from these uncertainties are included in Table 1 overleaf, along with details of the action taken to mitigate each of these identified risks.

Whilst there is only a legal requirement to set a budget requirement for the forthcoming financial year, the Medium Term Financial Plan (MTFP) provides forecasts to be made of indicative budget requirements over a four year period covering the years 2019-20 to 2021-22. These forecasts include only prudent assumptions in relation future pay awards and prices increases, which will need to be reviewed in light of pay settlements and movement in the Consumer Prices Index.

**TABLE 1 – BUDGET SETTING 2018-19 ASSESSMENT OF BUDGET HEADINGS MOST SUBJECT TO VOLATILE CHANGES**

Budget Head	Budget Provision 2018-19 £m	RISK AND IMPACT	MITIGATION
Wholetime Pay Costs	28.7	Wholetime Pay represents nearly a third of Service costs. There is a high level of uncertainty around future pay increases, particularly whether pay awards will be linked to a change to the Firefighter role map to include emergency medical response. Each 1% pay award is equivalent to £xxx of additional pressure on the revenue budget. It is not anticipated that any additional funding will be allocated for pay and therefore large increases could mean the Authority needs to utilise reserves in order to balance its budget.	An unfunded pay award of 3% has been factored in to the budget for 2018-19 which represents a prudent approach.
Retained Pay Costs	12.8	A significant proportion of costs associated with retained pay is directly as a result of the number of calls responded to during the year. The level of calls from year to year can be volatile and difficult to predict e.g. spate weather conditions. Abnormally high or low levels of calls could result in significant variations against budget provision.	In establishing a General Reserve for 2018-19 an allowance has been made for a potential overspend on this budget
Fire-fighter's Pensions	2.7	Whilst net pension costs funded by the government through a top-up grant arrangement, the Authority is still required to fund the costs associated with ill-health retirements, and the potential costs of retained firefighters joining the scheme.	In establishing a General Reserve for 2018-19 an allowance has been made for a potential overspend on this budget
Insurance Costs	0.8	The Fire Authority's insurance arrangements require the authority to fund claims up to agreed insurance excesses. The costs of these claims are to be met from the revenue budget. The number of claims in any one-year can be very difficult to predict, and therefore there is a risk of the budget being insufficient. In addition some uninsured costs such as any compensation claims from Employment Tribunals carry a financial risk to the Authority.	In establishing a General Reserve for 2018-19 an allowance has been made for a potential overspend on this budget
Fuel Costs	0.7	As fuel prices are slowly starting to increase it is highly possible that inflationary increases could be in excess of the budget provided.	In establishing a General Reserve for 2018-19 an allowance has been made for a potential overspend on this budget
Treasury Management Income	(0.2)	As a result of the economic downturn in recent years, and the resultant low investment returns, the ability to achieve the same levels of income returns as in previous years is diminishing. The uncertainty over future market conditions means that target investment returns included in the base budget could be at risk.	The target income for 2018-19 has been set at a prudent level of achieving only a 0.6% return on investments. Budget monitoring processes will identify any potential shortfall and management informed so as any remedial action can be introduced as soon as possible.
Income	(0.7)	Whilst the authority has only limited ability to generate income, the budget has been set on the basis of delivering £0.7m of external income whilst setting the reliance on the Service budget for Red One Income at £0.3m. Due to economic uncertainty this budget line may be at risk.	Budget monitoring processes will identify any potential shortfall and management informed so as any remedial action can be introduced as soon as possible.
Capital Programme	10.3	Capital projects are subject to changes due to number of factors; these include unforeseen ground conditions, planning requirements, necessary but unforeseen changes in design, and market forces.	Capital projects are subject to risk management processes that quantify risks and identify appropriate management action. Any changes to the spending profile of any capital projects will be subject to Committee approval in line with the Authority Financial Regulations.
Business Rates	(0.9)	There is a high degree of uncertainty over levels of Retained Business rates income and the method of allocation between funding and revenue grants in future years.	There is a specific reserve of £0.6m set up for NNDR smoothing in future years which will be utilised to smooth in year changes.

## **THE ADEQUACY OF THE LEVEL OF RESERVES**

Total Reserve balances for the Authority as at April 2017 is £35.3m made up of Earmarked Reserves (committed) of £30.0m, and General Reserve (uncommitted) of £5.3m. This will decrease by the end of the financial year as a result of planned expenditure against those reserves during the year. A General Reserve balance of £5.3m is equivalent to 7.3% of the total revenue budget, or 27 days of Authority spending, and places the Authority in the middle quartile when compared to other fire and rescue authorities.

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

It is pleasing that the Authority has not experienced the need to call on general reserve balances in the last five years to fund emergency spending, which has enabled the balance, through budget underspends, to be increased to a level in excess of 5%. The importance of holding adequate levels of general reserves has been highlighted on a number of occasions in recent times, the impact of flooding and the problems experienced by the global financial markets are just two examples of external risks which local authorities may need to take into account in setting levels of reserves and wider financial planning.

## **CONCLUSION**

It is considered that the budget proposed for 2018-19 represents a sound and achievable financial plan, and will not increase the Authority’s risk exposure to an unacceptable level. The estimated level of reserves is judged to be adequate to meet all reasonable forecasts of future liabilities.

**APPENDIX B TO THE MINUTES OF THE BUDGET MEETING OF THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY MEETING HELD ON 16 FEBRUARY 2018**

PROJECT	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24
	£000	£000	£000	£000	£000	£000
	Budget	Budget	Budget	Indicative Budget	Indicative Budget	Indicative Budget
<b>Estate Development</b>						
Site re/new build (subject to formal authority approval)	400	500	0	0	0	0
Improvements & structural maintenance	2,943	4,200	2,500	1,800	1,800	1,800
<b>Estates Sub Total</b>	<b>3,343</b>	<b>4,700</b>	<b>2,500</b>	<b>1,800</b>	<b>1,800</b>	<b>1,800</b>
<b>Fleet &amp; Equipment</b>						
Appliance replacement	4,150	3,700	2,500	2,700	2,700	2,700
Specialist Operational Vehicles	125	600	200	0	0	0
Equipment	1,985	100	200	200	200	200
ICT Department	627	0	0	0	0	0
Water Rescue Boats	46	0	0	0	0	0
<b>Fleet &amp; Equipment Sub Total</b>	<b>6,933</b>	<b>4,400</b>	<b>2,900</b>	<b>2,900</b>	<b>2,900</b>	<b>2,900</b>
<b>Overall Capital Totals</b>	<b>10,276</b>	<b>9,100</b>	<b>5,400</b>	<b>4,700</b>	<b>4,700</b>	<b>4,700</b>
<b>Programme funding - 0% increase in CT</b>						
Earmarked Reserves:	7,443	4,150	455	0	0	0
Revenue funds:	922	2,989	3,498	2,762	3,417	3,502
Application of existing borrowing	1,911	1,961	1,447	1,938	1,283	1,198
<b>Total Funding</b>	<b>10,276</b>	<b>9,100</b>	<b>5,400</b>	<b>4,700</b>	<b>4,700</b>	<b>4,700</b>
<b>Programme funding - 2.99% increase in CT</b>						
Earmarked Reserves:	5,981	4,150	455	0	0	0
Revenue funds:	2,384	2,989	3,498	2,762	3,417	3,502
Application of existing borrowing	1,911	1,961	1,447	1,938	1,283	1,198
<b>Total Funding</b>	<b>10,276</b>	<b>9,100</b>	<b>5,400</b>	<b>4,700</b>	<b>4,700</b>	<b>4,700</b>

**APPENDIX C TO THE MINUTES OF THE BUDGET MEETING OF THE DEVON & SOMERSET FIRE & RESCUE AUTHORITY MEETING HELD ON 16 FEBRUARY 2018**

<b>PRUDENTIAL INDICATORS</b>			<b>INDICATIVE INDICATORS 2019/20 to 2021/22</b>			
	2018/19 £m Estimate	2019/20 £m Estimate	2020/21 £m Estimate	2021/22 £m Estimate	2022/23 £m Estimate	2023/24 £m Estimate
<b>Capital Expenditure</b>						
Non - HRA	10.276	9.100	5.400	4.700	4.700	4.700
HRA (applies only to housing authorities)						
<b>Total</b>	<b>10.276</b>	<b>9.100</b>	<b>5.400</b>	<b>4.700</b>	<b>4.700</b>	<b>4.700</b>
<b>Ratio of financing costs to net revenue stream</b>						
Non - HRA	4.03%	4.03%	3.97%	3.89%	3.52%	3.41%
HRA (applies only to housing authorities)	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
<b>Capital Financing Requirement as at 31 March</b>						
	£000	£000	£000	£000	£000	£000
Non - HRA	25,538	25,444	24,851	24,758	24,264	23,771
HRA (applies only to housing authorities)	0	0	0	0	0	0
Other long term liabilities	1,209	1,112	1,010	907	791	656
<b>Total</b>	<b>26,747</b>	<b>26,556</b>	<b>25,861</b>	<b>25,665</b>	<b>25,055</b>	<b>24,427</b>
<b>Annual change in Capital Financing Requirement</b>						
	£000	£000	£000	£000	£000	£000
Non - HRA	(182)	(191)	(694)	(197)	(807)	(1,238)
HRA (applies only to housing authorities)	0	0	0	0	0	0
<b>Total</b>	<b>(182)</b>	<b>(191)</b>	<b>(694)</b>	<b>(197)</b>	<b>(807)</b>	<b>(1,238)</b>
<b>PRUDENTIAL INDICATORS - TREASURY MANAGEMENT</b>						
<b>Authorised Limit for external debt</b>						
	£000	£000	£000	£000	£000	£000
Borrowing	26,907	26,810	26,687	26,089	25,971	25,453
Other long term liabilities	1,359	1,265	1,162	1,056	947	823
<b>Total</b>	<b>28,267</b>	<b>28,074</b>	<b>27,849</b>	<b>27,144</b>	<b>26,918</b>	<b>26,276</b>
<b>Operational Boundary for external debt</b>						
	£000	£000	£000	£000	£000	£000
Borrowing	25,631	25,537	25,444	24,851	24,757	24,264
Other long term liabilities	1,299	1,209	1,112	1,010	907	791
<b>Total</b>	<b>26,929</b>	<b>26,747</b>	<b>26,556</b>	<b>25,861</b>	<b>25,665</b>	<b>25,055</b>
<b>Maximum Principal Sums Invested over 364 Days</b>						
Principal Sums invested > 364 Days	5,000	5,000	5,000	5,000	5,000	5,000

<b>TREASURY MANAGEMENT INDICATOR</b>	Upper Limit %	Lower Limit %
Limits on borrowing at fixed interest rates	100%	70%
Limits on borrowing at variable interest rates	30%	0%
<b>Maturity structure of fixed rate borrowing during 2017/18</b>		
Under 12 months	30%	0%
12 months and within 24 months	30%	0%
24 months and within 5 years	50%	0%
5 years and within 10 years	75%	0%
10 years and above	100%	50%

**APPENDIX D TO THE MINUTES OF THE BUDGET MEETING OF THE DEVON &  
SOMERSET FIRE & RESCUE AUTHORITY MEETING HELD ON 16 FEBRUARY 2018**

**MINIMUM REVENUE STATEMENT (MRP) 2018-19**

***Supported Borrowing***

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

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

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

***Finance Lease and PFI***

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

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

## **HUMAN RESOURCES MANAGEMENT & DEVELOPMENT COMMITTEE** (Devon & Somerset Fire & Rescue Authority)

23 March 2018

### Present:-

Councillors Best, Coles, Ellery and Healey MBE

### Apologies:-

Councillors Chugg and Hannaford

### **HRMDC/20 Election of Chair**

In view of the apology for non-attendance submitted by both the Chair and Vice Chair of this Committee, it was

**RESOLVED** that Councillor Healey MBE be elected Chair for this meeting.

### \* **HRMDC/21 Minutes**

**RESOLVED** that the Minutes of the meeting held on 12 December 2017 be **DEFERRED** for signing as a correct record at the next meeting.

### \* **HRMDC/22 Workforce Culture, Diversity and Inclusion - Quarterly Update**

The Committee received for information a report of the Director of Service Improvement (HRMDC/18/19) on current progress with work being undertaken by the Service in planning and delivering cultural change. This work was being driven by the requirements of the proposed new National Framework for England and Wales for reform to be delivered within fire and rescue services and particularly for them to develop and maintain a workforce that was resilient, skilled, flexible and diverse. The focus in future needed to be in four areas, namely promoting an inclusive culture, recruitment, progression and retention.

The Committee considered, in particular, the progress that had been made within Devon & Somerset Fire & Rescue Service in the following areas:

- Inclusive culture/leadership – including the instigation of new Values and Leadership Behaviours, the transparent promotion process that had been undertaken and the development of a new appraisal process;
- Recruitment, promotion and retention – the Service was developing a People Strategy (as suggested by the the Home Office) and as part of this was evaluating the wholetime and on-call recruitment processes to ensure that they were fair, transparent and made full use of the available talent pool in the community. Feedback from a conference attended recently indicated that the Service approach to recruitment was ahead of that of other fire and rescue services, particularly in respect of the recruitment of women to on-call positions.

The Committee was advised that the new inspection regime under Her Majesty's Inspectorate of Police and Fire and Rescue Services would be looking more closely at the Service's equality and diversity statistics so it was important to evidence those areas of workforce reform already undertaken.

\* **HRMDC/23 Gender Pay Gap**

The Committee received for information a report of the Director of Service Improvement (HRMDC/18/20) to which was appended the first Gender Pay Gap report for the Service. New requirements under the Equalities Act 2010 required all public authorities with 250 or more employees to publish statutory calculations every year on how large the pay gap was between male and female employees.

It was noted that the UK gender pay gap (in favour of men) was 18.1% in April 2016 whilst the gap for all staff groups within Devon & Somerset Fire & Rescue Service was 11%. The Service had instigated an Action Plan to address the pay gap, including:

- Increasing the number of women applying for senior roles in the operational and non-operational workforce;
- Increasing the attraction and recruitment of women into the operational workforce; and
- Retaining women by identifying and addressing barriers to continue and progress their careers throughout their working life.

**HRMDC/24 Provision of Vehicles to Employees**

The Committee considered a report of the Director of Finance (Treasurer) (HRMDC/18/21) on the Contract Car Hire (CCH) Schemes operated for both uniformed and non-uniformed employees.

The schemes had been subject to review to ensure they remained cost neutral to the Service and that they remained compliant with HMRC requirements while still remaining an attractive benefit to employees. As a result of the review, it was now proposed that the Contract Car Hire Schemes currently offered by the Service be closed and replaced with a car allowance payment for all staff.

**RESOLVED** that the Devon & Somerset Fire & Rescue Authority be recommended to approve:

- (a) discontinuation of the Contract Car Hire Schemes for both uniformed and non-uniformed employees;
- (b) the introduction of a Car Allowance option for eligible officers (as defined in the report) who wish to have a vehicle for both business and private use;
- (c) subject to (b) above, consultation with employees on and subsequent implementation of Car Allowance payments and mileage rates on the basis of the options as set out in Appendix A to report HRMDC/17/21;
- (d) payment of an Essential User Allowance, on the basis of the options identified in Appendix A to the report, for other employees not covered by (b) above but who are required to provide a vehicle for business use.

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

The Committee received for information a report of the Director of Service Improvement (HRMDC/18/22) that set out the Service's performance on absence management up to and including January 2018.

The Committee noted that performance for the period April 2017 to January 2018 was 7.26 days/shifts lost as compared with 7.01 days for the same period in 2016/17.



It was noted that a top level review into sickness absence was being undertaken and that a report on the outcome of this would be submitted to the Committee in due course. Absence levels was a key measure for the Service and a specific target was being developed with an average measure of 8 days/shifts lost per person for wholetime, control and support staff.

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

The Meeting started at 10.00 am and finished at 11.40 am

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<b>REPORT REFERENCE NO.</b>	<b>HRMDC/17/22</b>
<b>MEETING</b>	<b>HUMAN RESOURCES MANAGEMENT &amp; DEVELOPMENT COMMITTEE</b>
<b>DATE OF MEETING</b>	<b>23 MARCH 2018</b>
<b>SUBJECT OF REPORT</b>	<b>PROVISION OF VEHICLES TO EMPLOYEES</b>
<b>LEAD OFFICER</b>	<b>Director of Finance</b>
<b>RECOMMENDATIONS</b>	<p><i>That the Committee recommends to the Devon &amp; Somerset Fire &amp; Rescue Authority that:</i></p> <ul style="list-style-type: none"> <li><i>(a) the Contract Car Hire Schemes for both uniformed and non-uniformed employees are discontinued;</i></li> <li><i>(b) a Car Allowance option is introduced for eligible officers (as defined in the report) who wish to have a vehicle for both business and private use;</i></li> <li><i>(c) subject to (b) above, the levels of Car Allowance payments and mileage rates as set out in Appendix A are approved for consultation with employees and subsequent implementation;</i></li> <li><i>(d) other employees not covered by (b) above but who are required to provide a vehicle for business use receive an Essential User Allowance, the options for which are outlined in Appendix A;</i></li> </ul>
<b>EXECUTIVE SUMMARY</b>	<p>The Service currently operates Contract Car Hire Schemes for both uniformed and non-uniformed employees. The schemes have been under review to ensure that they remain cost neutral to the Service and that they are compliant with HMRC requirements whilst remaining an attractive benefit to employees.</p> <p>As a result of a review by officers it is proposed that the Contract Car Hire Schemes offered by the service be closed and replaced by a Car Allowance payment as outlined in this report.</p> <p>As the proposed payment of a Car Allowance for senior employees includes the Chief Fire Officer and the other Executive Board Officers, this will be a matter for the Authority to determine based on a recommendation from the Human Resources Management &amp; Development Committee.</p> <p>The Service also operates Casual User arrangements for employees who infrequently use their own vehicle and an Essential User arrangement for employees who need to have immediate access to a vehicle whilst at work or on a duty rota. There are no proposed changes to that scheme contained within this report.</p>

<p><b>RESOURCE IMPLICATIONS</b></p>	<p>As outlined in the report, annual savings of up to £5,000 are anticipated as a result of moving from the provision of vehicles under the Contract Car Hire Scheme to payments of Car Allowances.</p> <p>Additional costs of between £18,500 and £26,600 are anticipated if all non-uniformed members of the Service Leadership Team were to opt to receive a Car Allowance.</p> <p>There is a net cost to the Authority of implementing these changes of between £13,400 (Option A) and £24,800 (Option B).</p> <p>The simplification of schemes will result in efficiency savings for both Fleet and Finance department employees.</p>
<p><b>EQUALITY RISK &amp; BENEFITS ASSESSMENT</b></p>	<p>This will provide parity for the provision of vehicles between uniformed and non-uniformed colleagues.</p>
<p><b>APPENDICES</b></p>	<p>Appendix A – proposed Car Allowances</p>
<p><b>LIST OF BACKGROUND PAPERS</b></p>	<p>Nil.</p>

## 1. INTRODUCTION

- 1.1 The Service currently operates Contract Car Hire Schemes for both uniformed and non-uniformed employees. The schemes have been under review to ensure that they remain cost neutral to the Service and that they are compliant with HMRC requirements. The two schemes differ in that for uniformed employees the Service is providing a vehicle for emergency response whereas for non-uniformed employees the vehicle is for normal business use. Private use is permitted under both schemes.
- 1.2 The Service also operates Casual User arrangement for employees who infrequently use their own vehicle and an Essential User arrangement for employees who are required to provide a vehicle for work as part of their contract, e.g. those on a duty rota. Uniformed employees who need a vehicle to respond to incidents under blue light conditions and who do not use that vehicle for private use are provided with vehicles which are classed as a business asset. No changes to either the Casual User scheme or Provided Vehicle Scheme are suggested in this report.
- 1.3 The Contract Car Hire Scheme was originally established to offer employees a choice over the vehicle that they use for business purposes (within a Service Specification) and to allow for private use of that vehicle. One of the benefits of maintaining flexibility for our staff is that the vehicle can also be used for family journeys (such as dropping off children to school/nursery) without having to return home to collect a provided vehicle (which cannot be used for private use).
- 1.4 The Service currently administers and maintains a leased vehicle on behalf of the employee and contributes a fixed amount to the cost based on the employees anticipated business usage. Employees then make up any difference in those costs and any benefit in kind is calculated on an annual basis and submitted to HMRC. The employee pays income tax on the declared benefit in kind and the Service pays employers National Insurance Contributions. There is considerable administrative effort by both the Fleet and the Finance Department in administering and accounting for the scheme and the associated benefits.
- 1.5 In 2017 HMRC introduced new legislation which prevents business assets which are provided for private use from being pro-rated/split between business and private use, which has significantly pushed up the cost of providing the Contract Car Hire scheme to uniformed employees and has also adversely impacted employee's personal tax liability. Consequently, because the uniformed Contract Car Hire scheme is no longer as attractive to employees and carries a significant administrative burden, it is proposed that the uniformed Contract Car Hire scheme is closed and replaced by a Car Allowance to be paid to employees through their salary – meaning that any tax due is calculated on a monthly basis rather than annually in arrears. Having a better idea of their monthly tax liability will support our employees in financial planning and budgeting and enable them to make clear decisions on the type of vehicle or scheme that they opt for. There are currently eight employees who use the Uniformed Contract Car Hire Scheme.
- 1.6 The non-uniformed Contract Car Hire Scheme was established to provide similar benefits (albeit on a different taxation basis) to non-uniformed employees and so it is recommended that this scheme is also closed and replaced by a Car Allowance to be paid through salary. There are currently eight employees who use the non-uniformed Contract Car Hire Scheme.

- 1.7 To ensure parity with uniformed colleagues and improve recruitment and retention of senior professional employees, it is proposed that an equivalent Car Allowance is paid to senior non-uniformed employees on Grade 11 (Area Manager equivalent). The payment would only apply where employees choose to use their own vehicle for business use and would be £500 lower than that paid to uniformed colleagues in recognition that insurance and fuel costs will be lower due to lack of blue light use.
- 1.8 Similarly, it is proposed to alter the Executive Board Contract Car Hire Scheme so that it reflects the proposed change to schemes outlined above, in that a Car Allowance would be paid via salary for those Officers who wish to use their vehicle privately, to replace the provision of vehicles via the Contract Car Hire scheme.
- 1.9 The underlying principle of the Contract Car Hire Schemes has always been to ensure that the cost to the Service of providing vehicles for both business and private use is contained within the cost of a vehicle under the Provided Car scheme. The proposed changes to payment of a Car Allowance and the Essential User Scheme will maintain this principle for both Options.
- 1.10 If the Authority approves the principles contained within this report, the next step is to consult with staff regarding the payment of the allowance and which Option, A or B, is to be developed in to policy for the management of future schemes.

## **2. IMPACT OF CHANGES FROM A CONTRACT CAR HIRE SCHEME TO PAYMENT OF A CAR ALLOWANCE**

### Taxation

- 2.1 Any benefits provided to an employee for their personal use of a vehicle attract personal Income Tax and National Insurance together with Employer's National Insurance Contributions. Car Allowances paid via salaries would be taxed at source and subject to the same tax and national insurance rules. Under the current Contract Car Hire Schemes mileage is paid at the HMRC "fuel only rate" which is typically £0.11 per mile. Where an employee provides their own vehicle they can be reimbursed for mileage up to a maximum of £0.45 per mile without attracting any personal Income Tax or Employer's National Insurance Contributions.

The proposed changes to mileage rates and allowances contained in Option A of this report mean that employees could receive a higher level of tax free reimbursement for their business mileage (43p per mile) whilst the underlying contribution towards the cost of vehicle would reduce. Every employee's mileage and tax circumstances are different so assumptions have been made when calculating the average impact of these proposed changes on employees. These assumptions are based on the 2016/17 declared Benefit in Kind figures.

Any car allowance paid would be subject to tax at source through the PAYE system and an Option is also included (Option B) to increase the level of car allowance payment whilst maintaining current fuel only mileage rates.

### Flexi Duty Officers

- 2.2 Flexi Duty Officers are required to respond under blue light conditions to operational incidents and therefore, were the Committee be minded to endorse the recommendations contained within this report and at Appendix A, they will be required to provide a vehicle which is fitted out with blue lights, meets Service specified standards and is insured appropriately.

It is estimated that a move from the Contract Car Hire Scheme to payment of a Car Allowance for Flexi Duty Officers as outlined in this report would produce savings of between £1,000 (Option B) and £4,800 (Option A) per year for the Service and provide an average additional benefit after tax to each Officer of £328 (Option B) and £440 (Option A) per year.

Under the Car Allowance Scheme and as a result of HMRC guidance, Flexi-Duty Officers Home to Work mileage cannot be treated as business mileage (for taxation purposes) and under the proposed new arrangements such mileage would cease to be reimbursed.

#### Non-uniformed Contract Car Hire and Essential Users

- 2.3 Non-uniformed employees designated to have Essential User status currently receive payments from the Service in two parts, an annual lump sum of £1,239, and a mileage rate based upon the HMRC rate advisory rate, currently 45p per mile.
- 2.4 It is proposed under Option A that the mileage rate be reduced to 43p per mile (reducing to 25p for business miles in excess of 10,000) to provide consistency across all groups of employees and provide value for money to the Authority.
- 2.5 Non-uniformed employees who are currently eligible for the Contract Car Hire scheme (those that travel in excess of 2,000 business miles per year) would be considered for eligibility to be moved on to the Essential Users Scheme and receive a lump sum payment of £1,239 and a mileage rate of £0.43 per mile. It is estimated that this will save the Authority circa £1,000 per year when compared with the current costs of the Contract Car Hire Scheme and provide an average additional benefit after tax to the employee of £1,061 per year.
- 2.6 Option B is based upon paying an increased allowance for Essential Users of £3,300 and switching to fuel only mileage rates (typically 11p per mile) and is expected to save the Service £300 per year. This option is likely to slightly increase the amount of tax paid by employees by £89 per year.

#### Non Uniformed Service Leadership Team

- 2.7 Should the Committee agree to the option for senior non-uniformed employees within the Service Leadership Team receiving an equivalent Car Allowance to their uniformed equivalents, then this would result in six employees receiving a payment of between £4,000 (Option A) and £5,350 (Option B) per annum (as outlined in Appendix A) which is equivalent to a maximum additional cost to the Authority of £26,600 per year. It should be noted that some of these employees already benefit from either the Contract Car Hire Scheme or the Essential User Allowance.
- 2.8 Consultation has indicated that the payment of a Car Allowance will assist in attracting and retaining high calibre professional employees to operate at a senior level within the organisation.

#### Executive Board

- 2.9 It is recommended that the Executive Board car scheme reflect that of the rest of the organisation and therefore proposed Car Allowances payments to replace the current Contract Car Hire Scheme are outlined in Appendix A.

### **3. ADMINISTRATION OF A CAR ALLOWANCE PAYMENT**

- 3.1 The introduction of a Car Allowance payment as outlined in this report will simplify the existing arrangements available to both uniformed and non-uniformed employees and assist with consistency across the organisation. Significantly less administrative effort will be required in sourcing and administering vehicles and their maintenance as employees will become responsible for their own vehicle. There will also be efficiency savings made to the year-end calculation of benefits in kind and employees will better understand their personal taxation liability given that payments will be made through monthly salaries.
- 3.2 Given that employees will be required to source and maintain their own vehicles there will be a new requirement – to ensure legal compliance and the safety and wellbeing of our employees – for the Service to have effective systems in place to keep records of the MOT, Servicing and Insurance status of employees' vehicles. The Service currently uses a data base for driving licence checks which could be utilised for wider record keeping.

### **4. OTHER FINDINGS**

- 4.1 Discussions have been held with other Fire and Rescue Services in researching the introduction of a Car Allowance scheme, amongst other options, and there are several other Services which successfully operate such schemes for their uniformed and non-uniformed employees. Given that specialist insurance is required for driving under blue light conditions, it has been confirmed that such insurance is available to individuals.

### **5 CONCLUSIONS**

- 5.1 A move away from current Contract Car Hire Schemes and the introduction of a Car Allowance payment would:
- Generate efficiency and financial savings for the Service;
  - maintain a flexible solution to those employees who wish to use vehicles for both business and private use;
  - provide comparable employee benefit in terms of costs for the individual

**AMY WEBB**  
**Director of Finance (Treasurer)**



## Appendix A – Proposed Car Allowances

Option A - Maximise Mileage rate						
Role	2016 Calculated Values	Multiplier of response vehicle	2018 Car Allowance - response	2018 Essential User Allowance	Typical Mileage Rate*	Proposed Mileage rate
<b>Provided vehicle - car only cost</b>	<b>£2,850</b>	<b>1</b>	<b>£3,000</b>	-		
Non-uniformed staff	£1650- £3250~	-	-	£1,239	£0.11	£0.43
Flexi Duty Officer	£2,850	1	£3,000	-	£0.11	£0.43
Service Leadership Team	£4,125	1.5	£4,500	£4,000	£0.11	£0.43
EB Grade 1	£5,063	1.84	£5,520	£5,020	£0.11	£0.43
EB Grade 2	£5,625	2.05	£6,150	£5,650	£0.11	£0.43
EB Grade 3	£6,188	2.25	£6,750	£6,250	£0.11	£0.43
ACFO	£6,750	2.45	£7,350	£6,850	^	£0.43
CFO	£9,000	3.27	£9,810	£9,310	^	£0.43
Option B - Maximise Allowance paid						
Role	2016 Calculated Values	Multiplier of response vehicle	2018 Car Allowance - response	2018 Essential User Allowance	Typical Mileage Rate*	Proposed Mileage rate*
<b>Provided vehicle - car only cost</b>	<b>£2,850</b>	<b>1</b>	<b>£3,000</b>	-		
Non-uniformed staff	£1650- £3250~	-	-	£3,300	£0.11	£0.11
Flexi Duty Officer	£2,850	1	£3,900	-	£0.11	£0.11
Service Leadership Team	£4,125	1.5	£5,850	£5,350	£0.11	£0.11
EB Grade 1	£5,063	1.84	£7,176	£6,676	£0.11	£0.11
EB Grade 2	£5,625	2.05	£7,995	£7,495	£0.11	£0.11
EB Grade 3	£6,188	2.25	£8,775	£8,275	£0.11	£0.11
ACFO	£6,750	2.45	£9,555	£9,055	^	£0.11
CFO	£9,000	3.27	£12,753	£12,253	^	£0.11

\* HMRC Approved mileage rates are based upon engine size and therefore are dependent upon the vehicle specification chosen by the employee

~ Current vehicle contribution rates are determined by the number of business miles completed by an employee

^ Uniformed members of the Executive Board operate under the provided car scheme and are therefore provided with a fuel card

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## **DETERMINATIONS AND DISPENSATIONS COMMITTEE**

(Devon & Somerset Fire & Rescue Authority)

9 April 2018

Present:

Councillors Bown, Coles, Ellery, Redman and Thomas.

Also in attendance:

Fr. David Watson (Independent Person).

\* **DDC/1**

**Election of Chair**

Nominations were sought for the position of Committee Chair.

Councillor Bown proposed, with Councillor Ellery seconding, that Councillor Thomas be elected as Chair.

There being no other nominations, it was

**RESOLVED** that Councillor Thomas be elected Chair of the Committee until the Annual Authority meeting in June.

\* **DDC/2**

**Minutes**

**RESOLVED** that, subject to recording Fr. David Watson (Independent Member) as also in attendance, the Minutes of the meeting held on 28 November 2016 be signed as a correct record.

**DDC/3**

**Review of Current Standards Arrangements**

The Committee considered a report of the Director of Corporate Services (DDC/18/1) on the outcome of a review of the Authority's Code of Conduct, associated Declarations of Interest Form and Guidance on Making a Complaint. Appended to the report were a revised Code of Conduct, associated Registration of Interests Form and Guide to Making a Complaint which had been amended following the review to ensure compliance with best practice and provide a robust, appropriate and proportionate framework.

It was also proposed that the terms of reference for the Committee should be amended to more accurately reflect the requirements of the Localism Act 2011 and that the Committee should be retitled as the Standards Committee in the interests of transparency and given that this was the most commonly used name for committees with similar roles in other local authorities.

**RESOLVED** that, subject to incorporation of those amendments as indicated at the meeting, the Authority be recommended to approve:

- (a). the revised Code of Conduct as set out at Appendix A to report DDC/18/1;
- (b). the revised form for Declaration of Members' Registerable Interests as set out at Appendix B to the report;
- (c). the revised Guide to Making a Complaint as set out at Appendix C to the report;
- (d). the renaming of the Committee to the Standards Committee;
- (e). the revised Terms of Reference for the Committee as set out at Appendix D to the report; and

- (f). authorisation for the Clerk to make consequential amendments stemming from (a) to (e) above.

**DDC/4**

**Consultation on Review of Local Government Ethical Standards**

The Committee considered a report of the Director of Corporate Services (DDC/18/2) to which was appended a proposed response to the consultation issued by the Committee on Standards in Public Life for the purpose of gathering evidence for its review of local government ethical standards.

The closing date for submission of responses to the consultation was 18 May 2018.

**RESOLVED** that the Authority be recommended:

- (a). to approve the draft response to the Committee on Standards in Public Life consultation on local government ethical standards, as appended to report DDC/18/2 but amended as indicated at the meeting; and
- (b). to authorise the Clerk to submit the approved response on behalf of the Authority.

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

The Meeting started at 2.00 pm and finished at 3.37 pm



## DEVON & SOMERSET FIRE & RESCUE AUTHORITY MEMBERS' CODE OF CONDUCT

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## 1. INTRODUCTION – GENERAL PRINCIPLES OF PUBLIC LIFE

- 1.1 This Code has been locally developed for and adopted by the Authority in support of its duty under the Localism Act 2011 to promote and maintain high standards of conduct by Authority Members. It is your responsibility as a Member of the Authority to comply fully with this Code.
- 1.2 Underpinning the Code are the following Principles of Public Life which you must always have regard to when acting in your capacity as a Member of the Authority
- (1) **Selflessness** - you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;
  - (2) **Honesty and Integrity** – you should never place yourself in a position where your honesty and integrity might be called in question. For example, you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - (3) **Objectivity** - when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
  - (4) **Accountability** - you are accountable for your decisions to the public and you must co-operate fully and honestly with whatever scrutiny is appropriate to your office;
  - (5) **Openness** - you must be as open as possible about your decisions and actions and the decisions and actions of the Authority and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Authority or contained in its constitutional governance documents;
  - (6) **Personal Judgment** – while you may take account of the views of others (including those of any political groups to which you may belong and your appointing constituent authority), you should always reach your own conclusions on Authority issues before you and act in accordance with those conclusions;
  - (7) **Respect for Others** – you should promote equality and not discriminate against any person, treating all people with respect regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the Authority’s statutory officers and its other employees;
  - (8) **Duty to Uphold the Law** – you should always uphold the law and on all occasions act in accordance with the trust the public is entitled to place in you
  - (9) **Stewardship** - you should do everything within your power to ensure that the Authority’s resources are used prudently and in accordance with the law;
  - (10) **Leadership** – you should lead by example when serving in your public post in promoting high standards of conduct as reflected in the above principles.

- 1.3 The reputation of the Authority depends on your conduct and what the public believes about your conduct. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct. In essence, you should do nothing as a Member which you could not justify to the public.

## 2. DEFINITIONS

- 2.1 In this Code the following terms have the meanings indicated:

TERM	MEANING
<i>“close association”</i>	an affiliation, more than just a passing casual acquaintance, which a reasonable person, aware of all the facts, would consider so significant as to prejudice your ability to act in the public interest.
<i>“family”</i>	includes any relative, whether by blood or by marriage, with whom you have a close association.
<i>“disclosable pecuniary interest”, “personal interest” and “non-registerable interest”</i>	have the meanings set out in the relevant sections of this Code
<i>“meeting”</i>	any meeting of any meeting of the full Authority or any of its Committees, Sub-Committees, Working Parties etc. as may from time to time be established
<i>“member”</i>	Any Councillor appointed to serve on the Authority by one of its constituent authorities (Devon and Somerset County Councils; Plymouth City Council and Torbay Council) and also includes any person co-opted to membership of the Authority
<i>“appropriate third party”</i>	means either a qualified legal practitioner or qualified accountant.
The following definitions are derived from The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) – <b>See Section 5(b) below</b>	
<i>“body in which the relevant person has a beneficial interest”</i>	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
<i>“director”</i>	includes a member of the committee of management of an industrial and provident society

TERM	MEANING
"land"	excludes any easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
"relevant authority"	means the authority of which you are a member
"relevant person"	means <ul style="list-style-type: none"> <li>• you; or</li> <li>• your spouse or civil partner; or</li> <li>• a person with whom you are living as husband and wife or as if they were civil partners</li> </ul> and you are aware that that other person has an interest
"relevant period"	a period of 12 months ending with the date on which you notified the Monitoring Office of an interest
"securities"	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

### 3. APPLICATION OF THIS CODE

3.1 This Code should be read together with the preceding general principles of public life.

3.2 You must comply with this Code whenever you are acting in your official capacity as a Member of the Devon & Somerset Fire & Rescue Authority, that is when:

- (1) you are engaged on the business of the Authority; or
- (2) you behave so as to give a reasonable person the impression that you are acting as a representative of the Authority.

3.3 Where you act as a representative of this Authority:

- (1) on another authority which has a Code of Conduct, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
- (2) on any other body, you must, when acting for that other body, comply with this Code of Conduct **except in so far as** conflicts with any lawful obligations to which that other body may be subject.

3.4 In relation to your membership of other local authorities, you must ensure that you comply with the Code of Conduct in place for the authority concerned when acting in your capacity as member of that authority. Please note that your conduct may be subject to more than one Code of Conduct depending on the circumstances. Advice on this can be sought from the Monitoring Officer or Democratic Services.



## 4. GENERAL OBLIGATIONS

### 4.1 You **must** –

- (1) conduct yourself in a manner consistent with the Authority's duty to promote and maintain high standards of conduct by its Members;
- (2) treat others with courtesy and respect;
- (3) when reaching decisions on any matter:
  - (a). do so solely on the merits of the case; and
  - (b). act in the public interest; and
  - (c). have reasonable regard to any relevant advice provided to you by an officer of the Authority (e.g. the Chief Financial Officer and the Monitoring Officer); and
  - (d). give reasons for all decisions in accordance either with statutory requirements or any reasonable requirements consistent with serving the public interest;
- (4) have regard to statutory or other requirements relating to local authority publicity (e.g. the Local Authority Code of Publicity);
- (5) ensure you use any Authority resources in accordance with any reasonable requirements of the Authority and do not use any Authority resources improperly (e.g. for purely personal or party political purposes).

### 4.2 You **must not** –

- (1) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (2) accept any gifts or hospitality that could be seen by the public as likely to influence your judgement in relation to any matter that you deal with in your official capacity;
- (3) treat others in a way that amounts to, or which may be reasonably construed as, unlawfully discriminating against them;
- (4) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (5) in relation to any allegation that any Member has failed to comply with the Authority's Code of Conduct, intimidate or attempt to intimidate any person who is or is likely to be either a complainant; or a witness; or is otherwise involved in the administration of any investigation or proceedings in respect of the allegation;
- (6) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Authority;
- (7) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature (including exempt information as defined in Schedule 12A [as amended] to the Local Government Act 1972), except where:

- (a). you have the consent of a person authorised to give that consent; **or**
  - (b). you are required by law to do so; **or**
  - (c). the disclosure is made to an appropriate third party for the purpose of obtaining professional legal or accountancy advice **provided that** the third party has agreed in writing not to disclose the information to any other person before the information is provided to them; **or**
  - (d). the disclosure is:
    - (i). in the public interest; **and**
    - (ii). made in good faith; **and**
    - (iii). the disclosure is made in compliance with the reasonable requirements of the Authority, where these requirements are demonstrable by reference to an adopted policy, procedure or similar document of the Authority or evidenced by advice provided by the Monitoring Officer or his nominee.
- (8) prevent another person from gaining access to information to which that person is entitled by law;
- (9) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Authority into disrepute.

## 5. INTERESTS

### (a). **Registration of Interests**

5.1 You **must**, within 28 days of:

- (1) this Code being adopted by, or applied to, the Authority; **or**
- (2) your taking office as a Member or Co-opted Member of the Authority, whichever is the later, and annually thereafter, provide written notification to the Authority's Monitoring Officer of:
  - (a). any **disclosable pecuniary interest** as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife – see Section 5(b) below; **and**
  - (b). any **personal interest** as may be specified from time to time by the Authority – see Section 5(c) below;

5.2 Details of any interests so registered will, unless the Monitoring Officer has agreed that they are "sensitive" (see Section 5(e) below), be recorded in the Authority's Register of Members' Interests and made available for public inspection including on the Authority's website at:

<https://fireauthority.dsfire.gov.uk/uuCoverPage.aspx?bcr=1?siteCategoryId=10>

5.3 You **must also**, within 28 days of becoming aware of any new disclosable pecuniary or registerable personal interest, or change to any such interest already registered, provide written notification to the Authority's Monitoring Officer of that new interest (or change in interest already registered, as the case may be).

**(SEE ALSO PARAGRAPH 5.11 BELOW)**

**(b). Disclosable Pecuniary Interests**

5.4 Disclosable pecuniary interests, as currently defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464), are:

- (1) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (2) any payment or provision of any other financial benefit (other than from the Authority) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
- (3) any contract made between the Authority and you or a relevant person (or body in which you or the relevant person has a beneficial interest):
  - (a) under which goods or services are to be provided or works are to be executed; and
  - (b) which has not been fully discharged;
- (4) any beneficial interest in land held by you or a relevant person where the land is within the administrative area of the Authority;
- (5) any licence (alone or jointly with others) to occupy land in the administrative area of the Authority for a month or longer;
- (6) any tenancy where (to your knowledge):
  - (a) the landlord is the Authority; and
  - (b) the tenant is a body in which you or a relevant person has a beneficial interest;
- (7) any beneficial interest that you or a relevant person has in securities of a body where:
  - (a) that body (to your knowledge) has a place of business or land in the administrative area of the Authority and
  - (b) either:
    - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**(c). Personal Interests**

5.5 You are also required to register the following personal interests:

- (1) Your membership of a trades union; and
- (2) your membership of any body to which you have been appointed by the Authority; and
- (3) your membership of any other public body or authority (e.g. County or District Council; Parish Council etc.); and

- (4) your membership of any other body influencing public opinion (e.g. political party);
  - (5) your directorship or membership (within the meanings of the Companies Act 2006) of any company, where such directorship or membership **does not** constitute a disclosable pecuniary interest;
  - (6) any contract made between the Authority and you or a relevant person (or body in which you or the relevant person has a beneficial interest):
    - (a) under which goods or services are to be provided or works are to be executed; and
    - (b) which has not been fully discharged;
 but where neither you nor the relevant person has a disclosable pecuniary interest.
- 5.6 Your participation in discharging the following functions of the Authority does not constitute a personal interest requiring either registration or disclosure at meetings:
- (1) the setting of any Authority allowance, payment or indemnity to Members; and
  - (2) the setting of the Authority budget and associated Council Tax precept.
- (d). Non-Registerable Interests**
- 5.7 You have a non-registerable interest where a decision in relation to a matter being determined, or to be determined:
- (1) might reasonably be regarded as affecting the financial position or well-being of either yourself; or a member of your family; or any person with which you have a close association; or any body or group of which you are a member, more that it might affect the majority of council tax payers or inhabitants of the area served by the Devon & Somerset Fire & Rescue Authority; **and where**
  - (2) the interest is such that a reasonable person with knowledge of all the relevant facts would consider your interest to be so significant that it is likely to prejudice your judgement of the public interest.
- 5.8 Business relating to the following functions **will not** give rise to a non-registerable interest:
- (1) setting of the council tax; and
  - (2) any allowance, payment or indemnity give to Members.
- (e). Declaration of Interests at Meetings**
- 5.9 If you are present at a meeting and you are aware that you have either a disclosable pecuniary interest, personal interest or non-registerable interest **in any matter being considered or to be considered at the meeting then**, unless you have a current and relevant dispensation in relation to the matter, you must:
- (1) **disclose** at that meeting, by no later than commencement of consideration of the item in which you have the interest or, if later, the time at which the interest becomes apparent to you, the existence of and – for anything other than a “sensitive” interest (see Section 5(f) below) – the nature of that interest; **and then**
  - (2) withdraw from the room or chamber during consideration of the item in which you have the relevant interest.

- 5.10 Where a dispensation has been granted to you either by the Authority or its Monitoring Officer in relation to any relevant interest, then you must act in accordance with any terms and conditions associated with that dispensation.
- 5.11 Where you declare at a meeting a disclosable pecuniary or personal interest that you have not previously included in your Register of Interests then you must, within 28 days of the date of the meeting at which the declaration was made, ensure that your Register is updated to include details of the interest so declared.

**(f). “Sensitive” Interests**

- 5.12 You must notify the Monitoring Officer of the details of any interests which you consider are “sensitive” - namely, details which, should they be made available for inspection by the public, would be likely to create a serious risk that any person may be subjected to violence or intimidation.
- 5.13 Where the Authority’s Monitoring Officer agrees that any information relating to your interests is “sensitive” then the details of such interests will not be included in any published version of the register.
- 5.14 Similarly, the requirement to disclose interests at meetings shall, in relation to “sensitive” interests, be limited to declaring the existence of such interests and the detail of the “sensitive” interests need not be disclosed.
- 5.15 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer “sensitive”, notify the Authority’s Monitoring Officer asking that the information be included in the Authority’s Register of Members’ Interests.

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**DEVON & SOMERSET FIRE & RESCUE AUTHORITY  
MEMBERS' CODE OF CONDUCT  
GENERAL NOTICE OF REGISTERABLE INTERESTS**

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I,

being a Member/Co-opted Member of the Devon & Somerset Fire & Rescue Authority,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and the Devon & Somerset Fire & Rescue Authority's Code of Conduct:

I understand that in so doing I must, in relation to disclosable pecuniary interests (categories 1 to 6 inclusive of this form), declare any interest – in so far as I am aware of it - of my spouse or civil partner or of any person with whom I am living as if husband and wife or civil partners.

| <b>DISCLOSABLE PECUNIARY INTERESTS</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p><b>1. EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION</b></p> <p><b>Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.</b></p> |  |
| <p>Description of employment, job, vocation, trade or business</p>                                                                                                                                                                                                                                                                                                                                                                                             |  |
| <p>Name of Employer, body, firm or company by which you are employed or in which you are a partner or a remunerated Director in which you have a beneficial interest</p>                                                                                                                                                                                                                                                                                       |  |

**2. SPONSORSHIP**

Please give details of any person or body (other than the Authority) who has made any payment to you in respect of either your election as a Councillor on a constituent authority or any expenses you have incurred in carrying out your duties as a Member of the Authority. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**3. CONTRACTS: FOR GOODS, WORKS OR SERVICES WITH THE AUTHORITY**

Please give details of any current, existing contracts for goods, works or services between the Authority and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest.

**4. LANDHOLDINGS AND LICENSES IN THE AREA**

Please give the address or other description (sufficient to identify the location) of any land or property in the Authority's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

*You must include the land and house you live in and for example any allotments you own or use.*



**5. CORPORATE TENANCIES: LAND LEASED FROM THE AUTHORITY**

Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the Authority by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).

**6. SECURITIES: INTERESTS IN COMPANIES**

Please give details of any body which has a place of business or owns land in the Authority's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body is more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

**PERSONAL INTERESTS**

Please give details of your membership of, or any position of general control or management, of the following

|                                                                                                          |  |
|----------------------------------------------------------------------------------------------------------|--|
| Any trade union of which you are a member                                                                |  |
| Any body to which you have been appointed by <i>the Devon &amp; Somerset Fire &amp; Rescue Authority</i> |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>Any other body exercising functions of a public nature<br/>(e.g. County, District or Parish Council; Health, Police or Quasi Autonomous Non-Governmental Body)</p>                                                                                                                                                                                                                                                                 |  |
| <p>Any other body whose principle purpose is to influence public opinion or policy (e.g. Political Party)</p>                                                                                                                                                                                                                                                                                                                         |  |
| <p>Any company in which you are a director or member (within the meanings of the Companies Act 2006), where such directorship or membership does not constitute a disclosable pecuniary interest.</p>                                                                                                                                                                                                                                 |  |
| <p>Any contract made between the Authority and you or a relevant person (or body in which you or the relevant person has a beneficial interest):</p> <ul style="list-style-type: none"> <li>• under which goods or services are to be provided or works are to be executed; and</li> <li>• which has not been fully discharged;</li> </ul> <p>but where neither you nor the relevant person has a disclosable pecuniary interest.</p> |  |

**DECLARATION**

I recognise that if I fail to comply with the Code of Conduct for Members of the Devon & Somerset Fire & Rescue Authority or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the Authority of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be for investigation.

Signed : .....

**FOR OFFICE USE ONLY**

Received: .....

Updated (insert date[s]).....

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**DEVON & SOMERSET FIRE & RESCUE AUTHORITY**

**MEMBERS' CODE OF CONDUCT**

**GUIDE TO MAKING A COMPLAINT**

**1. Summary**

- 1.1 This guide provides information on making a complaint against certain types of inappropriate behaviour by Members - elected Councillors appointed to the Authority by constituent authorities. The guide explains:
- who you can complain about;
  - what you can complain about; and
  - what will happen to your complaint.
- 1.2 If you have any questions or difficulties arising from this guide – for example, if English is not your first language – then please contact the Monitoring Officer to the Authority on Exeter (01329) 872200.

**2. Background**

- 2.1 The Devon & Somerset Fire & Rescue Authority is a stand-alone local authority. As such, the law requires that it has its own Members' Code of Conduct and arrangements in place for dealing with any allegations that a Member has failed to follow this Code. The Code is also required to include appropriate provisions relating to the registration and disclosure of pecuniary and other interests.
- 2.2 A copy of the Members' Code of Conduct as approved by the Authority can be found on the website ([www.dsfire.gov.uk](http://www.dsfire.gov.uk)) or is available on request from:
- The Monitoring Officer  
Devon and Somerset Fire and Rescue Authority  
Service Headquarters  
The Knowle  
Clyst St. George  
EXETER EX3 0NW  
Tel: (01392) 872200  
e-mail: [membercomplaints@dsfire.gov.uk](mailto:membercomplaints@dsfire.gov.uk)
- 2.3 The Authority is made up of a total of elected councillors (Members) appointed to it by four constituent authorities (Devon and Somerset County Councils; Plymouth City Council and Torbay Council). All Members are required to follow the Authority's approved Members' Code of Conduct. Details of those Members currently serving on the Authority can be found on the Authority's website.
- 2.4 The Authority also has – as required by law – an “independent person” whose role is set out in Section 3 below. The “independent person” is not a Member or employee of the Authority or its constituent authorities.

### **3. The “Independent Person”**

3.1 The Localism Act 2011 requires the Authority to have at least one “Independent Person” whose views:

- (a). must be sought by the Authority before it makes any determination on an allegation it has decided to investigate;
- (b). may be sought in other circumstances; and
- (c). may be sought by a Member subject to an allegation of failure to follow the Code.

3.2 In relation to (b), this Authority has determined that the views of the Independent Person must be sought by the Monitoring Officer when making the initial decision about any complaint received (see Section 10 below).

3.3 There is no right for a complainant to seek the views of the Independent Person and no such contact will be permitted. The Independent Person does not represent and nor are they an advisor either to any Member subject to a complaint or the Authority as a whole. The Independent Person must remain completely impartial and objective and cannot take sides. Their only role is to assess complaints and form a view on them.

### **4. The Standards Committee**

4.1 This forms part of the Authority’s arrangements for dealing with complaints that a Member may have failed to follow its approved Code of Conduct. Its membership and Terms of Reference can be found on the Authority’s website and its functions are outlined elsewhere in this document. It should be noted that while the Standards Committee may be required to seek the views of the Independent Person, the Independent Person is neither a member nor co-opted member of the Committee.

4.2 Meetings of this Committee are also governed by legislation. Members of the press and public can normally attend to observe, but not partake in, the proceedings unless one of the statutory exemptions applies under which the press and public can be excluded from the meeting.

### **5. Who and What You CAN Complain About**

5.1 You can only use this complaints procedure to complain that a Member, in their official capacity (i.e. when acting or purporting to act as a Member of the Authority) may have failed to follow the Authority’s approved Members’ Code of Conduct. The Code **does not** extend to behaviour in a Member’s private life. ***Please remember that a “Member” is an elected councillor appointed to the Authority by one of its constituent authorities (Devon and Somerset County Councils; Plymouth City Council and Torbay Council).***

5.2 Your complaint may be that the Member has:

- failed to treat others with respect;
- acted in a way that that amounts to, or which may reasonably be construed as. unlawfully discrimination against someone;
- bullied someone;

- intimidated, or attempted to intimidate, a person involved in an allegation against them;
- compromised the impartiality of those who work for, or on behalf of, the Authority;
- disclosed confidential information;
- prevented someone from gaining access to information to which they are lawfully entitled;
- brought an office of, or the Authority itself, into disrepute;
- used their position as a Member improperly to confer or secure an advantage or disadvantage;
- not used the resources of the Authority in accordance with its requirements
- disregarded advice when reaching decisions
- failed to give reasons for decisions where there is a statutory requirement to do so;
- failed to act appropriately in relation to a disclosable pecuniary interest as defined by the Code (**NOTE: please see Section 16 of this Guide**).

## **6. What CANNOT be dealt with under this procedure**

6.1 This procedure **cannot** be used for:

- complaints where a Member is not named;
- complaints that are NOT in writing;
- incidents or actions that are not covered by the Authority's approved Members' Code of Conduct (e.g. that the complaint concerns acts carried out in the Member's private life);
- incidents that are about a fault in the way the Authority has or has not done something. This is known as maladministration and may be a matter for the Local Government Ombudsman;
- complaints about people employed by this Authority;
- incidents that happened before OR after the person complained of was a Member of the Authority;
- incidents that happened before the Authority adopted its approved Members' Code of Conduct;
- complaints about the way in which the Authority conducts and records its meetings.

## **7. How Do I Make a Complaint?**

7.1 Your complaint **MUST** be in writing – this includes fax and electronic submissions. If, however, this would be difficult for you (for example, because of a disability or if English is not your first language) then please contact the Monitoring Officer to the Authority (whose contact details are provided above).

- 7.2 If you are complaining about more than one Member, you must submit a separate complaint for each Member complained about, specifying how you feel the Member concerned has failed to follow the Code.
- 7.3 A complaints form is available on the Authority website ([www.dsfire.gov.uk](http://www.dsfire.gov.uk)) or on request from the Monitoring Officer to the Authority (e-mail: [membercomplaints@dsfire.gov.uk](mailto:membercomplaints@dsfire.gov.uk)). If you wish to make a complaint you are encouraged to use this form although you may prefer to write a letter setting out your complaint. If you choose to write a letter, it is important that you include in it **all** of the following information:-
- your name, address and other contact details (telephone number(s), e-mail address etc.);
  - your status (e.g. member of the public; local authority member; Authority employee; monitoring officer; Member of Parliament);
  - the name of the Member who the complaint is about;
  - details of how the Member has failed to follow the Code with, where possible, dates, witness details and other supporting information.
- 7.4 To assist the Authority with its monitoring, you are also asked to include brief details of your ethnic origin (e.g. British; Irish; Other White Background; White and Black Caribbean etc)<sup>1</sup>.

***Please note that your identity will normally be disclosed to the Member about whom you are complaining. This information may, however, be withheld from that Member in exceptional circumstances and at the discretion of the Monitoring Officer, in consultation with the Independent Person, if the following criteria are met:-***

- ***you have reasonable grounds for believing that you will be at risk of physical harm if your identity is disclosed; and/or***
- ***you are an officer (i.e. employee of the Authority or a constituent authority) who works closely with the Member who is the subject of the complaint and you are afraid of the consequences to your employment or of losing your job if your identity is disclosed; and/or***
- ***you suffer from a serious medical condition and there are medical risks associated with your identity being disclosed. In this event, medical evidence of your condition will be required.***

## **8. Anonymous Complaints**

- 8.1 Anonymous complaints will only be considered for investigation if the complaint includes photographic and/or documentary evidence indicating an exceptionally serious or significant matter.

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<sup>1</sup> For full details of ethnic origin classifications used by the Authority, please refer to the Members' Code of Conduct Complaints Form



## 9. What will happen to my complaint?

9.1 On receiving your complaint, the Monitoring Officer will:

- aim to acknowledge it within three working days; and
- send a copy of your complaint to the Independent Person and gather any other information deemed necessary to make, in consultation with the Independent Person, an initial decision on whether or not the complaint should be investigated or some other form of action taken (for example, whether a mutually agreeable local settlement can be achieved). The Monitoring Officer will aim to reach this initial decision within an average of 20 working days.

## 10. How will this initial decision be made?

### *(a). Initial Criteria*

10.1 Before any other assessment of the complaint begins, the Monitoring Officer will need to be satisfied that your complaint meets **ALL** of the following criteria:

- it is a complaint against one or more **named** Members of the Authority; **and**
- the **named** Member was in office at the time of the alleged conduct **and** the Code of Conduct was in force at the time; **and**
- the complaint, if proven, would be a breach of the Code.

10.2 If your complaint fails to meet one or more of these criteria it cannot be progressed as a potential breach of the Code and you will be informed that no further action will be taken in respect of your complaint.

### *(b). Other Assessment Criteria*

10.3 If your complaint meets the above criteria, it may be that the Monitoring Officer, following consultation with the Independent Person, may still decide to take no further action in respect of your complaint if one or more of the following applies:

- your complaint falls within any of the areas that CANNOT be dealt with under this procedure - see Section 6 of this guide;
- if the Member you are complaining about has remedied or made reasonable endeavours to remedy the matter and the complaint does not disclose sufficiently serious potential breaches of the Code to merit further consideration;
- if your complaint discloses such a minor or technical breach of the Code that it would not be in the public interest to pursue it;
- it is felt you have not provided sufficient information on which to base a decision on whether the complaint should be investigated or some other action taken;
- your complaint is about someone who is no longer a Member of this Authority BUT is a Member of another Authority. In this case, your complaint may be referred to the Monitoring Officer of the other authority concerned;
- your complaint has been the subject of an investigation or other action relating to the Code of Conduct, or by other regulatory authorities, and there is nothing to be gained by further action being taken;

- your complaint appears to be simply malicious, politically motivated or “tit-for-tat”;
- your complaint is about something that happened six months or more ago and it would be unfair, unreasonable or otherwise not in the public interest to pursue the matter unless the Monitoring Officer feels there are exceptional reasons to pursue it;
- it would otherwise be inappropriate to expend the Authority’s resources on determining the complaint, having regard to its circumstances, any previous related complaint and the public interest.

## **11. What happens next?**

- 11.1 As indicated, the Monitoring Officer will aim to make the initial decision within an average of 20 working days of receiving the complaint.
- 11.2 If your complaint is rejected following the initial decision, then no further action will be taken and you will be written to advising of this.
- 11.3 If your complaint is not rejected at the initial decision stage, then the following procedure will apply:
- you will receive written confirmation of this;
  - the Member who you are complaining about (“the subject member”) will be sent a copy of your complaint. Please note that your identity will normally be disclosed unless the Monitoring Officer (following consultation with the Independent Person) feels that there are exceptional circumstances for not doing so – please refer to the note at Section 7.4 of this document;
  - the subject member:
    - will be given the opportunity to speak to the Independent Person in response to the complaint made; and
    - be asked to provide to the Monitoring Officer and Independent Person, within ten working days of receiving the complaint, a brief written response to it. This brief written response should be restricted to two sides of A4 paper but copies of supporting documents and witness statements may be attached. Please note that the Authority will not be obliged to take any account of any late submission made by the subject member;
  - the Independent Person will:
    - within five working days of being sent the subject member’s written submission; or
    - in any event, by no later than fifteen working days after submission of the complaint to the subject member

notify the Monitoring Officer of their view of the complaint
  - the Monitoring Officer, following consultation with the Independent Person, will reach a finding on the complaint and will, within five working days of reaching the finding, write to you to set out this finding.

## 12. What finding might be reached?

12.1 On conclusion of the procedure as outlined in Section 11 above, one of the following findings will be reached by the Monitoring Officer (following consultation with the Independent Person):

(a). **No conclusive evidence of breach of Code of Conduct, with no further action to be taken**

12.2 This finding will be made when, on the basis of all the available facts (i.e. the complaint, any submission of the subject member and any other material gathered in relation to the complaint), it is not possible to determine either whether there has or may have been a breach of the Code and, taking account of the public interest, there is nothing to suggest that there would be benefit in taking any further action.

(b). **No conclusive evidence of breach of Code of Conduct, but action other than an investigation may be appropriate**

12.3 This finding will be made when, on the basis of all the available facts (i.e. the complaint, any submission of the subject member and any other material gathered in relation to the complaint), it is not possible to determine either whether there has or may have been a breach of the Code and:

- taking account of the public interest, the allegation does not merit investigation; **but**
- the allegation discloses an underlying issue that some other action (e.g. a written apology; and/or mediation; and/or or training on the Code or other Authority procedures) may be helpful or desirable.

12.4 In deciding whether action other than an investigation may be appropriate, the Monitoring Officer will consider:

- (i) whether taking the other action would provide an opportunity to resolve the issue, prevent similar issues arising in future and/or promote good governance; and/or
- (ii) whether the issue arose from a poor understanding by the subject member either of the Code or other relevant Authority procedures.

(c). **Finding of no breach of the Code of Conduct**

12.5 This finding will be reached when application of the balance of probabilities to all the available facts indicates no breach of the Code of Conduct. If no breach has occurred, then a sanction cannot be imposed but some other action – as outlined in paragraph 12.3 - may still be considered.

(d). **Finding of breach of the Code of Conduct without referral for investigation**

12.6 This finding will be made where:

- on application of the balance of probabilities to the available evidence, it is clear that the Code has been breached; **or**
- the subject member has admitted to the breach (irrespective of whether or not they have offered to remedy the breach); **and**
- in either case the Monitoring Officer is of the view that, taking account of the public interest, it is unlikely that an investigation would establish any further, independent, relevant evidence relating to the complaint and where the cost of undertaking an investigation cannot be justified.

12.7 Where a breach of the Code is found but it is not felt that an investigation should be undertaken, then the Monitoring Officer:

- may determine, following assessment of the available evidence, that no further action should be taken as there would be no benefit in doing so (for example, if the the breach is trivial, **or** of a technical nature **or** arose from an innocent mistake **and** has only limited or no impact); **or**
- may determine that some other action should be taken (see paragraph 12.3 above); **or**
- may refer the matter to the Authority's Standards Committee to consider whether a sanction should be imposed.

**(e). Finding of breach of the Code of Conduct with referral for investigation**

12.8 A complaint will usually be referred for investigation in cases where:

- the subject member has denied the allegation which, on the basis of the initial evidence available, indicates a potential breach of the Code; **and**
- the potential breach is so significant that further investigation should be undertaken to establish the facts as fully as possible so as to determine, on the balance of probabilities, whether there has been a breach of the Code and if so what sanction or other action might be appropriate.

**13. What if some action short of investigation is proposed that either I am not satisfied with or the Member I am complaining about is not satisfied with (or refuses to co-operate with)?**

13.1 In this event, the matter will be referred to the Authority's Standards Committee. You will be notified of the date and time of the Committee and may attend to observe (but not take part in) the proceedings unless one of the statutory reasons for excluding you from the meeting applies. You will be notified in advance if this is the case.

13.2 The Committee will consider the issue and decide what, if any, action should be undertaken. If the Committee feels some action should be undertaken, this may include imposing a different sanction on the Member about whom you have complained or requiring the matter to be investigated more formally.

13.3 You will be notified in writing in due course of the decision of the Committee and the reasons for the decision.

**14. What if my complaint is referred for investigation?**

14.1 You will be written to confirming this decision. The actual time taken for the investigation may vary depending on the complexity and seriousness of the complaint.

- 14.2 The investigation will conclude by the production of a report by the Monitoring Officer for consideration by the Standards Committee unless your complaint relates to an alleged breach of the Code in respect of disclosable pecuniary interests – please see Section 16 of this guide below. You will be notified in writing of the date of the Standards Committee and sent a full copy of the Monitoring Officer’s report unless this reveals any sensitive or confidential information, in which case you may be sent an edited version (omitting the sensitive information). If you are sent an edited version, this will be made clear in the letter accompanying the report.
- 14.3 You may attend to observe, but not take part in, the proceedings unless one of the statutory reasons for excluding you from the meeting applies. You will be notified in advance if this is the case. The Committee will, at the meeting, consider the Monitoring Officer’s report and allow the Member who is the subject of the complaint to put forward his/her case. The Committee will then, in consultation with the Independent Person, decide what, if any, action needs to be taken.
- 14.4 You will be notified in writing of the decision of the Committee and its reasons for this decision usually within five working days of the date of the meeting.

**15. What sanctions might the Standards Committee impose?**

- 15.1 If, following consideration of a complaint, the Committee finds that, on the balance of probabilities, a breach of the Code has occurred then it may (following consultation with the Independent Person) decide to impose one of the following sanctions:
- a. censure the subject member. The Committee will determine the terms and manner of this censure (which may include, but is not limited to, notifying the subject member’s appointing constituent authority and/or arranging for details of the censure to be published in local media circulating in the area of the Authority);
  - b. recommend to the full Authority that the subject member be removed from any Committees, Sub-Committees, Working Parties or outside bodies to which they have been appointed or nominated by the Authority;
  - c. withdraw any Authority facilities that may have been provided to the subject member (e.g. e-mail accounts);
  - d. exclude the subject member from the Authority’s premises (save to the extent that the subject member requires access to attend meetings of the full Authority or any Committee etc. to which the subject member may have been appointed by the Authority);
  - e. instruct the Monitoring Officer to arrange for training for subject member.

**16. What if my complaint is about a Member not following the rules on disclosable pecuniary interests?**

- 16.1 The Localism Act 2011 has introduced a new criminal offence for failure to follow the statutory rules in relation to disclosable pecuniary interests. Such interests are defined in Regulations and are set out in the Members' Code of Conduct approved by the Authority. In addition to registering such interests, Members are required to disclose them at meetings where matters in which they have such an interest are being discussed and are not permitted to take part in any discussions or decision making, or seek to influence any decision, on such matters.
- 16.2 Action, in the form of a prosecution, in relation to a breach of the Code of Conduct relating to disclosable pecuniary interests may only be instigated by the Director of Public Prosecutions. Consequently, should your complaint relate to a proposed breach of the Code dealing with disclosable pecuniary interests, then – after any internal investigation felt necessary to establish the facts of the case – it may be referred to the police (together with the outcome of any internal investigation so conducted) to determine the matter. You will be notified of this.

**APPENDIX D TO THE MINUTES OF THE MEETING OF THE DETERMINATIONS & DISPENSATIONS COMMITTEE HELD ON 9 APRIL 2018**

**STANDARDS COMMITTEE**

**TERMS OF REFERENCE**

*Advisory ONLY*

1. In accordance with the provisions of the Localism Act 2011:
  - a. To consider and recommend to the Authority any actions considered necessary to discharge the statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Authority; and
  - b. To develop, keep under review and make recommendations to the Authority on a Code of Conduct expected of Members and Co-opted Members of the Authority when acting in that capacity.
2. To oversee the content and operation of the Authority's "Whistleblowing" Code (Confidential Reporting Policy), making recommendations to the Authority as appropriate.

*Matters with Delegated Power to Act*

1. To oversee the arrangements for the assessment, investigation and determination (as appropriate) of allegations of any breach of the Code of Conduct.
2. To consider the findings of any investigation into an alleged breach of the Authority's approved Code of Conduct (affording the Member subject to the allegation ["the subject Member"] a right of hearing) and – in consultation with the "independent person" - to determine whether or not (on the basis of the evidence available and on the balance of probabilities) a breach of the approved Code has been proven.
3. In the event that a Code breach is proven, to consider:
  - a. whether a sanction should be imposed; and
  - b. if so, determine what the sanction(s) should be from the following:
    - i. censure the subject member. The Committee will determine the terms and manner of this censure (which may include, but is not limited to, notifying the subject member's appointing constituent authority and/or arranging for details of the censure to be published in local media circulating in the area of the Authority);
    - ii. recommend to the full Authority that the subject member be removed from any Committees, Sub-Committees, Working Parties or outside bodies to which they have been appointed or nominated by the Authority;
    - iii. withdraw any Authority facilities that may have been provided to the subject member (e.g. e-mail accounts);

- iv. exclude the subject member from the Authority's premises (save to the extent that the subject member requires access to attend meetings of the full Authority or any Committee etc. to which the subject member may have been appointed by the Authority);
  - v. instruct the Monitoring Officer to arrange for training for subject member.
4. In the event of "sensitive" allegations of Code breach (e.g. where the Monitoring Officer may have previously advised the Member subject to the allegation on the matter concerned), to determine, following consultation with the independent person, whether or not an allegation should be investigated.
5. To consider, following submission in writing to the Monitoring Officer by the Member concerned, any request for a dispensation either to talk or to talk and vote in relation to a disclosable pecuniary interest in the following circumstances:
  - that, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to potentially alter the outcome of any vote on the matter;
  - That the Committee considers that the dispensation is in the interests of persons living in the authority's area; or
  - That the Committee considers that it is otherwise appropriate to grant a dispensation.
6. To approve responses to external consultation documents on issues within the remit of the Committee and as referred by officers.



## APPENDIX E TO THE MINUTES OF THE MEETING OF THE DETERMINATIONS & DISPENSATIONS COMMITTEE HELD ON 9 APRIL 2018

### Review of Local Government Ethical Standards: Stakeholder Consultation

By way of general introduction and context to the following responses, it should be appreciated that the Devon & Somerset Fire & Rescue Authority is a combined authority, with membership not directly elected but rather appointed from four constituent authorities (Devon County Council, Somerset County Council, Plymouth City Council and Torbay Council).

Nonetheless, this Authority is still required to operate its own “standards” arrangements as required by the Localism Act, as is each of its constituent authorities.

### Consultation questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.

*While this Authority has not experienced a high number of complaints, it is felt that the ability to determine matters at a local level and to set the procedures by which complaints have to be managed has delivered benefits, particularly in allowing for the introduction of a robust assessment procedures to filter out genuine complaints from those which are clearly malicious, tit-for-tat or politically motivated.*

*The lack of consistency in Code content across local authorities, however, is an issue (given that our Authority Members also serve on at least one other local authority, with its own Code of Conduct) as is the ability to impose meaningful sanctions in the (albeit rare) instances where a breach of the Code has been established.*

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

*As indicated above, it is felt that the significant gaps are:*

- The inability to apply meaningful sanctions for certain breaches of the Code of Conduct; and*
- The lack of consistency with regards to the way a code should be worded and applied across all local authorities.*

### Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood?

*The Localism Act 2011 only gives limited guidance on what should be in the Code of conduct that it is a requirement for each authority to adopt. Similarly, suggested Codes produced as examples by bodies such as the Local Government Association offered little other than to reiterate the requirements of the Act and associated Regulations on disclosable pecuniary interests.*

*When the new regime was introduced, this Authority held discussions with its appointing constituent authorities with a view to seeking to agree a consistent Code. For political reasons this was not possible and it is felt the variations in resulting Codes, while in some cases subtle, have nonetheless not aided in promoting either clarity or understanding for elected members and the public.*

*This Authority is of the view that, while there were undoubtedly problems in the previous regime, these were not rooted in the former Model Code which it is felt was robust, proportionate and easily understood. Consequently, the Authority would request that, as part of the review of ethical standards, consideration is given to the introduction of a national statutory Code based on that in use up until 2012.*

- d. Do the codes cover an appropriate range of behaviours?

*Given the limited statutory requirements of what is to be in a Code and the limited guidance that has since been issued it is a matter of subjective interpretation as to whether the Code covers an appropriate range of behaviours.*

*This Authority has based its Code on the former statutory Code and in this respect feels that it does cover an appropriate range of behaviours.*

- e. What examples of good practice, including induction processes, exist?

*This Authority features a session on its Code of Conduct in its induction process for newly appointed Members. As with other issues, however, securing attendance can be difficult. It is felt that consideration should be given to introducing a statutory requirement to attend Code of Conduct training at least once a year in support of the statutory duty to promote and maintain high standards of conduct.*

- f. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

*No. It is felt that the aspect of Codes including "...appropriate provision (as decided by the local authority) for registering and declaring councillors' interests" is too open to individual interpretation and has resulted in a diverse range of codes in England, to the detriment of clarity and understanding both by elected members and the public.*

#### *Investigations and decisions on allegations*

- g. Are allegations of councillor misconduct investigated and decided fairly and with due process?

*As there is no set process it is for individual councils to interpret this as they consider appropriate. That having been said, this Authority has adopted procedures which it considers are fit for purpose in ensuring that any complaints received are dealt with impartially and with consistency.*

- h. What processes do local authorities have in place for investigating and deciding upon allegations?

*The procedures for assessing and dealing with complaints as adopted by this Authority are attached to this submission.*

- i. Do these processes meet requirements for due process?

*This Authority considers that they do.*

- j. Should any additional safeguards be put in place to ensure due process?  
*This Authority would strongly support a robust ‘filtering’ process (as included in its procedures) for initial assessment of complaints to help prevent malicious, vexatious or tit for tat complaints which in the past have caused people to view the process a complainants charter.*
- k. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process?  
*This Authority considers that it is.*
- l. Should this requirement be strengthened?  
*While the current requirement is that the views of the Independent Person must be sought prior to decisions being made on allegations that have been investigated, this Authority has also used the flexibility under the Act to seek the views of the Independent Person in other circumstances (e.g. at initial assessment stage).*
- m. If so, how?  
*Further guidance could be issued on the role of the Independent Person – perhaps based on “best practice” case studies of other authorities.*
- n. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so?  
*Yes, this is possible and something this Authority has considered in developing its assessment procedures which currently allow for, amongst other things:*
  - *initial assessments of sensitive allegations (for example, where the Monitoring Officer may previously have advised the Member concerned on the subject matter of the allegation) to be conducted by a small committee of Members; and*
  - *investigations to be undertaken by experienced staff external to this organisation.*
- o. How could Monitoring Officers be protected from this risk?  
*This Authority is perhaps fortunate in that, to date, it has not faced a significant number of complaints. On this basis, the Authority considers the safeguards it currently has in place (see answer to [n] above) are probably sufficient and proportionate.*

### **Sanctions**

- p. Are existing sanctions for councillor misconduct sufficient?  
*The sanctions that are available for failing to register or act in accordance with the provisions of the Localism Act 2011 where a member has a disclosable pecuniary interest are considered to be sufficient. However, the method of employing these sanctions, referral to the police, a police investigation and a possible court hearing, are considered to be cumbersome and very costly to the public purse.*

*Even though (as previously indicated) this Authority has not had to deal with many complaints, it nonetheless feels – on the basis of the limited experience it has had – that those sanctions which would seem to be open, under the current legislative arrangements, for other breaches of the Code of Conduct (for example, failure to declare ‘interests other than disclosable pecuniary interests’) are very limited, particularly where a potentially serious “other” breach is concerned (e.g. bullying/harassment; complaints involving equalities issues).*

- q. What sanctions do local authorities use when councillors are found to have breached the code of conduct?

*In line with the current legislative provisions, this Authority has agreed the following sanctions to apply for Code breaches other than those relating to disclosable pecuniary interests:*

- reporting the finding to the Authority for information and publishing the finding in local media;*
- a recommendation to the Authority that the Member concerned be removed from any or all Committees or Sub-Committees of the Authority;*
- instructing the Monitoring Officer to arrange training for the Member;*
- removing the Member concerned from all outside appointments to which s/he has been appointed or nominated by the Authority;*
- withdrawing facilities provided to the Member by the Authority, such as e-mail and Internet access; or*
- Excluding the Member from the Authority’s offices or other premises, with the exception of meeting rooms as necessary for attending Authority, Committee and Sub-Committee meetings.*

- r. Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

*No. It is not considered that the sanctions as listed at [p] above (which would seem to be the only available sanctions under the current legislative provisions for Code breaches other than those relating to disclosable pecuniary interests) represent any real or effective sanctions for what might be more serious “other” breaches – certainly in terms of how these might be perceived by the public. This in turn weakens what is purported to be the underlying purpose of the current regime – to promote high standards of conduct in public life.*

- s. Should local authorities be given the ability to use additional sanctions?

*Yes.*

- t. If so, what should these be?

*There should be limited powers of suspensions up to six months as was exercised under the previous ethical standards regime. Suspensions should be issued only by a hearing panel of a Standards Committee in those instances where the proven “other” breach is considered to warrant such a sanction.*

### *Declaring interests and conflicts of interest*

- u. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

*No. As a minimum it should not be left to individual councils to have in their standing orders the requirement for a member to remove themselves if they have a disclosable pecuniary interest. It should be a statutory requirement for a member to always remove themselves if they have any interest, whether disclosable pecuniary interest or otherwise, where such an interest might reasonably be perceived as impacting upon the ability of the Member concerned to act in the public interest.*

- v. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

*Whilst this Authority has no real practical experience of this aspect of the Code, it is of the view that these statutory duties are appropriate.*

- w. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

*At present, this Authority's Code in essence replicates the provisions of the former Model Code in terms of the registration, declaration and management of interests other than disclosable pecuniary interests. As indicated in previous responses, while these are considered appropriate and proportionate in the context of upholding high standards of conduct in public office, consistency across the piste is lacking, given that not every local authority will necessarily have the same provisions. For this reason (and given that our Authority Members are also members of at least one other local authority), having a consistent set of rules, i.e. a Model Code, would be beneficial.*

### *Whistleblowing*

- x. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

*The Authority's Constitutional Governance Framework includes a well-established whistleblowing policy which accords with existing legislation and best-practice. This policy is reviewed at least annually, along with other documents in the Authority's Constitutional Governance Framework, to ensure it remains fit for purpose. The Authority is of the view that these arrangements are satisfactory.*

### *Improving standards*

- y. What steps could local authorities take to improve local government ethical standards?

*As indicated in previous responses, general awareness raising during new Member induction is fundamental but securing attendance at such sessions can be problematic. Sharing best practice with neighbouring local authorities, including close working relationships between Monitoring Officers, is also beneficial.*

*It is felt that all Authority's should adopt annual training on the Code of Conduct, which this Authority is to introduce from this year.*

- z. What steps could *central government* take to improve local government ethical standards?

*As indicated in previous responses, it is felt that the introduction of a standard Model Code (based on the previous Model Code), together with more meaningful sanctions for breaches other than disclosable pecuniary interests, would promote greater consistency and understanding for both elected Members and the public.*

*Intimidation of local councillors*

- aa. What is the nature, scale, and extent of intimidation towards local councillors?

*This Authority has no real experience of this and as such does not feel in a position to comment.*

- bb. What measures could be put in place to prevent and address this intimidation?

*See response to [aa] above.*

## RESOURCES COMMITTEE

(Devon & Somerset Fire & Rescue Authority)

11 April 2018

### Present:-

Councillors Coles (Chair), Hendy, Hosking, Peart, Randall Johnson and Wheeler (vice Biederman)

### Apologies:-

Councillor Chugg

### In attendance:-

Councillor Saywell

\* **RC/19**      **Minutes**

**RESOLVED** that the Minutes of the meeting held on 8 February 2018 be signed as a correct record.

\* **RC/20**      **Additional Meeting Date 2018**

The Committee considered a report of the Director of Corporate Services (RC/18/7) that set out the proposal for an additional meeting of the Committee to be held on 16 May 2018 to ensure that appropriate governance was in place for scrutiny of year-end reports and consideration of recommendations to be made to the Authority.

**RESOLVED** that a meeting of the Resources Committee be held on Wednesday 16 May 2018 at 15:00hours for the purpose of reviewing the year-end financial performance reports for 2017/18 prior to submission to the Authority.

\* **RC/21**      **Exclusion of the Press and Public**

The Director of Corporate Services drew attention to the need to widen the exclusion paragraph to ensure that Members of the Authority who were not members of the Committee were not excluded from remaining in a meeting in Part 2 where restricted items were being considered in which they had a legitimate business interest.

Councillor Randall Johnson **MOVED** and Councillor Peart seconded:

“That the exclusion paragraph be widened to include the words highlighted in italics after “the press and public (with the exception of Dr Sian George and Andrew Andreou of Red One Ltd. *and any other Member of the Fire & Rescue Authority so present*) be excluded from the meeting .....”.

Upon a vote (6 for, 0 against), the motion was declared **CARRIED**, whereupon it was **RESOLVED**:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public (with the exception of Dr Sian George and Andrew Andreou and any other Member of the Fire & Rescue Authority so present) were excluded from the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A (as amended) to the Act.

\* **RC/22**      **Restricted Minutes of the meeting held on 8 February 2018**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during which the press and public (with the exception of Dr Sian George and Andrew Andreou, together with Councillor Andrew Saywell) were excluded from the meeting.

**RESOLVED** that, subject to an amendment under Minute \*RC/18 in the fifth paragraph to include the word “designate” before .....Independent Non-Executive Chair of the Board of Red One Ltd., the Restricted Minutes of the meeting held on 8 February 2018 be signed as a correct record.

**RC/23**      **Red One Update**

(An item taken in accordance with Section 100A(4) of the Local Government Act 1972 during which the press and public (with the exception of Dr Sian George and Andrew Andreou, together with Councillor Andrew Saywell) were excluded from the meeting.

*NB. Councillor Saywell attended in accordance with Standing Order 36(1) and spoke on this item with the consent of the Committee.*

The Committee considered a report of the Director of Finance (Treasurer) (RC/18/8) and received a presentation from Dr Sian George (designate Independent Non-Executive Chair of the Board of Red One Ltd.) that gave an update on the financial position of Red One Ltd. for 2018/19.

**RESOLVED** that the recommendations contained in report RC/18/8 be approved.

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

The meeting started at 10.00 am and finished at 11.53 am



# Agenda Item 8

|                                                    |                                                                                                                                                      |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REPORT REFERENCE NO.</b>                        | <b>DSFRA/18/6</b>                                                                                                                                    |
| <b>MEETING</b>                                     | <b>DEVON &amp; SOMERSET FIRE &amp; RESCUE AUTHORITY</b>                                                                                              |
| <b>DATE OF MEETING</b>                             | <b>30 APRIL 2018</b>                                                                                                                                 |
| <b>SUBJECT OF REPORT</b>                           | <b>THE “MOLLY” PRINCIPLE</b>                                                                                                                         |
| <b>LEAD OFFICER</b>                                | <b>Chief Fire Officer</b>                                                                                                                            |
| <b>RECOMMENDATIONS</b>                             | <i>That the report be noted.</i>                                                                                                                     |
| <b>EXECUTIVE SUMMARY</b>                           | This paper advises of the introduction of an improvement in Control Room operating procedures following the fatality at Sussex Road in October 2016. |
| <b>RESOURCE IMPLICATIONS</b>                       | Potential mobilisation of resources not actually required.                                                                                           |
| <b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b> | The contents of this report are considered compatible with existing equalities and human rights legislation.                                         |
| <b>APPENDICES</b>                                  | Nil.                                                                                                                                                 |
| <b>LIST OF BACKGROUND PAPERS</b>                   | Nil.                                                                                                                                                 |

## **1. BACKGROUND**

- 1.1. The Authority has previously been advised of the fatality that occurred at Sussex Road, Plymouth, in October 2016. The background to this tragic incident was that, following receipt of the initial call concerning a suspected incident, the Officer in Charge (OIC) of Control at that time made a decision not to mobilise an appliance despite at least one other person within the Control Room believing that this was the wrong decision and stating so.
- 1.2. The subsequent Coroner's Inquest delivered a narrative verdict (a verdict which sets out the circumstances of the death in a detailed way based on the evidence that the Coroner has heard) and concluded that the cause of death was smoke inhalation. While the Coroner commended firefighters who subsequently attended the incident for their courage and professionalism, it was nonetheless accepted that there were a number of learning points for the Service to ensure that a similar incident should not happen again. Service officers attending the Inquest outlined a number of identified Service improvements including the "Molly Principle", named in memory of the deceased, which is outlined in this report.

## **2. THE "MOLLY PRINCIPLE"**

- 2.1 Within the Airline Industry and Health Service, for example, there are documented cases where junior staff have been aware of a potentially high risk scenario but have been unable to override or even influence a pilot or senior doctor or consultant. There are various explanations for this which centre around cultural factors and organisational hierarchy. In recognition of the risks that this situation presents steps have been taken to empower and educate staff at all levels to ensure that all staff are engaged in safety critical communication. At the very least a junior staff member should be able to challenge more senior staff and be listened to.
- 2.2 In line with this learning, and in light of the Sussex Road incident the Service has introduced a change in Control Room operating procedures whereby any staff member present in the Control Room when a call is received can require the attendance of an appliance where they reasonably believe that life could be at risk. This will result in the mobilisation of at least one appliance. It should be noted that there is potential for unnecessary mobilisation of appliances and consequently the position will be kept under review and further refined as necessary.
- 2.3 The Authority is asked to note the introduction of the "Molly Principle".

**GLENN ASKEW**  
**Chief Fire Officer**

# Agenda Item 9

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REPORT REFERENCE NO.</b>                        | DSFRA/18/7                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>MEETING</b>                                     | DEVON & SOMERSET FIRE & RESCUE AUTHORITY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>DATE OF MEETING</b>                             | 30 APRIL 2018                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>SUBJECT OF REPORT</b>                           | CONSULTATION ON POLICE & CRIME COMMISSIONER MEMBERSHIP OF FIRE & RESCUE AUTHORITIES – FURTHER CONSIDERATIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>LEAD OFFICER</b>                                | Director of Corporate Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>RECOMMENDATIONS</b>                             | <p>(a). <i>that the Authority considers the contents of this report and determines whether it would wish its initial response expressing views on the proposals in the previous Home Office consultation (particularly in relation to the proposed right for a PCC to nominate a speaking, non-voting, representative to attend any Authority meeting the PCC is unable to attend) to be considered as a formal objection to the proposed amendment to the Combination Scheme Order, requiring the Secretary of State to hold a formal inquiry; and</i></p> <p>(b). <i>authorises the Clerk to the Authority to respond to the Home Office confirming the Authority position.</i></p> |
| <b>EXECUTIVE SUMMARY</b>                           | <p>This report updates the Authority on developments since submission of its response to the consultation on enabling regulations for Police &amp; Crime Commissioners to become members of fire and rescue authorities.</p> <p>Specifically, the Authority is asked to consider whether it would wish its initial response to the consultation to be treated as a formal objection to the proposed amendment to the Combination Scheme Order.</p>                                                                                                                                                                                                                                    |
| <b>RESOURCE IMPLICATIONS</b>                       | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b> | The contents of this report are considered compatible with existing equalities and human rights legislation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>APPENDICES</b>                                  | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>LIST OF BACKGROUND PAPERS</b>                   | Report DSFRA/17/39 (Appointment of Police & Crime Commissioners to the Authority – Consultation on Enabling Regulations) and the Minutes of that meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

## 1. BACKGROUND

- 1.1 At its meeting on 18 December 2017, the Authority considered a consultation on enabling regulations for Police & Crime Commissioners (PCCs) to become members of a combined fire and rescue authority (the “representation model”). At its ordinary meeting on 12 June 2017, the Authority had been advised of the representation model as it was understood at that time, i.e. in those instances where a PCC did not assume responsibility for a fire and rescue authority, allowing a PCC to request membership of a fire and rescue authority and become, subject to the request being approved, a member with speaking and voting rights. At that time, the Authority had approved requests from the PCCs of both Avon & Somerset and Devon & Cornwall for such membership, to take effect immediately on the relevant amending Regulations coming into force.
- 1.2 On 27 November 2017 the Home Office issued a consultation on proposed amending Regulations seeking “...views on the proposal to vary the combination schemes of Fire and Rescue Authorities (FRAs)...to implement the “representation model” of the Policing and Crime Act 2017”. The consultation introduced a new element, however, in proposing that for instances where a PCC was unable to attend a meeting in person, they should have a right to nominate a representative to attend the meeting and be able to speak at the meeting but not vote. Such a representative would not to be treated as a member of Authority for any purpose.
- 1.3 The Authority authorised the Chief Fire Officer, following consultation with the Chair, to respond to this consultation on the basis of:
- that, whilst it had no objection to a Police & Crime Commissioner becoming a member of the Authority, with speaking and voting rights, it would not wish the PCC to have a right to nominate a representative, with speaking **but not** voting rights, to attend any Authority meeting that the PCC was not able to attend in person; but
  - that if the government was minded to allow the PCC to nominate a representative to attend meetings, this should be on the basis of a fixed, named representative from the Office of the PCC, who should have speaking rights only.
- (Minute DSFRA/55 refers).

## 2. CURRENT POSITION

- 2.1 The consultation was duly responded to on the basis indicated above. Subsequently, an e-mail was received from the Home Office on 16 February 2018 inviting the Authority to reconsider its position. The rationale from the Home Office in inviting this reconsideration did little other than to repeat the position as outlined in the initial consultation document, which had already been considered by the Authority. On this basis (and because Officers had not been able to take the question to the Authority at that time) a response to the Home Office was sent indicating that the Authority’s original position had not changed.

- 2.2 The Home Office has subsequently responded again, via e-mail, on 1 March 2018. The contents of this are reproduced below:
- “Thank you for your response and confirming the authority’s position.
- Where a FRA does not agree with the proposed amendments to their combination scheme, but the Secretary of State wishes to continue with the proposal, she will be under a duty to hold an inquiry (Fire and Rescue Services Act 2004). Therefore, in terms of next steps, it is likely that the Home Office will be referring the objection received from the Authority to an independent person to carry out such an inquiry.”
- 2.3 The provisions of the Fire & Rescue Services Act 2004 referred to are contained in Section 2 of the Act. Specifically, Section 2(6) requires the Secretary of State to consult with a combined fire & rescue authority before making any variation to its Combination Scheme Order, with Section 8 requiring the Secretary of State to cause an inquiry to be held before varying such a Scheme in instances where the combined fire & rescue authority does not agree with the proposed variation.
- 2.4 A further response was sent to the Home Office e-mail of 1 March 2018 advising that, in making its initial response, the Authority was simply expressing a general view on the proposals as contained in the Home Office consultation paper and would not wish this consultation response to be regarded as any formal objection to any proposal the Secretary of State may wish to put forward specifically to amend its Combination Scheme Order.
- 2.5 The Home Office was further advised that a view would be sought from the Authority specifically as to whether it wished its initial response to the consultation to be treated as formal objection to the proposed amendment to the Combination Scheme Order. The Home Office has indicated that, although the initial consultation period has now closed, it will await the outcome of this further consideration by the Authority.
- 2.6 The Authority is therefore asked to consider the position further and to authorise the Clerk to respond, on its behalf, to the Home Office.

**MIKE PEARSON**  
**Director of Corporate Services**

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|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REPORT REFERENCE NO.</b>                        | <b>DSFRA/18/8</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>MEETING</b>                                     | <b>DEVON &amp; SOMERSET FIRE &amp; RESCUE AUTHORITY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>DATE OF MEETING</b>                             | <b>30 APRIL 2018</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>SUBJECT OF REPORT</b>                           | <b>PROCESS FOR APPOINTMENT OF AUTHORITY NON-EXECUTIVE DIRECTORS TO THE BOARD OF RED ONE LTD.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>LEAD OFFICER</b>                                | <b>Director of Corporate Services</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>RECOMMENDATIONS</b>                             | <p><i>(a) that the Clerk be delegated authority to identify and commission an independent external company specialising in the appointment of non-executive directors to undertake a process to identify and recommend to the Authority up to three Authority Members to serve as non-executive directors on the Board of Red One Ltd.;</i></p> <p><i>(b) that, to facilitate (a) above and to allow for expressions of interest to be sought from all those eligible to be considered, the term of office of those Authority Members currently appointed as non-executive directors on the Board of Red One Ltd be extended to the Authority meeting in July 2018 (date to be confirmed).</i></p>                                                                                              |
| <b>EXECUTIVE SUMMARY</b>                           | This report advises on the proposed process for the appointment of Authority non-executive directors on the Board of Red One Ltd.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>RESOURCE IMPLICATIONS</b>                       | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b> | The contents of this report are considered compatible with existing equalities and human rights legislation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>APPENDICES</b>                                  | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>LIST OF BACKGROUND PAPERS</b>                   | <p>Report DSFRA/15/7 (“Commercial Activities – Governance Options”) to the Authority meeting on 29 July 2015 (and the Minutes of that meeting).</p> <p>Report DSFRA/15/28 (“Commercial Governance – Further Developments”) to the Authority meeting on 14 December 2015 (and the Minutes of that meeting).</p> <p>Report DSFRA/17/11 (“Schedule of Appointments to Committees, Outside Bodies etc.”) to the Authority Annual Meeting on 12 June 2017 (and the Minutes of that meeting).</p> <p>Report DSFRA/17/22 (“Red One Ltd – Appointment of Directors”) to the Authority meeting on 26 July 2017 (and the Minutes of that meeting).</p> <p>Report DSFRA/17/34 (“Commercial Governance – Developments”) to the Authority meeting on 18 December 2017 (and the Minutes of that meeting).</p> |

## **1. BACKGROUND**

- 1.1. Over the past three years the Authority has approved a number of changes to the governance of its commercial trading activities, delivered through Red One Ltd. (“the company”). These changes have seen, amongst other things:
- the appointment of two independent non-executive directors with strong commercial backgrounds to the company Board (one to serve as Board Chair);
  - the appointment of three non-executive directors appointed from membership of the Authority to serve on the Board (and consequent dissolution of the former Commercial Services Committee).
- 1.2. Two of the three non-executive directors appointed from membership of the Authority were appointed at the Authority’s Annual Meeting in June 2017, with a term of office until the next Annual Meeting in 2018 (Minute DSFRA/5 of the meeting held on 12 June 2017 refers).
- 1.3. Appointment of the third was confirmed by the Authority at its meeting on 26 July 2017 (Minute DSFRA/24 refers) following a process commissioned in accordance with the Authority decision on 12 June 2017 (Minute DSFRA/5), which featured a selection process undertaken by an independent external company specialising in the identification and appointment of non-executive directors. The term of office was again until the Annual Authority Meeting in 2018.
- 1.4. This report now addresses a proposed process for the subsequent appointment of non-executive directors from Authority membership to the company Board.

## **2. PROPOSED PROCESS FOR APPOINTMENT OF AUTHORITY NON-EXECUTIVE DIRECTORS**

- 2.1 It is proposed that, in accordance with the previous process, the Clerk be delegated authority to identify and commission an independent external company specialising in the appointment of non-executive directors to undertake a process to identify and recommend to the Authority up to three Authority Members to serve as non-executive directors on the company Board. It is anticipated that, in the first instance, this process will entail inviting expressions of interest from Authority Members. Such an approach would provide independent and expert objectivity, transparency and be entirely consistent with that previously approved by the Authority, as referenced in paragraph 1.3 above.
- 2.2 As previously mentioned, the term of office of those Authority members currently appointed to serve as non-executive directors on the company Board is until the Authority Annual Meeting on 8 June 2018. There could, however, be changes in Authority membership as a result of elections for Plymouth City Council in May of this year and constituent authority annual meetings. Given this, it is suggested that the Authority might wish consider extending the term of office of those Authority members currently appointed to serve as non-executive directors on the company Board until its July 2018 meeting (date to be confirmed). This would allow for expressions of interest to be sought from all those eligible to be considered in early June, the selection process to be conducted in June/July with appointments determined by The Authority at its July 2018 meeting. A similar process and term of office could then be adopted for subsequent appointments of non-executive directors from membership of the Authority.

**MIKE PEARSON**  
**Director of Corporate Services**



|                                                    |                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REPORT REFERENCE NO.</b>                        | <b>DSFRA/18/9</b>                                                                                                                                                                                                                                                                                                            |
| <b>MEETING</b>                                     | <b>30 APRIL 2018</b>                                                                                                                                                                                                                                                                                                         |
| <b>DATE OF MEETING</b>                             | <b>DEVON &amp; SOMERSET FIRE &amp; RESCUE AUTHORITY</b>                                                                                                                                                                                                                                                                      |
| <b>SUBJECT OF REPORT</b>                           | <b>REMUNERATION OF NON-EXECUTIVE DIRECTORS APPOINTED FROM AUTHORITY MEMBERSHIP TO THE BOARD OF RED ONE LTD.</b>                                                                                                                                                                                                              |
| <b>LEAD OFFICER</b>                                | <b>Director of Corporate Services</b>                                                                                                                                                                                                                                                                                        |
| <b>RECOMMENDATIONS</b>                             | <i>That the Authority considers reinstating the Special Responsibility Allowance payable to the non-executive directors appointed from Authority Membership to the Board of Red One Ltd (“the company”), on the basis of the former rate (£6,060).</i>                                                                       |
| <b>EXECUTIVE SUMMARY</b>                           |                                                                                                                                                                                                                                                                                                                              |
| <b>RESOURCE IMPLICATIONS</b>                       | As indicated, if the Authority is minded to reinstate payment of the Special Responsibility Allowance on the basis of the former rate (£6,060 per annum per person), this will result in total expenditure of up to £18,180 for the current (2018-19) financial year. This will be contained from within existing resources. |
| <b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b> | The contents of this report are considered compatible with existing equalities and human rights legislation.                                                                                                                                                                                                                 |
| <b>APPENDICES</b>                                  | Nil.                                                                                                                                                                                                                                                                                                                         |
| <b>LIST OF BACKGROUND PAPERS</b>                   | Report DSFRA/17/34 (“Commercial Governance – Developments”) to the Authority meeting on 18 December 2017.<br>Report DSFRA/17/36 (“Confirmation of Scheme of Members’ Allowances 2018-19”) to the Authority meeting on 18 December 2017.<br>Minutes of the Authority meeting held on 18 December 2017.                        |

## **1. BACKGROUND**

1.1. At its meeting on 18 December 2017, the Authority considered reports on:

- progress with establishing a more robust, proportionate governance framework for Red One Ltd. (the Authority's commercial trading arm) ("the company"); and
- a report on the Scheme of Members' Allowances to apply for the 2018-19 financial year.

1.2. The Authority was advised at the meeting that the company had adopted, at a Board meeting on 15 December 2017, the proposed governance framework including revised Articles of Association. In light of this, the Authority resolved, when considering the Scheme of Members' Allowances to operate for 2018-19:

"that, given the changes in governance to the operation of Red One Ltd. ("the company"), as referred to earlier on the agenda for this meeting, the special responsibility allowance (SRA) currently payable to Authority Members appointed as non-executive directors on the Company Board be discontinued with effect from 1 April 2018 on the basis that, going forwards, all director remuneration would be paid directly by the Company". (Minute DSFRA/52 refers).

1.3. This decision was based on the understanding at that time. Subsequently, the new Independent Chair of the Board has advised that, based on previous experience, it is highly unusual for non-executive directors appointed as representatives of the shareholder to be remunerated by the company. Rather, it is normally the case that such non-executive directors are remunerated directly by the shareholder.

## **2. PROPOSAL**

2.1 In light of the above, it is proposed that the Authority may wish to consider re-introducing the Special Responsibility Allowance formerly payable to the Authority non-executive directors. In the first instance, it is proposed that this should be at the former rate (£6,060 per annum per person) for the current (2018-19) financial year which would be consistent with the decision of the Authority not to increase allowances for 2018-19 other than by the automatic uprating mechanism provided for in the Scheme (by reference to pay awards for Service support staff).

**MIKE PEARSON**  
**Director of Corporate Services**

# Agenda Item 12

|                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>REPORT REFERENCE NO.</b>                        | <b>DSFRA/18/10</b>                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>MEETING</b>                                     | <b>DEVON &amp; SOMERSET FIRE &amp; RESCUE AUTHORITY</b>                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>DATE OF MEETING</b>                             | <b>18 APRIL 2018</b>                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>SUBJECT OF REPORT</b>                           | <b>CONVENTION RELATING TO APPOINTMENT OF NON-EXECUTIVE DIRECTORS FROM THE AUTHORITY MEMBERSHIP TO AUTHORITY-OWNED COMPANIES</b>                                                                                                                                                                                                                                                                                                           |
| <b>LEAD OFFICER</b>                                | <b>Director of Corporate Service</b>                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>RECOMMENDATIONS</b>                             | <i>That the Authority considers the contents of this report and determines whether it would wish to introduce a convention relating to Non-Executive Directors appointed from Authority membership on any company owned by the Authority.</i>                                                                                                                                                                                             |
| <b>EXECUTIVE SUMMARY</b>                           | In accordance with Standing Order 19, the Authority Chair (Councillor Randall Johnson) has asked that an item be placed on the agenda for this meeting to enable the Authority to consider whether it wishes to introduce a convention whereby, to aid in managing potential conflicts of interest, neither the Chair nor Vice Chair should be eligible for appointment as non-executive directors on any company owned by the Authority. |
| <b>RESOURCE IMPLICATIONS</b>                       | Nil.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)</b> | The contents of this report are considered compatible with existing equalities and human rights legislation.                                                                                                                                                                                                                                                                                                                              |
| <b>APPENDICES</b>                                  | A. Extract from “Review of the current working arrangements of the Board of Directors of Red One Ltd. on behalf of the Devon & Somerset Fire & Rescue Authority”, as considered at the Extraordinary Authority meeting held on 4 April 2017.                                                                                                                                                                                              |
| <b>LIST OF BACKGROUND PAPERS</b>                   |                                                                                                                                                                                                                                                                                                                                                                                                                                           |

## 1. **BACKGROUND**

1.1 Over the past 18 months or so, the Authority has considered a number of externally-commissioned reviews to assist in establishing improved governance arrangements for its commercial training arm, Red One Ltd. One review report (considered initially by the Authority meeting on 30 September 2016, with a revised version considered at the Authority Extraordinary Meeting held on 4 April 2017) featured a section on Director duties (many stemming from the Companies Act 2006 – “the Act”) and highlighted, amongst other things:

- the duty to exercise independent judgement (Section 173 of the Act);
- the duty to exercise reasonable care, skill and diligence (Section 174); and
- the duty to avoid conflicts of interest (Section 175).

1.2 The Authority, at the Extraordinary Meeting held on 4 April 2017, resolved to adopt the recommendations as contained in the report (Minute DSFRA/59 refers). One recommendation was:

“in light of the dual role of the Members as Non-Executive Directors of the Company and Members of the Authority, it considers Section 6.11 of this Report which highlights the importance of ensuring that Members are aware of potential conflicts of interest arising and that if conflicts of interest arise, these are carefully managed and appropriate measures are implemented.”

1.3 For ease of reference, Section 6.11 of the report is reproduced in its entirety at Appendix A to this report. Also of relevance, however, is paragraph 6.65 of the review report, contained in the section headed “Additional consideration for conflicts of interest for the Authority appointed Non-Executive Directors”. This paragraph is reproduced below, for ease of reference:

“6.6.5 Given the role of the Chairman of the Authority, the likelihood of conflicts of interest arising is much greater than for other Members of the Authority and it is our view that it is generally not advisable for them to be appointed as a director of an Authority controlled company. It is considered that their participation and leadership in relation to the setting the strategic direction and exercise of the Shareholder function is an important aspect of the Chairman of the Authority’s role. As an elected Member and Director of the Company, we consider that in practice it will be difficult to ensure that both the statutory requirements for directors and the Members’ Code of Conduct are not infringed. Members will need to think about how their involvement with the Company will impact on their work as a Member. The Authority appointed as Non-Executive Directors of the Company will therefore need to consider how they could address any apparent tensions and their options will include declining appointment or resigning their directorship.”

1.4 The issues identified in paragraph 6.6.5 (as reproduced above) could be equally applicable to the position of Authority Vice-Chair. Given this, the Authority might wish to introduce a convention whereby neither Authority Chair nor Vice-Chair may be appointed by the Authority as non-executive directors on any company owned by the Authority. This would then serve to better safeguard the Authority, the Company and the individuals concerned in effectively managing the potential for conflicts of interest.

**MIKE PEARSON**  
**Director of Corporate Services**

## 6.11 Confidential and commercially sensitive information

- 6.11.1 The dual roles may mean that Authority Appointed Non-Executive Directors will have access to Authority information that may not be appropriate to disclose at the Company board meetings and vice versa, in respect of commercially sensitive information that is available as a director. This heightens the need for Members to be aware of the potential for conflicts of interest. The Members' Code of Conduct sets out the parameters for the provision of confidential information and any requirements of the Company as to confidentiality must be observed. Further, Members are aware of the restrictions on the disclosure of exempt information. The Authority and the Company are different legal entities and so Members must not make the mistake of thinking that information they acquire in one setting can simply be disclosed in the other setting.
- 6.11.2 The duty of confidentiality is such that, even where the director is appointed by a shareholder, he cannot, without the authority of the company, disclose to that shareholder any confidential information relating to the company which had been gained by him as a director of that company. It is often the case that the appointment of a director to a local authority owned company is because that Member has a particular interest in the subject matter and therefore it would not be unusual if their own view as a director and those of the company and the Authority are closely aligned. It is very important that directors have a clear understanding of which "hat" they are wearing at any time. As a general principle:
- A Member will be acting as a Director if they are considering papers sent to them from the Company, attending Board meetings, participating in other formal company business or discussing company business with others for the purposes of the company (subject to the point in connection with confidential information /commercially sensitive information above); and
  - A Member will be acting as a Member if they are considering papers sent to them from the Authority, attending committee or other meetings of the Authority, participating in other business of the Authority or discussing Authority business with others that arises directly from, or is for the purposes of, discharging their responsibilities as a Member of the Authority (subject to the point in connection with confidential information /commercially sensitive information above).
- 6.11.3 Conflicting interests should be declared by Directors on every occasion and the Articles of Association of the Company and the Members' Code of Conduct should be carefully followed as this continues to apply when they are serving on the Board of Directors as an Authority appointed Non-Executive Director. There are currently confidentiality agreements between the Authority appointed Non-Executive Directors and the Authority however these are simply in relation to their relationship with the Company as Members of the Authority rather than as Directors. In our view, appropriate clauses within all the letters of appointment should be included to clearly outline the Director's responsibilities in this regard.

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