



# 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  
CLYST ST GEORGE  
EXETER  
DEVON  
EX3 0NW**

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

Date : 16 September 2022  
Please ask for : Steve Yates  
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## **DEVON & SOMERSET FIRE & RESCUE AUTHORITY**

**Monday, 26 September, 2022**

A meeting of the Devon & Somerset Fire & Rescue Authority will be held on the above date, **commencing at 10.00 am in The Committee Rooms, Somerset House, Devon & Somerset Fire & Rescue Service Headquarters** to consider the following matters.

M. Pearson  
Clerk to the Authority

### **A G E N D A**

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

- 1 Retiring Members' Presentation**
- 2 Apologies**
- 3 Minutes**
  - a Annual Meeting 10 June 2022 (Pages 1 - 4)  
Attached.**
  - b Ordinary Meeting 10 June 2022 (Pages 5 - 10)  
Attached.**

#### **4 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**

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

In accordance with [Standing Orders](#), to consider any questions and petitions submitted by the public. Questions must relate to matters to be considered at this meeting of the Authority. Petitions must relate to matters for which the Authority is responsible, or which affect 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 on Wednesday 21 September 2022.**

#### **6 Addresses by Representative Bodies**

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

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

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

#### **8 Minutes of Committees**

##### **a Audit & Governance Committee (Pages 11 - 14)**

The Chair of the Committee, Councillor Brazil, to **MOVE** the Minutes of the meeting held on 22 July 2022.

##### ***RECOMMENDATIONS:***

- (i). That the recommendation at Minute AGC/22/8 (Corporate Risk Register – Inclusion of Red One Ltd. [Authority Trading Company]) be approved – namely that the Terms of Reference of the Audit & Governance Committee be amended as follows:

Insert the following new paragraph in the Matters with Delegated Power to Act section:

To receive reports as may be required on the Corporate Risk Register entry on trading company arrangements and specifically:

- (a). in respect of escalated risks or concerns that cannot be resolved between the Company and the Service Executive Board on the use of Service staff, equipment or premises or the reputation of the Service. To consider and resolve such issues, with existing, approved Service resources; and
- (b). in respect of escalated risks or concerns that cannot be resolved between the Company and the Service Executive Board on contracting terms and/or the effective discharge of the Trading Company Contract. To consider and resolve such issues, including approval to any revised contracting terms and/or Trading Company Contract as may be required (again, within existing Service resources).

(remaining paragraphs in the Terms of Reference to be renumbered accordingly).

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

**b**     **People Committee** (Pages 15 - 20)

The Chair of the Committee, Councillor Hannaford, to **MOVE** the Minutes of the meeting held on 29 July 2022.

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

**c**     **Resources Committee** (Pages 21 - 26)

The Chair of the Committee, Councillor Peart, to **MOVE** the Minutes of the meeting held on 5 September 2022, attached.

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

**9**     **Her Majesty's Inspectorate of Constabulary & Fire & Rescue Services (HMICFRS) 2021 Inspection Report (Pages 27 - 38)**

Report of the Chief Fire Officer (DSFRA/22/17) attached.

**10**    **Firefighters Pensions Schemes Discretions Policy (Pages 39 - 118)**

Report of the Director of Finance, People & Estates (DSFRA/22/18) attached.

**11**    **Appointments to the Devon Audit Partnership Committee (Pages 119 - 120)**

Report of the Director of Governance & Digital Services (DSFRA/22/19) attached.

**12**    **Appointment of Independent Members to the Audit & Governance Committee (Pages 121 - 124)**

Report of the Director of Governance & Digital Services (DSFRA/22/20) attached.

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

Membership:

Councillors Randall-Johnson (Chair), Best, Biederman, Brazil, Chesterton, Clayton, Coles, Cook-Woodman (Vice-Chair), Drean, Hannaford, Hendy, Kendall, Kerley, Long, McGeough, Partridge, Peart, Power, Prowse, Radford, Roome, Sellis, Shayer, Sully, Thomas and Trail BEM.

## NOTES

### 1. **Access to Information**

Any person wishing to inspect any minutes, reports or lists of background papers relating to any item on this agenda should contact the person listed in the “Please ask for” section at the top of this agenda.

### 2. **Reporting of Meetings**

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 Chair - 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 Chair or the Democratic Services Officer in attendance so that all those present may be made aware that is happening.

### 3. **Declarations of Interests at meetings (Authority Members only)**

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:

- (i) 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 – the nature of that interest; and then
- (ii) withdraw from the room or chamber during consideration of the item in which you have the relevant interest.

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 an interest of a sensitive nature. You must still follow (i) and (ii) above.

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.

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.

	<b>NOTES (Continued)</b>
<b>4.</b>	<p><b><u>Part 2 Reports</u></b></p> <p>Members are reminded that any Part 2 reports as circulated with the agenda for this meeting contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). Members are also reminded of the need to dispose of such reports carefully and are therefore invited to return them to the Committee Secretary at the conclusion of the meeting for disposal.</p>
<b>5.</b>	<p><b><u>Substitute Members (Committee Meetings only)</u></b></p> <p>Members are reminded that, in accordance with Standing Orders, the Clerk (or his representative) must be advised of any substitution prior to the start of the meeting. Members are also reminded that substitutions are not permitted for full Authority meetings.</p>
<b>6.</b>	<p><b><u>Other Attendance at Committees )</u></b></p> <p>Any Authority Member wishing to attend, in accordance with Standing Orders, a meeting of a Committee of which they are not a Member should contact the Democratic Services Officer (see “please ask for” on the front page of this agenda) in advance of the meeting.</p>

## DEVON & SOMERSET FIRE & RESCUE AUTHORITY (Annual Meeting)

10 June 2022

### Present:

Councillors Randall-Johnson (Chair), Best, Biederman, Brazil, Chesterton, Clayton, Coles, Cook-Woodman, Drean, Hannaford, Hendy, Kendall, Long, McGeough, Partridge, Peart, Power, Prowse, Radford, Roome, Sellis and Shayer.

### Apologies:

Councillors Kerley, Sully, Thomas and Trail BEM.

#### **DSFRA/22/1     Election of Chair**

**RESOLVED** that Councillor Randall-Johnson be elected Chair of the Authority until its next annual meeting.

#### **DSFRA/22/2     Election of Vice-Chair**

**RESOLVED** that Councillor Cook-Woodman be elected Vice-Chair of the Authority until its next annual meeting.

#### **DSFRA/22/3     Minutes**

**RESOLVED** that the Minutes of the Authority (Budget) meeting held on 22 February 2022 be signed as a correct record.

#### **DSFRA/22/4     Review of Constitutional Governance Framework**

The Authority considered a report of the Director of Governance & Digital Services (DSFRA/22/10) on the latest review of the Authority's constitutional governance framework documents.

The report identified each of the documents (e.g. Standing Orders; Financial Regulations; Scheme of Delegations) comprising the framework. The Authority had approved substantial changes to several of the documents at its last annual meeting (Minute DSFRA/21/4 refers).

The latest review had not identified any substantial changes albeit that a clarificatory amendment to Financial Regulations (dealing with approvals delegated to the Chief Fire Officer in relation to pensions schemes) was proposed.

It was also acknowledged that the recently published White Paper "Reforming our Fire and Rescue Service" could have implications requiring further amendment to certain of the documents (e.g. Scheme of Delegations) in due course.

#### **RESOLVED**

- (a). that the clarifying revision to Financial Regulations as set out at Section 3 of report DSFRA/22/10 be approved;

- (b). that, subject to (a) above, the Authority’s constitutional governance framework documents as listed at paragraph 1.1 of the report be endorsed; and
- (c). that the Clerk be authorised to publish the documents (revised as necessary) on the Authority website.

**DSFRA/22/5 Schedule of Appointments to Committees and Outside Bodies**

The Authority considered a report of the Director of Governance & Digital Services (DSFRA/22/11) to which was appended a Schedule of proposed Authority appointments to committees etc. and outside bodies for the 2022-23 municipal year (i.e. until the next Authority annual meeting).

**RESOLVED**

- (a). that the following appointments be made to Authority Committees etc. and outside bodies, the term of office to be until the Authority’s next annual meeting unless otherwise indicated:

***Audit & Governance Committee (9 Members)***

<b>Con</b>	<b>LD</b>	<b>Lab</b>	<b>Ind.</b>
Patridge	Brazil	Hendy	
Power	Kerley		
Prowse	Roome		
Sellis			
Thomas			

***Community Safety Committee (7 Members)***

<b>Con</b>	<b>LD</b>	<b>Lab</b>	<b>Ind.</b>
Chesterton	Brazil		Biederman
McGeough	Sully		
Partridge			
Radford			

***People Committee (7 Members)***

<b>Con</b>	<b>LD</b>	<b>Lab</b>	<b>Ind.</b>
Clayton	Best	Hannaford	
Peart	Kendall		
Thomas			
Trail BEM			



**Resources Committee (7 Members)**

Con	LD	Lab	Ind.
Drean	Coles		
McGeough	Long		
Peart			
Power			
Sellis			

**Appointments & Disciplinary Committee (4 Members)**

Con	LD	Lab	Ind.
Cook-Woodman	Best	Hannaford	
Randall-Johnson			

**Appeals Committee (4 Members)**

Con	LD	Lab	Ind.
Power	Long		
Shayer	Roome		

**Equality and Diversity Member Champion**

Councillor Trail BEM

**Climate Change and Sustainability Member Champions**

Councillor Clayton.

**Local Government Association Fire Commission**

Authority Chair and Councillor Coles.

**Local Government Association General Assembly**

Authority Chair (exercising one Corporate and one Service vote) and Councillors Cook-Woodman, McGeough and Roome (each exercising one Service vote).

**(NOTE:** The General Assembly is held annually. Actual attendance by an Authority Member, as an approved duty, is subject to the inclusion of fire and rescue specific items in the business to be discussed).

**South West Councils**

Authority Chair

**South West Provincial Council**

Chair, People Committee.

- (b). that, in accordance with Standing Orders, the following appointments be made to Committee Chair and Vice Chair positions until the Authority's next annual meeting:

***Audit & Governance Committee***

**Chair** Councillor Brazil

**Vice-Chair** Councillor Partridge

***Community Safety Committee***

**Chair** Councillor Chesterton

**Vice-Chair** Councillor Biederman

***People Committee***

**Chair** Councillor Hannaford

**Vice-Chair** Councillor Clayton

***Resources Committee***

**Chair** Councillor Peart

**Vice-Chair** Councillor Drean

***Appointments & Disciplinary Committee***

**Chair** Authority Chair

**Vice-Chair** Councillor Best

***Appeals Committee***

**Chair** Power

**DSFRA/22/6 Draft Calendar of Meetings 2022-23**

The Authority considered a report of the Director of Governance & Digital Services (DSFRA/22/12) to which was appended a draft Authority Calendar of Meetings for the 2022-23 municipal year.

**RESOLVED**

- (a). that, for the Audit & Governance Committee meeting proposed for Friday 22 July 2022, the Clerk be delegated authority to amend the time of the meeting from 14.00 to 10.00, subject to this being viable;
- (b). that, subject to (a) above, the Authority Calendar of Meetings 2022-23 be approved.

The Meeting started at 10.00 am and finished at 11.00 am

## DEVON & SOMERSET FIRE & RESCUE AUTHORITY (Ordinary Meeting)

10 June 2022

### Present:

Councillors Randall-Johnson (Chair), Best, Biederman, Brazil, Chesterton, Clayton, Coles, Cook-Woodman (Vice-Chair), Drear, Hannaford, Hendy, Kendall, Long, McGeough, Partridge, Peart, Power, Radford, Roome, Sellis and Shayer.

### Apologies:

Councillors Kerley, Prowse, Sully, Thomas and Trail BEM.

## DSFRA/22/7 Minutes of Committees

### a Audit & Governance Committee

The Chair of the Committee, Councillor Brazil, **moved** the Minutes of the meetings held on 7 March and 10 May 2022, which had considered, amongst other things:

#### **7 March**

- the external auditor's annual report;
- the proposed 2022-23 internal audit plan;
- a report on progress against the approved 2021-22 internal audit plan as at Quarter 3; and
- an update report on the Corporate Risk Register

#### **10 May**

- the external audit plan for the year ending 31 March 2022;
- the draft 2021-22 Annual Statement of Assurance;
- the 2021-22 internal audit year-end report;
- the annual report on the Authority policy for the Regulation of Investigatory Powers Act (RIPA) 2000; and
- a report on internal audit service provision.

**RESOLVED** that the Minutes be adopted in accordance with Standing Orders.  
**(See also Minute DSFRA/22/8 below).**

### b People Committee

The Chair of the Committee, Councillor Hannaford, **moved** the Minutes of the meeting held on 22 April 2022 which had considered, amongst other things:

- an application for retirement and re-employment in accordance with the Authority's approved Pay Policy Statement;

- an update on the Service People Strategy;
- the Service Recruitment & Workforce Diversity Annual Report 2021; and
- a year-end performance monitoring report against the “people” strategic priorities approved by the Authority.

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

### **c Community Safety Committee**

The Chair of the Committee, Councillor Chesterton, **moved** the Minutes of the meeting held on 27 April 2022 which had considered, amongst other things:

- a performance monitoring report as at Quarter 3 against Authority-approved strategic policies 1 and 2 (prevention and protection activities; response activities);
- a report on the Service risk-based inspection programme; and
- a report on Service prevention initiatives specifically for children and young people.

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

### **d Resources Committee**

The Chair of the Committee, Councillor Peart, **moved** the Minutes of the meeting held on 18 May 2022 which had considered, amongst other things:

- a report on the provisional financial outturn 2021-22;
- a proposed revision to the Capital Programme 2022-23 to 2024-25;
- a report on Treasury Management performance for the 2021-22 financial year; and
- a report on Red One Ltd. financial performance for the 2021-22 financial year.

**RESOLVED**

- (i). that, in relation to the recommendation at Minute RC/21/28 (Provisional Financial Outturn 2021-22):
  - (a). it be noted that, subsequent to reporting to the Resources Committee, an incorrect accountancy treatment had been identified of grants of £0.228m received in the 2021-22 financial year but which were still unapplied. The effect of correcting this was to reduce the indicative overspend (and call on the General Reserve Fund to address this) from £1.379m , as originally reported, to £1.121m. The resulting General Reserve Fund balance would then be 5.46% of the 2021-22 revenue budget (not 5.3% as originally reported);
  - (b). that, subject to (a) above, the recommendation be approved;
- (ii). that the recommendation at Minute RC/21/29 (Revision to Capital Programme 2022-23 to 2024-25) be approved; and

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

***(See also Minute DSFRA/22/11 below).***

**DSFRA/22/8 Internal Audit Service Provision**

The Authority considered a report of the Director of Governance & Digital Services (DSFRA/22/13) on the outcome of an internal review into and options for the provision of the internal audit function for the Devon & Somerset Fire & Rescue Service. Options for provision as outlined in the report included:

- co-sourcing/partial out-sourcing;
- internal sourcing;
- outsourcing;
- membership of a partnership shared-service arrangement with the Devon Audit Partnership (DAP) as a non-voting partner; and
- membership of a partnership shared-service arrangement with DAP as a full partner.

Each of these had been considered with reference to quality and cost of service.

The report outlined relevant legal considerations in relation to the preferred option, as supported by the Service Executive Board, to enter into a partnership shared-service arrangement with DAP as a full partner.

An earlier iteration of this report had been considered by the Audit & Governance Committee at its meeting on 10 May 2022 which had resolved to support, in principle, membership by the Authority of DAP subject to final approval by the Authority at this meeting and to confirmatory legal advice on any terms proposed for the Deed of Variation required to join the partnership (Minute \*AGC/21/27 refers).

**RESOLVED**

- (a). that the decision of the Audit & Governance Committee on 10 May 2022 to support, in principle, Authority membership of the Devon Audit Partnership (DAP) shared service agreement as a full, voting, partner be noted; and
- (b). that the Authority approves such membership, subject to confirmatory legal advice on the terms for the Deed of Variation required to facilitate membership.

***(See also Minute DSFRA/22/7(a) above).***

**DSFRA/22/9 Government White Paper "Reforming Our Fire and Rescue Service"**

The Authority considered a report of the Chief Fire Officer (DSFRA/22/14) on publication of the Government White Paper "Reforming Our Fire and Rescue Service".

The White Paper proposed a number of reforms in the areas of people, professionalism and governance. It was proposed that the White Paper be discussed further at forthcoming Members' Forum meetings to inform a response for consideration and approval by the Audit & Governance Committee meeting on 22 July 2022. The closing date for responses to the consultation was 26 July 2022.

**RESOLVED** that the Audit & Governance Committee be delegated authority to approve, at its meeting on 22 July 2022, a final response from this Authority to the White Paper.

**DSFRA/22/10 Exclusion of the Press and Public**

**RESOLVED** that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public (with the exception of representatives of Red One Ltd., as indicated) be excluded from the meeting for the following items of business on the grounds that they involve 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/22/11 Resources Committee 18 May 2022 - 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 Radford and Shayer each declared a personal, non-pecuniary, interest in this item by virtue of their being Authority-appointed non-executive directors on the Board of Red One Ltd.)

The Chair of the Committee, Councillor Peart, **moved** the restricted Minutes of the meeting held on 18 May 2022 during which the financial performance of Red One Ltd. for the 2021-22 financial year had been discussed.

**RESOLVED** that the Minutes be adopted in accordance with Standing Orders.  
**(See also Minute DSFRA/22/7(d) above).**

**DSFRA/22/12 Red One Ltd. Annual General Meeting 2022**

(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 representatives from Red One Ltd., were excluded from the meeting).

Dr. Sian George, Red One Ltd. Board Chair, in the Chair for this item.

The Authority, in its capacity as sole shareholder, attended the Annual General Meeting of its commercial trading company, Red One Ltd., during which the following items, amongst others, were discussed:

- operations, systems and processes used by the company to ensure effective, efficient and legally compliant operation;
- reporting procedures in place for the company

- a report company activities and its accounts to the year ending 31 March 2022; and
- the business objectives and forecast for the company to 31 March 2023.

At the conclusion of the Annual General Meeting, the Authority thanked the Board of Red One Ltd. for the information presented.

**DSFRA/22/13 Red One Ltd. Governance Arrangements and Appointment of Independent Non-Executive Director (Board Chair) of Red One Ltd.**

(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 Radford and Shayer each declared a personal, non-pecuniary, interest in this item by virtue of their being Authority-appointed non-executive directors on the Board of Red One Ltd.).

The Authority considered a report of the Monitoring Officer and Clerk to the Authority (DSFRA/22/16) on a proposed review of the governance arrangements between Red One Ltd. and the Authority and on options for the appointment of an independent non-executive director to serve as Chair of the company Board.

**RESOLVED**

- (a). that an initial review of the governance arrangements for Red One Ltd. be undertaken along the lines as indicated in paragraph 2.8 of report DSFRA/22/16;
- (b). that the current incumbent be re-appointed as the independent non-executive director Chair of the Board of Red One Ltd. for a further two-year period to 20 June 2024.

The Meeting started at 11.00 am and finished at 1.35 pm

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## AUDIT & GOVERNANCE COMMITTEE

(Devon & Somerset Fire & Rescue Authority)

22 July 2022

### Present:-

Councillors Brazil (Chair), Hendy, Kerley, Power, Prowse, Randall Johnson (vice Thomas), Roome and Sellis

### Apologies:-

Councillors Partridge and Thomas

#### \* **AGC/22/1** Minutes

**RESOLVED** that the Minutes of the meeting held on 10 May 2022 be signed as a correct record.

#### \* **AGC/22/2** Government White Paper "Reforming Our Fire and Rescue Service" - Proposed Response

The Committee considered reports of the Chief Fire Officer (AGC/22/9 and AGC/22/15) setting out an initial proposed response and revised response respectively to the Government's White Paper on "Reforming Our Fire and Rescue Service", the deadline for response to which was 26 July 2022.

The Chief Fire Officer advised the Committee that, since publication of the initial proposed response, the feedback given by Authority Members at the Members' Forum held on 19 July 2022 had been collated and fed into the paper circulated subsequently (AGC/22/15). As a result, the revised response gave proposed options for consideration, notably on questions 5, 8, 25 and 34 which the Committee was invited to consider.

In terms of these alternatives:

- Question 5 – pay negotiation - Option A, with the wording tweaked to strengthen the issues surrounding timing, affordability, outvoting and the need to avoid local pay bargaining was **MOVED** by Councillor Randall-Johnson, seconded by Councillor Roome and **CARRIED** unanimously;
- Question 8 – direct entry – Option A, with the last sentence tweaked of paragraph 2 amended to take out "care would need to be taken ...." and replace this with "it is essential that, before putting ....", was **MOVED** by Councillor Randall Johnson, seconded by Councillor Roome and **CARRIED** unanimously;
- Question 25 – priorities for professionalising fire and rescue services – the response was changed from "disagree" to "neither agree nor disagree" with the commentary set out in Option A and B as the basis for the response – **MOVED** by Councillor Power, seconded by Councillor Kerley) and **CARRIED** unanimously;

- Question 34 – transfer of fire governance to combined authority mayors or police and crime commissioners – Option A (not applicable) was **MOVED** by Councillor Power, seconded by Councillor Roome and was **CARRIED** unanimously.

**RESOLVED** that, subject to the incorporation of the amendments above, the final response from this Authority to the White Paper “Reforming our Fire and Rescue Services” be submitted to the Government by the deadline of 26 July 2022.

\* **AGC/22/3** **Internal Audit 2022-23 Progress Report - Quarter 1**

The Committee received for information a report of the Director of Governance & Digital Services (AGC/22/10) on the internal audit progress for the first quarter of the 2022-23 financial year. The report detailed progress made against the approved internal audit plan for that year together with additional review work undertaken.

Work on delivery of the 2022-23 Plan had been delayed as a result of the late completion of the 2021-22 work. The following audits had been completed now as part of the 2021-22 Plan with assurance level as indicated below:

- Community Safety – Fire Prevention – limited assurance;
- Personal Protective Equipment (PPE) – limited assurance;
- Fleet Management - reasonable assurance; and
- Flexi Duty Rota – limited assurance.

In terms of the 2022-23 Plan, work had commenced on 3 audits, namely:

- Station Based Testing Regime;
- Crewing pool;
- and Application of Learning.

Based on the completed audit work to date, Internal Audit expressed a reasonable level of assurance in the systems in operation within the Devon & Somerset Fire & Rescue Service. Generally, there was a sound system of governance, risk management and controls in place. Where weaknesses had been identified, management had agreed the findings and/or recommendations or accepted the associated risks. All audit reports included an action plan, with a designated responsible officer and timescales for completion, to address issues identified.

The Committee sought an assurance that the Authority’s Information Technology systems were robust and that any weaknesses had been addressed due to the potential cost implications of failure. The Director of Governance & Digital Services responded that there was a plethora of systems in place and that the Service was replacing old systems with new ones gradually, ensuring connectivity between them wherever possible. This was set out within the Digital Strategy. He added that the Service was in a reasonable position on this and improving.

Councillor Roome **MOVED**, seconded by Councillor Randall Johnson:

“That a follow up report be included within the Internal Audit progress paper at a future meeting of the Committee setting out the progress made on the audits indicated above with limited assurance”.

**RESOLVED**

- (a) That a follow up report be included within the Internal Audit progress paper at a future meeting of the Committee setting out the progress made on the audits indicated above with limited assurance; and
- (b) Subject to (a) above, the report be noted.

*NB. Councillor Roome declared a personal, non-pecuniary interest in this item by way of his Chairmanship of the Devon Audit Partnership.*

\* **AGC/22/4** **Going Concern Review**

The Committee received for information a report of the Director of Finance, People and Estates (Treasurer) (AGC/22/11) that provided a formal response from management to the external auditor (Grant Thornton) on the Authority as a going concern.

The report contained a review of the financial position as at 31 March 2022 alongside an assessment of the ability of the Authority to continue operating for the foreseeable future. The report confirmed that the Authority was operating within a robust control environment which was evidenced through appropriate assurance, financial and operational monitoring reports both to management and the Authority.

It was noted that the Covid-19 pandemic was likely to continue to impact on financial risks in the future but the Authority was well placed to respond to this.

\* **AGC/22/5** **Annual Review of Authority Standards Arrangements**

The Committee received for information a report (AGC/22/12) that identified the Standards arrangements adopted by the Authority to secure compliance with the legislative provisions of the Localism Act 2011 and associated Regulations. The report also provided an overview of operation of the regime during the 2021-22 financial year.

\* **AGC/22/6** **Revised Forward Plan 2022-23**

The Committee considered a report of the Director of Governance and Digital Services (AGC/22/13) that set out a revised Forward Plan for the Committee following amendment of the previous version agreed on 10 May 2022 (Minute AGC/21/25 refers).

**RESOLVED** that the revised Forward Plan for 2022-23 be approved.

\* **AGC/22/7** **Exclusion of the Press and Public**

**RESOLVED** that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public (with the exception of Councillor Coles and Andrew Davies [Grant Thornton]) be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the following paragraph of Part 1 of Schedule 12A (as amended) to the Act, namely:

- Paragraph 3 (information relating to the financial and business affairs of any particular person – including the authority holding that information); and

**AGC/22/8** **Corporate Risk Register - Inclusion of Red One Ltd. (Authority Trading Company)**

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 Councillor Coles and Andrew Davies {Grant Thornton}) were excluded from the meeting).

The Committee considered a joint report of the Chief Fire Officer, Director of Governance & Digital Services and Director of Finance, People & Estates on a proposed addition to the Corporate Risk Register in respect of its trading company, Red One Ltd. The external auditor, Grant Thornton, had recommended in a report to the Committee in March 2022 that the Authority should consider adding Red One to the risk register because, as the company continued to grow, it was important that governance arrangements remained under constant review to ensure they remained appropriate.

It was noted that a review of the governance arrangements for Red One Ltd. had also been approved by the Authority at its meeting on 10 June 2022 (Minute DSFRA/22/13 refers).

**RESOLVED:**

- (a) That the risk register entry for Red One Ltd. set out within Appendix A of report AGC/22/14 be approved; and
- (b) That the Authority be recommended to approve the revision of the Audit and Governance Committee's Terms of Reference as set out at paragraph 3.11 of report AGC/22/14.

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

The Meeting started at 10.00 am and finished at 12.35 pm

## PEOPLE COMMITTEE

(Devon & Somerset Fire & Rescue Authority)

29 July 2022

### Present:

Councillors Hannaford (Chair), Best, Clayton (Vice-Chair), Kendall, Peart, Thomas and Trail BEM

### Also in attendance (by video conference) in accordance with Standing Order 39:

Councillors Coles, Partridge and Randall Johnson.

\* PC/22/1

### Minutes

**RESOLVED** that the Minutes of the meeting held on 22 April 2022 be signed as a correct record.

\* PC/22/2

### Items Requiring Urgent Attention

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

In view of the point that the Inspection report referenced below had been received after publication of the agenda for this meeting, the Chair agreed to take this item as urgent business to ensure the Cause for Concern was addressed at the earliest opportunity.

The Chair reported receipt of the Inspection Report from Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) on 27 July 2022 and drew attention to the point that the People Pillar had been scored as "requiring improvement". A specific Cause for Concern had also been identified under "promoting the right values and culture". The Director of Resources, People and Estates gave an assurance that Officers were drawing up an Action Plan to address the Cause for Concern and other areas set out in the People Pillar as requiring improvement.

The Committee suggested that the timeframe for the next meeting may not be soon enough and suggested that an additional meeting may be required to consider this matter. Should this be the case, it was indicated that an additional meeting of the Committee could be set up by the Clerk in consultation with the Chair of the Committee in accordance with Standing Order 33(2). When Officers had considered the Cause for Concern in depth and prepared the Action Plan, a report would be submitted to the Committee.

\* PC/22/3

**Appointments to the Internal Disputes Resolution Procedure (IDRP) Panel**

The Committee considered a report of the Director of Governance & Digital Services (PC/22/9) that sought appointees from the membership the People Committee to serve on the Internal Disputes Resolution Panel (set up to consider and determine complaints made by individuals under stage 2 of the Firefighters' Pension Scheme Internal Disputes Resolution Procedure).

**RESOLVED** that Councillors Clayton, Hannaford and Peart be appointed as Members of the Internal Disputes Resolution Procedure (IDRP) Panel until the first meeting of the People Committee after the Annual Meeting of the Authority in June 2023.

\* PC/22/4

**People Strategy Update**

The Committee received for information a report of the Director of Finance, People & Estates (PC22/9) on development of the next iteration of the Service People Strategy for the period 2022-26 together with a summary of current activity under the existing Strategy.

The new Co-Head of People would be reviewing progress against the aspirations set out within the People Strategy alongside the information received in the final report of Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) in the People Pillar

The report identified a summary of key activities under the theme of Diversity and Inclusion, including:

- Safe to Learn;
- Contribution and Challenge interventions;
- Code` of Ethics implementation;
- A new Diversity and Inclusion policy;
- Work undertaken to review processes and improve recruitment and retention of a diverse workforce; and
- People Services transformation.

The Co-Head of People stated that a Diversity and Inclusion Action Plan had been drafted already setting out clear priorities for the Service. Reference was made in particular to the interventions made already including Safe To, Psychological Safety and the Just Culture.

The Area Manager (Academy) referred to the position on apprenticeships and reported that it was proposed to include an item in the forward agenda for the Committee to give an update.

The Chair drew attention to the need for an in-depth focus on recruitment and retention issues. He referred in particular to the Service undertaking more positive action to recruit and retain more women into the Service. This was particularly important in light of the Cause for Concern raised on the People Pillar of the recent inspection report and he welcomed the opportunity for a deep dive in this area of work.

*NB. Minutes PC/22/2 and PB/22/5 also refer.*

\* **PC/22/5** **Performance Monitoring Report 2022-23: Quarter 1**

The Committee received for information a report of the Director of Finance, People & Estates (PC/22/10) detailing performance as at Quarter 1 (April to March) of 2022-23 against those Key Performance Indicators agreed by the Committee for measuring progress against the following three strategic priorities as approved by the Authority:

- 3(a). Ensure that the workforce is highly trained and has the capability and capacity to deliver services professionally, safely and effectively;
- 3(b). Increase the diversity of the workforce to better reflect the communities we serve, promoting inclusion and developing strong and effective leaders who ensure that we have a fair place to work where our organisational values are a lived experience; and
- 3(c). Recognise and maximise the value of all employees, particularly the commitment of on-call firefighters, improving recruitment and retention.

In particular, the report provided information on performance against each of the following key measures:

- operational core competence skills (beathing apparatus; incident command; water rescue; safety when working at heights or in confined spaces; maritime; driving; and casualty care);
- workforce planning;
- health and safety (accidents [including near misses]; personal injuries; vehicle incidents);
- sickness and absence (including mental health) for wholetime, on-call, support, Control and casual staff, by type of sickness;
- fitness testing;
- diversity;
- promoting inclusion, developing strong leaders, living Service values and being a fair place to work.

In terms of operational core competency skills, the Area Manager (Academy) reported that the Service was on target or above (95% or more) in all of the key areas reported upon with the exception of Water Rescue (94.6%) Working at Height (90.4%) and Maritime (94.6%).

He reported that Water Rescue was impacted by access to suitable training facilities hence this tended to fluctuate between a 94% and 96% performance. Working at Heights had been impacted temporary by a reduction in training staff and reduced course attendance but should improve to meet the target in future reports. Maritime competency had also been impacted by a reduction in access to suitable training facilities which was being addressed via the training plan and estates strategy.

In view of these fluctuations, the Area Manager (Academy) was suggesting a change in the performance target to an average over the quarter together with relevant benchmarking information on the national picture. His would be tied in with a review of training delivery across the Service to improve efficiency and would tie in training with risks identified within the Community Risk Management Plan (CRMP). Councillor Thomas welcomed the review to ensure efficiency but questioned the use of an average to measure performance. He suggested that a Red, Amber, Green (RAG) rating together with in depth explanations may be more suitable. He **MOVED** (seconded by Councillor Clayton):

“That a review of the performance measure for operational core competency skills be undertaken and reported back to the Committee at a future meeting”.

Upon a vote, this was **CARRIED** unanimously.

The Chair also **MOVED** (seconded by Councillor Peart):

“that appropriate benchmarking information be included alongside the performance measures in key indicators”.

Upon a vote, this was **CARRIED** unanimously.

At this point, the Chair referred to the discussion in respect of apprenticeships during the previous item (Minute PC/22/4 refers) and **MOVED** (seconded by Councillor Peart):

“That a full report on the position relating to apprenticeships within the Service be submitted to the next meeting of the Committee”.

In terms of the health and safety measures, reference was made to the point that the provision of benchmarking information such as national comparisons would assist the Committee in judging performance against the key indicators in this area. The Director of Resources, People and Estates advised that Officers would look at the inclusion of such data in future reports. It was noted that the overall trend for accidents was showing a decrease over the 12 months from July 2021 to June 2022 which was a positive step although there had been a slight increase (four events) on near misses in quarter 1 of 2022-23 compared with the previous quarter. Vehicle accidents had increased slightly in quarter 1 of 2022-23 and tended to be as a result of slow speed manoeuvring and clipping hedges. The Service monitored the position on this carefully through mechanisms such as the Occupational Road Risk Group and Strategic Safety Committee.



The Committee noted that sickness had increased slightly to 2.51 days lost per person in quarter 1 of 2022-23 as compared to 1.69 days lost in the same period in 2021-22. There continued to be an overall increase in sickness, predominantly long-term sickness (more than 28 days) due to mental health and musculoskeletal issues primarily although long Covid was a factor. The Service had introduced new measures to assist staff with health and wellbeing issues such as the provision of private health insurance via Benenden Health, access to free Yoga classes and the SAVE project which was a three-day residential course at Firefighter Charity premises for employees suffering with mental health and wellbeing issues.

In terms of fitness testing, it was noted that 98.4% of staff had now passed and that measures were in place to support the 1.52% (24 individuals) who were in the red or amber category. The Cause for Concern in the previous report of HMICFRS had now been withdrawn.

The Chair commented upon the negative impact of the current national fitness standard on female staff, particularly as they grew older, and he drew attention to the need to ensure that changes were introduced at national level to address this. He reiterated his concerns on the negative impact of such measures on the recruitment and retention of female firefighters and **MOVED** (seconded by Councillor Peart):

“That an in-depth report on diversity and inclusion and specifically the recruitment and retention of female firefighters be submitted to a future meeting of the Committee together with information on how the Authority could engage more with this area of work”.

Upon a vote, this was **CARRIED** unanimously.

### **RESOLVED**

- (a) That a review of the performance measure for operational core competency skills be undertaken and reported back to the Committee at a future meeting;
- (b) that appropriate benchmarking information be included alongside the performance measures in key indicator
- (c) That a full report on the position relating to apprenticeships within the Service be submitted to the next meeting of the Committee;
- (d) That an in-depth report on diversity and inclusion and specifically the recruitment and retention of female firefighters be submitted to a future meeting of the Committee together with information on how the Authority could engage more with this area of work; and
- (e) Subject to (a) to (d) above, the report be noted.

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

The Meeting started at 10.00 am and finished at 12.38 pm

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## RESOURCES COMMITTEE

(Devon & Somerset Fire & Rescue Authority)

5 September 2022

### Present:

Councillors Peart (Chair), Coles, Drean (Vice-Chair), Long, Randall-Johnson (vice McGeough) and Sellis.

### Apologies:

Councillors McGeough and Power.

\* **RC/22/1**

### Minutes

**RESOLVED** that the Minutes of the meeting held on 18 May 2022 be signed as a correct record.

\* **RC/22/2**

### Treasury Management Performance 2022-23: Quarter

*NB. Adam Burlton, representing Link Asset Services - the Authority's treasury management adviser – was present for this item of business.*

The Committee received for information a report of the Director of Finance, People & Estates (Treasurer) (RC/22/12) that set out the Authority's performance relating to the first quarter of 2022-23 (to June 2022) in accordance with the Treasury Management in Public Service Code of Practice (published by the Chartered Institute of Public Finance and Accountancy {CIPFA}) and the CIPFA Prudential Code. The report set out how this Authority was demonstrating best practice in accordance with these Codes.

During consideration of this item, the following points were noted:

- There was economic volatility currently, the main driver of which was inflation driven largely by the position in Ukraine;
- The Bank of England was employing monetary policy in a bid to control inflation which was 10.1% currently and forecast to peak at around 14-18% later in 2023 before this dropped down again;
- UK bank base rate had been increased from 1.25% to 1.75% in August 2022 with quantitative easing being phased out gradually. Further interest rate rises were forecast and expected to peak now at around 2.75% in March 2024;
- The squeeze on income as a result of inflation was likely to slow the economy further into recession in 2023 for four quarters with an associated rise in unemployment (possibly to 6%);
- Interest rates were not forecast to rise in the next two years with no change in monetary policy;

- the annual treasury management strategy had continued on a prudent approach, underpinned by investment priorities based on security of capital, liquidity and yield. Investment income of £0.015m (0.73%) had been generated in quarter 1 of 2022-23, an underperformance against the new 3 month SONIA (Sterling Overnight Index) benchmark of 0.90% by 0.17bph. SONIA had replaced LIBID at the end of December 2022 and tended to trade at a higher average so it was anticipated that investment returns should improve and outperform the investment target at the year end;
- None of the Prudential Indicators (affordability limits) had been breached in quarter 1 with external borrowing at 30 June 2022 being £24.757m, forecast to reduce to £24.264m by the end of the financial year with no new borrowing undertaken.

It was noted that there would be opportunities forthcoming to review the Authority's early repayment of external borrowing as the rates for the Public Works Loans Board (PWLB) were improving.

Reference was made to the potential for much higher (than budgeted) public sector pay increases as a result of the peak in inflation. The Treasurer reported that the Government had been requested to provide additional funding to cover the anticipated increased pay awards but no response had been forthcoming as yet.

The Committee enquired about the potential for increased interest rates for the Authority's investments as set out within Appendix A of report AGC/22/12). The Treasurer advised that the Authority had seen an improvement in the interest rates offered already in quarter 2 of 2022-23 which would be reflected within the next report to this Committee.

The Committee welcomed the actions being taken to mitigate against downturn in economic performance being experienced currently.

\* **RC/22/3**      **Financial Performance Report 2022-23: Quarter 1**

The Committee received for information a report of the Director of Finance, People & Estates (Treasurer) (RC/22/13) that provided the Committee with details of the first quarter performance (to June 2022) against the agreed financial targets for 2022-23.

The Director of Finance & Resourcing (Treasurer) advised that, at this stage in the financial year, it was projected that spending would be £1.259m more than the budget of £77.289m at £78.548m representing an overspend of 1.63% of total budget. He added that it was relatively early in the financial year, however, and the Executive Board had implemented measures already to bridge this gap which included tightening spending against the agreed budget and seeking savings in the areas below including a review of how the crewing pool was resourced.

The drivers for this forecast overspend were largely due (amongst others) to:

- Wholetime pay - as a result of the additional 12 firefighter recruits who joined the Service in May 2022 where the training costs were not included - £0.185m;
- On Call Pay – budget assumptions regarding pension costs, national insurance and holiday pay were incorrect - £0.859m;
- Professional & technical support as a result of staffing costs for human resources associated with the Network Fire Services Partnership (NFSP) - £0.054m; and
- Communications equipment - £0.286m - of which £0.118m was because of unfunded increases in Airwave (the national blue light radio scheme) and £0.156m relating to alerter transmitters slippage from 2021/22.

This was offset by underspends in the following areas (amongst others):

- Training - £0.092m;
- Transport, repair and maintenance costs - £0.160m;
- Hydrants installation and maintenance - £0.054m.

The Committee noted that the Authority was within its prudential limits for external borrowing with the outstanding debt at £24.757 m forecast to reduce to £24.264m as at 31 March 2023. The capital programme was progressing well although there was a forecast overspend of £0.094m largely due to timing differences. The total debtor invoices outstanding at quarter 1 totalled £0.970m of which £0.4666m related to Red One Ltd.

The Committee asked about to the impact of the pension age discrimination remedy, noting that the full remedy would not be available until the requisite legislation was in place in October 2023. The Treasurer advised that there were 37 staff eligible to retire, all of whom had individual circumstances influencing their decisions. The Service was providing as much information as possible to each of these individuals to enable them to make an informed decision in terms of their retirement plans. The Chief Fire Officer added that the Service was confident that it would start to see some movement on impending retirements as a result of the clarification provided to the individuals concerned.

The Treasurer drew attention to the £1.350m of additional costs that may arise as a result of future pay awards for both operational and non-operational staff. It was noted that the National Fire Chiefs' Council (NFCC) had written to Government seeking funding to cover the additional costs associated with an increased pay award. In the event that additional funding was not forthcoming, the Authority would need to meet the budget deficit from Reserves. The Chief Fire Officer added that there were other areas that could be explored to bridge the budget deficit such as reducing the revenue contribution to capital of £1.2m, examining all of the reserves to check they were still required or could be repurposed and all Estate options.

The Committee welcomed the action being taken by the Service to manage the budget deficit on the 2022-23 revenue budget.

\* **RC/22/4**     **Service Environmental Strategy Update**

The Committee received for information a report of the Director of Finance, People & Estates (RC/22/14) that detailed progress on the Environmental Strategy and Action Plan.

It was noted that the Action Plan had been updated for 2022-25 to align to ISO140001 (Environmental Management) and following recommendations received from the initial Environmental review (IER) undertaken in October 2021. The IER contained the following recommendations:

- Continued development and implementation of the Environmental Strategy and Action Plan;
- Corrective action being taken over the high priority areas identified in the site visit report;
- Establishment of an environmental management system; and
- A review of each item on the environmental legislation annex to ensure the Service was fully compliant.

The Committee was advised that good progress had been made against the Action Plan which was set out at Appendix D of report RC/22/14. The Action Plan was accompanied by associated metrics (Appendix C of report RC/22/14).

Questions were raised on:

- whether there had been any investigation into the use of hydrogen in the future;
- an associated increase in insurance premiums as a result of the use of electric vehicles; and
- the affordability of diesel in the future bearing in mind the impact of the Ukraine situation.

The Head of Fleet and Procurement indicated that the Service was working closely with key partners to identify key risks going forward and undertook to take these points into consideration.

\* **RC/22/5**     **Exclusion of the Press and Public**

**RESOLVED** that, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public (with the exception of representatives of Red One Ltd.) be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined 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.

\* **RC/22/6** **Restricted Minutes of Resources Committee held on 18 May 2022**

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 Officers of Red One Ltd.,) were excluded from the meeting.

**RESOLVED** that the Restricted Minutes of the meeting held on 18 May 2022 be signed as a correct record.

\* **RC/22/7** **Red One Limited Financial Performance 2022-23: Quarter 1**

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 representatives from Red One Ltd.) were excluded from the meeting).

The Committee received for information a report of the Co-Chief Executives and the Finance Director of Red One Ltd. on the financial performance of the company during quarter one of the 2022-23 financial year.

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

The Meeting started at 10.00 am and finished at 12.19 pm

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# Agenda Item 9

<b>REPORT REFERENCE NO.</b>	DSFRA/22/17
<b>MEETING</b>	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
<b>DATE OF MEETING</b>	26 SEPTEMBER 2022
<b>SUBJECT OF REPORT</b>	HER MAJESTY'S INSPECTORATE OF CONSTABULARY & FIRE & RESCUE SERVICES (HMICFRS) 2021 INSPECTION REPORT
<b>LEAD OFFICER</b>	Chief Fire Officer
<b>RECOMMENDATIONS</b>	<p><i>(a). That the proposals for reporting progress against the actions plans for the cause for concern and areas for improvement in the 2021 HMICFRS inspection report, as set out in Section 3 of this report, be endorsed;</i></p> <p><i>(b). That the Authority notes:</i></p> <p><i>(i). that the Efficiency Pillar has increased from 'Requires Improvement' to 'Good' with the Effectiveness Pillar remaining at 'Good'; and</i></p> <p><i>(ii). The development of Action Plans, as appended to this report, to address both the cause for concern and the areas for improvement as identified in the HMICFRS report.</i></p>
<b>EXECUTIVE SUMMARY</b>	<p>This report advises the Authority formally of production of the latest report on the Devon &amp; Somerset Fire &amp; Rescue Service following the inspection of the Service by HMICFRS in 2021.</p> <p>HMICFRS comments that it is pleased with the overall effectiveness and efficiency of the Service but that more work is required on how the Service looks after its people.</p> <p>In addition, this report advises on proposals to ensure that actions required to address issues identified in the report are appropriately monitored and scrutinised by the Authority.</p>
<b>RESOURCE IMPLICATIONS</b>	Nil.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS</b>	N/A
<b>APPENDICES</b>	<p>A. Cause for concern action plan.</p> <p>B. Areas for improvement action plan.</p>

**BACKGROUND  
PAPERS**

[2021/22 HMICFRS Inspection Report Devon & Somerset Fire & Rescue Authority](#)

## 1. **BACKGROUND AND INTRODUCTION**

1.1. In July 2017, Her Majesty's Inspectorate of Constabulary's (HMIC) remit was extended to include fire and rescue services in England. The first round of inspections of fire and rescue services (including the Devon & Somerset Fire & Rescue Service – the Service) by the newly-expanded Her Majesty's Inspectorate of Constabulary & Fire & Rescue Services (HMICFRS) was conducted during 2018-19.

1.2. HMICFRS inspects fire and rescue services against three “pillars”:

**Effectiveness:** how effective is the fire and rescue service in keeping people safe and secure.

**Efficiency:** how efficient is the fire and rescue service in keeping people safe and secure.

**People:** how well does the fire and rescue service look after its people.

## 2. **2021 INSPECTION REPORT – GENERAL OVERVIEW**

2.1. In 2021, HMICFRS undertook its second full assessment of the Service. [The report detailing the outcome of the assessment was published on 27 July 2022 and can be found here.](#)

2.2. In summary, the Service was rated:

Good for the Effectiveness pillar (2019 inspection result: Good);

Good for the Efficiency pillar (2019 inspection result: Requires improvement);  
and

Requires improvement for the People pillar (2019 inspection result: Requires improvement).

2.3. The report identifies that the cause for concern identified following the 2019 inspection, relating to assurance that operational staff meet minimum fitness requirements, has been discharged following significant progress made by the Service.

2.4. HMICFRS comments that it is pleased with the overall effectiveness and efficiency of the Service but that more work is required on how the Service looks after its people. The 2021 inspection report identifies a cause for concern relating to the behaviours of some staff. The report acknowledges that, while the Executive Board has demonstrated a clear intention to improve the culture of the Service, more still needed to be done to address certain poor behaviours not in line with Service values.

2.5. In addition to this cause for concern, the report also identifies a number of areas for improvement.

### 3. **RESPONSE TO THE REPORT FINDINGS**

#### ***Cause for Concern***

- 3.1. The HMICFRS report states “The service has shown a clear intent from the executive board to improve the culture of the service. However, more needs to be done throughout the organisation. We have found evidence of poor behaviours that are not in line with service values. Some staff didn’t have the confidence to report these issues”.
- 3.2. The HMICFRS report recommended that, by 31 August 2022, the Service should develop an action plan to:
- Make sure that its values and behaviours are understood and demonstrated at all levels of the organisation; and
  - Make sure that staff are trained and supported to identify and challenge inappropriate behaviour when identified and that they have clear mechanisms in place to raise their concerns.
- 3.3. This action plan has been developed and has been forwarded to and received by HMICFRS. A copy of the action plan is attached at Appendix A for information.
- 3.4. As previously advised at the Members’ Forum meeting on 24 August 2022, the Service already has in train a number of measures to address this cause for concern, including the “Safe to..” and “It’s OK/It’s not OK” initiatives.
- 3.5. Creating a positive culture will deliver a number of benefits in terms of creativity, productivity, staff retention and recruitment. The Service recognises, however, that it will take time to embed new approaches. Whilst the Service would wish to discharge the cause for concern at the earliest opportunity and ideally before the next formal inspection, it is recognised that HMICFRS will require evidence of positive behaviours, embedded at all levels demonstrated at all times, before it can be discharged.
- 3.6. It is intended that reporting on progress against the cause for concern action plan will be a standing item for all meetings of the People Committee up until the point where the cause for concern has been discharged.

#### ***Areas for Improvement***

- 3.7. The Service has also developed an action plan to address the 14 areas for improvement as identified in the HMICFRS report. The action plan is attached as Appendix B to this report, for information.
- 3.8. In 2020 the Authority undertook a review of its governance structures, supported by the Centre for Governance and Scrutiny (CfGS). This resulted in the Authority revising, from June 2021, its structure so that the Authority would set overarching strategic policy objectives, with Committees responsible for scrutinising and ensuring appropriate delivery against the objectives so approved. The Terms of Reference of the Committees were revised accordingly and aligned to the three diagnostic “pillars” of HMICFRS inspections.

- 3.9. In line with this, it is proposed that regular, detailed progress reports on the action plan to address those areas for improvement in the HMICFRS report will be submitted to the relevant committees to ensure that scrutiny, enabling challenge in addition to recognition of progress, can be applied at the right level on a regular basis.
- 3.10. In addition, summary reports as to progress will also be reported to full Authority meetings at least twice a year.

#### **4. CONCLUSION**

- 4.1. This report sets out the findings of the second full inspection of the Service undertaken by HMICFRS, together with how the Service intends to respond to the cause for concern and areas of improvement as identified in the report.
- 4.2. It is entirely right and appropriate that the Authority has full visibility on progress in addressing these areas. As such, this report also sets out how it is proposed to ensure this visibility thereby providing for challenge, support and scrutiny.
- 4.3. It is pleasing that progress made by the Service since the last inspection has been recognised by HMICFRS. The Service is, however, far from complacent and remains committed to continuous improvement and demonstrating further evidence of progress in the months ahead.

**LEE HOWELL**  
**Chief Fire Officer**

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DSFRS 2022 HMICFRS Cause of Concern Action Plan

**Description**

The service has shown a clear intent from the executive board to improve the culture of the service. However, more needs to be done throughout the organisation. We have found evidence of poor behaviours that are not in line with service values. Some staff didn't have the confidence to report these issues. By 31st August 2022, the service should develop an action plan to:

- Make sure that its values and behaviours are understood and demonstrated at all levels of the organisation.
- Make sure that staff are trained and supported to identify and challenge inappropriate behaviour when identified and that they have clear mechanisms in place to raise their concerns.

**3. People (How well does the fire and rescue service look after its people?)**

**3.1 How well does the FRS promote its values and culture?**

HMICFRS 'Good' Criteria:

3.1.1 - The FRS has well-defined values and behaviours that are understood and demonstrated at all levels within the organisation.  
 3.1.2 - FRS senior managers act as role models and demonstrate commitment to service values through their behaviours.

DSFRS ref.	2019 AF1	Details	Theme	Action ref.	EB Action Owner	Action	Expected Outcome	Start Date	Target Completion Date	Evidence/ assurance related to actions	Status	Assurance to support discharging CoC
HMI-3.1-202201a	Yes	The Service should make sure that its values and behaviours are understood and demonstrated at all levels of the organisation.	Equality Diversity and Inclusion (EDI) training	01a.01	Director of Finance, People and Estates	Equality Diversity and Inclusion (EDI) eLearning to be repeated for all staff.	All staff to have refreshed their knowledge and understanding of EDI, values and ethics.	01/09/2022	30/09/2022	• EDI eLearning performance stats	In Progress - On Track	How will the Service be assured that its values, behaviours and ethics are understood and demonstrated at all levels of the organisation, that staff are trained and supported to identify and challenge inappropriate behaviour when identified and that they have clear mechanisms in place to raise their concerns?  Consider: • Staff survey • Manager walk rounds (to include observation of behaviour and informal discussion with staff) • HMICFRS 'inspection style' deep dive
				01a.02	Director of Finance, People and Estates	EDI eLearning to be an annual assessment and made a core skill on the competency dash board.	To demonstrate improved awareness and understanding of EDI, values and ethics amongst all staff.	01/09/2022	01/04/2023	• EDI eLearning performance stats	In Progress - On Track	
				01a.03	Director of Finance, People and Estates	New training presentation on values, behaviours and ethics to be delivered to all staff and support to embed the expectations of the organisation (as part of the Safe To programme).	Staff to be aware of expectations in terms of values, behaviours and ethics and be able to apply principles in practice.	01/09/2022	31/01/2023	• Training completion stats	In Progress - On Track	
				01a.04	Deputy Chief Fire Officer	All inappropriate material to be removed from Service premises. This includes inappropriate mugs, which was an issue highlighted by HMICFRS.	A clear standard is set with an understanding that a zero tolerance approach will be applied to the use of any inappropriate material including cups/mugs etc. on service premises. If inappropriate material is found it will be removed and the appropriate action taken.	01/09/2022	11/09/2022	• Department heads and managers at all levels empowered to undertake periodic assessments of their workplaces to ensure there is no inappropriate material.	In Progress - On Track	
				01a.05	Director of Governance and Digital Services	Mandatory PPD questions to be introduced: Have you experienced or witnessed any bullying, harassment or unwanted behaviour since our last meeting? Have you seen any inappropriate material?	Staff will have a clear opportunity to speak up which will allow action to be taken where appropriate.	01/09/2022	30/11/2022	• PPD completion stats and data collected for identification and measurement of wider service concerns.	In Progress - On Track	
				01a.06	Chief Fire Officer	PPDs to be completed in line with policy and recorded on Workbench.	Managers will have a clear opportunity to discuss values, behaviours and ethics with their staff. Staff will also have the opportunity to raise any concerns that they have.	01/09/2022	28/02/2023	• PPD completion stats	In Progress - On Track	
				01a.07	Director of Finance, People and Estates	Expectations documents x4 (charters) between: a. Managers and staff b. Trainers and recruits c. Staff and staff d. Staff and clients/ customers/ partners	Staff will have clarity on the values, behaviours and ethics that can be reasonably expected from different working relationships.	01/09/2022	28/02/2023	• Copies of the charter documents • Evidence of the distribution of documents. This will become a handbook for all work locations detailing what is and what isn't acceptable.	In Progress - On Track	
HMI-3.1-202201b	Yes	The Service should make sure that staff are trained and supported to identify and challenge inappropriate behaviour when identified and that they have clear mechanisms in place to raise their concerns.	Clearly defining expectations for behaviour	01a.08	Deputy Chief Fire Officer	Comms team to build a core brief on culture to be included in a regular programme of awareness (produced on a quarterly basis – sent to all stations and departments in advance and discussed during station/ department visits).	Consistent brief for all stations and departments on key messages. This will be delivered verbally by line managers with feedback captured to gain information and data.	01/09/2022	31/12/2022	• Copies of the core briefs • SLT feedback repository (to highlight any further actions)	In Progress - On Track	
				01b.01	Deputy Chief Fire Officer	Pre-recorded quarterly updates to all staff (leading conversations tone) on expectations to reinforce core brief, with CFO and DCFO. Followed up by face-to-face engagement session (See 01b.02).	Consistent brief for all staff on key messages. This will set the tone and expectations for the core brief content in 01a.08, allowing the CFO & DCFO to set a clear expectation for the focus of that quarters core brief, to be cascaded via line managers.	01/09/2022	31/12/2022	• Training completion stats & Feedback from the workforce	In Progress - On Track	
				01b.02	Deputy Chief Fire Officer	Senior Managers (SM and equivalent, and above) to attend a leading conversations presentation which will include input on expected behaviours, role modelling and accountability via an external trainer (follow up to quarterly process).	Managers to be aware of expectations in terms of values, behaviours and ethics and be able to apply the principles in practice.	01/09/2022	28/02/2023	• Training completion stats	In Progress - On Track	
				01b.03	Director of Finance, People and Estates	Performance/ conflict training for managers.	Improved confidence for managers in addressing performance and conflict issues as well as acting as visible role models to their teams on the expectations of the organisation.	01/09/2022	30/09/2023	• Training completion stats	In Progress - On Track	
				01b.04	Deputy Chief Fire Officer	Monthly communication to the workforce on concluded disciplinarys including sanctions and rationale for those sanctions.	Improved staff confidence that poor behaviour will be addressed, and for staff to understand that legitimate concerns raised are dealt with appropriately.	01/09/2022	30/11/2022	• Copies of monthly updates • Comms click rate (how many times it has been accessed)	In Progress - On Track	
				01b.05	Director of Finance, People and Estates	Report to the Executive Board on grievance and disciplinary cases to include type of case, speed of completion and outcome (e.g. improve speed of investigations and reconsider the use of outside investigators).	Improved staff confidence that poor behaviour will be addressed. Ability to provide confidence to the Executive Board and Fire Authority that cases are being processed fairly and efficiently. Learning is identified from each case.	01/09/2022	31/10/2022	• Copies of monthly updates • Comms click rate (how many times it has been accessed)	In Progress - On Track	
				01b.06	Deputy Chief Fire Officer	Every presentation to include a slide on values, expected behaviours and ethics.	Reinforcement of values, behaviours and ethics as a golden thread in everything that we do.	01/09/2022	31/01/2023	• Copies of example presentations	In Progress - On Track	
				01b.07	Director of Service Improvement	Create and publish effective confidential reporting mechanisms which include several avenues for staff. To include, a confidential reporting line directly to the DCFO, direct to ACAS, HMICFRS confidential reporting line, and whistle blowing policy.	All staff are aware of the confidential reporting mechanisms available to them and feel confident to use them. Staff have an awareness of the 'Respect and Fairness Toolkit' (RAFT).	01/09/2022	28/02/2023	• Copy of the document/ intranet page where this information is published • Microsoft forms survey to check staff awareness • Confirmation from managers that they have briefed their teams	In Progress - On Track	
				01b.08	Director of Service Improvement	Establish 'Speak Up' champions in each group and workplace that are accessible to all staff. Individuals will be interviewed and selected by senior staff (training allowance required). Individuals will support station visits and training/awareness.	Staff will have a trusted internal route to raise concerns and will have confidence that these will be acted on.	01/09/2022	28/02/2023	• Copy of any communication detailing the establishment of this team • Supporting code of conduct • Outcomes and actions resulting from engagement with the 'Speak Up' champions	In Progress - On Track	

DSFRS 2022 HMICFRS Cause of Concern Action Plan

**Description**

The service has shown a clear intent from the executive board to improve the culture of the service. However, more needs to be done throughout the organisation. We have found evidence of poor behaviours that are not in line with service values. Some staff didn't have the confidence to report these issues. By 31st August 2022, the service should develop an action plan to:

- Make sure that its values and behaviours are understood and demonstrated at all levels of the organisation.
- Make sure that staff are trained and supported to identify and challenge inappropriate behaviour when identified and that they have clear mechanisms in place to raise their concerns.

**3. People (How well does the fire and rescue service look after its people?)**

**3.1 How well does the FRS promote its values and culture?**

HMICFRS 'Good' Criteria:

3.1.1 - The FRS has well-defined values and behaviours that are understood and demonstrated at all levels within the organisation.  
 3.1.2 - FRS senior managers act as role models and demonstrate commitment to service values through their behaviours.

DSFRS ref.	2019 AFI	Details	Theme	Action ref.	EB Action Owner	Action	Expected Outcome	Start Date	Target Completion Date	Evidence/ assurance related to actions	Status	Assurance to support discharging CoC
			Recognition of living the values	01b.09	Director of Finance, People and Estates/ Deputy Chief Fire Officer	All recruitment and selection processes will include elements to assess applicants cultural awareness and how this links to the Service Values. Internal processes, including promotional processes, will include questions and/or assessment to evidence cultural awareness and how applicants demonstrate and/or embed behaviours that link to the Service Values, Code of Ethics and NFCC leadership framework.	All staff will be committed to improving culture and living the values which will be evidenced through processes, PPDs and day to day engagement.	01/09/2022	30/06/2023	<ul style="list-style-type: none"> <li>• Anonymised interview notes</li> <li>• Reduced discipline and grievance cases</li> </ul>	In Progress - On Track	
			EDI Commission for staff networks and representatives	01b.10	Deputy Chief Fire Officer	Equality, Diversity and Inclusion commission to be established. To include representation from representative bodies, staff support groups and key leaders.	The Equality, Diversity and Inclusion Commission will: <ul style="list-style-type: none"> <li>• Identify diversity and inclusion needs of our communities, staff and emerging risks</li> <li>• Provide strategic leadership in the development, implementation and sustainability of diversity and inclusion actions and initiatives</li> <li>• Provide advice, support and assistance in the implementation of the actions</li> <li>• Assist in the promotion of a culture of diversity and inclusion</li> <li>• Set and monitor progress of equality related initiatives</li> <li>• Monitor trends in the diversity and inclusion of employees</li> <li>• Meet statutory duties</li> <li>• Provide scrutiny mechanisms that monitor and challenge the differential impacts of service delivery on communities, and of workforce policies on equality</li> <li>• Consult Trade Unions as part of a partnership in developing the equality agenda, workforce monitoring and addressing inequalities in the workforce</li> </ul> Establishment of this commission will aim to improve engagement and to generate improved cultural awareness across the organisation.	01/09/2022	31/10/2022	<ul style="list-style-type: none"> <li>• Agendas and minutes from meetings</li> <li>• Copy of the signed ED&amp;I 'Pledge' by commission members</li> </ul>	In Progress - On Track	
			Induction and exit evaluation processes	01b.11	Director of Finance, People and Estates	Exit process to be formalised. This to include specific questions on cultural improvements.	Staff leaving the organisation will have an opportunity to discuss their reasons for leaving. This will then provide an opportunity to identify organisational learning, data will be captured and acted upon to drive continuous improvement	01/09/2022	28/02/2023	<ul style="list-style-type: none"> <li>• Process document</li> <li>• Completion stats</li> <li>• Analysis of themes arising and action taken; regular reviews of themes to ensure outcomes are acted upon which will include a review of policies and procedures if required</li> </ul>	In Progress - On Track	
				01b.12	Director of Finance, People and Estates	Revise induction process for all staff to include the setting of expectations of behaviour, values and ethics.	All staff, irrespective of contract type or length, will have a clear understanding of the Service's expectations in terms of values, behaviour and ethics.	01/09/2022	30/06/2023	<ul style="list-style-type: none"> <li>• Copy of induction presentation</li> <li>• eLearning and completion stats</li> </ul>	In Progress - On Track	



DRAFT - DSFRS 2022 HMICFRS Action Plan

DSFRS ref.	Category	2019 AFI	Description	SLT Lead	SLT Post-Inspection Progress Update	Action ref.	Action	Expected Outcome	Start Date	Target Completion Date	Status
<b>Areas for Improvement</b>											
<b>1. Effectiveness (How effective is the service at keeping people safe and secure from fire and other risks?)</b>											
<b>1.1 How well does the FRS understand the risk of fire and other emergencies?</b>											
HMI-1.1-202202	AFI	No	The service should make sure its integrated risk management plan includes clear outcomes that show the public how it is currently mitigating risk.	Area Manager Corporate Planning and Strategic Analysis	The new CRMP has been developed with specific actions to mitigate identified CRMP risks and aligned to our Strategic priorities. A review is currently under way to ensure that the risks identified and the outcomes required are cross-mapped back to the outputs that deliver the capability and that these align to corporate objectives and KPIs.	02.01	Develop service objectives aligned to the required outcomes of the CRMP	All CRMP outcomes are identified and actioned.	01/08/2022	31/10/2022	In Progress - On Track
						02.02	Implement a reporting process to ensure delivery		01/08/2022	30/11/2022	In Progress - On Track
						02.03	Develop and initiate strategic projects where required to meet CRMP outcomes.		In Progress	31/12/2023	In Progress - On Track
						02.04	Develop and publish station area LCPs		In Progress	31/01/2023	In Progress - On Track
<b>1.2 How effective is the FRS at preventing fires and other risks?</b>											
HMI-1.2-202203	AFI	No	The service should evaluate its prevention activity so it understands what works.	Area Manager Service Delivery Risk	The department has appointed a quality assurance and evaluation officer (QAE) and has use of a business analyst (BA). Thematic teams within DSFRS Prevention currently recognise and utilise nationally established guidance and recommendations for Quality Assurance and Evaluation, such as: • Road safety using Road Safety Great Britain (RSGB) • NFCC Documents  Partnership working involving other agencies to ensure best practice and sharing data and insight. Some agencies can share intelligence that allows us to target the most vulnerable. Partnership relationships are continuously reviewed for quality of referral, risk and conversion rates to HSV.	03.01	Create standardised documentation, which includes a process and procedure, and toolkits in line with the Fire Standards for Prevention and the NFCC Person Centred Framework.	All Prevention activity to be risk based and evidence led in approach.	01/09/2022	30/09/2023	In Progress - On Track
						03.02	Complete the Implementation tool for the Fire Standard and gap analysis for Person Centred Framework.		01/10/2022	31/12/2022	Not Started
						03.03	Set up MS Teams Channel for thematic leads of each area of Prevention to agree upon documents regarding processes and procedures to be published on Prevention's SharePoint Site.		01/10/2022	31/01/2023	Not Started
						03.04	ICT Information & Data Exploitation team and SATs to work with Prevention to develop a full evaluation plan to ensure Prevention activity is evaluated in depth and to understand what works.		01/10/2022	31/01/2023	Not Started
						03.05	Implement the evaluation plan.		01/02/2023	31/12/2023	Not Started
						03.06	Use the ISO9000 framework to identify and implement best practices for Quality management within the Prevention Department of DSFRS.		In Progress	30/09/2023	In Progress - On Track
HMI-1.2-202204	AFI	No	Safeguarding training should be provided to all staff.	Area Manager Service Delivery Risk	The safeguarding team have developed a safeguarding competency framework.  All operational staff should be aware of Safeguarding procedure and referral protocol.  The safeguarding course has been sent to the academy for them to write the E-learning and complete a final sign off.  The safeguarding manager is currently being recruited.  The organisation has undertaken an assurance report through organisational assurance team and to support the implementation of this will be establishing a safeguarding board which will be led by the DCO.	04.01	New Safeguarding Manager to review proposed competency framework and present to the Safeguarding Board for approval.	All staff will have received safeguarding training and be confident in who to contact/ the process to apply in a given situation.	On appointment of Safeguarding Manager (expected start date Jan 2023)	28/02/2023	Not Started
						04.02	Implement the competency framework and deliver mandatory E-Learning to all staff with a time stamped requirement.		01/03/2023	31/03/2023	Not Started
						04.03	Safeguarding team to review the effectiveness of the training by monitoring the quality of referrals.		01/04/2023	30/09/2023	Not Started
						04.04	Undertake a sample test with individuals to ensure they have understood the information provided on the E-Learning.		30/09/2023	31/10/2023	Not Started
<b>1.3 How effective is the FRS at protecting the public through the regulation of fire safety?</b>											
HMI-1.3-202205	AFI	No	The service should make sure it has an effective quality assurance process, so staff carry out audits and fire safety checks to an appropriate standard.	Area Manager Service Delivery Risk	The Protection Department has appointed a Quality Assurance Officer who is responsible for the quality assurance of protection work. A newly designed quality assurance action plan is being put in place to ensure audits and fire safety checks are carried out to an appropriate standard.	05.01	Create a draft protection quality assurance action plan		In Progress	31/10/2022	In Progress - On Track
						05.02	Send draft protection quality assurance action plan to Fire Safety Managers for feedback and collate.		01/11/2022	31/12/2022	Not Started
						05.03	Following feedback make amendments and implement Quality Assurance Action Plan and create process document.		01/01/2023	30/04/2023	Not Started
						05.04	Review quality assurance process and adjust as necessary.		01/05/2023	31/08/2023	Not Started
<b>2. Efficiency (How efficient is the fire and rescue service at keeping people safe and secure from fire and other risks?)</b>											
<b>2.2 How well is the FRS securing an affordable way of managing the risk of fire and other risks now and in the future?</b>											
HMI-2.2-202206a	AFI	No	The service needs to make sure that its fleet and estate strategies are regularly reviewed and evaluated to maximise potential efficiencies.	Head of Fleet and Procurement	Frontline profile for Rescue Pumping appliances agreed by EB (October 21) and communicated to stations and Authority on the 112 frontline appliances. A review of ALPs and Water Carriers undertaken. An audit on the light support vehicles undertaken. Telematics introduced to all light support vehicles. Estates review on appliance types undertaken to identify impacts. A review of the current capital programme has been completed and scenarios developed based on As is, Contract commitments only, moderated plan (frontline and some specials) and a fixed finance plan. Deficit in the capital plan identified at FY24/25 which would require external borrowing. A review of the frontline appliances in terms of numbers and types has been undertaken with the Director of Service Improvement and Treasurer to agree planning assumptions. Will initiate LRP (project and procurement) and review the frontline line appliances profile agreed October 2021.	06a.01	To review the scenarios for capital planning purposes against priorities within the replacement plan and agreement over areas to be protected (numbers of frontline appliances and some specials). Scenarios developed to be shared with EB.	Capital plan and priorities to be re-aligned to meet financial forecasting.	01/08/2022	30/09/2022	In Progress - On Track
						06a.02	Fleet Strategy published 2018-2022 - due to be renewed 2023. (In draft). Will be issued for consultation to ELT Q1 2023.		In Progress	31/12/2022	In Progress - On Track

HMI-2.2-202206b	AFI	No	The service needs to make sure that its fleet and <u>estate</u> strategies are regularly reviewed and evaluated to maximise potential efficiencies.	Head of Estates	N/A	06b.01	Liaise with EB lead for Estates to determine future estates strategy.		19/09/2022	31/10/2022	In Progress - On Track
						06b.02	Review the estates strategy in line with the CRMP annual review.	Regular review of the estates strategy.	01/01/2023	31/12/2023	Not Started
HMI-2.2-202207a	AFI	No	<b>Prevention and Protection</b> - The service should be aware of, and invest in, developments in technology and future innovation to help improve and sustain operational efficiency and effectiveness.	Head of ICT/ Area Manager Service Delivery Risk		07a.01	Investigate which systems involving Prevention and Protection activity are currently paper-based and make recommendations for improvements.	Areas where efficiency and effectiveness can be improved through eliminating paper based systems are identified.	12/09/2022	31/12/2022	Not Started
						07a.02	Identify correct technology to transfer to an electronic system, establish budget and make recommendations for the procurement of ICT equipment required.	Technology for electronic systems are identified and recommendations for procurement produced.	01/01/2023	30/06/2024	Not Started
						07a.03	Deliver the ICT solution, including training.	Paper based systems are transferred to electronic.	01/07/2024	31/12/2024	Not Started
						07a.04	Review the implementation to ensure the correct systems are in place.	Efficiency and effectiveness of prevention and protection activity are improved through the use of the appropriate electronic systems.	01/01/2025	31/03/2025	Not Started
HMI-2.2-202207b	AFI	No	<b>Response</b> - The service should be aware of, and invest in, developments in technology and future innovation to help improve and sustain operational efficiency and effectiveness.	Head of ICT/ Area Manager Service Delivery Response	The current applications in place to support operational efficiency and effectiveness are as follows: • The standard testing app, which ensures all equipment is tested • Skills app, to record firefighter skills	07b.01	Develop a skills GAP analysis in regards to the skills of staff linked to the CRMP and the risk identified.	Firefighters are trained with skills relating to the specific risks within their local area.	01/03/2023	30/09/2023	Not Started
						07b.02	Review skills apps and associated business processes to ensure that skills are aligned to local risk.		01/05/2023	31/07/2023 [DG:TBC]	Not Started
						07b.03	Investigate which systems involving Response activity are currently paper-based.	Efficiency and effectiveness of response activity will be improved through the use of the correct electronic systems.			Not Started

**3. People (How well does the fire and rescue service look after its people?)**

**3.1 How well does the FRS promote its values and culture?**

HMI-3.1-202208	AFI	Yes	The service should monitor secondary contracts to make sure working hours are not exceeded.	Co-Heads of People Services	For complete assurance, there would need to be investment into a time recording system which will not be included in the new HR system.	08.01	Produce a quarterly report for managers on individuals with more than one contract, reminding them of their duty to comply with working time regulations and facilitating the ability to monitor these individuals.	Managers will be aware of which individuals within their team have more than one contract, and therefore whose working hours should be monitored.	In Progress	Ongoing	In Progress - On Track
						08.02	Update the secondary contract policies and procedures to ensure they reflect current regulations and to give clarity to managers.	Managers and staff will be provided with clarity on working time regulations.	In Progress	30/04/2023	In Progress - On Track
						08.04	Identify areas of best practice for monitoring secondary contracts in other services.	Robust monitoring of working hours.	In Progress	31/12/2023	In Progress - On Track
						08.05	Investigate the use of Gartner to monitor the working hours of operational staff (with service delivery).		In Progress	31/12/2023	In Progress - On Track
						08.06	Consider service wide reporting on working hours once the new HR system is in place.		31/12/2023	30/04/2024	Not Started
						08.07	Continue to work with operational colleagues to ensure that the new HR system has the ability to share data on working hours		In Progress	31/12/2023	In Progress - On Track

**3.2 How well trained and skills are FRS staff?**

HMI-3.2-202209	AFI	No	The service should make sure its workforce plan takes full account of the necessary skills and capabilities to carry out the integrated risk management plan.	Co-Heads of People Services	Workforce planning is now being reported through a presentation to the monthly Strategic Workforce Planning (SWFP) group. This provides statistical data to advise on decisions to support recruitment into operational roles. Non-ops? The Service is currently limited by the inability of the current HR system to report agile, real-time data. Once the new HR system is in place, there Service will be in a better position to report on workforce data. Within the system, the Service will also look to include skills for core roles that can be reported against. Some info provided to Strategic Workforce Planning (SWFP) groups on non ops (not linked in minimum staffing levels. Where vacancies occur review t and c of roles (grey to green book)  In time, the monthly reporting through the new system will enable trend analysis to take place which will support the development of a longer term workforce plan.	09.01	Continue monthly reporting on the state of the workforce to the Strategic Workforce Planning (SWFP) group.	Development and maintenance of a long term workforce plan.	In Progress	Ongoing	In Progress - On Track
						09.02	Work with Service Delivery and Learning and Development to identify key skills and competencies for core roles.		In Progress	30/04/2024	In Progress - On Track
						09.03	Development of the new HR system to ensure workforce planning data is agile.		In Progress	31/12/2023	In Progress - On Track
						09.04	Use trend analysis to support the development of a longer term workforce plan.		31/12/2023	31/08/2024	Not Started
HMI-3.2-202210	AFI	No	The service should address the high number of staff in temporary promotion positions.	Co-Heads of People Services	HR are monitoring temporary promotions, working with line managers to ensure they are relevant and appropriate. For example, there are currently a high number of temporary promotions in place to cover long term sickness.	10.01	HR - Review the endorsement and promotions process.	Clarity for all staff on the endorsement and promotions process.	In Progress	30/04/2023	In Progress - On Track
						10.02	HR - Continually monitor temporary promotion positions to understand why they are being offered to individuals.	Regular review and challenge of temporary promotions to ensure that they are appropriate.	In Progress	Ongoing	In Progress - On Track
						10.03	HR - Temporary promotions to be monitored by the Strategic Workforce Planning (SWFP) group.	Routine monitoring and challenge of temporary promotions.	In Progress	Ongoing	In Progress - On Track
				Area Manager Service Delivery Response	Service delivery have reviewed temporary promotions in place for operational staff and have substantiated those required.	10.04	SD - Develop a new procedure for utilising day duty staff to fill gaps by absent staff (rather than using) temporary promotions.	The number of temporary promotions for operational staff will be reduced.	26/08/2022	31/08/2023	In Progress - On Track

3.3 How well does the FRS ensure fairness and diversity?											
HMI-3.3-202211	AFI	Yes	The service should make sure that it has effective grievance procedures. It should identify and implement ways to improve staff confidence in the grievance process.	Co-Heads of People Services	The grievance policy and procedure are currently being reviewed. Once the revised policy and procedure has been completed, HR will embed this across the organisation. Data has already been collected in relation to grievance timescales and analysis of this information, to include reasons for grievances, and this will be developed further to ensure that any lessons learnt/development needed is taken forward. The focus of the revised policy will be on conflict resolution, setting the expectation that issues should be resolved at an early stage where possible. Managers will also be accountable for holding conversations with individuals.  Regular reporting of grievances will enable trend analysis to be undertaken, and targeted support for particular service areas produced if required.	11.01	Review the grievance policy and process.	Clarity for all staff on the grievance procedures.	In Progress	31/05/2023	In Progress - On Track
						11.02	Review reasons for delays in grievance process and report (trend analysis)		In Progress	31/12/2023	In Progress - On Track
						01b.05	Report to the Executive Board on grievance and disciplinary cases to include type of case, speed of completion and outcome (e.g. improve speed of investigations and reconsider the use of outside investigators).  (See Cause of Concern Action Plan - 01b.05)				
HMI-3.3-202212	AFI	No	The service should improve staff understanding of the purpose and benefits of positive action.	Co-Heads of People Services	N/A	12.01	Review training and development on the difference between positive action and positive discrimination.	Improved staff understanding of the difference between positive action and positive discrimination.	In Progress	30/11/2022	In Progress - On Track
						12.02	Review the recruitment and selection processes to ensure compliance with the Equality Act.	Compliant recruitment and selection processes. Clarity for all staff on the process to follow.	In Progress	31/03/2023	In Progress - On Track
						12.03	Develop a range of communications, across all internal communication routes, to promote the differences between positive action, positive discrimination, and inclusivity.	Improved staff understanding of the difference between positive action and positive discrimination.	In Progress	Ongoing	In Progress - On Track
3.4 How well does the FRS develop leadership and capability?											
HMI-3.4-202213	AFI	Yes	The service should make sure its selection, development and promotion of staff is open and fair, and that feedback is available to staff.	Co-Heads of People Services	Groups have already been meeting to review current processes and systems for selection, development and promotions.	13.01	Review the promotions and endorsement process.	Clarity for all staff on the promotions and endorsement process.	In Progress	30/04/2023	In Progress - On Track
						13.02	Build developmental feedback into the promotions process.	An updated promotions process which includes feedback for all staff.	In Progress	30/04/2023	In Progress - On Track
						13.03	Develop an annual feedback process to Strategic Workforce Planning (SWFP) on the promotions process.	Staff who have undertaken the promotions processes are able to provide feedback and learning is shared within the Service.	01/08/2023	31/12/2024	Not Started
						13.04	Monitor the outcome data to provide assurance to the organisation that processes are fair and transparent.	The Service will have assurance that the selection, development and promotions processes are fair.	30/06/2023	Ongoing	In Progress - On Track
HMI-3.4-202214	AFI	No	The service should improve all staff understanding and application of the performance development review process.	Co-Heads of People Services	N/A	14.01	Review the PPD process and explore opportunities to improve the PPD process utilising current and emerging technologies, but also incorporate into the requirements of a new Core HR system the ability to complete and record performance conversations.	A PPD system that has the ability to send automated reminders, report meaningful information, track conversations and formal appraisal processes.	In Progress	31/12/2023	In Progress - On Track
						14.02	Re-set expectations and understanding of the PPD process through Service wide communications.  (See Cause of Concern Action Plan - 01a.06)	Clarity for all staff on the process that will be applied and expectations of staff and line managers.	01/01/2024	Ongoing	Not Started
HMI-3.4-202215	AFI	Yes	The service should put in place an open and fair process to identify, develop and support high-potential staff and aspiring leaders.	Co-Heads of People Services/ Area Manager Service Delivery Resilience	In September, the NFCC are launching a supervisory leadership portal, for which the Service are provided with 20 free licences. If the Service wants to give access to additional members of staff, there is a cost of £50 per licence (one licence per individual). After this, the Service will Assess benefit of engaging with this programme past 2023, if not way forward consider linking with academy .	15.01	OD - Review NFCC framework considering what leadership development the Service requires moving forward (assess the benefit of engaging with the NFCC supervisory leadership programme past 2023).		01/01/2023		Not Started
						15.02	HR - Develop a process for identifying high-potential staff, linking to Service Strategies and NFCC standards and frameworks	Defined process for identifying high-potential staff and clarity for staff on this.			Not Started
						15.03	OD - Design a development programme for high-potential staff and aspiring leaders that includes an assessment process.	Development programme is designed ready for delivery.			Not Started
						15.04	L&D - Deliver the development programme.	Development programme delivered.			Not Started
						15.05	HR - Monitor and evaluate the development programme.	Evaluation process in place that leads to regular review and improvement of the programme.	01/01/2024	30/06/2024	Not Started

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<b>REPORT REFERENCE NO.</b>	DSFRA/22/18
<b>MEETING</b>	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
<b>DATE OF MEETING</b>	26 SEPTEMBER 2022
<b>SUBJECT OF REPORT</b>	FIREFIGHTERS' PENSIONS SCHEMES DISCRETIONS POLICY
<b>LEAD OFFICER</b>	Director of Finance, People & Estates
<b>RECOMMENDATIONS</b>	<p><b><i>(a). That the Firefighters' Pensions Schemes Discretions Policy as attached at Appendix A to this report be approved; and</i></b></p> <p><b><i>(b). That, in relation to exercising these discretions:</i></b></p> <p style="padding-left: 40px;"><b><i>(i). Those discretions of a more routine, Scheme administration type, be exercised by the Chief Fire Officer;</i></b></p> <p style="padding-left: 40px;"><b><i>(ii). Those individualised, case-by-case discretions that could involve additional financial implications should be exercised either by the Chief Fire Officer, the People Committee or the full Authority depending on the quantum of the financial implications and alignment to financial thresholds as contained in the Authority's approved Financial Regulations.</i></b></p>
<b>EXECUTIVE SUMMARY</b>	<p>The Authority last considered discretions provided for by Firefighters' Pensions Schemes in 2015. There have been a number of changes since then, including the introduction of new Pensions Schemes.</p> <p>Consequently, it is timely to revisit and update as necessary the Pensions Discretion Policy.</p>
<b>RESOURCE IMPLICATIONS</b>	As indicated in the report.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS</b>	N/A.
<b>APPENDICES</b>	A. Firefighters' Pensions Schemes Discretions Policy
<b>BACKGROUND PAPERS</b>	Nil.

## **1. BACKGROUND AND INTRODUCTION**

1.1. The Authority initially approved a discretions policy for Firefighters' Pensions Schemes at its meeting on 7 October 2013 (Minute DSFRA/26(c)(ii) refers).

1.2. Since that time, there have been a number of changes to each of the Schemes concerned and as such it is timely to update the discretions policy.

## **2. REVISED DISCRETIONS POLICY AND EXERCISE OF DISCRETIONS**

2.1. A full review has been taken of each of the current Firefighters' Pensions Schemes, as follows:

- The Firefighters' Pension Scheme 1992
- The Firefighters' Pension Scheme 2006 (also known as the NFPS)
- The Firefighters' Compensation Scheme 2006
- The Firefighters' Pension Scheme 2015

2.2. Appendix A to this report identifies the discretions associated with each Scheme and the proposed policy to apply in relation to each of these discretions. The opportunity has been taken to clarify the policy to apply which will assist in consistency of approach moving forwards.

2.3. While the Schemes identify the discretions available to the authority (as scheme manager), they are silent as to who should exercise the discretions. Again, to ensure a consistency of approach and mitigate any risks associated with exercising discretionary matters, it is proposed that the discretions as identified in Appendix A be exercised as follows:

- those discretions of a more routine, Scheme administration type be exercised by the Chief Fire Officer (or other officer so delegated by them);
- those individualised, case-by-case discretions which could involve additional financial implications for the Authority should be exercised either by the Chief Fire Officer, the People Committee or the full Authority depending on the quantum of the financial implications and alignment to the thresholds in the Authority's approved Financial Regulations, currently:
  - for amounts up to £0.025m – Chief Fire Officer
  - for amounts exceeding £0.025m and up to £0.075m – the People Committee; and
  - for amounts exceeding £0.075m – the full Authority.

For clarity, it should be noted that the thresholds indicated refer either to a one-off payment or an annual cost (as the case may be).

## **3. CONCLUSION**

3.1. Firefighters' Pensions Schemes have been reviewed to identify discretions available to the Authority. These are set out in Appendix A to this report.

- 3.2. This discretions policy was considered by the Local Pensions Board at its meeting on 7 September 2022 and is now commended to the Authority.
- 3.3. The Authority is asked to approve Appendix A as the Authority's Discretions Policy and to approve the proposals as set out in paragraph 2.2 above for exercising these discretions.

**SHAYNE SCOTT**  
**Director of Finance, People & Estates**

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**Devon and Somerset Fire and Rescue Authority**

**FIREFIGHTER PENSION SCHEME DISCRETIONS FOR THE 2015, 2006 AND 1992 SCHEMES, AND THE 2006 FIREFIGHTER COMPENSATION SCHEME**

- The Firefighters' Pension Scheme 2015
- The Firefighters' Pension Scheme 2006 (also known as the NFPS)
- The Firefighters' Compensation Scheme 2006
- The Firefighters' Pension Scheme 1992

**2015 Scheme Manager Discretions**

The Firefighters' Pension Scheme (England) Regulations 2014 SI 2014/2848

**Regulation 5**

Delegation.

The Scheme Manager must ensure that delegated powers are appropriate and current.

Devon and Somerset Fire and Rescue Authority will ensure delegated powers are always appropriate and current.

**Regulation 12 (5)**

Opting into this scheme.

An optant-in will become an active member of the scheme with effect from the beginning of the first pay period following the date on which the option is exercised. There is an option for the scheme manager to vary the date on which the person becomes an active member, to such other time as the scheme manager considers appropriate.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make a reasonable decision as to the optant-in date for an active member. If the optant-in date is unclear, it will take effect from the beginning of the first pay period following the date on which the option is exercised. Any variation to this will be on an exceptional basis.

### **Regulation 16 (2) (b)**

Opting out after the first three months.

An optant-out ceases to be in pensionable service with effect from the first day of the first pay period following the date on which the option is exercised. If the scheme manager considers that day to be inappropriate, it may vary the date to the first day of any later pay period as the scheme manager does consider appropriate.

Devon and Somerset Fire and Rescue Authority's policy is: An optant-out will cease to be in pensionable service with effect from the first day of the first pay period following the date on which the option is exercised, unless the payroll has already been processed for that period, in which case the optant-out will cease to be in pensionable service with effect from the first day of the second pay period following the date on which the option is exercised. Any variation to this will be on an exceptional basis.

### **Regulation 17 (1) (d) Pensionable Pay.**

The scheme manager has discretion to determine if Continual Professional Development payments are to be treated as pensionable pay.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will treat CPD payments as pensionable.

### **Regulation 19 (c)**

Active membership.

A person who is on unpaid authorised absence can count the period as active membership if the scheme manager permits them to be treated as an active member during that period. (Linked to Regulation 111 (4) and subject to the member paying the appropriate contributions).

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will allow a person who is on unpaid authorised absence to count the period as active membership subject to the member paying the appropriate contributions.

### **Regulation 28 (2)**

Establishment of Pension Accounts.

The scheme manager must establish and maintain pension accounts for scheme members, but they may be kept in such form as the scheme manager considers appropriate.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will maintain pension accounts for scheme members in the most appropriate form considered by the Authority.

*This discretion has, however, been delegated, so that pension accounts for scheme members will be established and maintained in such form as the pension administrator considers appropriate.*

### **Regulation 37 (3), (4) and (5)**

Closure and re-establishment of active member's account.

If a member has more than two active member's accounts and ceases pensionable service with less than three months' qualifying service in respect of one account, that account must be closed and benefits aggregated with one of the others; the member may select which one. If the member fails to choose, the scheme manager has discretion to choose.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member fails to choose an account to use to aggregate benefits, the Authority will choose the account considered most appropriate by the Authority. This is likely to be the most cost-effective account to the Authority, but each case will be considered on its merits and full details of the circumstances will be required.

*This discretion has, however, been delegated, so that where a member fails to choose which of their active member accounts a closed account should be aggregated with, the pensions administrator will select the active member account most closely aligned to the closed account, or with the longest likely lifespan.*

### **Regulation 49 (3) and (4)**

Closure of deferred member's account after gap in pensionable service not exceeding five years.

If a deferred member re-enters pensionable employment after a gap of five years or less, the scheme manager must close the deferred member's account and re-establish the active member's account, transferring entries from the deferred account. If the person had more than one relevant deferred member's account, they must select – within three months of re-entering scheme employment - which one should close. If they fail to make a selection, the scheme manager must make the choice for them.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member has more than one deferred account and fails to choose which account to close, the Authority will choose the account considered the most appropriate by the Authority. This is likely to be the most cost-effective account to the Authority, but each case will be considered on its merits. Full details of the circumstances will be required.

*This discretion has, however, been delegated, so that where a member fails to choose which of their deferred member accounts should be re-established as an active account, the pensions administrator will select the deferred member account most closely aligned to the new pensionable employment.*

### **Regulation 62 (1) and (2)**

Employer initiated retirement.

An employer can determine that an active member aged 55 or over but under age 60 who on the grounds of business efficiency is dismissed or has their employment terminated by mutual consent, can receive immediate payment of retirement pension without the early payment reduction. An employer may only use this discretion if the employer determines that a retirement pension awarded on this basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not allow immediate payment of retirement pension without early payment reduction for any of its employees unless there is a clear advantage to be gained by the Authority by so doing.

### **Regulation 63 (5)**

Exercise of partial retirement option.

An active member aged at least 55 who would be entitled to immediate payment of pension if they leave pensionable service and who claims payment of the pension, may opt to claim the whole of their accrued pension but continue in pensionable service. The person concerned must give appropriate notice to the scheme manager and the partial retirement option is taken to be exercised on a date agreed between the member and the scheme manager.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member aged at least 55 opts to claim the whole of their accrued pension but continue in pensionable service, the Authority will agree a suitable date with the member.

## **Regulation 68 (1) and (2)**

Review of ill-health award or early payment of retirement pension.

The scheme manager must have a policy for reviewing, at such intervals as it considers appropriate, the award of ill-health pensions where the recipient is under deferred pension age and has been receiving the award for less than 10 years, and for reviewing the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular ill health pension reviews on individuals who are under the deferred pension age and have been receiving the award for less than 10 years and will review the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age.**

## **Regulation 69 (3)**

Consequences of review.

If, following the review of a lower tier ill-health pension under Regulation 68, the scheme manager determines that the recipient is capable of performing the duties appropriate to the role from which the person retired on grounds of ill-health, the employer must consider whether or not to make an offer of re-employment.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a member is receiving a lower tier ill-health pension and becomes capable of performing the duties appropriate to the role from which they retired, the Authority must consider making an offer of re-employment based on the individual circumstances.**

## **Regulation 70 (7) and (8)**

Commencement of pensions.

(7) If a deferred member requests, and is entitled to, the early payment of retirement pension on grounds of ill-health, the scheme manager must determine the date of payment as being the date on which the person became incapable of undertaking regular employment because of infirmity of mind or body or, if that date cannot be ascertained, the date of the member's request for early payment.

(8) If a deferred member requests deferral of payment of a deferred pension beyond deferred pension age, or requests early payment with an early payment reduction before deferred pension age, the scheme manager will decide the payment date after the claim for payment has been made.

Devon and Somerset Fire and Rescue Authority's policy is: A request for early payment of deferred benefits will only be considered in circumstances where there are grounds to justify this.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Regulation 72 (3) (b) and (4)**

Allocation election.

The scheme manager must give consent for the allocation of a portion of pension to a dependant who is not the spouse, civil partner or cohabiting partner of an active or deferred member. (Consent can be withheld if the scheme manager is not satisfied that the person nominated is not substantially dependent of the active member.)

Devon and Somerset Fire and Rescue Authority's policy is: Where a portion of a pension has been allocated to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will withhold the payment if they cannot be satisfied that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.

### **Regulation 73 (1)**

Making an allocation election.

The scheme manager must be satisfied that that the member is expected to live until normal life expectancy and obtain appropriate proof of this. The scheme manager must decide how this is to be judged, e.g. by the member's GP or the Occupational Health Physician, or by an IQMP's opinion.

Devon and Somerset Fire and Rescue Authority's policy is: Where a request is received from a member wishing to allocate a portion of their pension to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will request the proof of the member's life expectancy in a manner and format it considers appropriate. Each case will be considered on its merits.

## **Regulation 75 (1) and (2)**

Adjustment of allocated benefit.

If a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the scheme manager.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an allocated pension does not qualify as a dependant's scheme pension, the Authority will adjust the amount accordingly.**

## **Regulation 76 (1) (b) (v) and (2)**

Meaning of "Surviving Partner".

A cohabiting partner may be considered a "surviving partner" and potentially qualify for a pension provided they meet certain conditions, one of which is that they must have been in a "long-term relationship" – a continuous period of at least two years – at the date at which entitlement needs to be considered. The scheme manager has discretion to allow the person to qualify where the period is less than two years.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Surviving Partner has been in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Regulation 95**

Person to whom lump sum death benefit payable.

The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to who the recipients of any lump sum death benefits should be on a case by case basis and will withhold payment where it is considered appropriate.**

## Regulation 100 (2)

Payment of pensions under Part 6 “Death Benefits”.

If a child's pension is due in respect of an eligible child under age 18, the scheme manager will determine to whom it should be paid and will give directions to that person as to how the payment should be applied for the eligible child's benefit.

Devon and Somerset Fire and Rescue Authority's policy is: When paying Death Benefits to an eligible child under age 18, the Authority will make considerations on a case by case basis as to whom it should be paid and how the payment should be applied.

*This discretion has, however, been delegated, so that the pensions administrator will decide who will receive payment of a child's pension based upon the circumstances of the case and taking into account any guidance provided and having regard to judgements in relevant cases by the courts or the Pensions Ombudsman.*

*The pensions administrators will, where the payment is not being paid directly to the eligible child, direct the recipient as to how the payment should be applied for the eligible child's benefit.*

## Regulation 101 (2) and (3)

Surviving partner's pensions and eligible child's pensions: suspension and recovery.

A scheme manager has the right to cease paying a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears to the scheme manager that the recipient made a false declaration, or deliberately suppressed a material fact in connection with the award. (This does not affect the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.)

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will cease payment of a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears a false declaration had been made or where a material fact has been deliberately suppressed.



## **Regulation 102 (2) and (3)**

Provisional awards of eligible child's pensions: later adjustments.

If children's pensions have been made to certain persons on the basis that they were eligible children and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child, the scheme manager has discretion to adjust the amount of pensions as required in view of the facts as they subsequently appear. The adjustments may be made retrospectively. (This does not affect the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.)

**Devon and Somerset Fire and Rescue Authority's policy is: Where a child is eligible/ineligible to a child's pension, the Authority will adjust the pensions accordingly. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Regulation 104 (1) (a) and (2)**

Adjustment of benefits to comply with FA 2004 where members die over 75.

If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the scheme manager has discretion to adjust the benefit payable to the person so that it would qualify under that section of the Act.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may adjust benefits payable to individuals who do not qualify as a dependant's scheme pension under the Finance Act 2004. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Regulation 110 (5), (7) (h) Member Contributions.**

(5) Where there is a change in scheme employment or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount falls into a different contribution rate band, the scheme manager must determine that this rate should be applied and inform the member of the new contribution rate and the date from which it is to be applied.

(7) (h) When identifying the appropriate contribution rate, a reduction in pay in certain circumstances as listed in Regulation 110 are to be disregarded. In addition, the scheme manager can specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will assess contributions when there is a change to pensionable pay and revise contribution rates accordingly. Members will receive written communication of the change at the time of the change.

### **Regulation 111 (2), (3) and (4)**

Contributions during absence from work due to illness, injury, trade dispute or authorised absence.

Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions; if they do, the scheme employer may require that they should also pay employer contributions.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is absent from work due to a trade dispute or unauthorised absence, the Authority will require them to pay the member contributions and the employer contributions for the period of absence. All other cases will be considered on an individual basis. However, it is likely that an individual who is absent from work due to illness or injury (or authorised absence) will only be required to pay member contributions for the period of absence; the Authority will pay the employer contributions.

### **Regulation 114 (1), (2) and (3)**

Deduction and payment of contributions.

- (1) Member contributions due under Regulation 110 may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the scheme manager and the member.
- (2) Contributions due in respect of absence from work on reserve forces service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951.
- (3) Contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113 may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the scheme manager.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will ensure that member contributions due under Regulation 110 may be deducted from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the Authority and the member. The Authority will ensure that member contributions due in respect of absence from work on reserve service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. The Authority will ensure that member contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113, may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the Authority, and agreed on a case by case basis.

### **Regulation 135 (4)**

Statement of entitlement.

The scheme manager must specify in a statement of entitlement the "guarantee date" date by reference to which the cash equivalent or club transfer value is calculated; this date must fall within the three months beginning with the date of the member's application for the statement of entitlement and within ten days ending with the date on which the member is provided with the statement. The scheme manager has discretion, if it believes reasonable, to extend this date to within six months of the date of the member's application if, for reasons beyond the scheme manager's control, the information needed to calculate the transfer value cannot be obtained before the end of the three month period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will only extend the date of calculation of transfer value where the information needed to calculate the transfer value cannot be obtained before the end of the three month period, or where there are circumstances beyond their control. The date of extension will not be extended beyond six months of the member's application.

### **Regulation 141 (3)**

Request for acceptance of a transfer payment.

There is a time limit of one year from becoming an active member in which a person can request a transfer payment from a non-occupational pension scheme. The scheme manager has the discretion to extend this period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will extend the 12-month election period providing the request is made within 24 months.

## **Regulation 142 (2)**

Transfer statement.

The scheme manager can require an active member to ask the scheme manager of a previous non-club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count provided that the transfer date falls within two months of the date of the statement.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority may require an active member to ask the Authority of a previous non-club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count. Each case will be considered on an individual basis.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## **Regulation 144 (2)**

Club transfer value statement.

The scheme manager can require an active member to ask the scheme manager of a previous club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count provided that the transfer date falls within two months of the date of the statement.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority may require an active member to ask the Scheme Manager of a previous club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count. Each case will be considered on an individual basis.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## **Regulation 148 (1)**

Appeal concerning entries on the certificate.

If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, they can require the scheme manager to deal with their disagreement under arrangements implemented by the scheme manager in accordance with the requirements of section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. The scheme manager must have these arrangements in place.

Devon and Somerset Fire and Rescue Authority's policy is: If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, the member can follow the Internal Dispute Resolution Procedure (IDRP) to seek resolution.

### **Regulation 151**

Determinations by the scheme manager.

It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.

### **Regulation 152 (1), (7)**

Role of IQMP in determinations by the scheme manager.

(1) The scheme manager must select an Independent Qualified Medical Practitioner to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion.

(7) If a person wilfully or negligently fails to submit to medical examination by the selected IQMP and the IQMP is unable to give an opinion on the basis of the medical evidence available, the scheme manager can make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.

### **Regulation 153 (1), (4) and (5) Review of medical opinion.**

Where a member requests a review of an IQMP's opinion in the light of new evidence received by the scheme manager within 28 days of the member having received the opinion, the scheme manager may agree to giving the IQMP the opportunity of reviewing the opinion.

(4) and (5) Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly.

Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority receives new evidence from a member within 28 days of the opinion; the Authority will request the IQMP to review the opinion. Upon receiving the IQMP's advice, the Authority will confirm or revise its original determination and advise the member accordingly.

### **Regulation 155 (2) Notice of appeal.**

If a member wishes to appeal against a determination made by the scheme manager and their grievance lies in the medical opinion upon which the determination was based, they can appeal to a board of medical referees. The appeal must be made within 28 days of the date on which the member receives the relevant documents under Regulation 154(4). If the appeal is not made within this time limit and the scheme manager is of the opinion that the person's failure to give notice within the required period was not due to the person's own default, the scheme manager has a discretion to extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date the Regulation 154(4) documents were supplied.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believes it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

### **Regulation 156 (8) to (12)**

(see also Regulation 161)

Reference of appeal to the board.

Where a member has given notice of appeal to a board of medical referees, before the board arranges a time and place for the interview and medical examination a member of the board will review the documents supplied to the board in accordance with Regulation 156. If the board member is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded the board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn, send a copy of it to the scheme member advising that if their appeal is unsuccessful, the member may be required to pay the scheme manager's costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

### **Regulation 157 (6) to (9)**

Procedure where appeal to be pursued.

The scheme manager must decide which persons will attend the interview as its representatives. The scheme manager must also decide whether or not to submit written evidence or a written statement (and must decide a response to any written evidence or written statement from the appellant).

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate. The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

### **Regulation 161 (2)**

Expenses of each party.

If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager can require the appellant to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.

Devon and Somerset Fire and Rescue Authority's policy is: Where the medical appeal board determine that an appeal is frivolous, vexatious or manifestly ill-founded, the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 161 (3) (a)**

Expenses of each party.

If the appellant withdraws the appeal requesting cancellation, postponement or adjournment of the date appointed for interview and/or medical examination less than 22 working days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.



Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws an appeal requesting cancellation, postponement or adjournment, the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 161 (3) (b)**

Expenses of each party.

If the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed or interview and/or medical examination less than 22 days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the appeal, the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 163**

Appeals on other issues.

If a member disagrees with a scheme manager's determination of award under Regulation 151 and the disagreement does not involve an issue of a medical nature, the member can require the scheme manager to deal with the disagreement under requirements which the scheme manager must have in place in accordance with section 50 of the Pensions Act 1995 (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member disagrees with the Authority's determination of award under Regulation 151 and the disagreement does not involve an issue of a medical nature, the member can follow the Internal Dispute Resolution Procedure (IDRP) to seek a resolution.



## Regulation 167

Commutation of small pensions.

If the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager may pay the entitlement as a lump sum. This would, however, be subject to the consent of the recipient and must comply with the commutation provisions that apply in the circumstances.

*Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## Regulation 168

Payments for persons incapable of managing their affairs.

If it appears to the scheme manager that a person other than an eligible child who is entitled to benefits under the scheme, is by reason of mental incapacity or otherwise, incapable of managing his or her affairs, the scheme manager may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the scheme manager may determine, to be applied for the benefit of the person entitled. If the scheme manager does not pay the benefits in this way, the scheme manager may apply them in such manner as it may determine for the benefit of the person entitled, or any beneficiaries of that person.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.*

## Regulation 169

Payments due in respect of deceased persons.

If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration.

*Devon and Somerset Fire and Rescue Authority's policy is: When paying personal representatives death benefits, the Authority will consider each case on an individual basis.*

*This discretion has, however, been delegated, so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

## Regulation 171 (1) (2), (3), (4) and (5)

Forfeiture: offences committed by members, surviving partners or eligible children.

If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager can withhold pensions payable under the scheme to a member, any person in respect of the member, a surviving partner or an eligible child, to such extent and for such duration as it considers appropriate. "Relevant offence" is defined in this Regulation. The definition includes offences injurious to the State (including treason) or likely to lead to a serious loss of confidence in the public service. There are certain conditions set out in the Regulation, e.g. it is only the part of the pension that exceeds any guaranteed minimum pension that can be withheld. (4) Where a pension is withheld, the scheme manager can at any time, and to such extent and for such duration as the manager thinks fit, apply the pension for the benefit of any dependant of the member or restore it to the member.

*Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.*

## Regulation 172 (1) to (5)

Forfeiture of pensions: offences committed by other persons.

If a surviving partner or eligible child is convicted of the murder of a scheme member from whose benefits their pension would be derived the scheme manager must withhold all of the survivor's or child's pension otherwise payable. However, if a surviving partner or eligible child is convicted of the manslaughter of the member or any other offence, apart from murder, of which the unlawful killing of the member is an element, the scheme manager has discretion as to whether or not to withhold the pension to which they would otherwise be entitled. The amount withheld must only be that part of the pension which exceeds any guaranteed minimum pension. If the conviction is subsequently quashed, the pension must be restored with effect from the day after the date on which the member died. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled.

**Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.**

## Regulation 173

Forfeiture of lump sum death benefit: offences committed by other persons.

If a person is convicted of a relevant offence, i.e. the murder or manslaughter of the member, or any other offence of which the unlawful killing of the member is an element, the scheme manager must withhold all of any lump sum death benefit payable to that person. If, however, the conviction is subsequently quashed on appeal, the scheme manager may, to such extent and for such duration as it thinks fit, restore to the person the amount of benefit withheld. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled.

**Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.**

## Regulation 174

Forfeiture: relevant monetary obligations and relevant monetary losses.

If a member has a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may, to such extent and for such duration as it considers appropriate, withhold benefits payable to that person under the scheme. "Relevant monetary obligation" and "relevant monetary loss" are defined in the Regulation. There are certain limits, e.g. the amount withheld may only be that which exceeds the person's guaranteed minimum pension and the scheme manager may only withhold it if there is no dispute about the amount or, if there is, there is a court order or the award of an arbitrator. The monetary obligation must have been incurred to the employer after the person became an active member and arising out of or connected with the scheme employment in respect of which the person became a member of the scheme, and arising out of the person's criminal, negligent or fraudulent act or omission. The procedure is set out in Regulation 176.

**Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.**

## Regulation 175

Set-off.

A scheme manager has a discretion to set off a "relevant monetary obligation" against a member's entitlement to benefits under the scheme, subject to certain conditions which are similar to those contained in Regulation 174 (Forfeiture). The procedure is set out in Regulation 176.

**Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority proposes to withhold benefits, the procedure set out in Regulation 176 will be followed. The Authority will consider each case on an individual basis.**

## Regulation 178

Payment on behalf of members of lifetime allowance charge.

At a scheme member's request, the scheme manager may pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may make a lifetime allowance charge payment on behalf of a member. Each case will be considered on an individual basis.

### **Regulation 184 (1) and (2) and (3)**

Evidence of entitlement.

(1) and (2) The scheme manager can require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide such supporting evidence as the scheme manager may reasonably require so as to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme.

(3) If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager can withhold the whole or part of any amount that it otherwise considers to be payable under the scheme.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual fails to comply with the Authority's requirements regarding evidence of entitlement, the Authority will withhold the whole or part of any amount that is otherwise payable.

### **Schedule 1 Part 1, Paragraph 4**

Amount of accrued added pension may not exceed overall limit of extra pension.

The total amount of accrued added pension must not exceed a certain limit. If it appears to the scheme manager that a member who has elected to make periodical contributions will exceed the limit the scheme manager may cancel the election (by written notice to the member).

Devon and Somerset Fire and Rescue Authority's policy is: Where it appears that a member who has elected to make periodical contributions will exceed the limit, it is likely that the Authority will cancel the election. Each case will be considered on an individual basis.

### **Schedule 1 Part 2, Paragraph 7 (3)**

Member's election to make periodical contributions for added pension.

If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Scheme Member wishes to make periodical payments for added pension, the Authority has set the following minimum amounts which must be paid:

- (i) Increase of 4%
- (ii) Monthly increase of £100
- (iii) One off lump sum of £1,000

### **Schedule 1 Part 2, Paragraph 8 (3)**

Periodical payments.

If a scheme member wants to make periodical payments for added pension, but does not want them to be deducted from pensionable pay, the scheme manager may agree another method of payment.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member wishes to make payments for added pension but does not want them to be deducted from pensionable pay, the Authority may agree another method of payment, to be agreed on a case by case basis.

### **Schedule 1 Part 2, Paragraph 10 (4)**

Periodical payments during periods of assumed pensionable pay.

After a period of assumed pensionable pay or a period of reduced pay, the member may give written notice to the scheme manager authorising the employer to deduct the aggregate of payments – which would have been made but for the leave – from the member's pay during the period of six months from the end of the period of reduced pay. The scheme manager can extend this period of six months.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the period of six months for payments during periods of assumed pensionable pay unless in exceptional circumstances.

### **Schedule 2 Part 1, Paragraph 3**

Meaning of "tapered protection closing date".

The tapered protection closing dates for tapered protection members are given in the 1992 scheme tables in Schedule 2 Part 4. In most cases the appropriate closing date can be ascertained by reference to the band of dates in which the firefighter's birthday falls. The tapered protection date for a tapered protection member of FPS 2006 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager.

Devon and Somerset Fire and Rescue Authority's policy is: Scheme Members were notified of their tapered protection dates at the time the 2015 scheme was introduced.

Should any 'out of the ordinary' cases present themselves Devon and Somerset Fire and Rescue Authority will determine the tapered protection closing date based on the merits of the case and following guidance from their Pension Administrators.

## **New Firefighters Pension Scheme (NFPS) - the 2006 scheme**

### **Part 2, Rule 1**

Determination of eligibility for membership of NFPS.

Devon and Somerset Fire and Rescue Authority's policy is: This scheme is now closed and there is no facility for new members to join.

### **Part 2, Rule 1, Paragraph 12**

Discretion to pay a cohabiting partner's pension where the duration of the relationship is less than the usual minimum of two years.

Subject to the other requirements having been met, the Fire and Rescue Authority have discretion to accept a Scheme member's nomination of a partner before their relationship has continued for a period of two years.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Surviving Partner has been a in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.

### **Part 2, Rule 4**

Last day of membership.

Decision, by agreement with firefighter, as to last day of membership where firefighter on unpaid leave or absent without permission on the day on which he/she leaves the Scheme.

Devon and Somerset Fire and Rescue Authority's policy is: Where the Firefighter is on unpaid leave or absent without permission, the Authority will agree an appropriate date with the firefighter as to the last day of their membership of the scheme.

### **Part 2, Rule 6**

Optant-out re-joining.

Resolution that an optant-out may not re-join the Scheme unless he/she has undergone a medical examination at his/her own expense and satisfied the Fire and Rescue Authority as to his/her good health.

This allows the consideration of whether to require a medical examination before allowing a firefighter that has opted out of the pension scheme before allowing them to re-join the scheme.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has opted out of the scheme, the Authority may require them to undertake a medical examination before allowing them to re-join the scheme. Each case will be considered on an individual basis.

### **Part 3, Rule 5**

Early payment of deferred pension.

Discretion to refuse a firefighter's request for early payment of a deferred pension ('member-initiated early retirement') where this is likely to be less than the GMP at State pensionable age.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may refuse a firefighter's request for early payment of a deferred pension where this is likely to be less than the GMP at State pensionable age. Each case will be considered on an individual basis.

### **Part 3, Rule 6**

Authority-initiated retirement.

Discretion to retire a firefighter aged 55 or over on grounds of economical, effective and efficient management of their functions ('authority-initiated early retirement').

This discretion allows the early payment of a pension to a firefighter aged 55 or over where the retirement is in the interests of the management of the Service.



Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not allow immediate payment of retirement pension without early payment reduction for any of its employees unless there is a clear advantage to be gained by the Authority by so doing.

### **Part 3, Rule 7B**

Discretion to determine that certain payments, not otherwise pensionable, should be treated as such for the credit of Additional Pension Benefit to the firefighter member.

The Fire and Rescue Authority have discretion to determine that the benefits referred to in Rule 7B(5) can be treated as pensionable for the credit to the firefighter of Additional Pension Benefit.

(But note that in accordance with Part 11, Rule 1(6), where an allowance or supplement paid to a firefighter was being treated as pensionable before 1 July 2013 but is not pensionable pay within the meaning of Part 11, Rule 1(a), it shall continue to be treated as pensionable for so long as the firefighter continues to receive it without any break in payment.)

Devon and Somerset Fire and Rescue Authority's policy is: No payments, other than pay relating to Continual Professional Development (CPD) are currently considered towards an Additional Pension Benefit (APB). Should other elements of pay be deemed pensionable in the future, then these will also be pensionable as APBs.

### **Part 3, Rule 10**

Discretion to commute a small pension payable to firefighter.

This discretion allows consideration of a small pension to a single lump sum payment.

Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 3, Rule 11, Paragraphs 2(b) and 3**

Discretion to permit a firefighter to allocate a portion of pension for a dependant other than a spouse, civil partner, or nominated partner.

This discretion allows consideration of a firefighter allocating a portion of pension for a dependant other than a spouse, civil partner or nominated partner.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration will be given for a firefighter to allocate a portion of a pension to a dependent who is not a spouse, civil partner or cohabiting partner of the member, the Authority providing that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.**

### **Part 3, Rule 11, Paragraph 6(a)**

Acceptance of good health and normal life expectancy for allocation purposes.

This is similar to the delegation above and allows a firefighter to allocate (give up) part of their pension during their lifetime when they first become eligible to retire to provide, on their death, a pension for a spouse, civil partner or a dependant. There is a requirement that the member has normal life expectancy and this discretion allows consideration of whether this is so.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Firefighter elects to give up part of their pension (as per Part 3, Rule 11, Paragraphs 2(b) and 3), the Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so. Each case will be considered on an individual basis.**

### **Part 3, Rule 12**

Pension debit members.

The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and will take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Part 3, Rule 12 of the Firefighters' Pension Scheme (England) Order 2006, and the guidance and factors prepared by the Scheme Actuary.

The Authority may determine the charges to be made for administration.

Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

### **Part 4, Rule 1, Paragraph 3**

Discretion to withhold all or part of a survivor's pension, permanently or temporarily, where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permanently withhold the survivor's pension where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.

### **Part 4, Rule 5**

Discretion, subject to the request of a surviving spouse, civil partner or nominated partner of a firefighter member, to commute their pension to a trivial commutation lump sum.

If the total amount of any pension payable to a surviving spouse, civil partner or nominated partner under the provisions of the Firefighters' Pension Scheme (England) Order 2006, does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 (lump sum death benefit) and if the recipient so requests, the Fire and Rescue Authority may commute the whole of the pension for a lump sum in accordance with factors prepared by the Scheme Actuary and in force at the time when the commutation takes effect.

Where appropriate Devon and Somerset Fire and Rescue Authority's policy is: the Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 4, Rule 7, Paragraph 5**

Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permanently withhold the child's pension where the deceased's child is convicted of manslaughter of the deceased.

#### **Part 4, Rule 7, Paragraph 9**

Child's pension on change of circumstances.

Decision to cease payment of a child's pension where the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled, or the child's pension should not have been awarded.

This discretion allows the Authority to deal with the review of a child's pension on change of circumstances.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may cease payment of a child's pension following a review of change of circumstances or as a result of new information received.**

#### **Part 4, Rule 12**

Discretion, subject to consent of child's remaining parent, guardian or the child (if not a minor) to commute a child's pension to a trivial commutation lump sum.

If the total amount of a child's allowance payable under the provisions of the Firefighters' Pension Scheme (England) Order 2006 does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 and

- (a) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and
- (c) a surviving parent or the child's guardian or – if neither – the child (if not a minor) consents,

the Authority have discretion to commute the pension for a lump sum in accordance with the guidance of the Scheme Actuary at the time when the pension first becomes payable.

**Where appropriate Devon and Somerset Fire and Rescue Authority's policy is: the Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 5, Rule 1, Paragraph 10**

Discretion as to recipient of death grant.

This discretion allows the Authority to decide who should receive a death grant.

Devon and Somerset Fire and Rescue Authority's policy is: It is the Authority's decision as to the recipient of a death grant.

### **Part 5, Rule 1, Paragraph 12**

Discretion to pay part of any death grant not paid in full, to a person whose conviction for murder or manslaughter of the deceased has been quashed.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may reinstate all, or part of, any death grant not paid in full to a person whose conviction for murder or manslaughter of the deceased has been quashed. Each case will be considered on an individual basis.

### **Part 6, Rule 2**

Discretion, with the agreement of the pension credit member, to commute whole of pension credit pension.

This discretion allows the commutation of a small pension into a lump sum in the circumstances of divorce if (a) the Authority are satisfied that there are sufficient reasons, and (b) the pension credit member consents. In such cases the Authority can commute the pension for a lump sum calculated in accordance with factors provided by the Government Actuary's Department. A small pension is defined in Paragraph 20 Schedule 29 of the Finance Act 2004.

Devon and Somerset Fire and Rescue Authority's policy is: In the circumstances of divorce, Devon and Somerset Fire and Rescue Authority may allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 6, Rule 5, Paragraph 2**

Discretion to pay a post-retirement death grant in respect of a pension credit member to such person or persons as the Fire and Rescue Authority think fit.

This discretion allows the consideration of who to pay a post retirement death grant.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient for a post retirement death grant as they feel appropriate.

### **Part 8, Rule 2, Paragraph 1**

Determination, in the first instance, of entitlement to and type of award due under the NFPS.

This is the general power to make awards under the NFPS.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.**

### **Part 8, Rule 2, Paragraph 2**

IQMP.

Requirement to use, but right to select independent qualified medical practitioner (IQMP) for providing a medical opinion.

The NFPS requires that an IQMP is used to provide a medical opinion. This discretion allows the Authority to appoint such a person.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority shall select an appropriate IQMP in line with the regulations to provide medical opinions as necessary.**

### **Part 8, Rule 2, Paragraph 6**

Failure to attend medical examination.

Discretion to determine award without an independent qualified medical practitioner's opinion if the firefighter wilfully or negligently fails to submit him or herself to medical examination and the medical practitioner is unable to give an opinion on the basis of medical evidence available to him/her.

This discretion allows the Authority to make decisions in the absence of an IQMP opinion if the firefighter wilfully or negligently fails to submit him or herself to a medical examination.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.**

### **Part 8, Rule 3, Paragraph 1**

IQMP Review.

Discretion to agree with person concerned that the Independent Qualified Medical Practitioner should be given the opportunity to review his/her medical opinion if new evidence is presented within appropriate timescales.

This discretion allows the opportunity for an IQMP to review a decision where new medical evidence is presented.

**Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority receives new evidence from a member within 28 days of the opinion, the Authority will request the IQMP to review the opinion. Upon receiving the IQMP's advice, the Authority will confirm or revise its original determination and advise the member accordingly.**

### **Part 8, Rule 3, Paragraphs 4 and 5**

IQMP Reconsideration.

Confirmation or revision of decision following an independent qualified medical practitioner's reconsideration of opinion.

This delegation requires the Authority to confirm the decision after IQMP reconsideration of opinion within specific timescales.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will act within all timescales prescribed by the regulations.**

### **Part 8, Rule 4, Paragraph 4**

Appeals.

Discretion to extend time limit for an appeal against the Authority's decision based on medical advice.

This discretion allows the Authority to consider exceptions to the 28-day time limit for a firefighter to submit an appeal.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).**

## **Part 8, Rule 5**

IDRP.

Requirement to deal with appeals under Internal Disputes Resolution Procedure.

This requirement applies where a person disagrees with the Authority's decision and the question is not of a medical nature.

**Devon and Somerset Fire and Rescue Authority's policy is: In line with the regulations, the Authority will deal with appeals using the Internal Disputes Resolution Procedure.**

## **Part 9, Rule 1, Paragraph 1**

Requirement to review ill-health pensions.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under State pensionable age and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier illhealth pension, whether that person has become capable of carrying out any regular employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular ill health pension reviews on individuals who are under state pension age and have been in receipt of an ill-health pension for less than 10 years and they become capable of carrying out any duty appropriate to the role from which they retired on health grounds and, in the case of a higher tier illhealth pension, that person has become capable of carrying out any regular employment.**

## **Part 9, Rule 1, Paragraph 2**

Requirement to review deferred pensions paid early on permanent disablement.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under State pensionable age who for less than 10 years has been in receipt of a deferred pension paid early on permanent disablement, has become capable of undertaking any regular employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular reviews of individuals who are receiving deferred pensions paid early on permanent disablement.**



### **Part 9, Rule 3, Paragraph 3(b)**

Offer of re-employment following medical review.

Requirement to decide whether to make to a person whose ill-health pension has been reviewed under Part 9 Rule 1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider offering employment to a person whose ill-health pension has been reviewed and who is found to be capable of performing duties appropriate to their former role providing employment opportunities exist at that time. Each case will be considered on an individual basis.

### **Part 9, Rule 3, Paragraphs 1 and 2**

This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed as a regular firefighter.

Discretion to withdraw the whole or part of a Part 3 (personal award) pension paid to a former regular firefighter during any period of re-employment as a regular firefighter, or to an on-call or volunteer firefighter during any period of re-employment as an oncall or volunteer firefighter.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.

### **Part 9, Rule 3, Paragraph 3**

Abatement.

Discretion to abate a pension under Part 3 (personal award) for so long as the recipient is employed in any capacity by any Fire and Rescue Authority.

This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed in any capacity by any Fire and Rescue Authority.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.

## **Part 9, Rule 4**

Early payment of deferred pension.

Discretion to disallow early payment of a deferred pension under Part 3, Rule 3, Paragraph 4 because of firefighter's dismissal from the Fire and Rescue Authority's employment.

Part 3 Rule 3 Paragraph 4 contains the power to pay a deferred pension early where a person is permanently disabled. This discretion allows consideration of not making such a payment where the firefighter was dismissed.

**Devon and Somerset Fire and Rescue Authority's policy is: Early payment of a deferred pension due to permanent disability may not be made where a Firefighter has been dismissed from the Authority. Each case will be considered on an individual basis.**

## **Part 9, Rule 5, Paragraphs 1 to 3**

Discretion to withdraw pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion only applies in the case of an offence committed in connection with his employment by an Authority, which is certified by the Secretary of state – (i) as gravely injurious to the interests of the State; or (ii) as likely to lead to serious loss of confidence in the public service.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is convicted for offences covered in Part 9 Rule 5, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.**

## **Part 9, Rule 5, Paragraph 4**

This is the discretion to restore a pension withdrawn as in delegation above.

Discretion, at any time and to such extent as the Fire and Rescue Authority think fit, to restore a pension withdrawn under Part 9, Rule 5, or to apply it for the benefit of any dependant of the pensioner.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may restore a pension withdrawn under Part 9, Rule 5 or apply it for the benefit of any dependent of the pensioner. Each case will be considered on an individual basis.**

## **Part 9, Rule 6**

This discretion allows consideration to what extent an award should be forfeited in the circumstances described.

Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 36(6) of the Fire and Rescue Services Act 2004 (acts or omissions for purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that a person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person:

- (a) an award under a scheme brought into operation under this section, or
- (b) a sum in respect of the repayment or application of contributions made under such a scheme.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider to what extent an award should be forfeited in the circumstances described in Part 9, Rule 6. Each case will be considered on an individual basis.**

## **Part 10, Rule 1**

Decision as to the amount of qualifying service which a firefighter may reckon.

Power to determine qualifying service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine qualifying service in line with the regulations and advice from our Pension Administrators.**

## **Part 10, Rules 2 and 3**

Decision as to the amount of pensionable service a firefighter may reckon.

Power to determine pensionable service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine pensionable service in line with the regulations and advice from our Pension Administrators.**

### **Part 10, Rule 4, Paragraph 3**

Discretion for a Fire and Rescue Authority to pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighter's unpaid period of absence where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service or special pensionable service.

The Fire and Rescue Authority have discretion to meet the cost of employer's contributions during a period of unpaid leave.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits and full details of the circumstances will be required.**

### **Part 11, Rule 1**

Determination of pensionable pay.

This delegation allows the Authority to determine what is pensionable pay.

**Devon and Somerset Fire and Rescue Authority's policy is: Details are held in the Payroll Department at SHQ on which elements of pay are pensionable.**

### **Part 11, Rule 3, Paragraph 2**

Discretion to deduct pension contributions from each instalment of pensionable pay as it becomes due (or by any other method of payment that may be agreed between a Fire and Rescue Authority and the member).

Contributions are normally deducted from instalments of pay but the Fire and Rescue Authority have discretion to collect the contributions due by other means should the need arise.

**Devon and Somerset Fire and Rescue Authority's policy is: Contributions will only be deducted from instalments of pay.**

### **Part 11, Rule 4, Paragraph 3**

Discretion to extend the time limit in which an election to pay pension contributions in respect of unpaid additional maternity or adoption leave must be made.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits. It is expected that such cases will be rare.**

### **Part 11, Rule 4, Paragraph 6**

Discretion to deduct contributions in respect of unpaid additional maternity or adoption leave from the death grant payable under Part 5 if the member dies without giving notice within the election time limit that he/she wishes to pay such contribution.

This discretion allows the Authority to consider whether to treat as pensionable service a period of unpaid leave where the member dies without giving notice within the election time limit that they wish to pay such contributions.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may treat a period of unpaid leave as pensionable where the member has died without giving notice of their election. Each case will be considered on an individual basis.**

### **Part 11, Rule 5, Paragraph 5**

Discretion to allow a part-time regular firefighter to purchase pro-rated additional service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may allow a part-time regular firefighter to purchase pro-rated additional service. Each case will be considered on an individual basis.**

### **Part 11, Rule 5, Paragraph 6**

Discretion to allow an on-call or volunteer firefighter to purchase additional service by periodical contributions.

If an on-call or volunteer firefighter member wishes to purchase additional service by periodical contributions the Fire and Rescue Authority have discretion to permit this, in which case the contributions are based on the firefighter's reference pay.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permit such requests, subject to the member paying the appropriate extra contributions as determined by the Pension Administrator.**

### **Part 11, Rule 8, Paragraph 1**

This discretion is to allow a firefighter to cease making additional contribution.

Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provide this is solely on the grounds of the member's financial circumstances.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will agree to discontinuance of payment of additional contributions for increased benefits where the member is able to provide evidence of financial hardship.

### **Part 11, Rule 8, Paragraph 2**

Additional Contributions.

Decision as regards timing of recommencement of payment of additional contributions to purchase service where agreed with member that discontinuance should be no greater than 6 months.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will decide the timing of recommencement of payment of additional contributions where it has been agreed that discontinuance shall be no greater than six months.

### **Part 11, Rule 9, Paragraph 4(c)**

Discretion to extend time limit for the payment of contributions in respect of periods of unpaid service or absence.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may extend the time limit for payment of contributions in respect of periods of unpaid service or absence. Each case will be considered on an individual basis.

### **Part 12, Rule 3, Paragraphs 1 and 2**

This discretion allows the determination of a guarantee date for the calculation of a transfer value from the New Firefighter Pension.

Selection of 'the guarantee date' statement of cash equivalent transfer value entitlement.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will select the 'guarantee date' statement of cash equivalent transfer value entitlement in line with the regulations and advice from our Pension Administrators.

### **Part 12, Rule 3, Paragraph 6**

Discretion to charge member for third or subsequent statement of cash equivalent transfer value entitlement requested within any 12-month period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may charge a member for third or subsequent statements of cash equivalent transfer values requested in any 12-month period. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

### **Part 12, Rule 9, Paragraph 2**

Discretion to extend the one-year time limit for an application for a transfer payment into the NFPS from another pension arrangement.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the one-year time limit unless in extenuating circumstances, eg the Pension Administrator has not actioned the member's request. ***This will be rare due to the NFPS now being closed***

### **Part 12, Rule 10, Paragraph 1, subject to Paragraph 3**

Discretion to accept a transfer value.

Devon and Somerset Fire and Rescue Authority's policy is: Where there is discretion to accept a transfer value, advice will be sought from Devon and Somerset Fire and Rescue Authority's Pension Administrators regarding the appropriate value.

### **Part 12, Rule 12, Paragraphs 3 to 5**

Discretion to determine pensionable service via IDRPs.

Determination, if so required by the firefighter, of accuracy of information contained in certificate of pensionable service to be supplied on firefighter's transfer to another English Fire and Rescue Authority – the determination to be decided via Internal Dispute Resolution Procedures (IDRP) set up by Authority.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine the outcome using the IDRPs.

### **Part 12, Rule 14, Paragraph 3**

Discretion to extend 12-month time limit for acceptance of 'mis-selling' transfer value payment.

Devon and Somerset Fire and Rescue Authority's policy is: it is unlikely that there will be further cases.

#### **Part 12, Rule 14, Paragraph 6**

Discretion to adjust 'mis-selling' transfer value to take account of any earlier service credit.

Devon and Somerset Fire and Rescue Authority's policy is: it is unlikely that there will be further cases.

#### **Part 13, Rule 4, Paragraphs 3 and 4**

Requirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.

This requirement should be delegated to the function head responsible for pensions. See also Rule LA4.

Devon and Somerset Fire and Rescue Authority's policy is: This discretion is delegated to the function head responsible for pensions.

#### **Part 14, Rule 3, Paragraph 2(a)**

Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire and Rescue Authority's liability.

The Fire authority need not pay the sum until they are satisfied as to the eligibility of an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.

#### **Part 14, Rule 3, Paragraph 2(b)**

Discretion to pay an award at other reasonable intervals if impracticable to pay at the standard monthly periods.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may pay an award at reasonable intervals if it is impracticable to pay at the standard monthly periods.



### **Part 14, Rule 3, Paragraph 5**

Overpayments after death.

Discretion to recover all or part of an overpayment following a pensioner's death of which the Fire and Rescue Authority were not informed (possibly by making an offset against any other awards payable under the NFPS in respect of the deceased).

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will recover any overpayments made following a pensioner's death in line with the 'Managing Public Money' guidance.**

### **Part 14, Rule 3, Paragraph 6**

Repayment of aggregate contributions.

If a person is entitled under Part 3, Rule 8 of the Firefighters' Pension Scheme (England) Order 2006 to the repayment of aggregate pension contributions, the Fire and Rescue Authority are not obliged to make the payment until the expiration of a year from the date of retirement if the person does not make an earlier request for payment. They may wish to make a policy statement regarding this option.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make payment at the earliest opportunity in each case.**

### **Part 14, Rule 5, Paragraph 1**

Discretion as to recipient of any sum payable to a minor.

This discretion allows the payment of sums due to a minor to an appropriate person.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a minor.**

*This discretion has, however, been delegated so that where a sum is payable to a minor, the pensions administrator will, where they think fit, pay the sum to such other person as is considered appropriate, and subject to the other person agreeing.*

### **Part 14, Rule 5, Paragraph 2**

Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.

This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed incapable of managing their affairs.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.

### **Part 14, Rule 6, Paragraph 1**

Discretion, following the death of a person, as to recipient(s) of sums less than the amount specified in the Administration of Estates (Small Payments) Act 1965.

This discretion deals with awards less than £5,000 and allows decisions to be made of who should receive this amount.

Devon and Somerset Fire and Rescue Authority's policy is: Following the death of a person, the Authority's decision as to who the recipient should be of any awards less than £5,000.

*This discretion has, however, been delegated so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

### **Part 14, Rule 6, Paragraphs 4 to 6**

Reclaim sums lost as a result of fraud.

Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.

This discretion allows the authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of Devon and Somerset Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.

### **Part 15, Rule 3**

Confirmation of identity when making an award.

Discretion to require a person who is or may be entitled to a pension or a lump sum under the NFPS to provide the Fire and Rescue Authority with supporting evidence as to identity and to continuing entitlement to any payment under the Scheme, and discretion to withhold the whole or part of any amount due where a person fails to comply with this requirement.

This discretion gives the Authority the ability to require confirmation of identity when making an award.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual fails to comply with the Authority's requirements regarding evidence of entitlement, the Authority will withhold the whole or part of any amount that is otherwise payable.**

#### **Part 15, Rule 4**

Decision as to date of issue of annual benefit statements and relevant date for the pension illustration.

**Devon and Somerset Fire and Rescue Authority's policy is: Annual Benefit Statements will be issued before the end of August each year in line with the regulations.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Annex 2, Paragraph 1(2)**

Medical appeals.

Discretion to extend 28 day time limit in which a person must lodge a medical appeal to a period not exceeding 6 months from the date of issue of the documents under part 8, Rule 4, Paragraph 4, provided the Authority are of the opinion that the person's failure to lodge the appeal within the 28 days was not due to his/her own default.

This discretion allows consideration of an extension to the time limit to make a medical appeal.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).**

#### **Annex 2, Paragraph 6(5)**

Discretion to decide Fire and Rescue Authority's representative at Medical Appeal Board interview.

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.

### **Annex 2, Paragraph 7(1)**

Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

### **Annex 2, Paragraph 10(2)**

Vexatious appeals.

Discretion, where Medical Appeal Board decide that a person's appeal was

'frivolous, vexatious or manifestly ill-founded', to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the total amount of fees and allowances payable by the Authority to the Board under Annex 2, Paragraph 9(1).

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

### **Annex 2, Paragraph 10(3)**

Withdrawn appeals.

Discretion, where appellant withdraws appeal less than 22 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as they think fit, not exceeding the Medical Appeal Board's total amount of fees and allowances payable to the Board by the Authority under Annex 2, paragraph 9(1).

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appellant withdraws their appeal at short notice.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal less than 22 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

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## **Firefighters' Compensation Scheme 2006**

### **Part 1, Rule 11, Paragraphs 6 and 6**

Determining pensionable pay in certain cases (retained firefighters).

Where the Fire and Rescue Authority are unable to determine the period of a person's service from their records and do not hold records of that person's pay for any period and the necessary documents cannot be obtained from the person, the Authority may estimate the person's pensionable pay from records they hold and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.

**Devon and Somerset Fire and Rescue Authority's policy is: Where pensionable pay cannot be determined, the Authority will estimate the pensionable pay based on the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.**

### **Part 2, Rule 3, Paragraph 6**

Reduction of compensation where misconduct contributed to injury.

Discretion to reduce compensation for death or permanent incapacity while on duty if the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained; the reduction may be of such amount as the Fire and Rescue Authority consider appropriate.

This discretion allows consideration of the reduction of compensation where serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their serious and culpable negligence or misconduct, it is likely that the Authority will reduce their compensation to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

### **Part 2, Rule 3, Paragraph 10**

Discretion to accept the status of an unmarried partner (other than a civil partner) where the firefighter and partner had been in a relationship for less than two years.

Although eligibility normally depends upon a relationship having continued for at least two years, the Fire and Rescue Authority has discretion to make a payment in the event of a shorter period.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Surviving Partner has been in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.**

### **Part 2, Rule 4**

Discretion to commute small compensatory pension for a lump sum.

**Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small compensatory pension to a single lump sum in accordance with the financial limits set.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 3, Rule 2, Paragraph 2(b) and (c)**

Discretion to pay augmented award to spouse or civil partner where specific conditions of eligibility are not met.

This discretion allows some flexibility on whether to pay an award if it would be considered inequitable to do so.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may pay an augmented award to a spouse or civil partner where specific conditions of eligibility are not met. Each case will be considered on an individual basis.**

### **Part 3, Rule 4, Paragraphs 6 and 7**

Increase of spouse's or civil partner's augmented award.

Discretion to increase, for such period as the Fire and Authority think fit, the level of spouse's or civil partner's special or augmented award where firefighter and spouse or civil partner were living apart at the date of death and the normal level of benefit is reduced under FCS rules.

This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who have opted out of the NFPS – because the 'living apart' limitation would not apply. No payment would normally be due for all other firefighters.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase, for a period decided by the Authority, the level of spouse's or civil partner's special or augmented award. Each case will be considered on an individual basis by the Authority.**

### **Part 3, Rule 5, Paragraphs 1 and 2**

Reinstatement of spouse's or civil partner's augmented award.

Discretion to reinstate all or part of a spouse's or civil partner's special or augmented award for such period as the Authority think fit following the termination of award on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.

This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who have opted out of the NFPS – because the post-retirement marriage/civil partnership limitation would not apply. No payment would normally be due for all other firefighters.

**Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that the Authority will reinstate an ex-spouses' pension at the end of a new remarriage or civil partnership or cohabitation. However, each case will be considered on an individual basis by the Authority.**

### **Part 4, Rule 3, Paragraph 5(c)**

This discretion allows the review of a child's pension on change of circumstances.

Decision to cease payment of a child's pension where the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled, or the child's pension should not have been awarded.



Devon and Somerset Fire and Rescue Authority's policy is: The Authority may cease payment of a child's pension following a review of change of circumstances or as a result of new information received.

### **Part 5, Rule 1**

Discretion to award an adult dependent relative's special pension for such period(s) as the Fire and Rescue Authority may determine.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may award an adult dependant relative's special pension for a period determined by the Authority where an individual can prove they were dependant on the member. Each case will be considered on an individual basis.

### **Part 5, Rule 2, Paragraph 3**

Discretion to award a dependent relative's gratuity.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may award a dependent relatives' gratuity where an individual can prove they were dependant on the member. Each case will be considered on an individual basis.

### **Part 5, Rule 3**

This discretion allows the consideration of substitution of a lump sum for a small pension.

Discretion, with the consent of the person entitled to the award, to commute for a lump sum a small pension awarded to a surviving spouse or civil partner.

If the total amount of any pension payable to a surviving spouse or civil partner under Part 3 of the Firefighters' Compensation Scheme (England) Order 2006, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purpose of Part 2 of schedule 29 to the Finance Act 2004 (lump sum death benefit rule), and (a) the firefighter died before age 75, and (b) the Authority are satisfied that there are sufficient reasons, and (c) the surviving spouse or civil partner consents, the Authority may commute the whole of the pension for a lump sum in accordance with the guidance of the Government Actuary's Department at the time when the pension first becomes payable.

Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum will be given in exceptional circumstances where financial hardship can be demonstrated.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 5, Rule 4**

This discretion allows the consideration of substitution of a lump sum for a small pension.

Discretion, with the consent of the child, surviving parent or guardian, to commute for a lump sum a small pension awarded to a child.

If a child is entitled to a special allowance under Part 4, Rule 1 of the Firefighters' Compensation Scheme (England) Order 2006 and (a) the Authority are satisfied that there are sufficient reasons, and (b) the surviving parent or the child's guardian or – if neither – the child him or herself consents, the Authority may commute the whole of the pension for a lump sum in accordance with Part 2 of Schedule 4 and the guidance of the Government Actuary's Department at the time when the pension first becomes payable.

*Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a child's pension into a lump sum will be given in exceptional circumstances.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 6, Rule 1**

Determination, in the first instance, of entitlement to, and type of, award under FCS.

This is the general power to determine payments under the scheme.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.*

#### **Part 6, Rule 1**

Requirement to use, but right to select independent qualified medical practitioner for providing a medical opinion.

This is the general provision to obtain medical evidence so injury compensation can be determined.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority shall select an appropriate IQMP in accordance with the regulations to provide medical opinions as necessary.

### **Part 6, Rule 1**

Discretion to decide award without an independent qualified medical practitioner's opinion if a person wilfully or negligently refused to submit to medical examination.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.

### **Part 6, Rule 3**

Requirement to reconsider an award IDR is appropriate.

Requirement to reconsider, at person's request, his/her claim to an award where the Fire and Rescue Authority do not admit the claim at all, or to its full extent.

Devon and Somerset Fire and Rescue Authority's policy is: In accordance with the regulations, the Authority will deal with disagreements using the Internal Disputes Resolution Procedure.

### **Part 7, Rule 2**

This discretion allows the consideration of increasing the award for a serviceman injured during his/her forces period.

Discretion to increase an award for a serviceman who, at the end of his/her forces period, is permanently disabled by a qualifying injury or injury received during his/her forces period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase an award for a serviceman who is injured and permanently disabled during their forces period. The Authority will consider each case on an individual basis.

### **Part 7, Rule 3**

Death of Serviceman.

Discretion to increase dependants' benefits under the FPS 1992 to the level of a flat rate award if a serviceman dies from the effects of an injury received during his/her forces period or a qualifying injury.

This applies in respect of those covered by the FPS 1992.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase dependants' benefits to the level of a flat-rate award if a serviceman dies from the effects of an injury received during their forces period. Each case will be considered by the Authority on an individual basis.

### **Part 7A, Rule 2**

Injured Reservist.

Discretion to increase an award to a reservist who is permanently disabled as a result of an injury received during his/her forces period or a qualifying injury. This applies in respect of those covered by the NFPS 2006.

This discretion allows the consideration of increasing the award for a reservist injured during his/her forces period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase an award to a reservist who is permanently disabled as a result of an injury received during their forces period. Each case will be considered by the Authority on an individual basis.

### **Part 7A, Rule 3**

Death of Reservist.

Discretion to increase dependants' benefits if a reservist dies from the effects of an injury received during his/her forces period or a qualifying injury. This applies in respect of those covered by the NFPS 2006.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase dependants' benefits if a reservist dies from the effects of an injury received during their forces period. Each case will be considered on an individual basis.

## **Part 8, Rule 1**

This discretion is the general discretion to pay an award to an employee of the Fire Authority who is injured while in attendance at a fire.

Discretion to pay an award to or in respect of an employee of a Fire and Rescue

Authority who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of duties as an employee of the Authority.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will pay an award to, or in respect of, an employee who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of their duties as an employee of the Authority. The amount of the award will be decided by the Authority and each case will be considered on an individual basis.

## **Part 9, Rule 1, Paragraph 1**

This discretion allows the Authority to set timescales for review of payments under the scheme.

Discretion to decide intervals at which a person's degree of disablement should be reviewed.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is below state pension age, the Authority will undertake regular reviews of their degree of disablement and, where relevant, will adjust their payment accordingly.

## **Part 9, Rule 1, Paragraph 3**

This discretion allows the Authority to decide to make no further reviews of degree of disablement.

Discretion to resolve that no further review of degree of disablement should take place 5 years after an injury pension first becomes payable.

Devon and Somerset Fire and Rescue Authority's policy is: Five years after an injury pension becomes payable, the Authority may decide to make no further reviews of degree of disablement. Each case will be considered on an individual basis.

## **Part 9, Rule 2**

This discretion allows the Authority to reduce an award where a person contributed to the infirmity by his/her own default.

Discretion to reduce the level of an injury award to not less than half of the full amount where a person contributed to the infirmity by his/her own default.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their default, it is likely that the Authority will reduce their injury award to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

## **Part 9, Rule 3**

Abatement.

Discretion to withdraw the whole or part of a person's pension (other than a spouse's or civil partner's award) during any period of re-employment as a firefighter with a Fire and Rescue Authority.

This discretion allows the Authority to withdraw a pension if the person is reemployed as a firefighter.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.**

## **Part 9, Rule 4, Paragraphs 1 to 3**

Withdrawal of pension.

Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion allows the withdrawal of a pension if the pensioner is convicted of an act of treason, or a serious offence under the Official Secrets Act.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is convicted for treason or for a serious offence under the Official Secrets Act, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.**

#### **Part 9, Rule 4, Paragraph 4**

Reinstatement of pension.

Discretion to restore at any time and to such extent as the Fire and Rescue authority think fit, a pension withdrawn under Part 9, Rule 4, Paragraphs 1 to 3, to the pensioner or to apply it for the benefit of any dependant of the pensioner.

This discretion allows the consideration of reinstatement of a pension withdrawn at as above.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may restore a pension withdrawn under Part 9, Rule 4, Paragraphs 1 to 3 or apply it for the benefit of any dependant of the pensioner. Each case will be considered on an individual basis.**

#### **Part 9, Rule 5**

Forfeiture of pension.

Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 (acts or omissions for the purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that a person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person:

- a) an award under a scheme brought into operation under this section, or
- b) a sum in respect of the repayment or application of contributions made under such a scheme.

This discretion allows consideration to what extent an award should be forfeited in the circumstances described.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider to what extent an award should be forfeited in the circumstances described in Part 9, Rule 5. Each case will be considered on an individual basis.**

#### **Part 10, Rule 1 and Rule 3**

This discretion allows the concept of split liability for payment of an award.

Decision as to responsibility for payment of awards in respect of a qualifying injury where person employed by more than one Fire and Rescue Authority and injury relates to more than one employment.

Devon and Somerset Fire and Rescue Authority's policy is: Where the person is employed by more than one Fire and Rescue Authority and the injury relates to more than one employment, the injury award will be paid by the Authority who the individual was working for at the time of the injury.

#### **Part 10, Rule 2, Paragraph 1**

Determination of intervals at which instalments of injury pension should be paid.

This requirement is to determine the frequency of pension payments.

Devon and Somerset Fire and Rescue Authority's policy is: Pensions will be paid to individuals on a monthly basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 10, Rule 2, Paragraph 1**

Discretion to delay payment of an award to the extent necessary for determining any questions of the Fire and Rescue Authority's liability.

This discretion allows the Authority to delay payment of the sum until satisfied as to the eligibility for an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.

#### **Part 10, Rule 2, Paragraph 7**

This discretion allows the consideration of paying regular payments instead of a lump sum gratuity.

Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and over such reasonable period as the Fire and Rescue Authority think fit.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may consider paying a gratuity in instalments rather than as a lump sum. Each case will be considered on an individual basis.



*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Schedule 5, Paragraph 1(2)**

Medical appeals.

Discretion to extend the 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to the person, provided the fire and rescue authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.

*Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).*

### **Schedule 5, Paragraph 5(5)**

Discretion to decide Fire and Rescue Authority's representation at Medical Appeal Board interview.

*Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.*

### **Schedule 5, Paragraph 6(1)**

Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.*

## **Schedule 5, Paragraph 9**

Vexatious appeals.

Discretion, where Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' to require the appellant to pay the Fire and Rescue authority such sum as the Authority think fit, not exceeding the fees and allowances of the specialist member of the Board.

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.**

## **Schedule 5, Paragraph 9(3)**

Withdrawal of appeal.

Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the Board's total fees and allowances.

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appellant withdraws their appeal at short notice.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal within 21 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.**

## **Discretions Firefighter Pension Scheme 1992**

### **Rule A3**

Determination of eligibility for membership of the FPS.

Devon and Somerset Fire and Rescue Authority's policy is: The 1992 scheme is now closed and there is no facility for new members to join.

### **Rule B1 (2) (b)**

Permission for a Chief Fire Officer, appointed on or before 1.7.2013, to retire before attaining age 55.

This discretion introduces powers for the Authority to grant permission for the immediate payment of retirement benefits under Rule B1 of the Firemen's Pension Scheme Order 1992 where the Authority's Chief Fire Officer, appointed on or before 1.7.2013, wishes to retire before attaining age 55.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider granting permission to retirement before age 55 in such cases, where it is reasonable to do so.

### **Rule B5C**

Temporary Allowances and Emoluments.

This discretion introduces powers for the Authority to make certain temporary allowances, which satisfy the prescribed requirements, pensionable under the additional pension benefit arrangements.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will treat CPD payments as pensionable. Payments for Temporary Promotion will be treated as non-pensionable.

## **Rule B7 (5A)**

Increased Commutation Limit.

This discretion provides employers with the ability to permit those 1992 scheme members with less than 30 years' service and under age 55 to commute the maximum of a quarter of their pension for a lump sum on retirement. Under this new provision, the employer would be liable for any additional cost should they exercise this discretion.

*Devon and Somerset Fire and Rescue Authority's policy is: Each case will be considered on an individual basis depending on the needs of the Service. A full business case would be needed demonstrating the economical, effective and efficient management of its functions with associated costs.*

## **Rule B8**

Commutation of trivial pension.

This discretion allows the consideration of conversion of a small pension to a single lump sum payment and is governed by financial limits set by legislation.

*Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## **Rule B9(2)(b)**

A Scheme member may allocate a portion of pension for a dependant other than a spouse or civil partner.

Before giving consent to the allocation, it must be demonstrated to the satisfaction of the Fire and Rescue Authority that the nominee is a person substantially dependent on the member. There is no guidance in the Scheme Rules as to the method of demonstration and so the Authority must determine their own test.

Devon and Somerset Fire and Rescue Authority's policy is: Where a portion of a pension has been allocated to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will withhold the payment if they cannot be satisfied that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.

### **Rule B9(6)**

Acceptance of conditions of normal life expectancy for allocation purposes.

Rule B9 allows a member of FPS to allocate (give up) part of their pension during their lifetime, when they first become eligible to retire, to provide, on their death, a pension for a spouse, civil partner or a dependant.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Firefighter elects to give up part of their pension (under Rule B9), the Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so. Each case will be considered on an individual basis.

### **Rule B12**

Pension debit members.

The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Rule B12 of the Firemen's Pension Scheme Order 1992, and factors prepared by the Scheme Actuary.

It is for the Authority to determine appropriate charges for this administration.

Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

### **Rule C8(6)**

Discretion to increase level of spouse's or civil partner's award for such period as the Fire and Rescue Authority think fit where the firefighter and spouse or civil partner were living separately at the date of death and where the normal level of benefit is reduced accordingly under the rules of the Firemen's Pension Scheme Order 1992.

The Fire and Rescue Authority have discretion to permit the increase of a surviving spouse or civil partner's award where a benefit is reduced under the Firemen's Pension Scheme Order 1992 because the firefighter and spouse or civil partner were living separately at the date of death.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority's policy is to consider each case on an individual basis.**

### **Rule C9**

Discretion to reinstate all or part of a spouse's or civil partner's pension or gratuity for such period as the Fire and Rescue Authority think fit following termination on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.

Discretion to allow reinstatement of all or part of a widow(er)'s pension which had ceased on remarriage of the widow(er). This provision comes into effect only should the widow(er)'s new spouse/civil partner die or the marriage or civil partnership be dissolved.

**Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that the Authority will reinstate an ex-spouses' pension at the end of a new remarriage or civil partnership or cohabitation. However, each case will be considered on an individual basis by the Authority.**

### **Rule D5(3) and (9)(c)**

Determination of entitlement to a child's allowance for a child aged 18 or over who was dependent on the deceased by reason of permanent disablement; review of that award, and the action taken if the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled.

There is no direction here as to how the child's disablement should be established and so the Fire and Rescue Authority will have to determine an appropriate policy, e.g. an opinion from an IQMP. The policy should also set out how and when the disablement should be reviewed.

The award will cease to be payable if the Authority are satisfied that the child is no longer permanently disabled and not entitled to a child's allowance under any other terms of eligibility.

Devon and Somerset Fire and Rescue Authority's policy is: Such awards will be reviewed at the child's 18<sup>th</sup> birthday, and every 10 years thereafter. If the disablement is no longer deemed permanent (according to the opinion of an IQMP), the child's pension will cease if they are not eligible under any other terms of eligibility.

### **Rule D5(5) to (8)**

Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.

The Fire and Rescue Authority may permanently withhold all of a child's pension where the child is convicted of the manslaughter of the deceased until and unless the conviction is quashed on appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where a child is convicted of the manslaughter of the deceased, Devon and Somerset Fire and Rescue Authority will permanently withhold all of the child's pension until and unless the conviction is quashed on appeal.

### **Rule E3**

Award of dependent relative's gratuity to a dependent relative.

Devon and Somerset Fire and Rescue Authority's policy is: Having regard to the conditions of Rule E3, Devon and Somerset Fire and Rescue Authority will consider the payment of a dependent relative's gratuity to a dependent relative not entitled to any other award.

### **Rule E5 subject to limitations in Rule E7**

Decision to commute for a lump sum, part or all of a spouse's civil partner's pension which is of limited amount.

This discretion allows consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum.

Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum will be given in exceptional circumstances where financial hardship can be demonstrated. Each case will be considered on an individual basis.

### **Rule E6 subject to limitations in Rule E7**

Decision to commute for a lump sum part or all of a child's pension.

This discretion allows consideration of commutation of a limited amount of a child's pension into a lump sum.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a child's pension into a lump sum will be given in exceptional circumstances. Each case will be considered on an individual basis.**

### **Rule E9(6)**

Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.

This discretion allows consideration of substitution of a higher amount than the child's flat rate when neither of the child's parents are alive.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration of a higher pension than the child's flat rate when neither of the child's parents are alive will be given. Each case will be considered on an individual basis.**

### **Rule F1**

Decision as to amount of pensionable service to be set out in Certificate of Pensionable Service with notice of right of appeal.

This discretion allows a decision to be made on the amount of pensionable service and notification of appeal rights to the secretary of state.

**Devon and Somerset Fire and Rescue Authority's policy is: A decision will be made on the amount of pensionable service and notification of appeal rights to the secretary of state as required.**

### **Rule F2(5)**

Discretion that the Fire and Rescue Authority should pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighter's period of absence without pay where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service.



If the firefighter has given notice under Rule F2(3) that he/she wishes to pay contributions in order that a period of unpaid leave may count as pensionable service, the Fire and Rescue Authority can use their discretion under Rule F2(5) to pay the employer's contributions otherwise payable by the firefighter in addition to member contributions in these circumstances.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits and full details of the circumstances will be required.**

#### **Rule F4(1)(c), (3)(c), 4(d) and Rule F5(1)(c)**

Extension of 6-month time limit for election to pay certain sums in order that earlier pensionable service may count on re-joining the Fire and Rescue Service.

This discretion allows consideration of an extension of the time limit for an election to pay for previous service where a firefighter commences work with another Fire Authority after retiring without a pension.

**Devon and Somerset Fire and Rescue Authority's policy is: An extension will not be granted to the six-month time limit for an election to pay for previous service where a firefighter commences work with another fire Authority after retiring without a pension.**

#### **Rule F6A(3)(b)**

Extension of 12-month time limit for acceptance of 'mis-selling' transfer value payment.

**Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that there will be further cases.**

#### **Rule F6A(6)**

Discretion to adjust 'mis-selling' transfer value to take account of any earlier service credit.

**Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that there will be further cases.**

#### **Rule F7(1) subject to Rule F7(2) and (3)**

Discretion to accept a transfer value.

Devon and Somerset Fire and Rescue Authority's policy is: Where there is discretion to accept a transfer value, advice will be sought from Devon and Somerset Fire and Rescue Authority's Pension Administrators regarding the appropriate value.

### Rule F9(2)

Extension of 6-month time limit for a former firefighter to request payment of a transfer value to another pension scheme.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider extending the six-month time limit for a former firefighter to request payment of a transfer value to another pension scheme.

### Rule F9(5)

Extension of 12-month time limit after leaving in which a former firefighter must be subject to a new scheme and may request a transfer value after having previously received a gratuity or repayment of pension contributions.

This discretion allows consideration of the situation of a firefighter who has received a gratuity or a refund of contributions requesting a transfer value instead. The refund of contributions or gratuity must also be paid back.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the 12-month time limit unless in extenuating circumstances, eg the Pension Administrator has not actioned the member's request. ***This will be rare due to the FPS now being closed***

### Rule G1(1)

Determination of pensionable pay.

This discretion allows consideration of which elements of pay are pensionable.

Devon and Somerset Fire and Rescue Authority's policy is: Details are held in the Payroll Department at SHQ on which elements of pay are pensionable.

### Rule G2(2)

Discretion to deduct pension contributions from instalments of pay.

Devon and Somerset Fire and Rescue Authority's policy is: Contributions will be deducted from instalments of pay where the pay is pensionable.

### **Rule G2A(3)**

Discretion to extend 30-day time limit in which an election to pay contributions in respect of unpaid additional maternity or adoption leave must be made.

**Devon and Somerset Fire and Rescue Authority's policy is: Late applications will be considered up to a maximum of 90 days.**

### **Rule G6(4)(b)**

Discretion not to accept a firefighter's election to purchase increased benefits through the payment of additional contributions unless the firefighter has undergone a medical examination at own expense and satisfied the Fire and Rescue Authority as to his/her good health.

This discretion allows the Authority to require that the Firefighter is in good health before accepting additional contributions.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will require the firefighter to undergo a medical examination at their own expense to provide evidence of good health before accepting additional contributions.**

### **Rule G7(3)**

Discretion of Fire and Rescue Authority to agree to discontinuance of payment of periodical contributions for increased benefits where satisfied that payment is causing, or likely to cause, financial hardship.

This discretion is to allow a firefighter to cease making additional contributions.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will agree to discontinuance of payment of periodical contributions for increased benefits where the member is able to provide evidence of financial hardship.**

### **Rule H2(4)**

Discretion to extend the time limit for appeal against a Fire and Rescue Authority's decision based on a medical opinion.

If a person, who wishes to appeal under Rule H2 of the Firemen's Pension Scheme Order 1992 against a decision based on a medical opinion, fails to submit the appeal notice and any supporting documents within the 28 days permitted for lodging such an appeal, the Fire and Rescue Authority have discretion to extend the 28 days.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

### Rule H3

Requirement to deal with a person's disagreement by Internal Dispute Resolution Procedure arrangements set up by the Fire and Rescue Authority in accordance with the requirements of section 50 of the Pensions Act 1995, where the disagreement is in respect of the Authority's determination under Rule H1 and the disagreement does not involve an issue of a medical nature.

The Fire and Rescue Authority must apply the requirements of Rule H3 of the Firemen's Pension Scheme Order 1992 and Section 50 of the Pensions Act 1995 with two-stage Internal Dispute Resolution Procedures. However, they have discretion to decide who the Stage One and Stage Two decision makers will be.

Devon and Somerset Fire and Rescue Authority's policy is: The Chief Fire Officer will be the Stage 1 decision maker and Stage 2 appeals will be sent to the Chief Executive of the Office of the Police, Fire & Crime Commissioner and a panel of independent members convened.

### Rule IA

Pension credit members.

The Fire and Rescue Authority shall provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and will take appropriate steps to record and administer Attachment Orders. In the event of Pension Sharing Orders, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Rule B12 of the Firemen's Pension Scheme Order 1992, and factors provided by the Scheme Actuary; a pension credit member's pension entitlement will be administered in accordance with Part 1A of the Order.

At the time that the pension credit pension becomes payable, the pension credit member will be informed of the commutation option and rights of appeal.

The Authority can determine the charges to be made for administration.

Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

### **Rule IA2(1)**

Discretion to commute a small pension due to a pension credit member.

If permissible under the Finance Act 2004 and Regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (commutation of pension credit benefit: small pensions) the Fire and Rescue Authority may commute the whole of a small pension credit pension to a lump sum in accordance with the guidance of the Scheme Actuary.

*Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Rule K1(1) and (2)**

Requirement to review ill health pensions.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under age 60 and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier ill-health pension, whether that person has become capable of carrying out any regular employment.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular ill health pension reviews on individuals who are under age 60 and have been in receipt of an ill-health pension for less than 10 years.*

### **Rule K1(3)**

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under age 60 and in receipt of a deferred pension has become capable of firefighting and performing any other duties appropriate to his former role as a firefighter.

Requirement to review deferred pensions paid early on permanent disablement.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular reviews, at intervals based on IQMP advice, of individuals who are receiving deferred pensions paid early on permanent disablement.*

### **Rule K1A(2)**

Requirement to decide whether to offer a person, whose ill-health pension has been reviewed under Rule K1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider offering employment to a person whose ill-health pension has been reviewed and who is found to be capable of performing duties appropriate to their former role providing employment opportunities exist at that time. Each case will be considered on an individual basis.**

### **Rule K3(1)**

The discretion to reduce the level of an ill-health pension to not less than half of the full amount where firefighter contributed to infirmity by own default.

This discretion permits the reduction of a firefighter pension to not less than half the amount due where it is considered that they have contributed to an infirmity by their default.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their default, it is likely that the Authority will reduce their pension to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

### **Rule K4**

Discretion to withdraw whole or part of a person's pension (other than a spouse's or civil partner's award under FPS) during any period of his/her re-employment in any capacity with any Fire and Rescue Authority.

This discretion allows abatement of a firefighter pension where the employee has been re-employed in any capacity.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.**

### **Rule K5(1)**

Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion only applies in the case of treason or a serious offence under the Official Secrets Act.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is convicted for treason or for a serious offence under the Official Secrets Act, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.

### **Rule K5(5)**

Discretion to restore, at any time and to such extent as the Fire and Rescue Authority think fit, a pension withdrawn under Rule K5(1) to the pensioner or to apply it for the benefit of any dependant of the pension.

This discretion allows consideration of the reinstatement of the pension withdrawn as a result of a decision made regarding the above discretion.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may restore a pension withdrawn under Rule K5 (1) or apply it for the benefit of any dependant of the pensioner. Each case will be considered on an individual basis.

### **Rule L3(1)**

Determination of intervals at which instalments of pension shall be paid.

This discretion allows the arrangement of normal monthly payments of annual pension.

Devon and Somerset Fire and Rescue Authority's policy is: Pensions will be paid to individuals on a monthly basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Rule L3(1)**

Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire and Rescue Authority's liability.

This discretion allows the Fire Authority to delay the payment of an award sum until they are satisfied as to the eligibility of an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.

### **Rule L3(7) and (8)**

Discretion to decide an earlier payment date for survivors' benefits than the date prescribed where the deceased received a gratuity, and an option to pay a gratuity in instalments rather than as a single lump sum.

This discretion allows consideration of earlier payment of survivor benefits which are normally paid one year after the date the member deceased. There is also the option to pay a smaller amount in regular instalments where this would be of advantage to the person entitled.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider earlier payment of survivor benefits and/or a smaller amount in regular instalments where this would be of advantage to the person entitled. Each case will be considered on an individual basis.**

### **Rule L3(9)**

Repayment of aggregate pension contributions.

If a person is entitled under Rule B6 of the Firemen's Pension Scheme Order 1992 to the repayment of aggregate pension contributions, the Fire and Rescue Authority are not obliged to make the payment until one year from the date of the person's retirement unless the person makes an earlier request for payment or the Authority use their discretion to make an earlier payment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make payment at the earliest opportunity in each case.**

### **Rule L5(1)**

Discretion as to the recipient of any sum payable to a minor.

This discretion allows the payment of any sum due to a minor to any appropriate person.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a minor.**

*This discretion has, however, been delegated so that where a sum is payable to a minor, the pensions administrator will, where they think fit, pay the sum to such other person as is considered appropriate, and subject to the other person agreeing and confirming that the sum will be applied for the minor's benefit.*



### **Rule L5(2)**

Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.

This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed to be incapable of managing their affairs.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.**

### **Rule L5(3)**

Discretion, following death of a person, as to recipient(s) of sums less than amount specified in the Administration of Estates (Small Payments) Act 1965.

This discretion deals with awards less than £5,000 and allows decision to be made of who should receive this amount.

**Devon and Somerset Fire and Rescue Authority's policy is: Following the death of a person, it is the Authority's decision as to who the recipient should be of any awards less than £5,000.**

*This discretion has, however, been delegated so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

### **Rule L5(6)**

Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.

This discretion allows the Authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of Devon and Somerset Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.**

## **Rule LA4**

Retirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.

This requirement should be delegated to the function head responsible for pensions.

**Devon and Somerset Fire and Rescue Authority's policy is: This discretion is delegated to the function head responsible for pensions.**

## **Schedule 6, Part 1, Paragraph 1(4)**

Discretion to deduct from an award any outstanding balance of payments in respect of previous service.

This discretion relates to where a member has elected to pay additional sums in respect of previous pension service and then retires before completing the payments. The scheme provides that they will receive a pension as if they have completed the payments. This discretion allows the recovery of the payments not made.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not put any pension into payment until any outstanding payments have been recovered.**

## **Schedule 7**

Discretions in respect of elections to count War Service.

**Devon and Somerset Fire and Rescue Authority's policy is: No new cases are likely.**

## **Schedule 9, Part 1, Paragraph 1(2)**

Discretion to extend 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to that person, provided the Fire and Rescue Authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.

This discretion allows consideration of extending the time limit for an appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

#### **Schedule 9, Part 1, Paragraph 4(5)**

Discretion to decide the Fire and Rescue Authority's representation at Medical Appeal Board interview.

This discretion deals with the arrangements for representation at a medical appeal board.

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.

#### **Schedule 9, Part 1, Paragraph 5**

Discretion to decide whether or not to submit written evidence or a written statement to a Medical Appeal Board.

This discretion allows consideration of whether to present written evidence to a medical appeal board. In practice this is always done.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

#### **Schedule 9, Part 1, Paragraph 8(2)**

Discretion, where Medical Appeal Board decide that a person's appeal was

'frivolous, vexatious or manifestly ill-founded' to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the fees and allowances of the specialist member of the Board.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

### **Schedule 9, Part 1, Paragraph 8(2A)**

Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit not exceeding the Medical Appeal Board's total fees and allowances payable to the Board by the Authority.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal within 21 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

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<b>REPORT REFERENCE NO.</b>	DSFRA/22/19
<b>MEETING</b>	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
<b>DATE OF MEETING</b>	26 SEPTEMBER 2022
<b>SUBJECT OF REPORT</b>	APPOINTMENTS TO DEVON AUDIT PARTNERSHIP COMMITTEE
<b>LEAD OFFICER</b>	Director of Governance & Digital Services
<b>RECOMMENDATIONS</b>	<i>That the ex-officio appointment of both the Chair and Vice-Chair of the Audit &amp; Governance Committee to the Devon Audit Partnership Committee be confirmed.</i>
<b>EXECUTIVE SUMMARY</b>	<p>At its ordinary meeting on 10 June 2022, the Authority approved joining, as a full voting partner, the Devon Audit Partnership (DAP) for the provision of internal audit services for the Devon &amp; Somerset Fire &amp; Rescue Service (Minute DSFRA/22/8 refers).</p> <p>Amongst other things, this entitles the Authority to appoint two Members to sit on the DAP Committee the remit of which includes:</p> <ul style="list-style-type: none"> <li>• Approving the annual accounts of the Partnership;</li> <li>• Approving the budget in respect of Audit Partnership functions; and</li> <li>• Approving changes to the Partnership Client base, trading agreements, charging policies and other necessary matters pertaining to the future operations of the Partnership.</li> </ul> <p>Such appointments would normally be the Chair and Vice-Chair of the partner's Audit Committee. The Partnership Committee usually meets three times per calendar year (usually, in March, July and November/December). There is no requirement for both appointed Members to attend each meeting, although attendance at all meetings by at least one Member is recommended. Additionally, attendance at meetings would qualify as an approved duty for the reimbursement of travel and subsistence expenses (subject to any other restrictions in the existing Authority Scheme of Members' Allowances).</p>
<b>RESOURCE IMPLICATIONS</b>	Reimbursement of travel and subsistence expenses associated with attendance at DAP Committee meetings will be met from existing resources.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS</b>	N/A
<b>APPENDICES</b>	Nil.

**BACKGROUND  
PAPERS**

[Report DSFRA/22/13 \(Internal Audit Service Provision\) to the Authority ordinary meeting held on 10 June 2022](#) (and the Minutes of that meeting).

**MIKE PEARSON**  
**Director of Governance & Digital Services**

<b>REPORT REFERENCE NO.</b>	DSFRA/22/20
<b>MEETING</b>	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
<b>DATE OF MEETING</b>	26 SEPTEMBER 2022
<b>SUBJECT OF REPORT</b>	APPOINTMENT OF INDEPENDENT MEMBERS TO THE AUDIT & GOVERNANCE COMMITTEE
<b>LEAD OFFICER</b>	Director of Governance & Digital Services
<b>RECOMMENDATIONS</b>	<p><i>That the Authority:</i></p> <p><i>(a). authorises the Clerk to:</i></p> <p><i>(i). undertake a process to identify suitable candidates for appointment as co-opted independent members of the Audit &amp; Governance Committee;</i></p> <p><i>(ii). amend the Authority's current approved Scheme of Members' Allowances to reflect any remuneration as may be agreed by the Authority in relation to these positions; and</i></p> <p><i>(b). delegates final appointment of the co-opted independent members to the Appointments &amp; Disciplinary Committee.</i></p>
<b>EXECUTIVE SUMMARY</b>	<p>This paper identifies:</p> <ul style="list-style-type: none"> <li>• the recommendation in the CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022 for the audit committees of all relevant authorities (including combined fire and rescue authorities) to have, as part of their membership, at least two co-opted independent members to provide appropriate technical expertise; and</li> <li>• The paper also identifies issues relevant considerations for the Authority in relation to this recommendation.</li> </ul>
<b>RESOURCE IMPLICATIONS</b>	As indicated in the report.
<b>EQUALITY RISKS AND BENEFITS ANALYSIS</b>	Not applicable.
<b>APPENDICES</b>	Nil.
<b>BACKGROUND PAPERS</b>	<a href="#">CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022</a>

## **1. INTRODUCTION**

- 1.1. In July of this year, the Chartered Institute of Public Finance and Accountancy (CIPFA) published a revised position statement (the Statement) on audit committees for local authorities and the police.
- 1.2. The scope of the position statement includes the audit committees of fire and rescue authorities in England and Wales. The statement sets out the purpose, model, core functions and membership of audit committees.

## **2. APPLICATION TO THIS AUTHORITY**

- 2.1. The Terms of Reference of the Authority's Audit & Governance Committee are compliant with the core functions and specific responsibilities of an audit committee as set out in the Statement.
- 2.2. In terms of membership, however, the Statement comments:

“Where there is no legislative direction to include co-opted independent members, CIPFA recommends that each authority audit committee should include at least two co-opted independent members to provide the appropriate technical expertise.”

## **3. APPOINTMENT OF INDEPENDENT MEMBERS – CONSIDERATIONS**

### ***Legal issues***

- 3.1. There is no legislative direction on the Authority to appoint independent members to its Audit & Governance Committee. The Authority does, however, have the power, under Section 102(3) of the Local Government Act 1972 (the Act), to appoint co-opted members to any of its committees. By virtue of Sections 80 and 104 of the Act, co-opted members must not:
  - (a). be subject to a bankruptcy order, an interim bankruptcy order, a debt relief restriction or an interim debt relief restriction; or
  - (b). have been convicted of an offence carrying a sentence of imprisonment (whether suspended or not) of a minimum of three months without the option of a fine.
- 3.2. Additionally, by virtue of Section 13(1) of the Local Government and Housing Act 1989, co-opted members may not exercise a vote. This may work to the advantage of the Authority in that attendance at meetings need not be physical. This in turn means that any associated recruitment process may be national, rather than restricted to the immediate locality.



- 3.3. The Statement is silent as to the definition of “independent member”. A pragmatic approach would be to treat this as having its normal, everyday meaning – which, in this context, would indicate someone who is not either appointed to or employed by the Authority. The definition of “independent person”, as required for standards issues under the Localism Act 2011, is also helpful. Section 28(8) of this Act provides that an independent person must not be, or have been at any time within five years prior to appointment, a member, co-opted member or officer of the authority. This same criteria could apply to the appointment of independent members of the Audit & Governance Committee, together with a requirement that such appointees should be able to evidence experience in audit work, including governance and risk management.
- 3.4. It should also be pointed out that, leaving aside issues of relevant expertise, by virtue of restrictions in the Localism Act 2011, it is not permissible for the Authority’s current independent persons (as required for standards issues) to be appointed as co-opted members.

### ***Financial Issues***

- 3.5. The Statement is also silent as to the issue of remuneration for any co-opted independent members appointed. Paragraphs 8 and 9 of the Local Authorities (Members’ Allowances) (England) Regulations 2003 do allow, however, for the reimbursement of travel and subsistence expenses and the payment of an allowance to co-opted members for attendance at meetings.
- 3.6. Given the number of meetings in a municipal year (four) and the level of technical expertise envisaged of any co-opted independent member appointed to the Audit & Governance Committee, it is suggested that an appropriate remuneration would be 0.5 x basic allowance, based on the rationale that most other Authority Members would normally be expected to attend a minimum of 8 meetings per year (four full Authority and four Committee meetings). Based on the current approved Scheme of Allowances, this would equate to an annual allowance of £1,418.
- 3.7. While no budgetary provision has been made for this in the current financial year, if the Authority is minded to appoint two co-opted independent members to the Audit & Governance Committee, as recommended in the Statement, then any costs associated with this for the current financial year could be met from within existing resources. Relevant costs would need to be factored in when setting the budget for 2023-24 and onwards.

## **4. CONCLUSION**

- 4.1. This paper identifies the recommendation in the CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022 for the audit committees of all relevant authorities (including combined fire and rescue authorities) to have, as part of their membership, at least two co-opted independent members to provide appropriate technical expertise.
- 4.2. The paper also identifies relevant considerations for the Authority in relation to this recommendation.

- 4.3. The Authority is asked to consider this report with a view to:
- (a). authorising the Clerk to:
    - (i). undertake a process to identify suitable candidates for appointment as co-opted independent members of the Audit & Governance Committee;
    - (ii). amend the Authority's current approved Scheme of Members' Allowances to reflect any remuneration as may be agreed by the Authority in relation to these positions; and
  - (b). delegating final appointment of the co-opted independent members to the Appointments & Disciplinary Committee.

**MIKE PEARSON**  
**Director of Governance & Digital Services**