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Policy & Resources Panel
11 November 2021

Membership:

Councillors: Peltzer Dunn (Chairman), Evans, Galley, Lambert, Powell and Taylor

You are requested to attend this meeting to be held in the Council Chamber, County Hall, East Sussex County Council, St Anne's Crescent, Lewes BN7 1UE at 11.30 am

Quorum: 3

Contact:	Ellie Simpkin, Democratic Services Officer 01323 462085 democraticservices@esfrs.org

Agenda

9. Declarations of Interest

In relation to matters on the agenda, seek declarations of interest from Members, in accordance with the provisions of the Fire Authority's Code of Conduct for Members.

10. Apologies for Absence/Substitutions

11. Notification of items which the Chairman considers urgent and proposes to take at the end of the agenda/Chairman's business items

Any Members wishing to raise urgent items are asked, wherever possible, to notify the Chairman before the start of the meeting. In so doing, they must state the special circumstances which they consider justify the matter being considered urgently.

12. Minutes of the last Policy & Resources Panel meeting held on 22 July 2021 **5 - 10**

13. Callover

The Chairman will call the item numbers of the remaining items on the open agenda. Each item which is called by any Member shall be reserved for debate. The Chairman will then ask the Panel to adopt without debate the recommendations and resolutions contained in

the relevant reports for those items which have not been called.

14.	**Revenue & Capital Budget 20/21& Capital Programme 2021/11 to 2025/26 Monitoring at Month 6** Report of the Assistant Director Resources/Treasurer	**11 - 38**
15.	**Treasury Management - Half Year Review 2021/22** Report of the Assistant Director Resources/Treasurer	**39 - 56**
16.	**Local Council Tax Reduction Schemes (LCTRS) - Consultation on Proposed Changes for 2022/23** Report of the Assistant Director Resources/Treasurer	**57 - 62**
17.	**East Sussex Business Rate Pool 2022/23** Report of the Assistant Director Resources/Treasurer	**63 - 66**
18.	**Widening of the Joint Funding of Sprinklers to a Community Safety Intervention Fund** Report of the Assistant Director Safer Communities	**67 - 70**
19.	**Firefighters' Pension Schemes (FPS) Age Discrimination Remedy - Immediate Detriment Framework (IDF)** Report of the Assistant Director People Services	**71 - 116**

ABRAHAM GHEBRE-GHIORGHIS
Monitoring Officer
East Sussex Fire Authority
c/o Brighton & Hove City Council

Date of Publication: 3 November 2021

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POLICY & RESOURCES PANEL

Minutes of the meeting of the POLICY & RESOURCES PANEL held at Yarrow Room, Lewes Town Hall, High Street, Lewes, BN7 2QS at 11.30 am on Thursday, 22 July 2021.

Present: Councillors Peltzer Dunn (Chairman), Evans, Galley, Lambert, Powell and Taylor

Also present: M O'Brien (Deputy Chief Fire Officer), M Matthews (Assistant Chief Fire Officer), D Savage (Assistant Director Resources/Treasurer), L Woodley (Deputy Monitoring Officer), H Scott-Youldon (Assistant Director People Services), J Olliver, N Constable, A Blanshard (Senior Democratic Services Officer)

1 Declarations of Interest

There were none

2 Apologies for Absence/Substitutions

There were none.

3 Notification of items which the Chairman considers urgent and proposes to take at the end of the agenda/Chairman's business items

There were none.

4 Minutes of the last Policy & Resources meeting held on 29 April 2021

RESOLVED: That the minutes of the meeting of the Policy & Resources Panel held on 29 April 2021 be approved as a correct record and signed by the Chairman.

5 Callover

Members reserved the following items for debate:

6 Revenue and Capital Budget 2020/21 and Capital Programme 2020/21 to 2024/25 – Provisional Outturn

7 Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 2 (May)

8 Firefighters' Pension Schemes Age Discrimination, Remedy & immediate Detriment

6 Revenue and Capital Budget 2020/21 and Capital Programme 2020/21 to 2024/25 - Provisional Outturn

The Panel considered the report of the Assistant Director Resources/Treasurer (ADR/T) updating Members on the Revenue and Capital Budget 202021 and Capital Programme 2020/21 to 2024/25 provisional outturn. This was the sixth report to Members for this financial year and there was the potential for the position to change as closedown continued and until the external audit of accounts was completed.

The ADR/T explained that the provisional outturn was a net Revenue underspend of £386,000, the major contributors to this underspends had been outlined in the report. The underspend was a favourable variation of £96,000 from the position identified in the last report to the Panel and primarily reflected underspends and re-profiling of IT Strategy projects and charges for Finance related services being lower than expected.

Most in-year pressures had been dealt with either through use of contingency or service underspends. Performance against the Savings programme was detailed within the report.

The overall 5 year Capital Programme had been revised at the February 2021 meeting of the Fire Authority and the provisional outturn was a balanced budget. The Capital programme would be updated in light of the actual outturn 2020/21 and any outstanding adjustments relating to the IRMP. The current year Capital Budget had been revised resulting a net variation of £263,000 of which £364,000 was slippage into 2021/22 and a net £101,000 in year overspend relating to RPE Project which had been funded by additional drawdown on capital reserves. Slippage was due to a range of activities including the Service response to the Covid 19 pandemic.

There was a significant variation in revised drawdown from reserves between that reported at Month 11 and the provisional outturn, mainly due to reduced expenditure and re-profiling of projects e.g. ITG Strategy Reserve and transfers of remaining Grants to Earmarked Reserves.

There had been a reduction in the interest receivable on the Authority's cash investments due to the Bank of England lowering its' base rates to invigorate the economy due to the impact of Covid-19.

The Panel thanked the ADR/T for such a comprehensive and informative report and felt that on the whole its contents were positive and of some reassurance. There was a query as to whether underspends could be used to support projects such as climate change initiatives. It was confirmed that as these particular underspends had largely been linked to delays caused by the Covid-19 pandemic, and a bid had been made for these to be carried forward in order to allow them to be spent as originally planned.

RESOLVED: The Panel agreed to note:

(i) the provisional 2020/21 Revenue Budget outturn;
(ii) the provisional Capital Programme outturn;

(iii) the net drawdown from reserves during the year;
(iv) the savings delivered in 2020/21;
(v) cash balances invested at year end and borrowing repaid;
(vi) the overspend in excess of 10% on the RPE project and the explanation for this.

The Panel agreed to approve:

(vii) the Capital slippage of £364,000 into 2021/22;
(viii) the funding of the Capital Overspend on RPE project of £135,000; and
(ix) the use of the provisional Revenue outturn of £386,000 underspend (as set out in section 9).

7 Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 2 (May)

The Panel considered the report of the Assistant Director Resources/Treasurer (ADR/T) updating Members on the findings of the Month 2 monitoring undertaken on the Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26. This was the first report to Members containing the monitoring position for the current financial year. The report indicated some pressures within the budget with a small revenue overspend having been identified. This was mainly due to the identification of savings being offset by a forecast overspend on ill health retirements and over budgeting on S31 business rates retention grant. Most in-year pressures would be dealt with either through the use of contingency, use of reserves or service underspends.

Revenue and Capital programme risks were detailed in the report focusing specifically on areas that were subject to further investigation and where the outcome could result in significant additional pressures in the current and future financial years. These included the impact of Brexit and Covid-19 on both the Business Rate and Council Tax Collection Funds and pressures in Resources relating to Capital projects.

The ADR/T added that there was also the prospect of pay awards being granted, likely at 1.5%, and that no provision had been made for this in the Revenue budget in line with the Government's pay freeze, but it was proposed that if necessary these would be funded from the General Fund Balances.

The ADR/T also explained to the Panel that Lewes District Council (LDC) was currently reviewing and consulting on its local Council Tax Reduction Scheme which would have a direct effect on ESFRS as a precepting authority and therefore it was taking an active interest as a consultee. The potential loss of income, from 2022/23 onwards was forecast to be approximately £64,000 per year. The ADR/T had met with LDC to understand the reasoning, to share concerns and to request information and analysis on any mitigation, this would be reported to the Fire Authority in September.

RESOLVED: The Panel agreed to note:

(i) the risks to Revenue Budget and the projected overspend;
(ii) the risks to the Capital Programme;
(iii) the increased net forecast drawdown from reserves;
(iv) the grants available and spending plans;
(v) the monitoring of savings taken in 2021/22; and
(vi) the current year investments and borrowing.

The Panel agreed to approve:

(vii) that should pay awards be agreed nationally for staff that the in-year pressure is funded from General Fund Balances; and
(viii) the IRMP related budget (pool cars and equipment) be built into the Capital Programme.

8 Firefighters' Pension Schemes Age Discrimination, Remedy & Immediate Detriment

The Panel considered the report of the Assistant Director People Services (ADPS) setting out the situation relating to the McCloud/Sargeant judgement on Age Discrimination, Remedy and Immediate Detriment Cases in the Firefighters' Pension Schemes. The report also provided detail on how East Sussex Fire & Rescue Service (ESFRS) were able to proceed with on-going retirements that were immediately affected and included the Service's legal position, identifying the scope, risks and recommendations of the approach.

The Assistant Director Resources/Treasurer (ADR/T) reminded the Panel that this was a complex and long-running issue which would continue to be a focus into the future and that there was no risk-free solution. It was important to approach this in a balanced way, considering the Home Office guidance whilst accepting that the formal regulatory framework for remedy was not yet in place and recognising the outcome of the McCloud/Sargeant case and subsequent appeals. The Service had established that if it chose not to enact Immediate Detriment the Authority would be knowingly in breach of the tribunal finding and at risk of further litigation. It would be appropriate on balance for the Authority to make payment in those cases that the Home Office advice said could be paid.

The Panel thanked Officers for a comprehensive report explaining this complex matter. There was a query regarding the numbers that might be affected and therefore the likely budget. The ADR/T explained that the numbers in the report were the potential individuals that could retire before the legislation was put in place in October 2023. This did not mean that they all would retire, qualify or be paid. The Service understood that the costs of the remedy would potentially lead to increases in employer's contribution rates in 2024/25 after the next revaluation of the Firefighters Pension Scheme and a request had been made for this to be funded by Government through the

Comprehensive Spending Review. With regards to other financial impacts there would administration costs to the Service and, potentially further legal costs. Members were keen to consider the approach that exposed the Authority to least risk. The ADR/T confirmed that ESFRS were not alone in recommending the approach within the report, and that other Fire & Rescue Services were making the risk judgement at a local level. It was important to acknowledge that each case would be judged on its own merits and that there were good processes in place to enable decisions to be made in a way that mitigated risk. The Pension Advisor added that the Services pension administrators West Yorkshire Pension Fund (WYPF) were very experienced, and calculations would be checked by way of assurance. WYPF understood the legacy schemes and there was a very low risk of error, it was clear from the Home Office revised guidance who was in scope.

RESOLVED – The Policy & Resources Panel agreed:

i. to note the paper and the supporting appendices, in particular the risks identified;

ii. the Authority should follow the informal Home Office Guidance with regard to Immediate Detriment Cases, where possible:

iii. to implement Immediate Detriment and allow those Firefighter Pension Scheme members in scope to retire under their legacy scheme regulations; and

iv. to authorise the Assistant Director People Services to sign the waiver requested by West Yorkshire Pension Fund.

The meeting concluded at 12.16 pm

Signed

Chairman

Dated this day of 2021

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EAST SUSSEX FIRE AUTHORITY

Meeting	Policy and Resources Panel
Date	11 November 2021
Title of Report	Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 6 (end September).
By	Duncan Savage – Assistant Director Resources/Treasurer
Lead Officer	Alison Avery - Finance Manager

Background Papers	Fire Authority Service Planning processes for 2021/22 and beyond – Revenue Budget 2021/22 and Capital Asset Strategy 2021/22 to 2025/26 Revenue and Capital Budget 2020/21 and Capital Programme 2020/21 to 2024/25 – Provisional Outturn Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26 Monitoring at Month 5 (end August).

Appendices	Appendix 1: Revenue Budget 2021/22 Objective Appendix 2: Savings Programme 2021/22 Appendix 3: Grants and Spending Plans 2021/22 Appendix 4: Capital Programme 2021/22 to 2025/26 Appendix 5: Capital Budget 2021/22 Appendix 6: Engineering Capital Budget 2021/22 Appendix 7: Reserves 2021/22

Implications

CORPORATE RISK		**LEGAL**	
ENVIRONMENTAL		**POLICY**	
EQUALITY IMPACT		**POLITICAL**	
FINANCIAL	✓	**OTHER (please specify)**	
HEALTH & SAFETY		**CORE BRIEF**	
HUMAN RESOURCES			

PURPOSE OF REPORT	To report on the findings of the Month 6 monitoring undertaken on the Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26.

EXECUTIVE SUMMARY

This is the third report to Members for the 2021/22 financial year and highlights the findings from the Month 6 monitoring undertaken on the Revenue Budget 2021/22 and 5 year Capital Programme 2021/22 to 2025/26, approved by the Authority in February 2021.

A net revenue underspend to the sum of £1,000 has been identified which is a favourable variation of £81,000 from the position identified in the last report to CFA of £80,000 overspend, as summarised in Appendix 1. This is mainly due to vacancies across the service and the identification of savings within ITG offset by overspends in relation to overtime, additional allowances for Logistics & Control Support staff (previously RMT team), ill health retirements and over budgeting on S31 business rates. Most in-year pressures will be dealt with through the use of contingency, use of reserves or service underspends.

Performance against the Savings Programme is summarised in Appendix 2 and detailed in section 4.

Performance against grants and spending plans is summarised in Appendix 3 and detailed in section 5.

Revenue and Capital programme risks are detailed in section 3, focusing specifically on areas that are subject to further investigation and the outcome could result in significant additional pressures in the current and future financial years. These include the impact of Covid-19 on both the Business Rate and Council Tax Collection Funds and pressures in Resources relating to Capital projects.

The original 2021/22 Capital Budget and five year Capital Strategy of £23,294,000 was approved by the Fire Authority on 11 February 2021. This is updated to £23,885,000 including slippage brought forward from 2020/21 (£364,000), IRMP vehicles and equipment (£142,000) and work at Seaford required for it to house the High Volume Pump (£85,000). The updated Capital Programme is forecasted to come in on budget as detailed in Appendix 4.

The current year Capital Budget was approved by the Fire Authority at £6,105,000 and revised to £6,625,000 including slippage (£364,000) brought forward from 2020/21, IRMP vehicles and equipment (£71,000) and work at Seaford required for it to house the High Volume Pump. Officers have reviewed the capital plans for 2021/22 and report slippage on delivery of projects to the value of £2,773,000 (42.4%). This is primarily the result of a formal review of the phasing of the Estates Strategy and its associated capital schemes. Detailed information is contained within section 7 and

summarised in Appendix 5. The Fleet and Equipment Capital Projects 2021/22 are detailed in Appendix 6.

The position on reserves shows an opening balance of £22,961,000 including the provisional net revenue underspend 2020/21 brought forward of £386,000. The forecast net drawdown from reserves is £10,137,000, an increase in drawdown of £165,000 compared to the planned drawdown of £9,972,000. This results in an estimated closing balance of £12,824,000, as detailed in section 8 and summarised in Appendix 7. Work is ongoing to review likely drawdown of reserves (including grants brought forward) for the rest of the current year on both Revenue and Capital projects.

There is a reduction in the interest receivable on the Authority's cash investments of £24,565,000 due to the Bank of England lowering its' base rates to invigorate the economy due to the impact of Covid-19. However, interest receivable is projected at £47,000, resulting in a surplus of £7,000 when compared to the budget. Interest payments on fixed rate loans of £10,298,000 are unaffected. Two loans totalling £400,000 matured on the 30th September 2021 and were repaid in full, as detailed in section 9.

RECOMMENDATION

The Policy and Resources Panel is recommended to note:

(i) the risks to Revenue Budget and the projected overspend,
(ii) the risks to the Capital Programme,
(iii) the increased net forecast drawdown from reserves,
(iv) the grants available and spending plans,
(v) the monitoring of savings taken in 2021/22; and
(vi) the current year investments and borrowing
(vii) SLT approval of a variation to the capital programme to add an £85,000 scheme for the relocation of the High Volume Pump to Seaford with funding of £85,000 from the corporate contingency

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1. INTRODUCTION

1.1 The Original Revenue Budget 2021/22 and Capital Strategy 2021/22 to 2025/26 was approved at the meeting of the Fire Authority on 11 February 2021.

1.2 This is the third report to Member for the 2021/22 financial year and highlights the findings from Month 6 (end September) monitoring undertaken on the Revenue and Capital Budget 2021/22 and Capital Programme 2021/22 to 2025/26. It should be noted the review is based on currently available information and the result may change as new information emerges during the year.

	This P&R (Month 6) £'000	Last CFA (Month 4) £'000	Movement £'000
Revenue (see section 2)	(1)	80	(81)
Capital in year (see section 7)	(2,773)	(2,671)	(102)

1.3 The Revenue Budget, approved by the Fire Authority in February 2021 was a net expenditure requirement of £40,704,000.

1.4 A net revenue underspend to the sum of £1,000 has been identified at Month 6 (end September) which is a favourable variation of £81,000 to that previously reported (£80,000 overspend) which is reflected in the Revenue Budget 2021/22 objective summary at Appendix 1 and detailed in section 2.

1.5 The savings requirement 2021/22 is £504,000. The current position shows we have delivered or are on course to deliver £479,000 (95%) of savings whilst the reduction in admin cost saving of £25,000 (5%) is at risk, as detailed in Appendix 2 and section 4. Mitigating savings are required for the saving at risk.

1.6 The grants available total £6.2m, including grants brought forward from previous years, of which spending plans total £4.5m for the current year. The quarter 1 grant claims have been concluded with quarter 2 claims currently being prepared, as summarised in Appendix 3 and detailed in section 5.

1.7 The five year Capital Strategy 2021/22 to 2025/26 was approved by the Fire Authority in February 2021 at £23,294,000 and updated to £23,800,000 including slippage of £364,000 brought forward from 2020/21 and IRMP related vehicles and equipment. The revised 5 year Capital Programme is projected to come within budget as detailed in section 7 and summarised in Appendix 3.

1.8 The Capital Budget for 2021/22 was approved by the Fire Authority at £6,105,000 and updated to £6,540,000 including slippage of £364,000 brought forward from 2020/21, IRMP related vehicles and equipment and work at Seaford required for it to house the High Volume Pump. A review of capital projects has identified slippage of £2,773,000 (42.4%) (Estates / Property £1,828,000, Fleet and Equipment £945,000) into 2022/23, as detailed within section 7 and summarised in Appendices 4 and 5.

1.9 A number of Revenue Budget and Capital Programme risks are set out in section 3 which will be monitored throughout the year. The updated position on Contingency, Reserves, Borrowing and Investments is provided at sections 6, 8 and 9 respectively.

2. REVENUE BUDGET COMMENTARY

2.1 The Revenue Budget is projected to underspend by a net £1,000 which is a favourable variation of £81,000 from the forecasted overspend (£80,000) reported

to Members at September CFA. This is summarised across divisions in Appendix 1 and detailed explanations are provided below.

2.2 **People Services**: Underspend of £10,000 expected in relation to Firewatch budget as spend will not be incurred this year. An underspend of £40,000 for appraisal training is expected, but not reported as this amount will be returned to the People Strategy Reserve.

2.3 **Resources/Treasurer:** There is an overall projected underspend of net £105,000 as follows:-

2.3.1 **Estates:** Estates projects an overspend of £120,000 (previously reported on budget) due to increased electricity costs at £80,000 and cleaning costs at £40,000. The Estates Manager is reviewing the causes of these pressures and is considering options to bring the budget back on target.

2.3.2 **ITG:** The I.T. Manager projects an under-spend of £105,000 (previously reported underspend £65,000) following an updated comprehensive review of the ITG revenue budget compared to known commitments and underspend largely relate to software.

2.4 **Planning and Improvement**: The provisional outturn is an underspend of £26,000 (previously to budget). Underspends are expected in relation to consultancy (£15,000), postage (£3,000) and staff (£8,000) due to delays in recruiting to vacancies.

2.5 **Safer Communities:** The service projects an overall underspend of £92,000 (after funding of £219,000 (1.5%) pay-award from general fund reserve) which is shown across Areas in the table below:

Area	Budget	Projected Outturn	Month 6 Variation	Month 4 Variation
	£'000	£'000	£'000	£'000
AD Safer Communities	108	97	(11)	0
Flexible Crewing Pool	250	0	(250)	0
IRMP	172	147	(25)	0
Central	5,379	5,582	203	75
West	7,598	7,864	265	56
East	5,487	5,372	(115)	0
Protection	1,726	1,540	(186)	(212)
Community Safety	927	952	26	20
Total Safer Communities	**21,647**	**21,554**	**(93)**	**(61)**

2.5.1 **AD Safer Communities:** Underspend of £11,000 on pay costs.

2.5.2 **Flexible Crewing Pool:** Underspend of £250,000 as IRMP crewing pool positions remain vacant and will not be filled this financial year, this is offset by staffing overspends elsewhere within Safer Communities.

2.5.3 **IRMP**: Underspend of £25,000 on IRMP implementation team.

2.5.4 **West and Central:** Projected overspend due to posts being over-establishment and additional overtime costs incurred as a result of challenges in crewing due to absences.

2.5.5 **East:** Underspend due to vacancies.

2.5.6 **Protection:** Underspend attributable to vacancies within the department, which are now filled.

2.5.7 **Community Safety:** Overspend largely relates to pressure from a saving of £25,000 on administrative support which is delayed until 2022/23 revisions to the CRM project timeline (detailed in Appendix 2).

2.6 **Operational Support & Resilience:** The provisional outturn is an underspend of £59,000 as follows:

2.6.1 **Ops P&P:** Overspend of £14,000 anticipated due to Logistics & Control Support Team (previously Resource Management Team) receiving unbudgeted 10% allowance from 1 September.

2.6.2 **Control Room:** An underspend of £73,000 is expected based on transition date of 17 November, which includes additional overtime incurred to cover vacancies during the delay to the go live date from September and running costs continuing for Haywards Heath to year end.

2.7 **Treasury Management:** This income budget is projected to overachieve by £7,000. Interest rates on investments have reduced significantly following the reduction in the Bank of England base rate. Although the interest received will be considerably reduced compared to previous years, it is forecast to meet the £40,000 interest budget (reduced from £75,000 in 2020/21) and deliver additional income of £7,000.

2.8 **Non Delegated Costs:** An overspend of £66,000 is projected. Overspend of £84,000 relates to previously approved ill health retirements (IHRs) and further IHRs expected this year. These costs are spread over three financial years. These are not controllable costs and it is possible the pressure will increase during the year once IHRs in the pipeline are confirmed. The financial information on recent approvals is awaited. This is offset by underspend of £18,000 in relation to compensation and unfunded pensions based on year to date information.

2.9 **Corporate Contingency:** This budget is intended to provide some flexibility for SLT to manage in-year budget pressures and was set at £341,000 for 2021/22. The total amount available has increased to £380,000 following approvals by SLT. Approved pressures total £148,000 resulting in £232,000 remaining in contingency, as detailed in section 6. A further £85,000 is approved in relation to the move of the HVP to Seaford, and £30,000 to fund the Pension Adviser role in People Services for a further 3 months.

2.10 **Transfer to and from Reserves:** £257,000 of general fund reserves have been utilised to finance the in-year agreed 1.5% pay-award for staff on grey and gold book terms and conditions. The funding for green book staff will be provided following conclusion of national negotiations.

2.11 **Financing:** a pressure is identified of £136,000 due to the Section 31 business rates retention grant being budgeted at a higher rate than confirmed recently by the Home Office. We will be reviewing the way we forecast S31 BR grant income in the future and it is proposed to resolve the immediate issue by reducing the planned contribution to the Improvement and Efficiency reserve, however we will await the completion of work on the BR / CT Income Compensation Grants before seeking approval for this approach (see paragraph 3.2 below).

3. REVENUE BUDGET AND CAPITAL PROGRAMME RISKS

3.1 **Covid 19:** The immediate financial impacts of Covid 19 in 2019/20 and 2020/21 have been funded (whole or in-part) by grant from Government. These included increased expenditure on PPE, staffing, shortfalls in fees and charges income and delays to capital projects resulting in significant revision to the Capital Programme. Covid 19 will continue to impact on the Authority's finances during 2021/22 where impact on both the Business Rate and Council Tax Collection Funds will be felt. There is currently £170,000 Covid grant held in reserve which is anticipated to be utilised in the current year (£43,769 drawn down in quarter 1).

3.2 There is also a risk the amounts payable under the Government's compensation schemes for council tax and business rates income are lower than budgeted figures and will need to be revised as a result, both for current and future years. The compensation scheme guidance came out late and not all information from the Districts and Boroughs was received in time for budget setting. Grant letters received recently from CLG indicate significant reductions in compensation for council tax reduction (£85,000 compared to £147,000 budgeted in total over 3 years) and compensation for business rates (£4,000 compared to £93,000 budgeted in total over 3 years). We are investigating the causes for these reductions with the Districts and Boroughs and will advise SLT / Members in due course. Latest information indicates that CLG may revise the basis of the grant calculation and updated information from billing authorities has been provided to CLG via NNDR3 returns. The source of funding identified to cover in-year reductions (£50k) is the Business Rates Retention Pilot - financial stability reserve whilst future years will be dealt with as part of the MTFP.

3.3 **Pension Costs:** There is continued reliance on one-off grant to fund increased contributions for FPS as well as the uncertainty on the cost and funding of the remedy from the Sargent case (initial estimate of historic liability approx. £5m, ongoing costs £0.9m p.a.). For the latter it is now understood that the cost will impact through the next quadrennial scheme valuation i.e. from 2023/24 onwards. The Authority will be directly liable for the cost of any Injury to Feelings claims and any additional administrative costs of implementing the remedy. A Pension Admin grant of £47,000 is being held in reserves to fund expected pension administration software upgrade costs resulting from remedy implementation.

3.4 **Pay Award 2021/22:** Negotiations have concluded between unions and pay awarding bodies resulting in a 1.5% pay award for staff on gold and grey book terms and conditions, with the cost of £257,000 fully funded from general fund reserve.

3.4.1 There was no allowance made for an increase in all pay conditions in the budget following the Government's call for a pay freeze which causes an estimated ongoing funding issue of around £440,000 (full year) which will need to be resolved as part of the MTFP 2022/23+ process. The outcome of pay-award negotiations for green book staff is awaited, with the latest employer offer being 1.75%. For every 1% increase, this would cost an extra £67,000.

3.4.2 Options for funding the immediate estimated pressures of £356,000 (adjusted for grey book pay award effective from 1 July) in the current financial year include identifying additional savings to those already included in the budget of £504,000 or use of general fund reserves. Increasing savings targets at short notice may cause adverse impacts on service delivery, and therefore, the use of general fund balances was approved by P&R Panel on 22 July and built into the budget. However, the general fund will need replenishing in the MTFP process to return to the policy minimum of 5% of the net revenue budget.

3.5 **Potential Capital Project Delays** -The impact of Brexit, Covid-19 and the Suez blockage are holding up construction projects across the nation. The dwindling supplies along with increased costs and long delivery times being experienced by the construction industry could impact on the Capital Programme. The Estates team are working to understand the potential financial impact and it is likely that this will become evidence as we move planned projects through procurement to delivery during the year.

3.6 **IRMP** – as the IRMP implementation plans are developed, it is possible that additional revenue and capital implications may be identified, and changes to implementation timelines may also affect delivery of savings. Work is in progress to refresh the IRMP financials, approved by CFA in September 2020, taking into account factors such as items not previously in scope but now required and differences in timing in implementation.

3.7 **P21 / Joint Fire Control (JFC) –** as P21 progresses toward its planned go live delayed until November 2021, the revenue costs of the resulting JFC are being reviewed and updated. This includes proposals for increased staffing as a result of the Grenfell Tower Action Plan. There is a risk that this will result in both an in year and ongoing revenue cost pressure.

4. SAVINGS PROGRAMME 2021/22

4.1 Appendix 2 summarises the net savings requirement 2021/22 of £504,000. Work is in ongoing with Service managers to identify and report actual delivery of savings compared to budgeted savings.

4.2 Current projections show we have delivered or are on course to deliver £479,000 (95%) of savings whilst the reduction in admin cost saving of £25,000 (5%) linked to the introduction of the HSV part of the CRM project will not be delivered in the current financial year, for which mitigations are required.

R.A.G. Rating	£'000	
Delivered	(144)	29%
Part Delivered	(335)	66%
Not Delivered	(25)	5%
Total Net Savings	(504)	100%

5. GRANTS AND FEES & CHARGES INCOME COMPENSATION SCHEME

5.1 The Government has awarded grants for use on specific purposes and your officers will ensure these are delivered in accordance with grant conditions. These include grants awarded in year, brought forward from previous years where their spending plans fall over more than financial year and others that require development of spending plans. The amount available is £6.2m compared to agreed spending plans of £4.5m in 2021/22. The quarter 1 grant returns have been submitted, with the quarter 2 grant returns currently being prepared as summarised in Appendix 3.

5.2 The latest grants are detailed below:

5.3 **Covid-19: –** This is to alleviate an increase in expenditure and shortfall in income relating to Covid-19. £170,000 has been brought forward in a grants reserve, of which £43,769 was spent in quarter 1.

5.4 **Surge Protection Grant Funding: –** this is specifically to deal with inspections for high rise buildings and other high risk buildings. The grant conditions have been received, including the deadline of December 2021 by which the high rise element of the grant must be spent. A further allocation of £421,366 has recently been awarded. A project group has been set up and delivery plans drawn up to ensure full use of the grant (£653,149 in 2021/22). The Service's plan for increasing capacity within its Protection function will require funding beyond that available through the Grant available. A further £0.3m is forecast to be required (in 2022/23 & 2023/24) and options for funding this are being explored through the budget setting process.

5.5 **Grenfell Infrastructure Fund:** £46,607 is to help support FRS to put in place a local Grenfell Inquiry recommendations co-ordination function which will help co-ordinate local activity and support the national work led by the NFCC; drive progress on local improvements and ensure funding for smoke-hoods and other technical investments.

5.6 **Fire Fighter Pension Scheme:** this is used towards the shortfall in employer's pension contributions and details of allocation 2021/22 (estimated at £1.7m) are awaited.

5.7 **Government Income Compensation Scheme for Fees and Charges:** In 2020/21, the Government launched a compensation scheme which provided for net budgeted fees and charges income loss due to the impact of Covid19 in accordance with the scheme principles. A claim for April to June 2021 will be submitted following review of details recently released on the updated scheme.

6. CONTINGENCY 2021/22

6.1 The Fire Authority maintains a contingency in order to assist it in managing one-off unforeseen pressures and making investments within the financial year. At its' meeting held in February 2021, the Fire Authority agreed a contingency of £341,000 for the 2021/22 financial year.

6.2 The contingency increased by £39,000, as approved by SLT and brings the total amount available in 2021/22 to £380,000. This is following the transfer of £39,000 underspend on fuel and transport due to Covid-19.

6.3 Commitments approved to date total £263,000. Pressures totalling £85,000 in relation to the move of the HVP to Seaford and £30,000 to extend the Pension Adviser role were approved by SLT in October. The remaining contingency balance of £117,000 following approvals by SLT, as detailed in the table below:

		£'000
Opening Balance 1 April 2021	**Lead**	**341**
Fuel and Transport Underspend agreed by SLT in August		39
Available		**380**
P21 Change control part year impact	MO'B	23
Extension of Pension Adviser to 31/12/2021	DM	61
Pensions awareness training	DM	2
Finance Improvement Plan Resource	DS	62
HVP move to Seaford	MM	85
Extension of Pension Adviser to 31/03/2021	DM	30
Total Commitments		**263**
Amount Remaining end September 2021		**117**

7. Capital Programme Commentary

7.1 The original 2021/22 Capital Budget and five year Capital Strategy of £23,294,000 was approved by the Fire Authority on 11 February 2021. This is updated to £23,885,000 including slippage brought forward from 2020/21 of £364,000 and IRMP vehicles and equipment (as approved by Policy and Resources Panel on 22 July).

7.2 The Capital Programme is funded by: Capital Receipts Reserve £6,588,000, Capital Programme Reserves £4,709,000, Revenue Contributions to Capital £1,893,000, BR Pilot Economic Reserve £86,000, Community Infrastructure Levy (CIL) £289,000, Internal Borrowing £28,000 and New Borrowing £10,292,000 as

shown in the table below. Overall, the revised 5 year Capital Programme is forecasted to come in on budget, as summarised in Appendix 4.

	2021/22	2022/23	2023/24	2024/25	2025/26	Total
	£'000	£'000	£'000	£'000	£'000	£'000
Fleet and Equipment	3,100	2,269	2,269	1,789	1,659	11,086
Estates	3,090	5,413	1,404	1,103	1,283	12,293
Original Approved Programme	6,190	7,682	3,673	2,892	2,942	23,379
Slippage from 2020/21	364	0	0	0	0	364
Addition to Fleet and Equipment	71	36	35	0	0	142
*Slippage into 2022/23	(2,773)	2,773	0	0	0	0
Updated Capital Programme	**3,852**	**10,491**	**3,708**	**2,892**	**2,942**	**23,885**
Funded by:						
Capital Receipts Reserve	3,653	2,935	0	0	0	6,588
Capital Programme Reserve	0	3,209	500	500	500	4,709
Revenue Contributions to Capital	85	452	452	452	452	1,893
BR Pilot Economic Reserve	86	0	0	0	0	86
CIL	0	289		0	0	289
MRP / Internal Borrowing	28	0	0	0	0	28
New Borrowing / Need to Borrow	0	3,606	2,756	1,940	1,990	10,292
Updated Capital Programme	**3,852**	**10,491**	**3,708**	**2,892**	**2,942**	**23,885**

7.3 **Capital Funding** – the sale of the old Fort Rd site in Newhaven to Lewes District Council for £525,000 is proceeding with a 10% deposit received in 2020/21 and the balance due subject to planning this year. The Service has also been successful in its bid for Community Infrastructure Levy (CIL) funding from Lewes District Council. £289,000 has been awarded which will part fund the planned enhancements at Barcombe and Seaford Fire Stations, reducing the need for future borrowing.

7.4 The **Capital Budget 2021/22** was approved by the Fire Authority at £6,105,000 and updated to £6,625,000 (Property £3,148,000 and Fleet and Equipment £3,477,000) including slippage of £364,000 brought forward from 2020/21, £71,000 IRMP related pool cars and vehicles and £85,000 for alterations to Seaford.

7.5 A review of the 2021/22 capital budget by officers has identified significant slippage to the value of £2,773,000 (42.4%) (Estates / Property £1,828,000, Fleet and Equipment £945,000) into 2022/23, as summarised in Appendices 5 and 6.

7.5.1 The Estates / Property slippages totalling £1,828,000 relate to delays at Preston Circus due to an identified operational issue which required resolution and resulted in a 9 month delay, with work not expected to commence this financial year and in addition there has been a four month delay in relation to the four Design Guide stations due to significant end-user engagement and further consultation to revisit and develop the agreed schemes and detailed scrutiny of tender documents. A review of the programme has resulted in a reduction to the underspend by £114,000 since last month. Estates are currently reviewing the overall capital programme and spend profiles and have put in place further risk assessments and management measurements to ensure programmes progress as planned and any slippages are reported as early as possible.

7.5.2 The Fleet slippage is £945,000, of this £506,000 relates to an eight month delay in chassis deliveries for two vehicles due to the global shortage of semi-conductors, with the remaining £439,000 slippage due to the capacity in the Engineering team to deliver the replacement vehicles in 2021-22 as planned.

7.6 SLT approved an increase the capital programme by £85,000 to cover the cost of alterations to Seaford FS to accommodate the High Volume Pump which is being moved from Hove FS as a result of the IRMP. Under Financial Regulation 7.2.4 The Capital Programme may be varied with the agreement of the Treasurer, if no additional unfunded commitments for future years are incurred, in the following circumstances where: i). budget provision is transferred to capital expenditure financed from the revenue account (CERA) up to a maximum of 5% of the Revenue Budget in any financial year.

8. RESERVES 2021/22

8.1 The Fire Authority maintains Reserves in order to assist it in managing its specific spending plans across the financial year (Earmarked Reserves), making provisions for the financial risks it faces (General Fund Reserves) and making investments (Capital Receipts Reserve).

8.2 The opening balance at 1 April is £22,961,000 including the provisional net underspend 2020/21 of £386,000 brought forward in an earmarked reserve.

8.3 The forecast net drawdown from reserves totals £10,137,000 compared to the original planned net drawdown of £9,972,000. This is a net increase in drawdown of £165,000 resulting in an estimated balance at 31 March 2022 of £12,824,000, as summarised in the table below and detailed over individual reserves in Appendix 7.

		Original Planned Net Transfers	Forecast Net Transfers	Net change	Month 6
	Balance @ 1 April 2021	2021/22	2021/22	2021/22	Balance @ 31 March 2022
	£'000	£'000	£'000	£'000	£'000
Earmarked Reserves	14,973	(4,663)	(6,909)	(2,246)	8,064
General Fund	1,960	210	(47)	(257)	1,913
Total Revenue Reserves	**16,933**	**(4,453)**	**(6,956)**	**(2,503)**	**9,977**
Total Capital Reserves	6,028	(5,519)	(3,181)	2,338	2,847
Total Usable Reserves	**22,961**	**(9,972)**	**(10,137)**	**(165)**	**12,824**

8.4 The net changes are explained in section 8.5 below. Work continues with budget managers to confirm the planned use of revenue and capital reserves in 2021/22.

8.5 The main reasons for the overall net increase in forecast drawdown from reserves of (£165,000) are as follows:

8.5.1 **Earmarked Reserves - Increase of (£2,246,000)**

- (£675,000) – use of grant funding brought forward on eligible expenditure according to grant spending plans (Covid-19, Protection, Council Tax and Business Rates Guarantee Scheme, New Dimensions etc.)

- (£299,000) - increased commitments on the Improvement and Efficiency Reserve including £136,000 to finance over budgeting S31 business rates retention.

- (£1,579,000) - re-profiling of projects linked to P21 funded from the mobilising strategy reserve

- (£386,000) - use of provisional net underspend 2020/21 brought forward in Carry Forward reserve on in-year priorities

- £713,000 – delayed drawdown to future years on ESMCP readiness reserve

- (£20,000) – use of ITG Strategy Finance & Procurement Systems Replacement to fund resource support for the Finance Improvement Programme (SAP Replacement)

8.5.2 **General Fund Reserve – Increase of (£257,000)**

- (£257,000) due to the financing of 1.5% for staff on gold and grey book terms and conditions.

8.5.3 **Capital Reserves – Decrease of £2,338,000**

- (£364,000) – due to the slippage in capital schemes brought forward from 2020/21 for completion in 2021/22 (refer to capital section 7 above).

- (£71,000) – inclusion of IRMP related pool cars and equipment (refer to capital section 7 above).

- £2,773,000 – due to the slippage of capital projects into 2022/23

9. BORROWING AND INVESTMENT

9.1 As at end September, the Authority held cash balances of £24,565,000 which are invested in accordance with the Treasury Management Strategy, as follows.

Counterparty	Duration	Amount	Interest Rate
		£m	%
Aberdeen Cash Money Market Fund	Overnight Access	4.000	0.01
Barclays	95 Day Notice	4.000	0.15
Deutsche Cash Money Market Fund	Overnight Access	3.315	0.01
Goldman Sachs	95 Day Notice	4.000	0.18
Goldman Sachs	Fixed to 04/02/22	1.000	0.19
LA Deposit (Dudley MBC)	Fixed to 25/10/21	2.250	1.25
Natwest	35 Day Notice	2.000	0.10
Santander	95 Day Notice	4.000	0.40
Total Investments		**24.565**	

9.2 Further work is in progress to confirm the forecast level of drawdown from reserves during the year. The current forecast of a reduction in reserves of £10.137m mean that the Service will need to monitor its liquidity and cashflow closely during the year and this may involve giving notice on some of its existing investments. Finance continues to work with the ESCC Treasury Management team to improve cash-flow monitoring.

9.3 The Bank of England reduced the base interest rate from 0.75% to 0.10% to invigorate the economy due to the impact of Covid -19. We are seeing an impact as Banks reduce their rates on investments, resulting in lower interest receivable. Latest modelling indicates the income of around £47,000 can be achieved, £7,000 above the budgeted level of £40,000. The interest income budget was reduced from £75,000 to £40,000 for 2021/22 to reflect the planned reduction in funds available for short term investment and the reduction in interest rates.

9.4 The Authority has borrowing totalling £10,298,000 and there is no impact on the interest payable, as these are subject to fixed interest rate deals. Two loans totalling £400,000 matured on the 30th September 2021 for which repayment was made in full.

Revenue Budget 2021/22 – Objective Summary

	Original Budget	Revised Budget	Projected Outturn	Month 6 Variance	Variance	Variance Month 4 Reported to CFA	Variance From Last Reported
	£'000	£'000	£'000	£'000	%	£'000	
Peoples Services	3,813	3,866	3,856	(10)	(0.3)	0	(10)
Resources/Treasurer	7,855	7,932	7,947	15	0.2	(65)	80
Planning and Improvement	1,222	1,204	1,178	(26)	(2.2)	0	(26)
Total Deputy Chief Fire Officer	**12,890**	**13,002**	**12,981**	**(21)**	**(0.2)**	**(65)**	**44**
Safer Communities	21,462	21,647	21,554	(93)	(0.4)	(61)	(32)
Operational Support	4,739	4,687	4,628	(59)	(1.3)	30	(89)
Total Assistant Chief Fire Officer	**26,201**	**26,334**	**26,182**	**(152)**	**(0.6)**	**(31)**	**(121)**
CFO Staff	781	786	763	(23)	(2.9)	0	(23)
Treasury Management	875	875	868	(7)	(0.8)	(7)	0
Non Delegated costs	(1,348)	(1,211)	(1,145)	66	5.5	47	19
Corporate Contingency	341	232	232	0	0.0	0	0
Covid-19	0	0	0	0	0.0	0	0
Transfer from Reserves	(597)	(874)	(874)	0	0.0	0	0
Transfer to Reserves	1,561	1,561	1,561	0	0.0	0	0
Total Corporate	**1,613**	**1,369**	**1,405**	**36**	**2.6**	**40**	**(5)**
Total Net Expenditure	**40,704**	**40,704**	**40,567**	**(137)**	**(0.3)**	**(56)**	**(81)**
Financed By:							
RSG	(3,226)	(3,226)	(3,226)	0	0.0	0	0
Council Tax	(28,303)	(28,303)	(28,303)	0	0.0	0	0
Business Rates	(7,801)	(7,801)	(7,801)	0	0.0	0	0
Covid-19 Local Tax Support Grant	(474)	(474)	(474)	0	0.0	0	
S31 Grants	(833)	(833)	(697)	136	16.3	136	0
Collection Fund Surplus/Deficit	(68)	(68)	(68)	0	0.0	0	0
Total Financing	**(40,704)**	**(40,704)**	**(40,568)**	**136**	**0.3**	**136**	**0**
Total Over / (Under) Spend	**0**	**0**	**(1)**	**(1)**	**0.1**	**80**	**(81)**

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Savings Programme 2021/22

Responsible Officer	Business Area Lead Name	Description	Savings 2021/22	R.A.G Rating	Business Area Lead Comments
			£'000	Select Status	
All	All	Travel & subsistence (one year only)	(16)	Part Delivered	Given continued Covid lockdown until late July and likelihood that homeworking and virtual meetings / training will continue as part of new working arrangements then ongoing reductions in travel and subsistence costs should be deliverable across the Service.
All	All	Stationery contract savings	(10)	Part Delivered	Reduced budgets subject to regular monitoring
Duncan Savage	Nicky Boruch	Estates Strategy revenue maintenance savings.	(40)	Part Delivered	Savings targets under review by Estates Manager. If targetted savings cannot be delivered through efficiencies will aim to manage through underspend in revenue maintenance budget.
Duncan Savage	Nicky Boruch	Cessation of HQ shuttlebus service	(18)	Delivered	Shuttlebus service ceased in 2020/21
Duncan Savage	Duncan Savage	Reduce Corporate Contingency (one year only)	(106)	Delivered	Reduced contingency reported to SLT and monitored through monthly reporting.
Duncan Savage	Ken Pearce	IT Strategy - delay some projects from 21/22 to 22/23 (one year only)	(100)	Delivered	Delayed projects agreed through budget setting.
Duncan Savage	Claire George / All	Category Strategy Savings	(25)	Part Delivered	Savings will be delivered through year as procurements are concluded. Procurement Manager to provide analysis of areas targetted.
Doug Marshall	Chris Baker	STC Catering contract savings	(4)	Part Delivered	Yr 1 saving on contract relet then Yr 2 reduction in ingredient costs
Doug Marshall	Chris Baker	Abatement cost savings	(5)	Delivered	
Julie King	George O'Reilly	Abatement cost savings	(5)	Delivered	
Julie King	David Kemp	Community Safety - Adaptations contract income target (net of contract costs)	(15)	Delivered	
Julie King	David Kemp	Community Safety Restructure	(79)	Part Delivered	This overall saving is linked to a number of smaller savings that have been identified, some have been realised
Julie King	David Kemp	Reduction in administration costs in Safer Communities	(25)	Not Delivered	This saving is linked to the introduction of the HSV part of the CRM project.
Mark Matthews	Fleur Wilks	Savings arising from the Implementation of IRMP 2020-2025 including operational policy and practice	(146)	Part Delivered	Subject to regular governance and scrutiny at IRMP Board and Strategic Board. Re-basing of budget in progress taking account of timing differences and policies.
Hannah Scott-Youldon	Matt Elder	Abatement cost savings	(5)	Delivered	
Hannah Scott-Youldon		Fuel (one year only)	(15)	Part Delivered	Reduced budgets subject to regular monitoring
		Total Gross Savings	(614)		
Duncan Savage		Use of BR Pooling to support service delivery (fall-out of 2020/21 saving -one year only)	50	Delivered	
Hannah Scott-Youldon		Engineering - cutting equipment purchased early (fall out of 2020-21 saving - 1 year only)	60	Delivered	
		Total Net Savings	(504)		

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Grants and Spending Plans 2021/22

Grants Requiring Claims	Lead AD	*Grant Brought Forward 1 April 2021	Grant 2021/22	Total Available Grant	Spending Plan 2021/22	Claim Quarter 1	Claim Quarter 2	Claim Quarter 3	Claim Quarter 4	Balance Remaining
		£	£	£	£	£	£	£	£	£
Accreditation Grant Funding	Julie King	22,737	0	22,737	22,737	0	-	0	0	0
COVID - 19	Duncan Savage	170,032	0	170,032	170,032	43,769	66,315	0	0	0
ESMCP - LTR Regional	Hannah Scott-Youldon	309,000	0	309,000	260,000	53,316	26,389	0	0	49,000
**ESMCP - Infrastructure	Hannah Scott-Youldon	1,425,000	0	1,425,000	0	0	-	0	0	1,425,000
Grenfell Infrastructure Fund	Hannah Scott-Youldon	46,607	0	46,607	46,607	24,796	12,939	0	0	0
Surge Protection Grant Funding - Protection Uplift	Julie King	277,957	421,366	699,323	653,149	60,536	113,055	0	0	46,174
Surge Protection Grant Funding -BRR	Julie King	76,773	-	76,773	76,773	49,266	27,507	0	0	0
		2,328,105	**421,366**	**2,749,472**	**1,229,298**	**231,683**	**246,205**	0	0	**1,520,174**

Grants - No Claims Requirement	Lead AD	*Grant Brought Forward 1 April 2021	Grant 2021/22	Total Available Grant	Spending Plan 2021/22	Comments	Balance Remaining
		£	£	£	£		£
BR losses 75% grant	Duncan Savage	4,000	0	4,000	1,333	Planned to use over 3 years 2021/22 to 2023/24	2,667
CT losses 75% grant	Duncan Savage	85,000	0	85,000	28,333	Planned to use over 3 years 2021/22 to 2023/24	56,667
Section 31 Business Rates Retention	Duncan Savage	1,309,000	0	1,309,000	1,309,000	Planned to use in 2021/22	0
Firelink	Duncan Savage	0	262,301	262,301	262,301	Planned to use on ITG Strategy Projects in 2021/22	0
New Dimensions	Hannah Scott-Youldon	26,000	27,430	53,430		Spending plan being developed	53,430
Pensions Grant	Duncan Savage	0	1,700,000	1,700,000	1,700,000	Planned to use in 2021/22	0
Responding to New Risks	Hannah Scott-Youldon	24,000	-	24,000		Spending plan being developed	24,000
Total		**1,448,000**	**1,989,731**	**3,437,731**	**3,300,968**		**136,763**
Overall Total Grants		**3,776,105**	**2,411,097**	**6,187,203**	**4,530,265**		**1,656,937**

Notes:

* the grants brought forward are held in earmarked reserves (Appendix 7)

** planned to spend 2022/23 and 2023/24

*** 2021/22 grants will be added as annouced by Government

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Capital Programme 2021/22 to 2025/26

Capital Programme Expenditure 2021-22 to 2025-26									
	Total Budget	Total Previous Year's Spend	2021/22	2022/23	2023/24	2024/25	2025/26	Remaining Spend	Variance
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Property									
Shared Investment Schemes									
Integrated Transport Project	1,000	0	200	800	0	0	0	1,000	0
- Partner contribution	0								
Integrated Transport Project net cost	**1,000**	**0**	**200**	**800**	**0**	**0**	**0**	**1,000**	**0**
One Public Estate									
- Heathfield	50	8	8	34	0	0	0	42	0
- Partner contribution	0								
- Heathfield net cost	**50**	**8**	**8**	**34**	**0**	**0**	**0**	**42**	**0**
- Lewes	251	5	0	0	246	0	0	246	0
- Partner contribution	0	0						0	0
- Lewes net cost	**251**	**5**	**0**	**0**	**246**	**0**	**0**	**246**	**0**
- Preston Circus	3,138	87	827	2,224	0	0	0	3,051	0
- Partner contribution	0	0						0	0
- Preston Circus net cost	**3,138**	**87**	**827**	**2,224**	**0**	**0**	**0**	**3,051**	**0**
- Uckfield	101	7	0	0	94	0	0	94	0
- Partner contribution	0	0						0	0
- Uckfield net cost	**101**	**7**	**0**	**0**	**94**	**0**	**0**	**94**	**0**
Total Shared Investment Schemes	**4,540**	**107**	**1,035**	**3,058**	**340**	**0**	**0**	**4,433**	**0**
Strategic Schemes									
- Replacement Fuel Tanks	492	332	160	0	0	0	0	160	0
- Partner contribution	(292)	(292)	0	0	0	0	0	0	0
- Replacement fuel tanks net cost	**200**	**40**	**160**	**0**	**0**	**0**	**0**	**160**	**0**
Design Guide Schemes	5,605	355	1160	1015	874	1008	1193	5,250	0
BA Chambers works	399	399	0	0	0	0	0	0	0
STC live fire Training	1,340	0	225	1115	0	0	0	1,340	0
Sustainability	277	21	131	75	50	0	0	256	0
Security	215	60	25	50	40	20	20	155	0
Total Strategic Schemes	**8,036**	**875**	**1,701**	**2,255**	**964**	**1,028**	**1,213**	**7,161**	**0**
Seaford	**85**	**0**	**85**	**0**	**0**	**0**	**0**	**85**	**0**
General Schemes	**1,498**	**826**	**327**	**100**	**100**	**75**	**70**	**672**	**0**
Total Property	**14,159**	**1,808**	**3,148**	**5,413**	**1,404**	**1,103**	**1,283**	**12,351**	**0**
Information Management									
- Sussex Control Centre	1,643	1,643	0	0	0	0	0	0	0
- Grant funds	(1,643)	(1,643)	0	0	0	0	0	0	0
Sussex Control Centre net cost	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
Fleet and Equipment									
- Vehicle cameras	118	0	118	0	0	0	0	118	0
- Grants funds	(118)	0	(118)	0	0	0	0	(118)	0
- Vehicle cameras net cost	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**
RPE Project	1,128	1,128	0	0	0	0	0	0	0
- grant funds	(10)	(10)	0	0	0	0	0	0	0
Telemetry	70	0	70					70	0
Special Projects	**1,188**	**1,118**	**70**	**0**	**0**	**0**	**0**	**70**	**0**
Aerials	2,201	695	5	743	758	0	0	1,506	0
Aerial Rescue Pump	22	22	0	0	0	0	0	0	0
Fire Appliances	6,591	1,377	1,740	891	877	861	845	5,214	0
Ancillary Vehicles	2,915	480	1,149	381	391	368	146	2,435	0
Cars	1,765	281	352	290	64	272	506	1,484	0
Vans	1,670	915	126	0	179	288	162	755	0
Equipment	70	0	35	0	35	0	0	70	0
Total Fleet and Equipment	**16,422**	**4,888**	**3,477**	**2,305**	**2,304**	**1,789**	**1,659**	**11,534**	**0**
Total Property	**14,159**	**1,808**	**3,148**	**5,413**	**1,404**	**1,103**	**1,283**	**12,351**	**0**
Total Expenditure	**30,581**	**6,696**	**6,625**	**7,718**	**3,708**	**2,892**	**2,942**	**23,885**	**0**

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Capital Budget 2021/22

Capital Programme Expenditure	CFA 11 Feb,Budget 2021/22	Slippage from 2020/21	P & R 22/7/21	SLT 20/10/21	Total Budget 2021/22	Projected spend 2021/22	Variance	Variance Due to Slippage	Variance
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	%
Property									
Shared Investment Schemes									
Integrated Transport Project	180	20			200	5	(195)	(195)	(97.5)
- Partner contribution									
Integrated Transport Project net cost	**180**	**20**	**0**	**0**	**200**	**5**	(195)	(195)	(97.5)
One Public Estate									
- Uckfield					0	0	0	0	0.0
- Partner contribution									
- Uckfield net cost	**0**	**0**	**0**	**0**	**0**	**0**	0	0	0.0
One Public Estate									
- Heathfield		8			8	10	2		25.0
- Partner contribution									
- Heathfield net cost	**0**	**8**	**0**	**0**	**8**	**10**	2	0	25.0
- Preston Circus	750	77			827	30	(797)	(797)	(96.4)
- Partner contribution									
- Preston Circus net cost	**750**	**77**	**0**	**0**	**827**	**30**	(797)	(797)	(96.4)
Total Shared Investment Schemes	**930**	**105**	**0**	**0**	**1,035**	**45**	**(990)**	**(992)**	(95.7)
Strategic Schemes									
- Replacement Fuel Tanks	193	27			160	38	(122)	(122)	(76.3)
- Partner contribution	0	(60)			0	0	0	0	0.0
- Replacement fuel tanks net cost	**193**	**(33)**	**0**	**0**	**160**	**38**	(122)	(122)	(76.3)
Design Guide Schemes	1,335	(175)			1,160	904	(256)	(256)	(22.1)
STC Live Fire Training	200	25			225	50	(175)	(175)	(77.8)
Sustainability	100	31			131	45	(86)	(86)	(65.6)
Security	20	5			25	13	(12)	(12)	(48.0)
Total Strategic Schemes	**1,848**	**(147)**	**0**	**0**	**1,701**	**1,050**	**(651)**	**(651)**	(38.3)
Seaford	**0**	**0**	**0**	**85**	**85**	**85**	**0**	**0**	0.0
General Schemes	**227**	**100**	**0**	**0**	**327**	**140**	**(187)**	**(187)**	(57.2)
Total Property	**3,005**	**58**	**0**	**85**	**3,148**	**1,320**	**(1,828)**	**(1,830)**	(58.1)
Fleet and Equipment									
Telemetry									
- Telemetry	70				70	0	(70)	(70)	(100.0)
Special Projects	**70**	**0**	**0**	**0**	**70**	**0**	(70)	(70)	(100.0)
Aerial Rescue Ladder		5			5	5	0	0	0.0
Fire Appliances	1,461	279			1,740	1740	0	0	0.0
Ancillary Vehicles	1,149				1,149	443	(706)	(706)	(61.4)
Cars	316		36		352	184	(169)	(169)	(47.9)
Vans	104	22			126	126	0	0	0.0
Equipment			35		35	35	0	0	0.0
Total Fleet and Equipment	**3,100**	**306**	**71**	**0**	**3,477**	**2,533**	**(945)**	**(945)**	**(27.2)**
Total Expenditure	**6,105**	**364**	**71**	**85**	**6,625**	**3,853**	**(2,773)**	**(2,775)**	**(41.8)**

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Engineering Capital Budget 2021/22

	CFA 11 Feb,Budget 2021/22	Slippage from 2020/21	P & R 22/7/21	Total Budget 2021/22	Projected spend 2021/22 Reported	Variance	Variance due to slippage	Variance
	£	£	£	£	£	£	£	%
Aerial Appliances								
Aerial Ladder Platform GX04BMY STN 76		5,000		5,000	5,000	0	0	0.0
Fire Appliances								
Appliances 19/20 GX05ABZ		9,000		9,000	9,000	0	0	0.0
Replace GX56NWP	195,800	90,000		285,800	285,800	0	0	0.0
Replace GX57EUK	195,700	90,000		285,700	285,700	0	0	0.0
Replace GX57EUR	195,600	90,000		285,600	285,600	0	0	0.0
Replace GX57EUN	291,300			291,300	291,300	0	0	0.0
Replace GX57EUP	291,300			291,300	291,300	0	0	0.0
Replace GX57EUT	291,300			291,300	291,300	0	0	0.0
Ancillary Vehicles								
Replacing Y87GNJ GP Truck Stn 84								
Replace Land rover GX02AZO								
Animal Rescue GX51 UBM	145,000			145,000	145,000	0	0	0.0
Replacing Land Rover GX03 AXM	100,000			100,000	100,000	0	0	0.0
Wildfire Vehicle 2019/20 GX53AZU	98,000			98,000	98,000	0	0	0.0
Wildfire Vehicle GX53 AZV	100,000			100,000	100,000	0	0	0.0
Replacing foam special (OSU) OU04 VNW	200,000			200,000	0	(200,000)	(200,000)	(1.0)
Replace GX56NWR	253,000			253,000	0	(253,000)	(253,000)	(1.0)
Replace GX56NWS	253,000			253,000	0	(253,000)	(253,000)	(1.0)
Cars 21-22								
GV18ABF	40,500			40,500	0	(40,500)	(40,500)	(1.0)
GX15JUY	28,700			28,700	28,700	0	0	0.0
GX15JVA	28,700			28,700	28,700	0	0	0.0
GX15JVC	28,700			28,700	28,700	0	0	0.0
GX15JVD	28,600			28,600	28,600	0	0	0.0
GX15JVE	28,600			28,600	28,600	0	0	0.0
GX15JVF	28,600			28,600	28,600	0	0	0.0
GX15JVG	28,600			28,600	0	(28,600)	(28,600)	(1.0)
GX15JVH	28,600			28,600	0	(28,600)	(28,600)	(1.0)
GX64DXE	11,600			11,600	0	(11,600)	(11,600)	(1.0)
GX64DXF	11,600			11,600		(11,600)	(11,600)	(1.0)
GX64DXG	11,600			11,600		(11,600)	(11,600)	(1.0)
GX64DXH	11,600			11,600	11,600	0	0	0.0
Pool Cars			36,000	36,000	0	(36,000)	(36,000)	(1.0)
Vans								
Vans 20/21 - GX15 JJK SSO van		5,000		5,000	5,000	0	0	0.0
Vans 20/21 - Station Van (76 Shift)		17,000		17,000	17,000	0	0	0.0
GX64DXZ	14,900			14,900	14,900	0	0	0.0
GX64DYA	14,900			14,900	14,900	0	0	0.0
GX64DYB	14,900			14,900	14,900	0	0	0.0
GU16LVH	41,600			41,600	41,600	0	0	0.0
New Station Van 6	17,700			17,700	17,700	0	0	0.0
Equipment			35,000	35,000	35,000	0	0	0.0
Telemetry	70,000			70,000	0	(70,000)	(70,000)	(1.0)
Total Fleet and Equipment	**3,100,000**	**306,000**	**71,000**	**3,477,000**	**2,532,500**	**(944,500)**	**(944,500)**	**(27.2)**

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Reserves 2021/22

Description	Opening Balance	2021/22	2021/22	2021/22	2021/22	2021/22	2021/22	2021/22	Projected Closing Balance	Lead AD
	01/04/2021	Original Planned Transfers In	Original Planned Transfers Out	Original Planned Transfers Net	Forecast Transfers In	Forecast Transfers Out	Forecast Transfers Net	Net Change	at Month 6	
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Earmarked Reserves										
Business Rate Pool Reserve	319	0	(50)	(50)	0	(50)	(50)	0	269	Duncan Savage
Business Rates Retention Pilot - economic development	86	0	(86)	(86)	0	(86)	(86)	0	0	Duncan Savage
Business Rates Retention Pilot - financial stability	112	0	0	0	0	0	0	0	112	Duncan Savage
Capital Programme Reserve	2,209	500	0	500	500	0	500	0	2,709	Duncan Savage
Covid-19	170	0	0	0	0	(170)	(170)	(170)	0	Duncan Savage
ESMCP ESFRS readiness	1,425	0	(713)	(713)	0	0	0	713	1,425	Hannah Scott-Youldon
ESMCP Regional Programme	309	0	(307)	(307)	0	(260)	(260)	47	49	Hannah Scott-Youldon
Improvement & Efficiency	546	286	(300)	(14)	286	(599)	(313)	(299)	233	Duncan Savage
Insurance	249	0	0	0	0	0	0	0	249	Duncan Savage
ITG Strategy	4,137	565	(2,016)	(1,451)	565	(2,036)	(1,471)	(20)	2,666	Duncan Savage
Mobilising Strategy	2,425	0	(846)	(846)	0	(2,425)	(2,425)	(1,579)	0	Hannah Scott-Youldon
People Strategy	40	0	(40)	(40)	0	(40)	(40)	0	0	Doug Marshall
Sprinklers	640	0	(347)	(347)	0	(347)	(347)	0	293	Hannah Scott-Youldon
BRR - Protection Uplift - Accreditation & RPL	23	0	0	0	0	(23)	(23)	(23)	0	Julie King
BRR - Protection Uplift - Building Risk Review	77	0	0	0	0	(77)	(77)	(77)	0	Julie King
BRR - Protection Uplift - Genfell / Infrastructure	47	0	0	0	0	(47)	(47)	(47)	0	Hannah Scott-Youldon
BRR - Protection Uplift - Protection	278	0	0	0	0	(278)	(278)	(278)	0	Julie King
Business Rate Tax Income Guarantee Scheme (75%)	4	0	0	0	0	(1)	(1)	(1)	3	Duncan Savage
Council Tax Income Guarantee Scheme (75%)	85	0	0	0	0	(28)	(28)	(28)	57	Duncan Savage
New Dimensions Grant	26	0	0	0	0	(26)	(26)	(26)	0	Hannah Scott-Youldon
Pensions Administration	47	0	0	0	0	(47)	(47)	(47)	0	Doug Marshall
Responding to New Risks	24	0	0	0	0	(24)	(24)	(24)	0	Hannah Scott-Youldon
S31 Business Rate Retention Reliefs	1,309	0	(1,309)	(1,309)	0	(1,309)	(1,309)	0	0	Duncan Savage
Carry Forwards	386	0	0	0	0	(386)	(386)	(386)	0	Duncan Savage
Total Earmarked Reserves	**14,973**	**1,351**	**(6,014)**	**(4,663)**	**1,351**	**(8,260)**	**(6,909)**	**(2,246)**	**8,064**	
General Fund	1,960	210	0	210	210	(257)	(47)	(257)	1,913	Duncan Savage
Total Revenue Reserves	**16,933**	**1,561**	**(6,014)**	**(4,453)**	**1,561**	**(8,517)**	**(6,956)**	**(2,503)**	**9,977**	
Capital Receipts Reserve	6,028	472	**(5,991)**	**(5,519)**	472	**(3,653)**	**(3,181)**	**2,338**	2,847	Duncan Savage
Total Capital Reserves	**6,028**	**472**	**(5,991)**	**(5,519)**	**472**	**(3,653)**	**(3,181)**	**2,338**	**2,847**	
Total Usable Reserves	**22,961**	**2,033**	**(12,005)**	**(9,972)**	**2,033**	**(12,170)**	**(10,137)**	**(165)**	**12,824**	

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EAST SUSSEX FIRE AUTHORITY

Meeting	Policy & Resources Panel
Date	11 November 2021
Title of Report	Treasury Management-Half Year Review For 2021/22
By	Assistant Director Resources / Treasurer
Lead Officer	*Richard Carcas, Principal Finance Officer, Treasury & Taxation Centre of Expertise, Orbis*

Background Papers

Fire Authority:
2 September 2021 – Agenda Item 121 Treasury Management – Stewardship report for 2020/21
11 February 2021 – Agenda Item 97: Treasury Management Strategy for 2021/22

CIPFA Treasury Management in the Public Services code of practice and cross sector guidance notes

Local Government Act 2003

CIPFA Prudential Code

Appendices None

Implications

CORPORATE RISK		**LEGAL**	
ENVIRONMENTAL		**POLICY**	
FINANCIAL	✓	**POLITICAL**	
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	
EQUALITY IMPACT ASSESSMENT			

PURPOSE OF REPORT

The treasury management half yearly report is a requirement of the Fire Authority's reporting procedures and covers the treasury activity for the first six months of 2021/22. The report includes an update on the first half year of Prudential Indicators which relate to treasury activity.

EXECUTIVE SUMMARY

The Fire Authority has complied with its approved Treasury

Management Strategy and Prudential Indicators during the first 6 months of the year.

In challenging economic times as a result of the coronavirus pandemic and the national response during lockdown the average rate of interest received through Treasury Management activity was 0.25%. This reflected the Fire Authority's continuing prioritisation of security and liquidity over yield. The Bank of England (BOE) base interest rate during the period was 0.10%.

The Fire Authority has always adopted a prudent approach on its investment strategy and, in the last few years, there have been regular changes to the list of the approved organisations used for investment of short term surpluses. During 2019/20, an option appraisal for the use of alternative investment options was completed. The option appraisal concluded that, given the Authority's planned steep reduction in reserves (resulting from its planned investment in its Capital Asset Strategy and Project 21), then investment options with a time horizon of up to 3 years would suit the Authority's cash profile and maximise returns at an appropriate level of risk.

Since March 2020 global economic events triggered by the COVID 19 pandemic have caused the Authority to pause consideration of entering into longer duration funds. The 2021/22 Strategy counterparty list for specified and non-specified investment was unchanged, however individual counterparty limits were increased from £4m to £6m with a parameter included to ensure that, where practical, no more than 25% of the total investment portfolio would be held with one single counterparty. This will be monitored by the Assistant Director Resources / Treasurer, and reported back to Authority where necessary or appropriate.

It should be noted that following discussion at a recent Fire Authority meeting, officers will be reviewing options to build consideration of Environmental, Social and Governance (ESG) issues into future investment decisions. Any additions to the existing guiding principles of security, liquidity and yield will be proposed as part of the 2022/23 Treasury Management Strategy in February 2023. ESG investing is an emerging market and advice will be sought from the Authority's Treasury Advisors, Link Asset Services (LAS).

No new borrowing has been undertaken in 2021/22 to date. On the 30th September 2021 total Public Works Loan Board (PWLB) loan debt outstanding was £10.298m at an average

interest rate of 4.59%. The next loan repayments are due on the 31st March 2023 (£481k) with the PWLB. There have been no beneficial opportunities to reschedule debt so far during the year. The projected outturn of the Fire Authority's Capital Financing Requirement (CFR), a measure of the underlying need to borrow is £10.298m.

RECOMMENDATION The Panel is recommended to:

(i) Note the treasury management performance for the first half year of 2021/22.

(ii) Identify any further reassurance the Panel requires in relation to the delivery of the Treasury Management Strategy.

1. INTRODUCTION

1.1 The Fire Authority's treasury management activities are regulated by a variety of professional codes and statutes and guidance:

a) The Local Government Act 2003 (the Act) and supporting regulations require the Authority to "have regard to" the Chartered Institute of Public Finance and Accountancy's (CIPFA) Prudential Code and the CIPFA Treasury Management Code of Practice when setting Prudential and Treasury Indicators for the next three years to ensure that the Authority's capital investment plans are affordable, prudent and sustainable.

b) The Act therefore requires the Authority to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by Investment Guidance subsequent to the Act) which sets out the Authority's policies for managing its investments and for giving priority to the security and liquidity of those investments.

c) Under the Act the Ministry of Housing, Communities and Local Government (MHCLG) has issued Investment Guidance to structure and regulate the Authority's investment activities.

1.2 The Fire Authority has adopted the CIPFA Code of Practice for Treasury Management in the Public Sector and operates its treasury management service in compliance with this Code and the above requirements. These require that the prime objective of the treasury management activity is the effective management of risk, and that its borrowing activities are undertaken on a prudent, affordable and sustainable basis and its treasury management practices demonstrate a low risk approach.

1.3 The Code requires the regular reporting of treasury management activities to:

a) Forecast the likely activity for the forthcoming year (in the Annual Treasury Strategy Report);
b) Review actual activity for the preceding year;
c) Review mid-year activity (this report) ; and
d) Report changes to our Strategy (when required)

1.4 This report sets out information on:

a) A summary of the strategy agreed for 2021/22 and the economic factors affecting the strategy in the first six months of this year;
b) The Fire Authority's treasury activity during the first six months on borrowing and short term investments.

2. 2021/22

2.1 Original Strategy for 2021/22

2.1.1 At its meeting on 11 February 2021, the Fire Authority agreed its treasury management strategy for 2021/22, taking into account the economic scene including forecast levels of interest rates. At the same time, the Treasury Management Policy Statement was agreed for 2021/22 as set out below.

2.1.2 East Sussex Fire Authority defines its treasury management activities as:

"The management of the organisation's cash flows, its banking, money market and capital market transactions, the effective management of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

The Fire Authority regards the successful identification, monitoring and management of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.

This Authority acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving best value in treasury management, and to employing suitable performance measurement techniques, within the context of effective risk management.

Borrowing

2.1.3 Based on current estimates, the Fire Authority will need to consider recommencing borrowing in the short to medium term in order to fund its Capital Strategy. However any future new borrowing taken out will be completed with regard to the limits, indicators, the economic environment, the cost of carrying this debt ahead of need, and interest rate forecasts set out above. The Assistant Director Resources / Treasurer will monitor interest rates in financial markets and adopt a pragmatic approach to changing

circumstances.

2.1.4 The Authority will not borrow purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Authority can ensure the security of such funds.

Investment

2.1.5 The Authority's investment policy has regard to the MHCLG's Guidance on Local Government Investments (the Guidance), the 2017 revised CIPFA Treasury Management in Public Services Code of Practice and Link Asset Services Guidance Notes (including CIPFA TM Code). The Authority's investment priorities will be security first, liquidity second, and then return.

2.1.6 It was recommended to increase counterparty limits from the Authority's current approved options for Investment from £4m to £6m with the aim where possible not to place more than 25% of the investment portfolio with any single counterparty. This will be monitored by the Assistant Director Resources / Treasurer, and reported back to Authority where necessary or appropriate.

2.1.7 In the current climate the additional flexibility of both changes will help broaden options and secure investment returns relative to the current bank of England base rate.

Investment and Borrowing Strategy agreed for 2021/22

2.1.8 The Authority will make use of the creditworthiness service provided by Link Asset Services. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moodys and Standard and Poors. T he credit ratings of counterparties are supplemented with the following overlays:

- credit watches and credit outlooks from credit rating agencies;
- credit default swap (CDS) spreads to give early warning of likely changes in credit ratings; and
- sovereign ratings to select counterparties from only the most creditworthy countries.

2.1.9 The modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative credit worthiness of counterparties. These colour codes are used by the Authority to determine the duration for investments. The strategy provides scope to invest in AAA rated foreign banks. However the Authority proposes to only use counterparties within the following durational bands that are domiciled in the UK.

- Yellow 2 years
- Purple 2 years
- Blue 1 year (only applies to nationalised or semi nationalised UK Banks)
- Orange 1 year
- Red 6 months
- Green 3 months
- No Colour, not to be used

Y	*P*	*B*	*O*	*R*	*G*	*N/C*
Up to 2yrs	*Up to 2yrs*	*Up to 1yr*	*Up to 1yrs*	*Up to 6 mths*	*Up to 100days*	*No Colour*

2.1.10 Officers regularly review the investment portfolio, counterparty risk and construction, market data, information on government support for banks and the credit ratings of that government support. Latest market information is arrived at by reading the financial press and through city contacts as well as access to the key brokers involved in the London money markets

2.1.11 The use of Specified Investments - Investment instruments identified for use in the financial year are as follows:

The Table below set out the types of investments that fall into each category, counterparties available to the Authority, and the limits placed on each of these.

Counterparty	Country/ Domicile	Instrument	Min. Credit Criteria LAS/Colour band	Max. Amount*	Max. maturity period
Debt Management and Depost Facilities (DMADF)	UK	Term Deposits	UK Sovereign Rating	unlimited	12 months
Government Treasury bills	UK	Term Deposits	UK Sovereign Rating	unlimited	12 months
UK Local Authorities	UK	Term Deposits	UK Sovereign Rating	unlimited	12 months
Banks – part nationalised	UK	• TDs • Deposits on Notice • Certificates of Deposit (CDs)	Blue	£6m	12 Months
			Orange	£6m	12 Months
			Red	£6m	6 Months
			Green	£6m	100 Days
Banks	UK	• TDs • Deposits on Notice • CDs	Blue	£6m	12 Months
			Orange	£6m	12 Months
			Red	£6m	6 Months
			Green	£6m	100 Days
Individual Money Market Funds (MMF) CNAV and LVNAV	UK/Ireland/ EU domiciled	AAA Rated Money Market Fund Rating	N/A	£6m	Liquidity/ instant access

**No more than 25% of the investment portfolio held with one single counterparty where practically possible.*

2.1.12 Non Specified Investments are any other types of investment that are not defined as specified. The identification and rationale supporting the selection of these other investments are set out in the table below:

Non Specified Investments	Minimum credit criteria	Period
Local Authorities	Government Backed	2 years
Mixed Asset Fund(s)	N/A	2 - 5 years
Short Dated Bond Fund(s)	N/A	2 - 5 years
Pooled Property Fund(s)	N/A	5+ years

2.1.13 The maximum amount that can be invested will be monitored in relation to the Authority's surplus monies and the level of reserves, the limit will be £2.5m across all non specified investments for 2021/22. The approved counterparty list will be maintained by referring to an up-to-date credit rating agency reports, and the Authority will liaise regularly with brokers for updates. Counterparties may be added to or removed from the list only with the approval of the Assistant Director Resources / Treasurer. A detailed list of specified and non-specified investments that form the counterparty list is shown in section 10.

2.1.14 The net borrowing requirement within Table 3.2.1 below shows that, based on current estimates, the Authority does not need to borrow in the immediate term, to support the capital programme. However in the short to medium term any future new borrowing taken out will be completed with regard to the limits, indicators, the economic environment, the cost of carrying this debt ahead of need, and interest rate forecasts set out above. The Assistant Director Resources / Treasurer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances.

2.1.15 Treasury staff regularly review opportunity for debt rescheduling, but there has been a considerable widening of the difference between new borrowing and repayment rates, which has made Public Works Loan Board (PWLB) debt restructuring now much less attractive. Consideration would have to be given to the large premiums which would be incurred by prematurely repaying existing PWLB loans. It is very unlikely that these could be justified on value for money grounds if using replacement PWLB refinancing. However, some interest savings might still be achievable through market loans where a facility is available to agree terms but the borrower does not draw down the loan until a forward date when the funds are required.

2.1.16 The reasons for any rescheduling to take place will include:

- the generation of cash savings and / or discounted cash flow savings;
- helping to fulfil the treasury strategy;
- enhance the balance of the portfolio (amend the maturity profile and/or the balance of volatility).

2.1.17 Consideration will also be given to identifying if there is any residual potential for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.

2.1.18 All debt rescheduling will be agreed by the Assistant Director Resources / Treasurer.

2.2 **Economic performance to date and outlook (commentary supplied by our advisors Link Asset Services). September 2021.**

2.2.1 The Monetary Policy Committee (MPC) voted unanimously to leave Bank Rate unchanged at 0.10% and made no changes to its programme of quantitative easing purchases due to finish by the end of this year at a total of £895bn; two MPC members voted to stop the last £35bn of purchases as they were concerned that this would add to inflationary pressures.

2.2.2 There was a major shift in the tone of the MPC's minutes at this meeting from the previous meeting in August which had majored on indicating that some tightening in monetary policy was now on the horizon, but also not wanting to stifle economic recovery by too early an increase in Bank Rate. In his press conference after the August MPC meeting, Governor Andrew Bailey said, "the challenge of avoiding a steep rise in unemployment has been replaced by that of ensuring a flow of labour into jobs" and that "the Committee will be monitoring closely the incoming evidence regarding developments in the labour market, and particularly unemployment, wider measures of slack, and underlying wage pressures." In other words, it was flagging up a potential danger that labour shortages could push up wage growth by more than it expects and that, as a result, CPI inflation would stay above the 2% target for longer. It also discounted sharp increases in monthly inflation figures in the pipeline in late 2021 which were largely propelled by events a year ago e.g., the cut in VAT in August 2020 for the hospitality industry, and by temporary shortages which would eventually work their way out of the system: in other words, the MPC had been prepared to look through a temporary spike in inflation.

2.2.3 The MPC's words indicated there had been a marked increase in concern that more recent increases in prices, particularly the increases in gas and electricity prices in October and due again next April, are, indeed, likely to lead to faster and higher inflation expectations and underlying wage growth, which would in turn increase the risk that price pressures would prove more persistent next year than previously expected. Indeed, to emphasise its concern about inflationary pressures, the MPC pointedly chose to reaffirm its commitment to the 2% inflation target in its statement; this suggested that it was now willing to look through the flagging economic recovery during the summer to prioritise bringing inflation down next year. This is a reversal of its priorities in August and a long way from words at earlier MPC meetings which indicated a willingness to look through inflation overshooting the target for limited periods to ensure that inflation was 'sustainably over 2%'. Indeed, whereas in August the MPC's focus was on getting through a winter of temporarily high energy prices and supply shortages, believing that inflation would return to just under the 2% target after reaching a high around 4% in late 2021, now its primary concern is that underlying price pressures in the economy are likely to get embedded over the next year and elevate future inflation to stay significantly above its 2% target and for longer.

2.2.4 Financial markets are now pricing in a first increase in Bank Rate from 0.10% to 0.25% in February 2022, but this looks ambitious as the MPC has stated that it wants to see what happens to the economy, and particularly to employment once furlough ends at the end of September. At the MPC's meeting in February it will only have available the employment figures for November: to get a clearer picture of employment trends, it would need to wait until the May meeting when it would have data up until February. At its May meeting, it will also have a clearer understanding of the likely peak of inflation.

2.2.5 Link Asset Services, has provided the following forecast as at 30th September 2021.

Link Group Interest Rate View 29.9.21										
	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24
BANK RATE	0.10	0.10	0.25	0.25	0.25	0.25	0.50	0.50	0.50	0.75
3 month ave earnings	0.10	0.10	0.20	0.20	0.30	0.40	0.50	0.50	0.60	0.70
6 month ave earnings	0.20	0.20	0.30	0.30	0.40	0.50	0.60	0.60	0.70	0.80
12 month ave earnings	0.30	0.40	0.50	0.50	0.50	0.60	0.70	0.80	0.90	1.00
5 yr PWLB	1.40	1.40	1.50	1.50	1.60	1.60	1.60	1.70	1.70	1.70
10 yr PWLB	1.80	1.80	1.90	1.90	2.00	2.00	2.00	2.10	2.10	2.10
25 yr PWLB	2.20	2.20	2.30	2.30	2.40	2.40	2.40	2.50	2.50	2.60
50 yr PWLB	2.00	2.00	2.10	2.20	2.20	2.20	2.20	2.30	2.30	2.40

2.2.6 The coronavirus outbreak has done huge economic damage to the UK and to economies around the world. After the Bank of England took emergency action in March 2020 to cut Bank Rate to 0.10%, it left Bank Rate unchanged at its subsequent meetings. As shown in the forecast table above, one increase in Bank Rate from 0.10% to 0.25% has now been included in quarter 2 of 2022/23, a second increase to 0.50% in quarter 2 of 3/24 and a third one to 0.75% in quarter 4 of 23/24.

2.3 Interest on short term balances

2.3.1 The average base interest rate during the six months was 0.10%.

2.3.2 There have been continued uncertainties in the markets during the year to date as set out in section 2.2 above.

2.3.3 The strategy for 2021/22, agreed in February 2021, continued the prudent approach and ensured that all investments were only to the highest quality rated banks and only up to a period of one year.

2.3.4 The total amount received in short term interest for the six months to 30th September 2021 was £30,000 at an average rate of 0.25%. This was above the average of base rates in the same period (0.10%) and succeeded in the aim to secure investment income of at least base rate on the Fire Authority's general cash balances.

2.3.5 In May the Authority placed £2m in a 35 day notice account with NatWest this deposit will secure a rate of return that out performs current overnight rates in Money Market Funds which have been 0.01%. In August a further £1m was placed on a 6 month fixed arrangement with Goldman Sachs at rate of 0.19% the maturity date coincides with a potential cashflow need before March 2022. Other deposits have been held in bank notice accounts with Lloyds/HBOS, Barclays, Goldman Sachs and Santander, their margins are priced over base rate currently earning between 0.15%- 0.40% depending on duration of notice, 95 to 175 days.

2.3.6 An 18 month Local Authority has provided a fixed rate of return in a low interest rate environment of 1.25% this deal with Dudley MBC will mature in October 2021. The Local Authority market does historically pick up during quarter 4 and reinvestment could be paused until then.

2.3.7 Non specified longer duration investment options such as pooled property funds, short dated bond funds and mixed asset funds were not utilised in the period. At this time of market volatility, potential principal loss and the need to keep liquidity available means these options not yet suitable. Alternative shorter investment options such as VNAV MMF's would only offer a marginal gain in return over the current counterparty list. The Fire Authority's strategy is monitored closely and has the flexibility to move into alternatives in the correct financial climate.

2.3.8 The investments held comply with our Treasury Management Strategy and the Fire Authority has continued to follow a prudent approach with security and liquidity as the main criteria before yield.

2.4 **Long term borrowing**

2.4.1 The cost of new borrowing is in excess of the rate achievable on our investments. No new PWLB borrowing has taken place since January 2008 and is unlikely in the immediate future, however in the short to medium term external borrowing will be required to fund the current capital programme.

2.4.2 The average interest rate of all debt at 30 September 2021 (£10.3m) was 4.59%. Two PWLB loans matured during September for £138k and £242k, at rates of 4.75% and 4.88%. The next PWLB loans to mature total £481k on 31 March 2023 at a average rate of 5.63%.

2.4.3 Opportunities for cost effective repayment of existing debt and restructuring opportunities were constantly monitored but none emerged in the first six months of the year.

3. PRUDENTIAL INDICATORS AND LIMITS RELATING TO TREASURY MANAGEMENT ACTIVITIES

3.1 The limits set for 2021/22

The Strategy Report for 2021/22 set self-imposed prudential indicators and limits. There are on an annual basis and monitored. They comprise:

None of the limits has been exceeded in 2021/22 to date.

Prudential Indicator	Compliant
Capital Expenditure	Yes
Ratio of Financing Costs to Net Revenue Stream	Yes
Capital Financing Requirement (CFR)	Yes
Net external Borrowing compared to the medium term CFR	Yes
Upper limits for fixed interest rate exposure and variable interest rate exposure	Yes
Upper limit for total principal sums invested over 365 days	Yes
Actual External Debt	Yes
Authorised Limit for External Debt	Yes
Operational Boundary for External Debt (see 3.2)	Yes
Maturity Structure of Fixed Rate Borrowing (see 3.4)	Yes
Maturity Structure of Investments (see 3.6)	Yes
Incremental Impact of Capital Investment Decisions	Yes
Adoption of the CIPFA Treasury Management Code (see 3.5)	Yes
Interest rate exposures (see 3.3)	Yes
Interest rate on long term borrowing	Yes
Interest on investments	Yes
Minimum Revenue Provision (see 3.7)	Yes

3.2 Authorised limit for borrowing

3.2.1 The table below sets out the actual 2020/21, original estimate and projected outturn in 2021/22 for borrowing.

	2020/21 Actual £000	2021/22 Original Estimate £000	2021/22 Projected Outturn £000
Opening CFR	**10,773**	**10,698**	**10,698**
Capital Investment	2,295	6,105	3,768
Sources of Finance	(1,939)	(6,077)	(3,740)
MRP	(431)	(428)	(428)
Movement in year	**(75)**	**(400)**	**(400)**

Closing CFR	**10,698**	**10,298**	**10,298**
less Finance Lease Liability	-	-	-
Underlying Borrowing Requirement	**10,698**	**10,298**	**10,298**
Actual Long Term Borrowing	**10,698**	**10,298**	**10,298**
Over / (Under) Borrowing	-	-	-
Operational Boundary	**11,166**	**10,776**	**10,776**
Authorised Limit	**13,555**	**13,115**	**13,115**

3.2.2 The Operational boundary for borrowing was based on the same estimates as the Authorised limit. It reflected directly the authorised borrowing limit estimate without the additional amount for short term borrowing included to allow, for example, for unusual cash movements. The Operational boundary represents a key management tool for in year monitoring and long term borrowing control.

3.2.3 The Authorised limit was consistent with the Fire Authority's current commitments, existing plans and the proposals for capital expenditure and financing, and with its approved treasury management policy statement and practices. It was based on the estimate of most likely, prudent but not worst case scenario, with in addition sufficient headroom (short term borrowing) over and above this to allow for day to day operational management, for example unusual cash movements or late receipt of income. Risk analysis and risk management strategies were taken into account as were plans for capital expenditure, estimates of the capital financing requirement and estimates of cash flow requirements for all purposes.

3.2.4 The Authorised limit is the "Affordable Borrowing Limit" required by S3 of the Local Government Act 2003 and must not be breached. The estimated long term borrowing at 31 March 2022 of £10,298,000 is under the Authorised limit set for 2021/22 of £13,115,000.

3.3 **Interest rate exposure**

The Fire Authority's Prudential Indicator continued the practice of seeking competitive fixed interest rate exposure for borrowing, lending and a combined figure of borrowing and lending.

Interest Rate Exposure	2021/22 Upper	2022/23 Upper	2023/24 Upper
Limits on fixed interest rates based on net debt*	100%	100%	100%
Limits on variable interest rates based on net debt*	0%	0%	0%

*Net debt is borrowings less investments

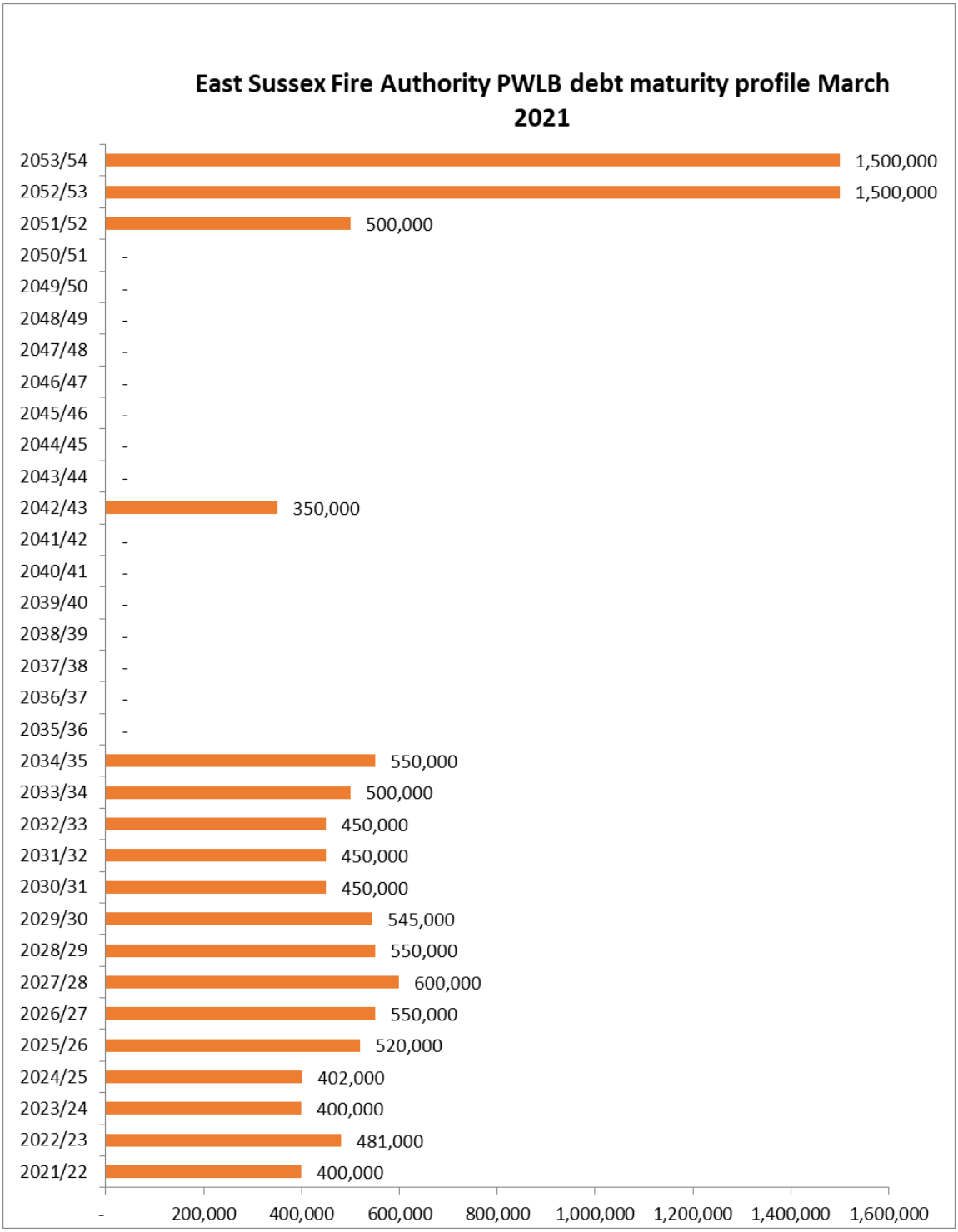
No new borrowing undertaken and all lending at fixed rates

3.4 **Maturity structure of debt**

The Fire Authority set upper and lower limits for the maturity structure of its borrowings as follows.

	Estimated Lower Limit	Estimated Upper Limit	Current 30/09/21
Under 12 months	0%	25%	0%
12 months and within 24 months	0%	40%	7%
24 months and within 5 years	0%	60%	11%
5 years and within 10 years	0%	80%	26%
10 years and within 20 years	0%	80%	19%
20 years and within 30 years	0%	80%	3%
30 years and within 40 years	0%	80%	34%
Over 40 years	0%	80%	0%

Any new borrowing undertaken would give due consideration to the debt maturity profile, ensuring that an acceptable amount of debt is due to mature in any one financial year. This helps to minimise the authority's exposure to the risk of having to replace a large amount of debt in any future years when interest rates may be unfavourable. No new borrowing has been undertaken in 2021/22 to date. The following graph shows when the debt will mature.



3.5 Compliance with the treasury management code of practice

East Sussex Fire Authority has adopted the CIPFA Code of Practice for Treasury Management in the Public Services. CIPFA is currently conducting a review of the Treasury Management Code of Practice and the Prudential Code. This review will particularly focus on non-treasury investments and especially on the purchase of property with a view to generating income. The Authority has been

part of the consultation process and will await CIPFA's guidance, amending where necessary for future strategies.

3.6 **Maturity structure of investments**

The authority has a £2.25m investment with a Local Authority that commenced on the 24 April 2020 for a duration of 18 months, as at the 30 September 2021 the investment would mature in 24 days.

3.7 **Minimum Revenue Provision Statement**

The Fire Authority's Borrowing Need (the Capital Financing Requirement)

3.7.1 The prudential indicator is the Authority's Capital Financing Requirement (CFR). The CFR is simply the total outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the underlying borrowing need.

3.7.2 The Fire Authority approved the Capital Finance Requirement projections for 2021/22 in its Strategy approved in February. These are in the original estimate below:

	2020/21 Actual £000	**2021/22 Original Estimate £000**	**2021/22 Projected Outturn £000**
Opening CFR	10,773	10,698	10,698
Closing CFR	10,698	10,298	10,298
Movement in CFR	**(75)**	**(400)**	**(400)**
Movement in CFR represented by:			
Net financing	356	28	28
MRP	(431)	(428)	(428)
Movement in year	**(75)**	**(400)**	**(400)**

3.7.3 The Fire Authority is required to pay off an element of the accumulated General Fund capital spend each year through a revenue charge called the Minimum Revenue Provision (MRP), although it is also allowed to undertake additional voluntary payments.

3.7.3 The Authority sets aside a Minimum Repayment Provision based on basic MRP of 4% each year to pay for past capital expenditure and to reduce its CFR. For any new borrowing the Asset Life Method will be used to calculate MRP.

3.7.4 Over the past years the regulatory and economic environment has changed significantly and led some Authorities to consider more innovative types of

investment activity. The government has also monitored changes in the practices used for calculating MRP. MHCLG issued guidance in February 2018 the Authority was part of the consultation process and will amend where necessary for future strategies.

4. TREASURY MANAGEMENT ADVISORS

4.1 The Strategy for 2021/22 explained that the Fire Authority uses Link Asset Services as its treasury management consultant through the contract that exists with East Sussex County Council. The company has provided a range of services which have included:

a) Technical support on treasury matters, capital finance issues and advice on reporting;
b) Economic and interest rate analysis;
c) Debt services which includes advice on the timing of borrowing;
d) Debt rescheduling advice surrounding the existing portfolio;
e) Generic investment advice on interest rates, timing and investment instruments;
f) Credit ratings from the three main credit rating agencies and other market information;
g) Assistance with training on treasury matters.

4.2 Whilst the advisers provide support to the internal treasury function, under current market rules and the CIPFA Code of Practice, the final decision on treasury matters remains with the Authority. This service remains subject to regular review.

4.3 Link is the largest provider of Treasury Management advice services to local authorities in the UK and they claim to be the market-leading treasury management service to their clients. The advice will continue to be monitored regularly to ensure an excellent level of service provided to the Authority.

5. CONCLUSION

5.1 The prime objective of Treasury Management is the effective management of risk and that its activities are undertaken in a prudent affordable and sustainable basis.

5.2 This report confirms the Authority has continued to follow a prudent approach with the main criteria of security and liquidity before yield. The current emphasis must continue to be able to react quickly if market conditions change.

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EAST SUSSEX FIRE AUTHORITY

Meeting	Policy & Resources Panel
Date	11 November 2021
Title of Report	Local Council Tax Reduction Schemes (LCTRS) – Consultation on Proposed Changes for 2022/23
By	Duncan Savage, Assistant Director Resources / Treasurer
Lead Officer	Duncan Savage, Assistant Director Resources / Treasurer

Background Papers	Local Council Tax Reduction Schemes (LCTRS) – Consultation on proposed changes for 2022/23 – Fire Authority 2 September 2021

Appendices	None

Implications

CORPORATE RISK	✓	**LEGAL**	
ENVIRONMENTAL		**POLICY**	
FINANCIAL	✓	**POLITICAL**	
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	

PURPOSE OF REPORT

To agree the Authority's response to a consultation by Brighton & Hove City Council on proposed changes to its Local Council Tax Reduction Scheme for 2022/23

EXECUTIVE SUMMARY

Billing authorities are required to review their Local Council Tax Reduction Schemes (LCTRS) annually and to consult publicly on any proposed changes. Precepting authorities are statutory consultees in this process but the decision to set or change a LCTRS rests solely with each billing authority.

The Authority's response to proposals by Lewes and Rother District Councils for changes to their LCTRS for 2022/23 was agreed at the Fire Authority meeting on 2 September 2021.

This paper considers proposals by Brighton & Hove City Council (BHCC) to make changes to its LCTRS for 2022/23.

The report sets out the financial impact of the proposed changes and the Authority to consider its response to the consultation.

RECOMMENDATION The Authority is recommended to:

i. Note the proposed changes to BHCC's LCTRS; and

ii. Consider the Authority's response to the consultation as set out in paragraphs 1.14.

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1. INTRODUCTION

1.1 Under the Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 the administration of and funding for discounts for council tax for those on the lowest incomes was localised from 1 April 2013. The financial impact of Local Council Tax Reduction Schemes (LCTRS) is to reduce the council taxbase and thus the income derived from council tax. Whilst LCTRSs are administered by billing authorities the cost falls also on precepting authorities include the Fire Authority.

1.2 Billing authorities are required to review their LCTRS annually and to consult publicly on any proposed changes. Precepting authorities are statutory consultees in this process but the decision to set or change a LCTRS rests solely with each billing authority. Central government has protected pensioners from changes in their council tax reductions which means that any proposed changes will only affect working age adults.

1.3 Changes to LCTRS Schemes in East Sussex (excluding BHCC) have been managed broadly collectively in the past as all the districts & boroughs (except Hastings) have adopted a common scheme and this has been developed via East Sussex Finance Officers Association (ESFOA) and East Sussex Chief Execs Group (ESCEG). Brighton & Hove City Council (BHCC) has periodically consulted on changes to its LCTRS but these have generally resulted either in reductions in the scheme cost (i.e. increases in the taxbase) or marginal increases.

1.4 The current council tax collection rates for our billing authorities along with national averages for the last two financial years is set out in Table 1 below:

1.5 Table 1 – Council Tax Collection Performance

	2019/20	**2020/21**
Brighton & Hove	96.4%	94.9%
Eastbourne	96.5%	95.9%
Hastings	94.6%	93.3%
Lewes	97.3%	96.9%
Rother	98.2%	96.8%

Wealden	98.1%	96.1%
Unitary average	96.6%	95.8%
Shire average	97.7%	96.9%
All England average	96.8%	95.7%

Source:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/995741/Table_6_2020-21.xlsx

2. PROPOSED CHANGES FOR 2022/23

2.1 The current information from billing authorities in terms of proposals for changes to LCTRSs for 2022/23 is as follows:

- Brighton & Hove – changes proposed (see below)
- Eastbourne – no changes proposed
- Hastings – no changes proposed
- Lewes – response agreed 2 September 2021
- Rother – response agreed 2 September 2021
- Wealden – no changes proposed.

2.2 ***BHCC Proposals***

BHCC's proposals are to consider:

- Moving to an earnings bracket approach for those claimants now in receipt of universal credit which will simplify the system and reduce the need for frequent recalculations to individual's CTR every time their income / UC changes
- Adjusting the level of support offered to make the tapering effect less abrupt as an individual's income rises
- Moving to a standard non-dependent deduction of £8 per week, or alternatively removing the non-dependent deduction completely
- The proposals do not change the level of the maximum award from the current 82% of a person's council tax liability

2.3 These proposals are in line with BHCC policy to seek options to make the scheme more generous and align it with changes in the overall welfare system.

2.4 The financial implications of these proposals are set out in Table 2 below:

Table 2 – BHCC LCTRS Proposals estimated financial impact

	BHCC	Police	Fire	Total
Move to earning bracket approach	£305,286	£37,647	£17,067	£360,000
Remove non-dependent deduction	£67,841	£8,366	£3,793	£80,000
Total	£373,127	£46,013	£20,860	£440,000

2.5 The loss of income should the proposals be agreed in full is significant at £0.440m with the greatest impact being on BHCC. The impact on this Authority is £20,860 if the proposals are adopted in full (£17,067 if the non-dependent deduction is set at £8).

2.6 The introduction of Universal Credit (UC) has impacted on the efficacy of BHCC's current LCTRS. Monthly changes to UC mean that CTR must be recalculated and bills re-issued / direct debits changed. This administrative burden is equivalent to a cost of £0.250m per annum. At the same time the Government is reducing its funding to BHCC for benefits administration by £0.100m - £0.130m per annum as UC is rolled out. We understand that approximately 70 other councils have moved to a banding scheme with aim of simplifying, aligning with UC and reducing administrative costs.

2.7 Rather than moving to a banding scheme which is cost neutral the proposals consider providing additional support with earnings bands aligned to varying levels of CTR as shown in the table below. It would be possible to reduce the cost of the scheme by adjusting the bands and the level of CTR however that would not meet BHCC's policy commitment to improve the level of support.

Earnings per week (£)	Amount of bill to pay
0.00 – 0.00	18%
0.01 – 69.99	20%
70.00 – 99.99	40%
100.00 – 119.99	60%
120.00 – 169.99	80%
170.00 – 249.99	90%
250.00	100%

2.8 BHCC also proposes to set a flat rate of £8 for non-dependent deduction to the cost of which is included in the move to an earning bracket approach. A further option is to remove the non-dependent deduction completely which would increase the cost of the scheme by a further £80,000.

2.9 Officers have corresponded and met with officers from BHCC to understand and explore the impact of the proposals. The following additional information is provided to assist the Panel in considering its position:

- BHCC expects its council tax collection rate to return to pre-Covid levels in 2022/23 – there is the potential that the proposals if adopted could increase the collection rate further and reduce the cost of recovery however the impact remains unquantified at this stage

- The latest forecast for BHCC's council taxbase growth for 2022/23 is 1.96% or 1.77% should the LCTRS proposals be adopted – this includes assumptions regarding the reduction in claimant levels post-Covid

- BHCC provides a Hardship Fund to support those who struggle to pay council tax even under the LCTRS – this is funded by BHCC only

- It is understood that public consultation on the proposals has resulted in approximately 75% support

- There is the potential that BHCC will propose further changes to LCTRS in future years in line with its policy to make the scheme more generous which could lead to the cost of the scheme improving

2.10 The risk is that the loss of income, in an already uncertain funding environment, will result in affected authorities having to consider further reductions in the services they provide. Often those services are supporting the most vulnerable in our communities. The Authority's revised Medium Term Financial Plan indicates that additional savings of up to £4.6m (worst case scenario) may be required to balance the budget over the next five-year period. This is in addition to £10.5m savings already delivered or planned since 2010.

2.11 Ultimately the decision to approve the proposed changes to its LCTRS rests with BHCC, however it is suggested that the Authority makes the following response:

East Sussex Fire Authority recognises the impact that the Covid-19 pandemic has had on local communities, particularly, those who are vulnerable, both financially and for other reasons.

As you will be keenly aware, in common with other local authorities the Fire Authority already faces significant financial challenges due both to reductions in Government funding and the impact of Covid-19. Our current Medium Term Finance Plan identifies the potential need to make new savings of up to £4.6m over the next 5 years, in addition to £10.5m already delivered or planned.

Council Tax is our most important funding stream (70% in 2021/22). The Authority will need to take account of any further reduction in council taxbase on its income when considering options for achieving a balanced budget for 2022/23 and beyond. Given the scale of the financial challenge, which cannot be met by efficiencies alone, this may mean that the Authority has to revisit its Integrated Risk Management Plan 2020-25 and consider further changes to the service it provides across the communities of East Sussex and Brighton & Hove, including those who are most vulnerable.

On this basis the Fire Authority cannot support BHCC's proposals to change its LCTRS which will lead to a permanent reduction in its income from council tax.

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EAST SUSSEX FIRE AUTHORITY

Meeting	Policy & Resources Panel
Date	11 November 2021
Title of Report	East Sussex Business Rate Pool
By	Duncan Savage, Assistant Director Resources / Treasurer
Lead Officer	Duncan Savage, Assistant Director Resources / Treasurer

Background Papers	Fire Authority 11 September 2014 – Item 805 – Business Rate Pooling Urgency Panel 24 October 2017 – Item 13 – Business Rate Pooling

Appendices	None

Implications

CORPORATE RISK	✓	**LEGAL**	
ENVIRONMENTAL		**POLICY**	
FINANCIAL	✓	**POLITICAL**	
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	

PURPOSE OF REPORT

To seek approval to continue to participate in the East Sussex Business Rates Pool

EXECUTIVE SUMMARY

The County Council, the five Districts and Boroughs and the Fire Authority have operated the East Sussex Business Rates Pool during 2015/16 and 2016/17. They de-pooled in 2017/18 due to the risks associated with the revaluation of business rates properties and knock-on effects of business rates appeals. The Pool was re-established in 2018/19 and has continued operating through to 2021/22. During 2019/20 only it became a Business Rate Pilot.

The Chief Finance Officers of the Pool Members have reviewed the position for 2022/23 and building on previous analysis provided by Local Government Futures and consideration of the performance of and risks associated with the Pool have applied to DLUHC to continue the Pool in 2022/23. The deadline for this application was at short notice

in October 2021 and it was not possible to seek prior Member approval.

Formal approval of the Pool application will be announced as part of the Provisional Local Government Finance Settlement (LGFS) expected in late December. Any authority can withdraw from a Pool during the consultation period for the Provisional LGFS (normally four weeks), but this would result in the whole Pool ceasing to operate. It is likely that the consultation period will end before the Policy & Resources Panel meeting on 20 January 2022 and thus this report recommends that delegated authority is granted to the Assistant Director Resources / Treasurer, after consultation with the Chairman and the Chief Fire Officer, to make the final decision on Pool membership.

The Pool will be governed under the existing Pooling Agreement, key elements of which include:

- Appointing a lead authority (Wealden District Council)

- Resources gained on the basis of the levy amount that was saved by individual authorities be split as follows: 40% to ESCC, 10% to the Fire Authority and the remaining 50% split amongst the District/Borough Councils

- Pool Members should be no worse off than if they were outside the Pool

The rationale for the Pool is to encourage economic growth therefore Pool Members are encouraged to use the additional resource to promote further economic growth. Pools allow local areas to retain a greater proportion (50%) of the growth in income from business rates that would otherwise have been paid over to HM Treasury.

Whilst the Districts and Boroughs have put in place measures to offset the risk of business rates yield reductions, there remains the risk that any pool could make a loss and the Authority needs to ensure it has sufficient provision in its reserves and balances to cover its share in this eventuality. Any Pool loss would be shared in the same proportions as any gains and therefore the Authority's share would be 10%.

The Pool has succeeded in retaining significant additional funding within East Sussex. The forecast Pool gain for 2020/21 is £4.224m of which the Authority's share is £0.422m. The quarter 1 forecast Pool gain for 2021/22 is £5.260m of which the Authority's share would be £0.526m. The Authority has used this funding to support local

businesses through its protection activities. This initially focussed on specific business safety initiatives but has been widened to support broader enhancement of the protection function in line with national developments and priorities post Grenfell.

RECOMMENDATION

The Panel is recommended to:

(i) approve the Authority's continued membership of the East Sussex Business Rates Pool;

(ii) delegate the final decision on whether to participate in the Pool to the Assistant Director Resources / Treasurer after consultation with the Chairman and the Chief Fire Officer; and

(iii) authorise the Assistant Director Resources/ Treasurer to take any steps necessary to give effect to the decision in (ii) above

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EAST SUSSEX FIRE AUTHORITY

Meeting	Policy & Resources Panel
Date	11 November 2021
Title of Report	Widening of the Joint Funding of Sprinklers to a Community Safety Intervention Fund
By	Deputy Assistant Commissioner Steve Norman
Lead Officer	Assistant Director for Safer Communities

Background Papers Joint Funded Sprinkler Projects Progress Report July 2020

Appendices None

Implications

CORPORATE RISK		**LEGAL**	
ENVIRONMENTAL		**POLICY**	
FINANCIAL	✓	**POLITICAL**	
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	
EQUALITY IMPACT ASSESSMENT ✓			

PURPOSE OF REPORT To recommend a widening of the scope of the Joint Funded Sprinkler Project to a Community Safety Intervention Fund.

EXECUTIVE SUMMARY

In 2013, the Fire Authority agreed to set aside funding to support a sprinkler project to assist key partners to retrofit sprinklers in their high-risk premises through joint funding contribution.

The original fund amounted to a total of £750,000 over a period of four years of allocation. Currently £112,000 has been spent on successful projects and £347,000 has been allocated to potential projects. This leaves £291,000 unallocated and furthermore ESFRS have had verbal confirmation that projects totalling £347,000 are now not going ahead. This means £638,000 is available to pursue other types of intervention for community safety and risk reduction.

Recommendations from Phase 1 of the Grenfell Tower Fire Inquiry have offered a number of additional ways in which residents (particularly vulnerable residents) of high-rise buildings and firefighters fighting fires in high-rise buildings can be made safer.

It is therefore proposed that the scope of the joint funded sprinkler project be widened to a more general community safety intervention fund whereby bids can be submitted for funding to support the installation of equipment to reduce fire risk and encourage innovation in fire risk reduction.

RECOMMENDATION That Policy and Resources Panel agree to widen the scope of the Joint Funded Sprinkler Project to a Community Safety Intervention Fund.

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1. BACKGROUND

1.1 In 2013, the Fire Authority agreed to set aside funding to support a sprinkler project to assist key partners to retrofit sprinklers in their high-risk premises through joint funding contribution and, in particular, to reduce risk to vulnerable residents and firefighters as well as altering negative perceptions of sprinkler retro-fitting and encouraging partners to include sprinkler installation in future developments.

1.2 As a result, projects have been completed with key partners such as East Sussex County Council (ESCC), Brighton & Hove City Council (B&HCC) and Amicus Horizon (AH), resulting in greater protection for very vulnerable people. The detail of these projects can be viewed in the previous update report to ESFRS SLT paper (Joint Funded Sprinkler Projects Progress Report July 2020).

1.3 For a number of reasons including complications around match funding, tendering processes, resident concerns and Covid factors, monies allocated to projects has not been spent and, in addition, a balance of funds remains unallocated.

1.4 Recommendations from Phase 1 of the Grenfell Tower Fire Inquiry have offered a number of additional ways in which residents (particularly vulnerable residents) of high-rise buildings and firefighters fighting fires in high-rise buildings can be made safer. In addition, it is likely that some of these measures will help renew the confidence of residents in the safety of high-rise living. These measures include Evacuation Alert Systems, Premises Information Boxes and Emergency Response Packs etc. In addition, telecare systems, higher standards of domestic detection and some more innovative technical solutions to protect vulnerable people could be brought into the scope of this fund to reduce risk in a greater range of building types benefitting a greater range of people at risk from fire.

1.5 Currently there is no legislation requiring these additional measures (although regulations requiring some elements are in draft form) and we recognise that

without legislation organisations may be discouraged from their installation and possibly limit joint funding options.

1.6 It is proposed therefore that the scope of the joint funded sprinkler project be widened to a more general community safety intervention fund whereby bids can be submitted for funding to support the installation of equipment to reduce fire risk and encourage innovation in fire risk reduction.

2. FINANCE

2.1 The original fund amounted to a total of £750,000 over a period of four years of allocation. Currently £112,000 has been spent on successful projects and £347,000 has been allocated to potential projects. This leaves £291,000 unallocated and available for reducing risk through a wider range of equipment options. In addition, ESFRS have had verbal confirmation that the projects the £347,000 has been allocated to are now not going ahead. This means £638,000 is available to pursue other types of intervention for community safety and risk reduction.

2.2 It is understood that match funding and resident engagement may have contributed to difficulty in spending the fund. Whilst match funding is favoured, smaller funding bids could be considered for payment in full although it is important to note that there will also be administrative costs associated with this option.

3. EXPECTED IMPLEMENTATION

3.1 If the Panel agree to support the widening of the scope of this fund a detailed methodology will be produced to ensure bids for funding support the reduction of fire risk to residents and in particular those people with mobility, sensory and cognitive impairment.

3.2 Bid assessment criteria will include prioritising bids that meet the objectives of the original fund plus bids that meet Grenfell Tower Inquiry recommendations through existing and innovative solutions as well as bids that aimed at providing a platform or driver for policy changes such as raising smoke alarm coverage standards for vulnerable people.

3.3 Bids supported by match funding will, where appropriate, be prioritised in order to optimise the utility of the fund but for small bids we would consider funding in full to reduce bureaucracy and encourage bids that reduce risk for individual vulnerable people.

4. EQUALITY IMPACT ASSESSMENT

4.1 The Equality Impact Assessment follows the original funding considerations but widens the positive safety impact on vulnerable people in the wider built environment. It also encourages applications for funding smaller and innovative risk reduction solutions to protect individuals with specific needs outlined in personal fire risk assessments as well as larger risk reduction measures.

4.2 There are several elements of the Grenfell Tower Inquiry recommendations that refer to the protection of vulnerable people through Personal Emergency Evacuation Plans (PEEPs). This fund may enable individuals with mobility, cognitive and sensory impairments to be better protected in their homes and also wider building solutions such as premises information boxes and evacuation alert systems to be installed.

4.3 Completed projects will also provide evidence of cost effective, model solutions to encourage organisations such as housing providers to adopt risk reduction measures as future policy through having a cost base to project future budgets from.

5. SUMMARY

The current balance of £291,000 unallocated and a further £347,000 of allocated but unspent funds is not achieving any risk reduction. Widening the scope and reducing the bureaucracy involved in allocation of the funds to projects will allow the Service and the Fire Authority to provide support to responsible persons to implement findings from the Grenfell Inquiry and make both residents and Firefighters safer whilst continuing to enable the original purpose and objectives of the project.

EAST SUSSEX FIRE AUTHORITY

Panel	Policy & Resources Panel
Date	11 November 2021
Title of Report	Firefighters' Pension Schemes (FPS) Age Discrimination, Remedy - Immediate Detriment Framework (IDF)
By	Doug Marshall, Assistant Director People Services
Lead Officer	Nick Constable, Pensions Advisor

Background Papers	Firefighters' Pension Schemes (FPS) Age Discrimination, Remedy & Immediate Detriment Previous Briefing Report to Policy & Resources Panel – 22 July 2021

Appendices	Appendix 1: Emails from Local Government Association (LGA) & LGA Legal on Agreement on Immediate Detriment Framework with Fire Brigades Union (FBU) – 8 October 2021 Appendix 2: Joint Statement from the LGA & the Fire Brigades Union (FBU) – 8 October 2021 Appendix 3: Memorandum of Understanding (MoU) between the LGA & the FBU on the Immediate Detriment Framework – 8 October 2021 Appendix 4: LGAs Immediate Detriment Framework (IDF) Guidance for Fire and Rescue Authorities in their role as scheme managers – 8 October 2021

Implications

CORPORATE RISK		**LEGAL**	✓
ENVIRONMENTAL		**POLICY**	✓
FINANCIAL	✓	**POLITICAL**	✓
HEALTH & SAFETY		**OTHER (please specify)**	
HUMAN RESOURCES		**CORE BRIEF**	

PURPOSE OF REPORT

Further to the Policy & Resources Panel meeting in July 2021, at which decisions were made on payment under the informal Home Office Guidance dated June 2021, we have been asked to present this paper, to explain further developments in the situation relating to McCloud/Sargeant judgement on Age Discrimination.

This paper will also detail how ESFRS are able to proceed with future and past retirements that are immediately affected and includes the Service's legal position, identifies the scope and risks and recommends an approach it can take.

EXECUTIVE SUMMARY

This report is to inform the Policy & Resources Panel on the current position East Sussex Fire & Rescue Authority finds itself in with regard to Age Discrimination, Remedy & Immediate Detriment Cases in the Firefighters' Pension Schemes.

At the last meeting in July the Policy & Resources Panel considered if and how the Authority could safely follow the informal Home Office (HO) Guidance dated June 2021 as the basis on which they could make payments to certain Firefighter Pension Scheme members, although not all, who were still yet due to retire, under Immediate Detriment. At that meeting the Panel agreed that ESFRS should pay under Immediate Detriment, wherever possible, to those in scope at that time under that informal guidance.

Since then, following further legal cases brought in the High Court, on the 8 October 2021 the LGA and the FBU have come to an agreement through a Memorandum of Understanding on a Framework (Appendices 2 & 3) on how they would recommend that FRAs proceed going forward with regard to paying pension benefits and compensation under Immediate Detriment to both retrospective and prospective retirees.

As the Immediate Detriment Framework is not a legally binding document the Authority cannot completely rely upon its detail as it has no statutory basis, however, if it is adopted and followed, it may

be considered as a defence against complaints about any decisions made pursuant to it or any misinterpretation, errors or omissions made.

RECOMMENDATION

The Policy & Resources Panel is recommended to:

(i) Review this paper and the supporting appendices, giving particular note to the risks identified.

(ii) Give consideration to how the Authority can follow the Immediate Detriment Framework with regard to payment of Immediate Detriment Cases, where possible.

(iii) Consider agreeing to payment under the Immediate Detriment Framework and allowing those Firefighters' Pension Scheme members in scope to be offered payment under their legacy pension scheme regulations.

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1. THE FRAMEWORK FOR MANAGING IMMEDIATE DETRIMENT ISSUES THAT THE LOCAL GOVERNMENT ASSOCIATION (LGA) & THE FIRE BRIGADES UNION (FBU) HAVE AGREED & RECOMMEND IS ADOPTED BY ALL FRAs

1.1 On 8th October 2021, the LGA & the FBU agreed and issued a Framework for Managing Immediate Detriment issues in the Firefighters' Pension Schemes (FPS) going forward (Appendices 2 & 3).

1.2 The Immediate Detriment Framework (IDF) has been developed and agreed by the LGA (in line with the decisions of the Steering Committee specifically set up to deal with matters arising from Sargeant) and the FBU based on the current understanding of the provisions contained for remedy in the Public Service Pensions and Judicial Offices Bill 2021. Its purpose is to provide a framework under which members in scope can receive benefits prior to all remedying legislation being in force, therefore avoiding significant additional numbers of Immediate Detriment legal claims as a result of the Sargeant age discrimination case.

1.3 Immediate Detriment issues refers to those scheme members who were transferred from their previous legacy Final Salary pension schemes (the FPS 1992 & 2006 Schemes) to the reformed Career Averaged Revalued Earnings (CARE) pension scheme (the FPS 2015 Scheme) since April 2015, and have either already taken their pension benefits, or might be potentially due to take

their pension benefits, before the full changes to Age Discrimination Remedy legislation is brought in, which will not be until October 2023 at the earliest.

1.4 This ID Framework agreement was entered into by the LGA and the FBU following further legal cases brought in the High Court against the London Fire Commissioner (LFC) and Nottinghamshire and City of Nottingham Fire and Rescue Authority (NFRA). The cases concerned Immediate Detriment issues in relation to the McCloud/Sargeant judgment and the claimants were supported by the Fire Brigades Union (FBU).

1.5 It was apparent similar issues would arise more widely across the sector. The FBU was clear that matters for affected individuals needed to be resolved sooner rather than later and it would, if necessary, support further legal cases.

1.6 Many Fire and Rescue Authorities (FRAs) across the UK, including East Sussex Fire Authority, on an individual basis, have already indicated that they wished to be able to deal with Immediate Detriment issues, wherever possible, as soon as possible.

1.7 The problem was not an unwillingness to do so but rather the need to identify and develop a suitable mechanism to be able to do so in a way which minimised the risks while the Government is putting in place the McCloud/Sargeant remedying legislation.

1.8 With that in mind, the Local Government Association (LGA) and the FBU have been in discussions to identify a mutually acceptable Framework, setting out a mechanism for handling Immediate Detriment cases, to assist all parties prior to completion and implementation of the McCloud/Sargeant remedying legislation.

1.9 They hope this will help in resolving the genuine difficulties that had arisen for FRAs in making payments to those affected (including for example issues around unauthorised payment charges and contribution holidays) and in removing the potential for further court claims.

1.10 During the course of these discussions between the LGA and the FBU, the Government laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill (the Bill) and will make secondary legislation pursuant to the Bill (together, the Remedying Legislation) to provide the affected pension scheme members with a remedy for the discrimination found in the McCloud/Sargeant claims.

1.11 Following a series of complex discussions including respective legal representatives, which were also able to utilise the longstanding national relationship between the LGA and FBU, they advised ESFRA that agreement was reached on the attached Memorandum of Understanding (MoU) and Framework (Appendix 3).

1.12 They believe the Memorandum of Understanding (MoU) and Framework are consistent with the principles currently set out in the Bill and will mean that appropriate action can be taken.

1.13 As and when parts of the Remedying Legislation covering the relevant part of the Framework come into effect the MoU and Framework indicate that the relevant Remedying Legislation will then be used instead.

1.14 In a Joint Statement issued on 8th October 2021 (Appendix 2) the LGA & the FBU have asked each FRA to consider adoption of the Framework and they have stated that they would encourage such adoption in order to provide a consistent approach to Immediate Detriment cases across the fire and rescue service.

2. FIRE AUTHORITIES' LEGAL POWER TO ADOPT THE IMMEDIATE DETRIMENT FRAMEWORK

2.1 As previously advised by the LGAs legal advisors, the informal Home Office Guidance dated June 2021, and the legal advice received from ESFRA's Deputy Monitoring Officer; ESFRA has the power to calculate and pay pension entitlements under their legacy schemes under Immediate Detriment, through the application of section 61 of the Equality Act 2010.

3. NUMBERS OF POTENTIAL ID FRAMEWORK CASES WITHIN ESFRS

3.1 There are potentially 80 individuals affected by ID. They have been banded and quantified as shown below:

- 1 current employee / scheme member whose earliest date of retirement is before 1 April 2022, is over 50 years old and will have 30 years pensionable service.

- 11 current employees / scheme members whose earliest date of retirement is before 1 April 2022, are over 50 years old and will have more than 25 years pensionable service and will also attain 30 years of service before October 2023.

- 3 current employees / scheme members who have more than 25 years pensionable service and will reach the age of 55 before October 2023.

- 13 current employees / scheme members whose earliest date of retirement is before October 2023 and are over 55 years old by that date.

- 32 current employees / scheme members whose earliest date of retirement is before October 2023 and are over 50 years old with over 25 years pensionable service by that date.

- 20 former employees / scheme members who have already retired or died and therefore have pensions or dependant pensions already in payment.

3.2 In summary, these total 80 affected individuals break down between;

- 60 current employees who could prospectively retire before the remedy legislation is expected to be fully delivered in October 2023, plus

- 20 for whom pension benefits are already in payment who could apply for a retrospective review of their pension benefits under the ID Framework (2 of those already in receipt of pension have already indicated their intention to make such an application if the ID Framework is adopted).

4. THE PRACTICALITIES OF ADOPTION OF THE ID FRAMEWORK

4.1 We must not underestimate the level of effort and additional resources that will be required to implement the ID Framework. This includes:

- Working to the extremely tight 90 calendar day deadlines set out in the ID Framework document (from application by the member/dependent, to payment of benefits).

- Potentially having to review / amend 20 pensioner/dependent in payment cases in line with the ID Framework within the same or very close 90 calendar day period if the ID Framework is adopted, as soon as it is adopted.

- Assessment of those who apply to be treated under the ID Framework to establish whether they can be dealt with under the ID Framework.

- Issuing ‘Member Waivers’ & calculating and issuing ‘Record of Agreed Compensation / Remedy’ to retirees where appropriate for signing.

- Recalculation of employee pension contributions from the member’s transition from the legacy scheme to date of retirement.

- Calculation / recalculation of all potential pension benefit options and subsequent payment of those benefits / increased benefits within the prescribed timescales.

- Set up a repayment agreement of contribution via payroll or retirement lump sum.

- Any rework that might be arising from inconsistency with the ID Framework and/or final remedy.

5. RISKS AND BENEFITS OF ADOPTION OF THE ID FRAMEWORK

5.1 The East Sussex Fire and Rescue Service Firefighters' Pension Scheme has a Risk Register for the Pensions Board which includes a Red Risk for ID. Areas of risk listed under this area include the following:

- Primary and secondary legislation not yet in place.

- WYPF have advised they will calculate and pay benefits under ID where the Authority choose to, but they will not accept any liability for any issues that may arise from this. The Authority has already signed a waiver to this effect accepting any such future liability.

- Automated Systems have not yet been developed to perform the calculations required, so the processes of providing relevant data (as below) and then calculating legacy pension benefits will be largely manual and therefore has a higher risk of errors or omissions due to human error.

- Lack of resources and capacity currently available at ESFRS & WYPF creating significant difficulties in potentially meeting the extremely tight (90 calendar days) timescales to process each ID case.

- WYPF have already made the LGA aware that it is highly unlikely that they will be able to meet the timescales quoted within the ID Framework MoU in most cases until they have a more automated calculation process available. This is unlikely to be in place in the near future.

- Missing or not easily obtainable data / service information necessary to accurately recreate Final Salary and CARE (Career Averaged Revalued Earnings) Pension Records for the 7 year remedy period including: Pay (FS Pay & CARE Pay), Continuing Professional Development (CPD) (which can give rise to an Additional Pension Benefit (APB) in FS Schemes), Service History Service Breaks, Changes of Hours (e.g. : full time to part time), Temporary Promotions (APB in FS Schemes none pensionable in CARE Scheme), Split Pension Awards in FS Schemes, Transfers In to 2015 scheme, Added Pension bought in 2015 scheme, Pension Debits on Divorce or Scheme Pays, Leavers, Contributions Schedules under both schemes to be calculated/recalculated and differences plus interest repaid.

5.2 A major consideration for the Authority is that in not adopting the ID Framework is that we are in the breach of the age discrimination judgement. This is reinforced by the three cases of litigation that have recently been dealt with against two other Fire Authorities following which agreement to recommend all further cases be dealt with under the ID Framework was reached by the LGA and the FBU.

5.3 Failure to adopt the ID Framework will leave the Authority vulnerable to further legal action from the Fire Brigades Union and any associated legal and administrative costs of defending our position.

5.4 If ESFA choose as a Service to adopt the ID Framework we need to be clear of the scope and the conditions we will need to apply in our assessment of individual cases. It should be noted that adoption of the ID Framework will significantly increase those who are in scope for payment under ID, and therefore the increased immediate workloads that go with that, both at ESFRS and WYPF.

5.5 The framework extends payment under ID to include categories of scheme member who were previously out of scope under the Home Office ID Guidance issued in June 2021. For this reason, please be aware that adoption of payment under this ID Framework will significantly increase workloads both here at ESFRS and at WYPF. The ID Framework extends payment under ID to include:

- Members who will be owed contributions if electing for all of their pension benefits under the FPS 2006.

- Members who will be owed contributions if electing for all of their pension benefits under the FPS 1992 and would have had a contributions holiday in the FPS 1992 had they not be transferred to the FPS 2015.

- Pensioner's and their surviving dependants (if they have subsequently died) who have already gone into payment since being transferred to the FPS 2015 at some point since 1 April 2015.

- **Therefore, In Scope – All pension scheme members (or their surviving dependant's) who were members of either of the legacy schemes (FPS 1992 & 2006) as at 31 March 2012 and 31st March 2015.**

- **Out of Scope – Only those who joined the Pension Scheme after 1st April 2015.**

5.6 Prospective retirees who are in scope and leaving within the next few months may need to accept that any underpaid contributions will be taken from their retirement lump sum rather than through ESFRS Payroll.

5.7 These risks are extensive and varied and warns us of how challenging adoption of the ID Framework will be. However, we understand the risks and need to consider what level of risk is acceptable to the Service against any possible litigation for not following the ID Framework and the decision of the Employment Tribunal.

5.8 Balanced against 5.7 above, we need to accept that the level of resources and capacity currently available at both ESFRS and WYPF could equally result in further legal action if the ID Framework is adopted and then the extremely tight (90 calendar days) timescales fail to be delivered on any individual cases.

6. FINANCIAL IMPLICATIONS

6.1 It is not possible at this stage to identify the specific costs associated with the recommendations of this report as these will be identified on a case-by-case basis. Using the ID Framework will increase some direct amounts payable, and will bring some other costs forward. Costs will be incurred from ESFRA on compensation and interest to be paid in relation to overpaid contributions. However, as interest will be applied as part of the final remedy any way, it may result in lower overall costs on the basis that using the ID Framework now would close the period that interest is calculated over, instead of extending it to 2023 for the cases dealt with before then.

6.2 It is expected that the costs associated with the administration of the remedy will be borne by FRAs whilst monies owed to members will be met by government. In some circumstances individuals may also incur additional costs as a result of a change in pension schemes e.g. annual allowance costs. There is the potential that the financial impact of the remedy will be seen through the next valuation of the Scheme and resultant higher employer's contributions from 2023/24. The Sector continues to lobby Government to fully fund these additional costs. The Service will also be liable for any claim for Injury to Feelings made by the 67 scheme members listed on the original ET claim.

6.3 In not adopting the ID Framework, further legal action could be taken by the Fire Brigades' Union and result in further litigation costs.

6.4 Equally; in adopting the ID Framework, further legal action could be taken by the Fire Brigades' Union and result in further litigation costs if the extremely tight (90 calendar days) timescales are missed on any individual cases.

6.5 Given the absence of some technical information to support calculations there is potential for error. Whilst the pension administrator will use best efforts in any calculation and payment of benefits, the Authority may be required to meet any financial liabilities arising in these circumstances.

6.6 It is worth noting that the LGAs legal advisors have stated in their covering e-mail regarding the ID Framework (Appendix 1); *'We encourage all FRAs to adopt*

the Framework……. Please note also we will inform the respective governments in England, Wales, Scotland and Northern Ireland about the Framework in connection with us seeking funding for all the costs arising out of the Sargeant age discrimination pensions claims, whether under New Burdens or otherwise.'

7. OPTIONS

7.1 **Option One:** Change nothing. In other words, insist that all retirees are only permitted to claim the benefits payable under the current regulations or continue to offer payment under ID only to the smaller amount of members who were already in scope under the previous Home Office Guidance. For many of those detailed above this will mean that they will only be able to draw pension benefits relating to their legacy scheme accrued to the point of transfer into the FPS 2015, with their FPS 2015 benefits being deferred until their normal retirement age in that scheme.

7.2 **Option Two**: Adopt the Immediate Detriment Framework. As described above, retirees, who are in scope, will be able to retire under their legacy scheme regulations and those who have already retired can apply to have their pension benefits reviewed and increased accordingly.

7.3 As we have detailed above, neither option is without risk, but these are sufficiently understood and can be communicated to the retirees and mitigated by our process of review on a case-by-case basis. The Personal Impact Assessment process documentation created will also support each of our decisions.

8. CONCLUSION

8.1 We have established that if we chose not to adopt the ID Framework the Authority would be knowingly in breach of the Age Discrimination Employment Tribunal findings and therefore be at a significant risk of litigation with the associated expense, possible sanction and reputational damage that may also be caused.

8.2 Our understanding of the Pension Scheme changes and the ID Framework offers us the confidence to be able to adopt the ID Framework, with our main reservation being the extremely tight (90 calendar day) timescale turnaround given the current resources and systems available at ESFRS and WYPF. This position is reinforced by the professional support we have from WYPF and the processes and controls that we have designed to mitigate the risk of future complaints and/or litigation.

From: [redacted]
Sent: 08 October 2021 17:50
Subject: FW: Agreement on Immediate Detriment Framework

To: FPS practitioners and administrators

Dear colleagues,

Please see below and attached information relating to the agreement of the Immediate Detriment Framework.

Further guidance to FRAs is available on the age discrimination page of the FPS Regulations and Guidance website. Log-in details are required to access the page and can be provided to practitioners and administrators only.

Kind regards,
[redacted]

[redacted] (she/ her)
Local Government Association | **Senior Pensions Adviser**
FPS Scheme Advisory Board | **Board Secretary**
Mobile [redacted]
Email: [redacted]@local.gov.uk
18 Smith Square, Westminster, London SW1P 3HZ

www.fpsboard.org www.fpsregs.org www.fpsmember.org

Bulletin 49 is now available on our website

From: [redacted]>
Sent: 08 October 2021 16:08
Subject: Agreement on Immediate Detriment Framework

To: FRA Chairs/Portfolio Holders, Chief Fire Officers, Directors of HR, Clerks to Fire Authorities

You will recall previous correspondence relating to development of a Framework jointly with the FBU in relation to Immediate Detriment arising from the McCloud/Sargeant judgment.

Attached is a joint statement reflecting today's agreement and a copy of the agreed Memorandum of Understanding. We encourage all FRAs to adopt the Framework.

The LGA has prepared guidance to assist FRAs in adoption of the Immediate Detriment Framework. The guidance is available on the age discrimination page of the FPS Regulations and Guidance website and will be kept under review.

Please note also we will inform the respective governments in England, Wales, Scotland and Northern Ireland about the Framework in connection with us seeking funding for all the costs arising out of the *Sargeant* age discrimination pensions claims, whether under New Burdens or otherwise.

Best wishes,

[redacted]

[redacted]
Senior Adviser (Workforce and Negotiations)
Local Government Association
18 Smith Square, Westminster, London SW1P 3HZ

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www.local.gov.uk/workforce

To: Fire and Rescue Authorities and Services
Fire Brigades Union members

FRAMEWORK FOR MANAGING IMMEDIATE DETRIMENT ISSUES

You will be aware of legal cases brought in the High Court against the London Fire Commissioner (LFC) and Nottinghamshire and City of Nottingham Fire and Rescue Authority (NFRA). The cases concerned Immediate Detriment issues in relation to the McCloud/Sargeant judgment and the claimants were supported by the Fire Brigades Union (FBU).

It was apparent similar issues would arise more widely across the sector. The FBU was clear that matters for affected individuals needed to be resolved sooner rather than later and it would, if necessary, support further legal cases. Many Fire and Rescue Authorities (FRAs) across the UK on an individual basis had indicated that they wished to be able to deal with Immediate Detriment issues as soon as possible. The problem was not an unwillingness to do so but rather the need to identify and develop a suitable mechanism to be able to do so in a way which minimised the risks while the Government is putting in place the McCloud/Sargeant remedying legislation.

With that in mind, the Local Government Association (LGA) and the FBU have been in discussions to identify a mutually acceptable Framework, setting out a mechanism for handling Immediate Detriment cases, to assist all parties prior to completion and implementation of the McCloud/Sargeant remedying legislation. This would help in resolving the genuine difficulties that had arisen for FRAs in making payments to those affected (including for example issues around unauthorised payment charges and contribution holidays) and in removing the potential for further court claims (not just against NFRA and LFC).

During the course of the discussions, the Government laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill and will make secondary legislation pursuant to the Bill (together, the Remedying Legislation) to provide the affected pension scheme members with a remedy for the discrimination found in the McCloud/Sargeant claims.

Following a series of complex discussions including respective legal representatives, which were also able to utilise the longstanding national relationship between the LGA and FBU, we are pleased to advise you that agreement has today been reached on the attached Memorandum of Understanding and Framework.

We believe the Memorandum of Understanding and Framework are consistent with the principles currently set out in the Bill and will mean that appropriate action can be taken. As and when parts of the Remedying Legislation covering the relevant part of the Framework come into effect the MoU and Framework indicate that the relevant Remedying Legislation will then be used instead.

Each FRA is asked to consider adoption of the Framework and we would encourage such adoption in order to provide a consistent approach to Immediate Detriment cases across the fire and rescue service.

You may also wish to be aware that, separately, we and respective legal representatives have worked with NFRA and LFC in respect of the High Court cases and can also advise that settlement has been reached. Settlement took into account the principles in the Framework, however, as is the norm in such settlements, details will remain confidential. The Summary Judgment hearing due to be heard in the High Court later this month is therefore no longer required.

Jeff Houston
Local Government Association

Matt Wrack
Fire Brigades Union

8 October 2021

Dated 8 October 2021

MEMORANDUM OF UNDERSTANDING

PARTIES

(1) Local Government Association of 18 Smith Square, Westminster, London, SW1P 3HZ (the **LGA**); and

(2) Fire Brigades Union of Bradley House, 68 Coombe Rd, Kingston-upon-Thames, Surrey, KT2 7AE (the **FBU**).

1 BACKGROUND

1.1 The LGA represents Fire & Rescue Authorities (**FRAs**) in England, Scotland, Wales and Northern Ireland in connection with the matters covered by this memorandum of understanding (**MoU**).

1.2 The FBU is a trade union that represents firefighters and other employees employed by the FRAs (together the '**Members**') who are affected by the matters covered by this MoU.

1.3 The LGA (on behalf of the FRAs) and the FBU (on behalf of the Members) wish to record the basis on which they will collaborate with each other to ensure that Members who have (or will) suffer an "**Immediate Detriment**" (as described in para. 4.1 below) by reason of their retirement (or impending retirement), following the decision made by the Court of Appeal on 20 December 2018 and the Employment Appeal Tribunal on 12 February 2021 in the *Sargeant* claims, are provided with a remedy as swiftly as possible.

1.4 A framework (the **Framework**) and a timetable for providing a remedy for each affected Member is set out in Annex 1 and Annex 2 to this MoU, which the parties expect the FRAs and Members to adhere to. Nothing in the MoU shall be interpreted to mean that the FBU will not initiate or support legal proceedings on behalf of any Member whose case is not dealt with in accordance with the Framework or that timetable.

1.5 The MoU only covers compensation relating to any shortfall in the pension commencement lump sum, pensions benefits and contributions payable to or payable by a Member (including issues relating to tax relief, interest and charges connected to those amounts) as set out in Annex 1. This MoU does not cover any additional remedies currently under consideration in the Employment Tribunal.

1.6 In this MoU:

1.6.1 references to a Member's **Legacy Scheme** are references to the pension scheme in which the Member was an active member on 31 March 2012; and

1.6.2 references to the **2015 Scheme** are references to the firefighters' pension schemes in England, Wales and Scotland created under the Public Service Pensions Act 2013.

2 OBJECTIVES

2.1 The parties acknowledge the importance of ensuring that Members who have suffered (or will suffer) an Immediate Detriment (as described in para. 4.1 below) receive compensation or are otherwise remedied now. They recognise that the Government has laid primary legislation before Parliament in the Public Service Pensions and Judicial Offices Bill (the **Bill**), and will make secondary legislation pursuant to the Bill (together, the **Remedying Legislation**) to provide the affected Members with a remedy for the discrimination found in the *Sargeant* claims.

The parties believe that the Framework is consistent with the principles currently set out in the Bill. In particular, any compensation or remedy provided to Members under this MoU:

2.1.1 amounts to "compensation" of the type anticipated by clause 21[1] of the Bill; and/or

2.1.2 is to be taken into account when assessing whether the Member has:

(a) "benefited from an immediate detriment remedy" for the purposes of clause 29 of the Bill; and/or

(b) been provided with a remedy under any scheme regulations of the type anticipated by clause 28 of the Bill

(to avoid a situation where the Member receives additional recoveries under the Bill which have already been compensated for under this MoU).

2.2 This MOU is separate from, and is not subject to or dependent on, any guidance issued in relation to "Immediate Detriment" before the Remedying Legislation comes into force.

3 PRINCIPLES OF COLLABORATION

3.1 The LGA will request that the FRAs, and the FBU will request that its Members, adopt the following principles:

3.1.1 Collaborate and co-operate. To adhere to the Framework so that activities are delivered and actions taken as required;

3.1.2 Act in a timely manner. Recognise the importance of moving things forward swiftly and responding accordingly to reasonable requests for support; and

3.1.3 Act in good faith to support achievement of the objectives and adherence to these principles.

4 IMMEDIATE DETRIMENT CASES IN SCOPE

4.1 The Framework will apply to Immediate Detriment cases that have already arisen, or arise before the Remedying Legislation comes into force, namely cases for:

4.1.1 Members who, at the date of this MoU, are employed by an FRA and:

(a) become eligible to retire (for any reason, including ill-health) and draw any pension and/or lump sum benefit and want to have all their benefits paid from their Legacy Scheme (not the 2015 Scheme); or

(b) do not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme and are therefore left without an immediately payable pension, but would be entitled to such a pension under their Legacy Scheme

(**Category 1 cases**);

4.1.2 Members who, at the date of this MoU:

[1] In this MoU, references to clause numbers in the Bill refer to the clauses as numbered on the date when the MoU is signed.

(a) have already retired (for any reason, including ill-health) and who are receiving a pension under the 2015 Scheme, and who wish to be treated as having retired as a member of their Legacy Scheme; or

(b) have left the fire and rescue service and did not qualify for a lower-tier (and therefore higher-tier) ill-health pension under the single pot ill-health retirement arrangement provided for in the 2015 Scheme, and are therefore left without a pension in payment but would be entitled to such a pension under their Legacy Scheme

(**Category 2 cases**).

4.2 The Category 2 cases include the claims set out in High Court claim number QB-2021-000636, although the parties acknowledge that the claimants and the defendants in that claim will (subject to agreeing the position on legal costs) need to file a consent order recording any settlement achieved in accordance with the Framework set out in this MoU.

5 FRAMEWORK

5.1 The parties intend that the various issues that arise in relation to Category 1 and Category 2 cases will be resolved in accordance with the Framework set out at Annex 1 to this MoU.

5.2 The parties anticipate that the Remedying Legislation will provide a mechanism that will allow some matters to be dealt with more conveniently once it comes into force. These matters are:

5.2.1 compensation for any tax relief foregone on the arrears of contributions payable by the Member (except for Category 1 cases where the contribution arrears can be processed through PAYE);

5.2.2 interest payable by the Member on the arrears of contributions;

5.2.3 interest payable to the Member on adjusted employee contributions under the 2006 Scheme; and

5.2.4 CETVs and added pension (for Category 1 cases).

5.3 These matters (and only these matters) will be calculated and processed once the Remedying Legislation is in force. Where applicable, the way they will be dealt with until that point is reached is set out in Annex 1. The parties agree that the mechanism provided by the Remedying Legislation will be used to make the calculation and the amounts will be processed in accordance with the Remedying Legislation.

5.4 The LGA and the FBU will encourage the relevant FRA and Member to document the agreed compensation or remedy in line with the template set out at Annex 3 to this MoU (the **Compensation Record**). This does not apply to the High Court claim referred to in para. 4.2 above where the terms of any settlement will be recorded in a confidential settlement agreement attached to a consent order.

5.5 The FBU agrees that it will not provide any financial or other support to Members who have received compensation or are otherwise remedied under the Framework to bring any court or tribunal proceedings relating to matters which have been (or are being) addressed under the Framework (or, in the case of those matters listed at para. 5.2 above, will be addressed under the Remedying Legislation). The FBU's agreement does not apply, however, to any question or dispute as to whether the Framework has been applied correctly in accordance with this MoU, or to any question or dispute regarding a matter that is not covered by the Framework.

6 CONCERNS OR COMPLAINTS

6.1 If either party has any issues, concerns or complaints about any matter in this MoU that party shall notify the other party and the parties shall then seek to resolve the issue through discussion (consistent with the objectives and principles set out at paras. 2 and 3 above). Those discussions may involve the relevant FRA and Member where appropriate.

6.2 Either party may terminate such discussions at any time. Where it has been agreed that the Framework is being used, the fact that such discussions could be commenced or have been commenced will not act as an impediment to any Member who alleges that the FRA concerned is not dealing with their case in accordance with the Framework and seeks relief from the Court. Nor will it act as an impediment to the FBU providing legal or other support to such a Member.

7 REVIEW, TERM AND TERMINATION

7.1 This MoU shall commence on the date of signature by both parties.

7.2 The parties will meet periodically on dates to be agreed between them (the first such meeting to take place within five weeks of the date of this MoU) to:

7.2.1 review the application of the Framework and the process set out in Annex 2, paying attention, in particular, to the timetable for processing cases in the light of the number of cases being dealt with by FRAs; and

7.2.2 discuss whether any changes to the Framework are needed if the passage of the Bill (and the secondary legislation made pursuant to the Bill) adversely affects the ability of an FRA or a Member to implement the Framework and/or the process set out in Annex 2 and work in a spirit of cooperation to agree those changes.

7.3 If, on the date Remedying Legislation applicable to an issue set out in Annex 1 comes into force, a case that includes that issue is still being processed under the Framework, that issue will instead be processed under the Remedying Legislation and that fact will be noted in the Compensation Record (Annex 3). For the avoidance of doubt the rest of the issues in the case will be dealt with in accordance with Annex 1.

7.4 If all of the issues relevant to a case are covered by Remedying Legislation which has come into force before a Compensation Record is signed by the Member and the FRA that case will instead be processed under the Remedying Legislation.

7.5 This MoU will automatically expire on the last date on which Remedying Legislation applicable to all of the issues set out in Annex 1 comes in to force and will in any event expire on 1 October 2023. However, the parties agree that the timeframes set out in Annex 2 will continue to apply to the issues set out in Annex 1 where those issues are being processed under the Remedying Legislation provided that the timeframes do not put an FRA in breach of its obligations under the Remedying Legislation.

7.6 This MoU may be terminated (in whole or in part) by agreement in writing between the parties.

7.7 This MoU may be terminated by either party if the other party is in serious or repeated breach of its terms, and does not remedy the breach within 21 days of notice being given requiring it to do so.

8 VARIATION

8.1 This MoU, including Annexes 1, 2 and 3, may only be varied by written agreement of the parties.

9 CHARGES AND LIABILITIES

9.1 Liability for the legal costs incurred in High Court claim number QB-2021-000636 will be payable in accordance with any agreement reached between the parties to that claim or any order made by the Court in those proceedings.

9.2 Subject to para 9.1, and except as otherwise provided, the parties, FRAs and Members shall each bear their own costs and expenses incurred in agreeing to and implementing this MoU and the Framework.

9.3 Each party shall remain liable for any losses or liabilities incurred due to their own actions and neither party intends that the other party shall be liable for any loss it suffers as a result of this MoU.

10 STATUS

10.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the parties from this MoU. The parties enter into the MoU intending to honour all their obligations.

10.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, or authorise either of the parties to make or enter into any commitments for or on behalf of the other party.

11 GOVERNING LAW AND JURISDICTION

11.1 This MoU shall be governed by and construed in accordance with the laws of England and Wales and, without affecting the procedure set out in para. 6, each party agrees to submit to the non-exclusive jurisdiction of the courts of England and Wales.

Signed by **JEFF HOUSTON**

for and on behalf of **the LGA**

.....

HEAD OF PENSIONS

8th October 2021

[Date]

Signed by **MATT WRACK**

for and on behalf of **the FBU**

.....

GENERAL SECRETARY

8 October 2021

CONTACT POINTS

LGA

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ANNEX 1 – FRAMEWORK

Issue	Category 1 cases	Category 2 cases
Shortfall in retirement lump sum and past pension payments	Retirement lump sum and benefits paid on retirement through Legacy scheme (so that no shortfall arises).	Pay as lump sums (comprising pension lump sum and arrears lump sum likely made in two payments) through the 1992 scheme (as arrears). Pension arrears will be subject to PAYE, but if any additional income tax is payable by the member that would not have been payable if the member had never been treated as a member of the 2015 Scheme, the FRA will compensate the member for that tax liability.
Interest on shortfall in retirement lump sum and past pension payments	No interest due because correct lump sum and pension benefits will be paid on retirement.	Interest paid at 3% p.a. simple, from the date lump sum / benefits should have been paid.
Employee contributions: 1992 Scheme	Member pays shortfall (since 2015) through payor as a deduction from retirement lump sum.	Member pays any shortfall (since 2015) as a deduction from retirement lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and to be given a reasonable time to pay based on their individual circumstances.
Employee contributions: 2006 Scheme	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
Tax relief on employee contributions	Process through PAYE to the extent possible if time/amount allows. If time does not allow, then any tax relief not collected through PAYE will be calculated and paid when the remedying legislation is in force. FBU and FRAs will encourage members to give as much notice of retirement as possible to facilitate payment through PAYE.	Compensation for any tax relief foregone will be paid to the individual when the remedying legislation is in force. So, for now, individuals will pay the gross amount ofcontributions due.

Interest payable on adjusted employee contributions (1992 Scheme)	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). If tax relief was not processed through PAYE (because time/amount did not allow), where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amounts will be deducted from that payment.	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). Where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amount will be deducted from that payment.
Interest payable on adjusted employee contributions – compensatory amount (2006 Scheme)	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).
Contribution holidays: excess employee contributions	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.
CETVs and added pension	If an issue arises, then look at it at that point. Individual and FRA will work together to agree a holding compromise that the CETV/added pension will stay in the 2015 scheme until the legislative solution arrives.	Deal with as and when arises.
Annual Allowance charges	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for the annual allowance	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for any annual allowance

	charge that is demanded (or any excess over the lesser charge that would have applied).	charge that is demanded (or any excess over the lesser charge that would have applied).
Scheme pays (MSP/VSP)	Member pays tax through VSP for statutory tax years for which it becomes due.	Member pays tax through VSP for statutory tax years for which it becomes due.
Converting scheme pays debits	FRA to recalculate the pension debit as if taken at time of original scheme pays election usingactuarial factors applicable at time.	FRA to recalculate the pension debit as if taken at time of original scheme pays election usingactuarial factors applicable at time.
Converting pension sharing debits	Deal with on a case by case basis as issues arise.	Deal with on a case by case basis as issues arise.
Dependents	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Deal with on a case by case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).
Taper members	Tapering to stop (because that is the only step that is consistent with the ET decision).	Tapering to stop (because that is the only step that is consistent with the ET decision).
Unauthorised payments	N/A	The FRA will compensate the member for unauthorised payment charges which the member has had to pay and which he or she would not have had to pay if the member had not transferred to the 2015 Scheme.

ANNEX 2 – THE PROCESS

1 Any Member who believes that he or she is a Category 1 or a Category 2 case, and any person who believes that he or she is a dependant of a Category 1 or a Category 2 case Member ('an **Applicant**'), may give notice to the FRA which last employed the Member concerned requiring the FRA to investigate their case. Any such notice must be given in writing (by post or by email).

2 Within 14 days of receipt, the FRA shall acknowledge receipt of any such notice in writing (by post or by email), and inform the Applicant:

2.1 either that the FRA accepts that the Applicant is entitled to a remedy under the Framework; or

2.2 explain why, in the FRA's view, the Applicant is not entitled to a remedy under the Framework.

3 If the FRA accepts that the Applicant is entitled to a remedy under the Framework, as soon as reasonably practicable and in any event within 62 days after receiving an application under paragraph 1, the FRA shall send to the Applicant:

3.1 In a Category 1 Case:

3.1.1 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the Member's Legacy Scheme;

3.1.2 a statement of the benefits that the Member would be entitled to receive if he or she retires under the rules of the 2015 Scheme; and,

3.1.3 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.

3.2 In a Category 2 Case:

3.2.1 a statement of the benefits that the Member would have received if he or she had retired under the rules of the Member's Legacy Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;

3.2.2 a statement of the benefits that the Member received or was prospectively entitled to receive under the rules of the 2015 Scheme, calculated as at the date of retirement or, in the case of a Member who left employment without an immediate pension, as at the date of leaving;

3.2.3 a statement of the arrears of pension and lump sum that the FRA will pay if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;

3.2.4 a statement of the arrears of contributions that will have to be paid or that will be reimbursed (if any) if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme;

3.2.5 a statement of any tax adjustments that will have to be made if the Applicant chooses to take benefits under the terms of the Member's Legacy Scheme (including details of any "scheme pays" election that the Applicant might be able to make); and

3.2.6 a form inviting the Applicant to choose to take benefits in accordance with the rules of the 2015 Scheme or the Member's Legacy Scheme.

4 If the Member's entitlements under their Legacy Scheme cannot be determined without further medical advice, the period between the date of the request for further medical advice and the date when that advice is received shall be ignored for the purposes of the timetable set out in paragraphs 2 and 3 above.

5 Once the FRA receives notice of the Applicant's election, and if the Applicant chooses to receive benefits under the rules of the Member's Legacy Scheme:

5.1 In a Category 1 Case, the Applicant's entitlements shall be progressed as "business as usual".

5.2 In a Category 2 Case, the FRA shall:

5.2.1 adjust the Applicant's pension debit if required to allow for any "scheme pays" election that the Applicant makes on account of any annual allowance charge that would have arisen if the Member had never been treated as a Member of the 2015 Scheme;

5.2.2 begin to pay benefits in accordance with the Legacy Scheme rules with effect from the next pension payroll date which is at least one month after the receipt of the Applicant's election;

5.2.3 as soon as reasonably practicable and in any event within 28 days after receipt of the Applicant's election, pay to the Applicant the arrears of pension and lump sum, calculated under 3.2.3 above and rolled forward to the date of payment, with interest calculated in accordance with the Framework to the date of payment, plus compensation for any excess contributions paid, after deducting:

(a) any arrears of contributions calculated under 3.2.4 above; and

(b) any additional tax required to be paid under PAYE on arrears of pension that would have arisen if the Member had never been treated as a Member of the 2015 Scheme.

If the deductions to be made under paragraph 5.2.3(a) and (b) exceed the arrears to be paid under 5.2.3, the FRA shall not be obliged to begin to pay benefits under the Legacy Scheme rules in accordance with 5.2.2 until a reasonable schedule for payment of the excess has been agreed between the Applicant and the FRA.

6 In a Category 2 case, no further action is required if the Applicant chooses to continue to receive benefits under the Rules of the 2015 Scheme.

7 Until the Applicant makes an election under paragraph 3.1.3 or 3.2.6, no further action is required.

8 Giving effect to the Applicant's election under paragraph 3.1.3 or 3.2.6 to receive benefits calculated in accordance with the Legacy Scheme rules shall be conditional on the Applicant signing and returning a settlement agreement substantially in the form of the record of agreed compensation and remedy set out in Annex 3 to the MoU.

9 The member and an FRA's commitment to adhere to the process and timeframes as set out above is in consideration of the Principles of Collaboration and the ongoing review of the Framework as provided for at clauses 3 and 7.2 of the MoU respectively.

ANNEX 3 – RECORD OF AGREED COMPENSATION / REMEDY

I [NAME OF MEMBER] have agreed with [NAME OF FRA] in its capacity as both an employer and scheme manager to receive compensation and/or a remedy in line with the framework set out in the MoU dated [DATE] between the LGA (on behalf of FRAs) and the FBU (on behalf of its members).

I am a "Category [1/2]" case.

I understand and agree that:

- the Government has proposed to make new legislation that is intended to provide me with the pension benefits that I could have received if the pension changes made in 2015 had not been made, but that new legislation may not come into force until October 2023;

- some of the issues relating to my pension benefits have not been fully resolved and will not be fully resolved until the new legislation comes into force in October 2023, and as a consequence some payments (including tax relief and some interest amounts) might be calculated and processed once the new legislation comes into force. These issues are noted in the table below;

- The compensation I have received will be taken into account for the purposes of the new legislation (to avoid a situation where I receive additional amounts under the new legislation which have already been compensated for under the agreed framework);

- I understand that survivor benefits under the 1992 Firefighters Pension scheme are payable only to a legal spouse or civil partner, meaning a partner with whom I have entered into a formal registered civil partnership. If I choose to receive benefits under the rules of the Firefighters' Pension Scheme 1992 and I am unmarried and not in a civil partnership at the date of my death then a survivor's pension will not be payable;

- The decision I make to receive benefits under the rules of the Firefighters' Pension Scheme 1992/ Firefighters' Pension Scheme 2006/ Firefighters' Pension Scheme 2015 [delete as applicable] is irrevocable. Neither I nor my dependants will be given an option to reconsider this decision once the new legislation comes into force;

- The way in which the issues relevant to my case are dealt with under the framework (as noted in the table below) amounts to a full and final settlement of my claim. I will not commence or continue any court or tribunal proceedings against [NAME of FRA] (in its capacity as employer or pension scheme manager) in relation to any matters that are covered by this agreement (other than a failure to abide by the terms of this agreement); and

The issues in my case have or will be addressed as follows:

[PARTIES TO INSERT RELEVANT ROWS FROM THE ANNEX 1 FRAMEWORK TABLE WITH AN ADDITIONAL COLUMN TO DOCUMENT THE ACTUAL PAYMENT, ADJUSTMENT AND/OR RECORD ALTERATION MADE FOR EACH SPECIFIC ISSUE FOR THAT MEMBER.]

Signed by [NAME of MEMBER] on [DATE]

Signed by [NAME] on behalf of [FRA] on [DATE]

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Local Government Association

Information

Immediate Detriment Framework (IDF) - Guidance for Fire and Rescue Authorities in their role as scheme managers

Version number	Date of publication
1.0	8 October 2021

The IDF has been developed and agreed by the LGA (in line with the decisions of the Steering Committee specifically set up to deal with matters arising from Sargeant) and the FBU based on the current understanding of the provisions contained for remedy in the Public Service Pensions and Judicial Offices Bill 2021. Its purpose is to provide a framework under which members in scope can receive benefits prior to all remedying legislation being in force, therefore avoiding significant additional numbers of Immediate Detriment legal claims as a result of the Sargeant age discrimination case.

This document makes reference to Category 1 (Cat 1) and Category 2 (Cat 2) cases. These are respectively those members who have not yet had benefits brought into payment and those who have had benefits brought into payment. The exception is members who did not qualify for ill-health retirement under the FPS 2015 and are not currently in receipt of benefits and are applying for FPS 1992 ill-health benefits, who are treated as Category 2.

Payments made under the IDF will either be a scheme payment and therefore from the pension fund account or an employer payment which cannot be met from the pension fund account. The table in Annex 1 sets out which payments are from the pension fund account and which are not.

It is for each Fire and Rescue Authority (FRA) as the relevant scheme manager within the Firefighters Pension Scheme (FPS) to adopt the IDF. FRA's are encouraged to do so particularly given the breadth and complexity of the matters covered, which will support a consistent approach across FRAs.

In considering its decision an FRA will also wish to take into account the risks in terms of potential legal claims should they not do so, given the FBU has previously indicated its intention to bring claims should it feel a case has not been dealt with correctly.

The FBU are of course party to the Memorandum of Understanding (MoU) which contains the Framework agreement and in that MoU they agree that where a member receives a remedy/compensation under the IDF they will not provide any financial or other support to the member to bring legal action relating to such remedy/compensation (they can of course back action where there is a dispute about whether the Framework has been applied correctly).

Adoption of the Framework

In considering the adoption of the IDF, the FRA should undertake the following steps immediately on the announcement of the framework agreement:

1. Obtain the necessary FRA agreement to make use of the IDF, involving the FRA's Nominated Contact for the purposes of the transitional protections claims. Although we understand that the FBU will be communicating the details of the IDF to their members, FRAs should ensure that they communicate the timeframe for this decision to all scheme members.

2. Notify their administrator of their intention to make use of the IDF and the timescales contained.

3. **The FRA will need to discuss with the administrator the necessary resourcing and/or re-prioritising or work to ensure the IDF can be delivered or if this is not possible arrange for alternative resourcing to deliver the IDF.**

4. If the decision is that the IDF will not be adopted, it will be for the FRA to make their own arrangements with regard to any claims and payments made by/to members in this area.

5. Once the IDF is adopted, scheme members should be made aware of their right to apply under the IDF and the local process for doing so through an appropriately widespread and proven means of communication. Such communications could include, for example, a note on payslips of all post 2015 pensioners and a page on the intranet for active members. They should also indicate that the scheme member will need to sign the Compensation Record (set out at Annex 3 of the MoU)

6. These communications should include at least the following information/ options:

   i. The dates and rules for being in scope.
   ii. The process for applying under the IDF – for example in writing/ by email/ completion of a form, and what information is required within the application. This could include the member's personal details, date of joining, FPS scheme they were a member of, any previous public service pension membership, and the basis for the application i.e. ill-health pension not in payment, or revision of normal retirement.

iii. The potential for delay if incomplete or inaccurate information is supplied by the member (for example if the member has public service pension membership that has not already been notified to the FRA).

Implementing the framework

Once the FRA has adopted the IDF, the steps below will need to be undertaken in respect of members who apply under it. Although some of these steps will be undertaken by the appointed scheme administrator on behalf of the FRA, the FRA as scheme manager is responsible in law for managing the scheme and paying benefits and as employer for the payment of any compensation.

This document should be read in conjunction with the IDF, and particular attention is drawn to timescales in Annex 4 of the IDF.

Step 1 Collect the data required to assess if member is in scope of the IDF

1. Date of commencement in the FPS.

2. If the date of commencement is after 31 March 2012 and before 1 April 2015, the date of leaving any public service pension scheme in condition iii. below prior to the date of commencement in the FPS (the member will have to provide this if there is no record).

3. If the member is applying for retrospective ill-health benefits under the FPS 1992 the original report of the Independent Qualified Medical Practitioner's (IQMP) report (Cat 2 only). Note that FRAs were advised in FPS Bulletin 28 to obtain IQMP assessments against both final salary and CARE schemes for current and new ill-health cases.

Step 2 Determine if member is in scope of the IDF

1. To be in scope a member must meet all of the following conditions:

   i. They must have pensionable service under FPS 2015 in the period beginning 1 April 2015 and ending 31 March 2022 (the remedy period).
   ii. That service would have been pensionable service under FPS 1992 or FPS 2006 but for the person's failure to meet the condition relating to the person's attainment of normal pension age by a specified date. (i.e., they are unprotected or tapered members).
   iii. They must have been, on 31 March 2012 or any earlier day, in service in any employment or office that is pensionable service under:
      a) a public service legacy scheme,
      b) a judicial legacy scheme or
      c) A local government legacy scheme.
   iv. There must not be a continuous break of 5 years or more without any pensionable service in the schemes listed in condition iii., from the last

day of pensionable service in condition iii. to the first day of pensionable service in condition i.

2. If the member is applying for retrospective ill-health retirement under the FPS 1992 in addition to meeting the conditions above, they must also meet the qualifying conditions for ill-health retirement in that scheme.

3. If a Category 1 member meets each of the conditions above, they should be informed within 14 days of application that they are in scope of the IDF and that their options and figures will be available at the time they take their benefits. Although the steps below are not immediately required in these cases, FRAs are advised to begin the process set out in step 3 to ensure they have the necessary data in place when the member does take their benefits. The remainder of the steps should be followed once the member has notified the FRA of their intention to retire.

4. If a Category 2 member meets each of the conditions above, they should be informed within 14 days of application that they are in scope of the IDF and that their options and figures will follow.

5. If the member does not meet the conditions above, they should be informed within 14 days of application that that they are not in scope of the IDF and the conditions which they did not meet.

Step 3 Data required for calculations of ID

FRAs are advised to read this section in conjunction with the Age discrimination remedy data collection guidance for administrators and FRAs.

1. Obtain a breakdown of the original benefit calculation to include:
   i. The FPS 2015 pension and lump sum
   ii. The total pensionable service, pensionable pay, commutation decision, pension, and lump sum in respect of the FPS 1992 or FPS 2006.

2. Determine the pensionable service which would have been accrued under the FPS 1992 or FPS 2006 during each year of the remedy period (the "remediable service"). For further information on pensionable service please see the Age discrimination remedy data collection - Guidance for administrators and FRAs.

3. Determine the appropriate pensionable pay and any Additional Pension Benefits (APBs) due for each year of remediable service. Any entitlement to a two-pension award should also be determined at this point. For further information on pensionable pay and two pensions please see the Age discrimination remedy data collection - Guidance for administrators and FRAs.

4. Determine the total gross contributions which were paid by the member during each year of remediable service

5. Determine the FPS 1992 or FPS 2006 employee contribution rates applicable to each year of remediable service as per the tables in the following links:

   FPS 1992 contribution rates 2015/16 - 2021/22

   FPS 2006 (standard) contribution rates 2015/16 - 2021/22

   FPS 2006 (special) contribution rates 2015/16 - 2021/22

6. Determine to what extent the member would have qualified for a contributions holiday during the remedy period. For further information on contribution holidays please see the Age discrimination remedy data collection - Guidance for administrators and FRAs

7. If the member is applying on health grounds, determine if they would have qualified for ill-health retirement under the FPS 1992. See FPS Bulletin 28 for more information on assessing current/ new or retrospective ill-health applications.

8. Obtain details of any transfers into the FPS 2015 scheme.

9. Obtain details of any contract in place to pay contributions for additional pension in the FPS 2015.

10. Obtain details of any divorce pension debit or scheme pays deductions in place.

Step 4 Determine any change in Annual Allowance (AA)

For some members the impact of treating them as if they had never left their previous final salary scheme might mean that they would have breached the annual allowance limits in former pension input period years.

1. For each pension input period calculate the opening balance and closing balance in respect of each year in the remedy period as if the member had remained in their relevant legacy scheme (FPS 1992 or FPS 2006).

2. Calculate the excess, if any, of the growth in each year (the difference between the opening and closing balance) over the relevant Annual Allowance limit including any carry forward.

3. Do the same calculations for the member based on the current mix of FPS 1992 or FPS 2006 plus FPS 2015 pension (the transitional benefits) and compare the two sets of values.

4. Further information on the Annual Allowance, including pension input periods, opening and closing balances, and carry forward can be found on the Annual Allowance page of the FPS member website or in HMRC Tax Manual PTM051100 - Annual allowance: essential principles.

Step 4A Determine the extent of an FPS 1992 or FPS 2006 breach of the AA limit

5. If the Annual Allowance limit is breached (or the breach is increased) because of FPS 1992 or FPS 2006 benefits calculate the relevant amount of new or increased pension deduction under mandatory scheme pays or voluntary scheme pays using the relevant scheme factors. Note that the member is only liable for any charge that would have arisen if they had remained in their legacy scheme throughout the remedy period.

Mandatory scheme pays (MSP)

6. Section 237B of the Finance Act 2004 allows MSP where:

i. the tax charge is over £2,000, and
ii. the individual is subject the standard annual allowance (currently £40k)
iii. this relates to a single scheme and to the immediately preceding tax year.

7. If the conditions are met, then the scheme administrator becomes jointly and severally liable (with the member) for the annual allowance charge and must pay this to HMRC within a given timescale. They must also make a consequential adjustment to the member's pension savings or their benefits under the pension scheme.

8. MSP can only apply to the immediately preceding tax year, so MSP cannot be used to pay breaches of annual allowance in previous years within the remedy period.

9. For periods within the statutory time limits, where an individual has already used MSP, pension debits for previous years can be adjusted to accommodate any revisions to the annual allowance charge owed.

Voluntary Scheme Pays (VSP)

10. Where in certain circumstances an individual cannot use MSP to pay a relevant HMRC tax charge, they may be able to use VSP, so called because the scheme can agree to voluntarily pay the tax charge and deduct from the member via the debit.

11. As a voluntary arrangement there are no conditions attached to it other than the scheme agreeing they can pay it.

12. However, under VSP the member is individually and solely liable and the charge must be paid within the normal HMRC rules for paying tax (31 January following the year of tax charge).

13. In May 2017, following legal advice a technical note was issued to confirm that FRAs were able to utilise VSP to pay tax charges on a member's behalf, and guidance was subsequently issued with FPS Bulletin 4 including election forms for the member and scheme manager.

14. FRAs may now wish to re-visit the decisions they made about allowing VSP, to amend the conditions they apply to payments under VSP.

15. For more information on calculating the scheme pays debit see the Tax charge debits (scheme pays) page on the FPS Regulations and Guidance website

Step 4B Determine the extent of an FPS 2015 breach of the AA limit

16. If the Annual Allowance was breached under the FPS 2015 benefits but is not breached or the breach is less under FPS 1992 or FPS 2006 benefits calculate any new amount of reduced pension deduction under mandatory scheme pays or voluntary scheme pays using the relevant scheme factors.

17. For more information on calculating the scheme pays debit see the Tax charge debits (scheme pays) page on the FPS Regulations and Guidance website.

18. If applicable, calculate the amount of compensation equal to the excess scheme pays deductions made as a result of 16 above since the member took their benefits.

Step 5 Calculate the difference in benefits payable (Category 2 only)

1. Calculate FPS 1992 or FPS 2006 pension and any lump sum as if the member had continued in that scheme until the date they retired.

2. These calculations should be performed using the original commutation decision made by the member. Note that the effect of the Bill provision is understood to effectively return the member back to immediately prior their benefits coming into payment so they could, if they wish, revisit the commutation decision made at the time and should be informed accordingly as set out below.

3. If the member has applied to have their ill health decision and/or benefits revisited under the IDF then the FRA should reassess the qualification for ill health under the FPS 1992, including obtaining an IQMP determination if this is not already available, and if appropriate calculate the amount of benefits payable under that scheme.

4. If the FPS 1992 or FPS 2006 benefits are higher than those currently in payment, calculate the amount of arrears of pension and lump sum due.

5. Calculate interest on the arrears of benefits payable to the member at a rate of 3% per annum simple. Note this interest will be subject to tax at 20%, and the FRA will need to deduct that on paying it to the scheme member. Interest on pension arrears must be calculated for each month or part month at 3% simple (without compounding), for the period between the date of the original monthly pension payment and the date of the arrears payment.

Step 6 Calculate the lump sum unauthorised payment charge and compensation

1. Calculate the revised unauthorised payment charge in respect of the arrears of lump sum relating to the excess over 25% (maximum tax-free cash).

2. Calculate the unauthorised payment charge in respect of late payment of the arrears of lump sum (if payable more than 12 months after the original date that the benefits came into payment).

3. The amount of unauthorised payment charge compensation is equal to the amount in respect of late payment but not that in respect of exceeding 25%.

4. The LGA's current understanding is that compensation for unauthorised payment charges in relation to late payments is not subject to tax and should therefore be paid without a deduction for tax. It is anticipated that legislation will confirm the position on tax in relation to compensation for unauthorised payment charges. Should this compensation be determined, either by legislation or HMRC prior to the laying of legislation, to be taxable the FRA will be required to further compensate the member for any tax which becomes payable.

Step 7 Calculate contributions owed by the member – FPS 1992 (ignoring any contribution holiday)

1. For each year of remediable service calculate the gross employee contributions due under the FPS 1992 using the appropriate pensionable pay and contribution rates. The effect of any contribution holidays should be ignored as any overpayment will be compensated for later in the process.

2. Compare the result with the actual gross contributions paid under the FPS 2015.

3. If the amount paid is less than amount due the member will owe an amount equal to the difference which they may elect to be deducted from any arrears of lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and to be given a reasonable time to pay based on their individual circumstances.

4. Category 1 members can pay arrears through their pay or as a deduction from their pension commencement lump sum (PCLS).

Step 8 – Calculate compensation for an amount equivalent to net contributions overpaid by an FPS 1992 or FPS 2006 member

1. It is important to be aware that this part of the process does not impact whatsoever on the amount of contributions paid into the scheme and does not constitute neither refund of contributions nor a reconciliation of tax as if the contributions had not been made. It is designed to compensate the member for contributions which were overpaid and will remain so.

2. **The amount calculated in 8A and 8B below is payable as compensation for overpaid contributions NOT as a refund of contributions.**

Step 8A – Calculate contributions owed to the member – FPS 2006

3. For each year of remediable service calculate the gross employee contributions due under the FPS 2006 using the appropriate pensionable pay and contribution rates.

4. Compare the result with the actual gross contributions paid under the FPS 2015.

5. If the FPS 2015 contributions are greater than the FPS 2006 contributions, calculate a best estimate of the net amount of contributions overpaid. This should be done using the marginal rate for the member at the time the contributions were deducted.

6. Calculate the gross compensation necessary to achieve the net figure in 5 above when applying the current marginal rate. If both rates are 20% the gross compensation will be the same as the gross contributions. If not, the gross compensation will need to be adjusted to result in the correct net outcome – see example below.

7. The amount deducted from the compensation should be withheld until the tax position of compensation is clarified by legislation. Is this does not happen before the tax becomes due, the FRA should contact the member to agree that it should be paid to HMRC on their behalf to avoid any tax liability falling on the member.

Examples of compensation calculation

Example 1

The member paid a gross excess contribution of £100 in a period when the member's marginal rate was 20%. The net overpayment was therefore £80.

The member's marginal rate now is also 20% so the amount of gross compensation required to achieve an outcome after tax of £80 is also £100

Example 2

The member paid a gross excess contribution of £100 in a period when the member's marginal rate was 40%. The net overpayment was therefore £60.

The member's marginal rate now is 20% so the amount of gross compensation required to achieve an outcome after tax of £60 is £75

Example 3

The member paid a gross excess contribution of £100 in a period when the member's marginal rate was 20%. The net overpayment was therefore £80.

The member's marginal rate now is 40% so the amount of gross compensation required to achieve an outcome after tax of £80 is £133

Step 8B – Contributions holiday for an FPS 1992 member

8. Under the terms of the FPS 1992 the maximum pensionable service that a member can accrue is 30 years' service, while the earliest point at which they can retire is at age 50. This means that some scheme members – mainly those who joined before age 20 – must continue to pay employee contributions beyond the point of accruing maximum pensionable service but before they are able to retire.

9. For example, if someone joined the scheme at 18 and paid contributions for 30 years by age 48, they would have accrued maximum pensionable service in the pension scheme yet could not retire until age 50.

10. The government introduced an employee contributions holiday for FPS 1992 members who accrue the maximum 30 years' pensionable service prior to age 50. This applies from the point of accruing maximum pensionable service in the scheme until the member's 50th birthday.

11. Calculate the gross amount of contributions which would have been payable by the member under the FPS 1992 including the effect of their contributions holiday during the appropriate years of remediable service.

12. Compare the result with the actual gross contributions paid under the FPS 2015.

13. If FPS 2015 contributions are greater than FPS 1992 contributions including the effect of the contributions holiday, then calculate a best estimate of the net amount of contributions overpaid and gross compensation using the same method as shown above for an FPS 2006 member.

14. The amount deducted from the compensation should be withheld until the tax position of compensation is clarified by legislation. Is this does not happen before the tax becomes due, the FRA should contact the member to agree

that it should be paid to HMRC on their behalf to avoid any tax liability falling on the member.

Step 9 – Inform the member of their options (including mandate for deducting unauthorised payment tax from lump sum and scheme pays) and await a decision

1. The member should be notified of the results of the calculations and their options within 62 days (unless a revised medical opinion is required) of the date of application, in particular:

   i. A statement of the benefits available under the FPS 1992 or FPS 2006, to include any dependents benefits available.
   ii. The amount of arrears of pension and lump sum if the FPS 1992 or FPS 2006 benefits are higher than those currently in payment (Cat 2 only).
   iii. Their right to revisit their original commutation decision, noting that such a revisit will delay the process as new calculations will be required (Cat 2 only).
   iv. The amount of any unauthorised payment charge due to exceeding the maximum tax-free lump sum.
   v. An estimate of any new, or increase or decrease in any existing, breach of the Annual Allowance together with any scheme pays deduction.
   vi. The amount of underpaid gross contributions which will be deducted from the arrears of lump sum (or PCLS for Cat 1 members).
   vii. The amounts of any compensation for late payment of lump sum unauthorised payment charges, overpaid contributions, or excess scheme pays deductions.
   viii. The amount of interest on the appropriate elements of the above amounts.

2. The member should also be provided with:

   i. The option to elect for benefits under the IDF and the Compensation Record (set out at Annex 3 of the MoU).

   ii. A mandate for deducting unauthorised payment charges from the lump sum arrears.

   iii. The option to deduct any underpaid gross contributions from the arrears of lump sum or PCLS. If the member does not elect for this, they must be informed that they will be required to pay the gross amount of contributions to the FRA directly.

   iv. The option to confirm no change to the original commutation decision. If the member wishes to change their commutation decision, they

should be notified that further calculations will be required which will delay the payment of arrears.

Step 10 – Payment of sums due

The process for payment will depend which category the member is in.

Step 10A – Business as usual (Cat 1)

1. Category 1 members making a benefit election shall be processed as business as usual in line with an FRAs normal timescales/ dates for payment.

Step 10B – Revise the pension in payment (Cat 2)

2. Category 2 members making an election for legacy scheme benefits will have their pension in payment adjusted from the next pension payroll date, at least one month after the FRAs receives the election.

Step 10C – Arrears of pension and lump sum (Cat 2)

3. Arrears of pension and lump sum should be paid to the member within 28 days of their election.

4. The amount payable in respect of arrears of pension shall be made up of the total of pension underpaid relating to the remediable service plus interest at 3% simple less any new or increased deduction for scheme pays. Where possible this should be paid via the payroll in order to ensure the correct tax is taken. If this is not possible the member should be informed that they must declare the arrears as taxable income.

5. The amount payable in respect of lump sum shall be made up as follows:

   i. The amount of underpaid lump sum
   ii. Plus interest at 3% simple
   iii. Less any mandated unauthorised payment deductions
   iv. Less any amount of underpaid gross contributions
   v. Plus any compensation

Governance

1. FRAs will need to ensure that the details of calculations, how they applied before remedy, and the underpinned benefits on the reformed basis are properly recorded to enable any rectification needed or answer questions once the legislation comes into force.

2. Local Pension Boards (LPBs) may want to consider what assurances they can seek that additional processes are in place to check decision making.

3. LPBs will also want to assure themselves that TPR requirements are being complied with. Particularly to ensure:

i. The policies in place to support the six key processes TPR use to measure performance are updated to ensure they take account of immediate detriment decision making and payments.
ii. How breaches of law will be recorded and reported to TPR.
iii. How immediate detriment data will be measured as part of the TPR data scoring requirements, without automated systems, and methods to record the data.

Local Government Association

ANNEX 1 payments

Issue	Category 1 cases	Category 2 cases	Payment type
Shortfall in retirement lump sum and past pension payments	Retirement lump sum and benefits paid on retirement through Legacy scheme (so that no shortfall arises).	Pay as lump sums (comprising pension lump sum and arrears lump sum likely made in two payments)through the 1992 scheme (as arrears). Pension arrears will be subject to PAYE, but if any additional income tax is payable by the member that would not have been payable if the member had never been treated as a member of the 2015 Scheme, the FRA will compensate the member for that tax liability.	Scheme benefit payable from the pension fund account under Section 61 Equality Act
Interest on shortfall in retirement lump sum and past pension payments	No interest due because correct lump sum andpension benefits will be paid on retirement.	Interest paid at 3% p.a. simple, from the date lump sum / benefits should have been paid.	Non scheme benefit. Compensation for loss payable under section 92 of the Local Government Act 2000 and Article 7(7) of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.
Employee contributions: 1992 Scheme	Member pays shortfall (since 2015) through payor as a deduction from retirement lump sum.	Member pays any shortfall (since 2015) as a deduction from retirement lump sum. If no lump sum is payable, the member will need to pay any contributions owed from their own resources and tobe given a reasonable time to pay based on their individual circumstances.	N/A

Employee contributions: 2006 Scheme	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	Non scheme benefit. Compensation for loss payable under section 92 of the Local Government Act 2000 and Article 7(7) of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.
Tax relief on employee contributions	Process through PAYE to the extent possible if time/amount allows. If time does not allow, then any tax relief not collected through PAYE will be calculated and paid when the remedying legislation is in force. FBU and FRAs will encourage members to give as much notice of retirement as possible to facilitate payment through PAYE.	Compensation for any tax relief foregone will be paid to the individual when the remedying legislation is in force. So, for now, individuals will pay the gross amount of contributions due.	N/A – will be dealt with when legislation is available
Interest payable on adjusted employee contributions (1992 Scheme)	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). If tax relief was not processed through PAYE (because time/amount did not allow), where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amounts will be deducted from that payment.	Interest to be paid by the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation). Where the individual is due to receive a future payment to compensate him or her for the tax relief foregone, the interest amount will be deducted from that payment.	N/A

Interest payable on adjusted employee contributions – compensatory amount (2006 Scheme)	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	Interest to be paid to the individual once the remedying legislation is in force (and at the rate specified in directions made under that legislation).	N/A – will be dealt with when legislation is available
Contribution holidays: excess employee contributions	Compensation for excess contributions to be paid on retirement. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	FRA to pay compensation for excess contributions. Amount paid will be FRA's best estimate of an amount equivalent to the net contributions paid by the member.	Non scheme benefit. Compensation for loss payable under section 92 of the Local Government Act 2000 and Article 7(7) of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.
CETVs and added pension	If an issue arises, then look at it at that point. Individual and FRA will work together to agree a holding compromise that the CETV/added pension will stay in the 2015 scheme until the legislative solution arrives.	Deal with as and when arises.	N/A
Annual Allowance charges	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had	Recalculate pension input amount for each year of remedy. If an annual allowance charge would have arisen if the individual had not been transferred to the 2015 Scheme, the charge remains payable by the member (through scheme pays or otherwise). If an annual allowance charge would not have arisen (or a lesser charge applied) if the member had not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for any	Non scheme benefit. Compensation for loss payable under section 92 of the Local Government Act 2000 and Article 7(7) of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012. Only relates to compensation for AA charges that would not have arisen save for the discrimination.

	not transferred to the 2015 Scheme, the member will pay that charge and the FRA will compensate the member for the annual allowance charge that is demanded (or any excess over the lesser charge that would have applied).	annual allowance charge that is demanded (or any excess over the lesser charge that would have applied).	
Scheme pays (MSP/VSP)	Member pays tax through VSP for statutory taxyears for which it becomes due.	Member pays tax through VSP for statutory taxyears for which it becomes due.	N/A
Converting scheme pays debits	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.	FRA to recalculate the pension debit as if taken at time of original scheme pays election using actuarial factors applicable at time.	N/A
Converting pension sharing debits	Deal with on a case-by-case basis as issues arise.	Deal with on a case-by-case basis as issues arise.	N/A
Dependents	Deal with on a case-by-case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Deal with on a case-by-case basis as issues arise (and in accordance with the timeframes set out in Annex 2 where reasonably practicable).	Scheme benefit payable from the pension fund account under Section 61 Equality Act
Taper members	Tapering to stop (because that is the only step thatis consistent with the ET decision).	Tapering to stop (because that is the only step thatis consistent with the ET decision).	N/A
Unauthorised payments	N/A	The FRA will compensate the member for unauthorised payment charges which the member has had to pay and which he or she would not have had to pay if the member had not transferred to the 2015 Scheme.	Non scheme benefit. Compensation for loss payable under section 92 of the Local Government Act 2000 and Article 7(7) of The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012.

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