

Purpose and summary

To consider the final budget and levy for 2012/13.

Key issues

- The Budget Statement is attached for final approval (**Annex A**).
- The budgets are as seen by the Board in December but with adjustments as set out in the paper.
- The Mayor's response to the draft Budget Statement is due to be received by 31st January 2012.
- Any annual cost of living pay uplift for 2012 is to be added to the budget.

Recommendation

Board are asked to:

- [1] **Approve the budgets for income and expenditure, included in the Budget Statement for 2012/13 (Annex A1, A2 and A3).**
- [2] **Approve the levies for 2012/13 of £10,318k on all borough councils in Greater London and the City of London and £13,065k on all borough councils in Inner London and the City of London (Annex A3(i)).**
- [3] **Note the draft savings plan at Annex B.**
- [4] **Note the position on reserves (Annex C).**
- [5] **Approve the council tax information to be provided to London boroughs (Annex E).**
- [6] **Approve, in accordance with section 3(1) of the Local Government Act 2003, the borrowing limit be set at £10m as the maximum amount the Authority can afford to borrow and that this limit be kept under review (Annex D).**
- [7] **Approve the Budget Statement being supplied as a public document to the GLA and London local authorities, and other interested parties.**

Compliance checks

Governance issues:

This document is produced under Standing Order 14 and is required to be published to the Mayor under s402 GLA Act.

Equalities impact:

Equalities remain a key element of current strategy.

Financial implications:

As reported.

Social, environmental, health and ethical issues:

None identified.

Legal implications:

As reported.

Communication issues:

A final version of the Strategic Policy Statement should be sent to the Mayor by 31st March

Risk implications:

As reported.

Other relevant / supporting documentation:

Annex A1 ~ Operational budget
Annex A2 ~ Pension fund
Annex A3 ~ Residual liabilities
Annex B ~ Savings plan
Annex C ~ Reserves
Annex D ~ Borrowing Limit
Annex E ~ Council Tax information
Annex F ~ Key legal issues

Freedom of Information Act 2000 ~ LPFA Publication Scheme

This document appears in the Publication Scheme under:

PUBLIC

Category: LPFA Financial Management

Class: Financial planning

Topic: Budget statement 2012/13

FINAL BUDGET DECISIONS 2012/13

Introduction

1. The draft Budget 2012/13 was considered by the Board in December and submitted to the Mayor of London for comment. The formal response from the Mayor is on the agenda.
2. The final Budget 2012/13 is largely the same as that seen by the Board in December, the changes are described below.

Operational budget

3. Whilst the bottom line of the Operational Budget has not changed, there have been several amendments to the composition of the budget.
4. There is one item of growth. The ICT budget included an additional computer programmer for two months in 2012/13 as agreed in last years budget. However, with the loss of this programmer the ICT department would not have the resources to implement all of the various improvements proposed for next year. It is proposed to retain the programmer post for the whole year at a cost of £53k. The original budget included £8k for the first two months, leaving a net increase to the budget of £45k. This can partly be met from additional savings identified below. However, it is proposed that the balance of £25k be met from the Invest to Save Reserve, as the programmer will be spending a large proportion of their time on efficiency projects.
5. The draft budget included a saving in facilities management staffing of £23k. After further investigation it has not proved viable to fully implement these changes and only £11k will be saved in 2012/13, reducing to £8k in later years. This increases the budget by £12k in 2012/13, and £15k in later years. This can be met from savings identified below.
6. There has been a reorganisation of staff in the Commercial Services and ICT departments. This has led to a saving of £17k in 2012/13, increasing to c£27k in later years.
7. The draft budget included a saving of £20k in our pension contributions due to members of the CMT opting out of the scheme. This was a conservative estimate, which can be increased to £35k in 2012/13, an increased saving of £15k. Budgets will have to be increased should there be recruitment to these posts, and savings for future years have been reduced to reflect this.
8. Discussions with the GLA continue over the level of further savings that will be required in future years. However developments that are expected to deliver savings include
 - Continued development of the Case Management System (CMS);
 - Further roll out of front end scanning;
 - Further development of the year end system, for fund employers, with improved automation;
 - Redevelopment of the life certificate process;
 - Implementing Altair on-line for members;
 - Wider use of the Management Information System (MIS); and
 - Improved integration of finance systems, following implementation of new systems in HR, payroll and finance.
9. The amendments to the budget are summarised in the table below, and the attached Annexes have been amended to reflect these changes.

Operational Expenses	2012-13 £000	2013-14 £000	2014-15 £000
Draft Budget	6,225	6,317	6,217
Growth - IT post	45	0	0
Facilities Saving not Achieved	12	15	15
Additional Staff Reorganisation Saving	(17)	(27)	(26)
Additional Pension Contribution Saving	(15)	(5)	(5)
Net	6,250	6,300	6,201
Additional Funding from Invest to Save Reserve	(25)	0	0
Final Budget	6,225	6,300	6,201

Savings

10. The budget includes net efficiency and other savings for 2012/13 of £246k – the same level presented in the draft budget. The savings plan is at **Annex B**. This will be used to monitor the delivery of the savings during the financial year, and will be reported to Audit Committee as part of the routine financial monitoring.

Pay award

11. The budget does not include any provision for a pay award. The CMT recommendation is for an award of 0%, in line with the pay freeze in the public sector generally. The pay award is to be discussed under Part 2 of the agenda. The impact of different levels of pay increase is considered below.

Increase	Pay £'000	ERNIC & Supn. £'000	Total £'000
¼%	11	2.5	13.5
½%	22	5	27.0
¾%	33	7.5	40.5
1%	44	10	54

Once the level of the pay award has been agreed the cost implications will be added to the Operational Budget, which would increase the charge to the Pension Fund.

Commercial Operations

12. The cost of commercial operations has now been separated from LPFA operations to provide clear budgets for each element. The commercial operations costs include costs that are attributable to the contracts including direct costs on individual contracts such as staff and Axise/Altair costs, as well as staff working on contracts more broadly including one director post. The draft budget included a contribution to the pension fund/LPFA operations costs of £150k. This has been increased by £6k to £156k due to the savings from reorganising the commercial services team. The budget is based on current plans, which are being reviewed by the interim Commercial Director. Future plans will be considered in more detail at the Board Awayday in March. **Annex A4** sets out the budget split between the LPFA and Commercial operations.

Reserves

13. The Board has approved the establishment of a number of reserves and the use of these is monitored by Audit Committee. The table at **Annex C** sets out the opening and closing positions on all reserves for 2012/13. This has been amended for the proposed use of the Invest to Save reserve

Capital

14. The capital budget for 2012/13 is £300k, as reported in the draft budget paper. The budget will be monitored through routine reports to Audit Committee.

Pension fund

15. The estimates for the Pension Fund are as reported in the draft budget except for the reduced funding of management expenses in later years, due to the savings above.

The pension fund figures are not, in the majority of cases, subject to decisions on an annual basis. The budget figures are based on decisions already taken including the investment strategy and contributions rates following the valuation, or are outside the LPFA's control, such as transfers in and out of our scheme and the value of retiring allowances. Any changes to future years' budgets would be made following cashflow discussions with the actuary, and in particular following the 2013 valuation.

Legal issues

16. A statement of the key legal issues for the Board to consider in setting a budget was included in the paper on the draft budget and is provided again in **Annex F** to this report.

Residual liabilities

17. The legal issues also refer to the deadline for the issue of the levy before 14th February. Whilst some general uncertainties will remain over the estimates included in the budget, these are not expected to change materially before the 14th and so it is the intention to issue the levy notices following the Board's final decisions.

The overall key proposals on the levy are at **Annex A3** and show no change from the draft budget, and are held at the level in the previous year.

18. The schedule of the levy distribution between Boroughs is not yet finalised as not all Boroughs have submitted their revised council tax base figures. The final schedule will be available at the meeting.
19. In addition to the Budget Statement and formal levy data, it is intended to provide Boroughs with a short insert for inclusion in the information that they will be required to supply to council taxpayers in their area. The proposed insert which the Board is asked to agree is in a similar form to last year and is set out in **Annex E**.

Borrowing limit

20. In accordance with section 3(1) of the Local Government Act 2003 the borrowing limit needs to be set for 2012/13, with reference to the Prudential Code 2011. In meeting the requirements of the Local Government Pension Scheme Investment Regulations, to have separate bank accounts for the pension fund, and to aid transparency in our residual liability accounts, we now have separate bank accounts for the pension fund, residual liabilities and the operational accounts. It is proposed that the total borrowing limit remain at £10m but this now be split £5m pension fund, £3m residual liabilities and £2m operational accounts. The details are at **Annex D**.

Robustness of estimates

21. The estimates contained in the budget statement are in the opinion of the Director of Finance robust and the provision held in reserves adequate.

Operational Expenses	2011/12 Forecast	2011-12 Original Budget	Movement Year on Year	2012-13 Draft Budget	Changes	2012-13 Final Budget	Movement Year on Year	2013-14 Draft Budget	Movement Year on Year	2014-15 Draft Budget
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Board Expenses	165	170	(20)	150	0	150	0	150	(2)	148
Staff Expenses	6,377	6,596	(868)	5,728	25	5,753	(97)	5,656	8	5,664
Premises	1,231	1,199	6	1,205	0	1,205	(5)	1,200	(10)	1,191
Information Technology	873	651	186	837	0	837	29	866	19	886
Other Expenses	573	561	(104)	457	0	457	70	527	(75)	452
Office Expenses	465	450	(35)	415	0	415	65	479	(16)	463
VAB Expenditure	22	38	(12)	26	0	26	0	26	0	26
Sub-total	9,707	9,664	(847)	8,817	25	8,843	61	8,904	(75)	8,829
Income	(158)	(72)	(49)	(121)	0	(121)	0	(121)	0	(121)
Agency Income	(2,525)	(2,798)	603	(2,195)	0	(2,195)	105	(2,090)	0	(2,090)
VAB Income	(301)	(200)	(130)	(330)	0	(330)	(25)	(355)	(53)	(408)
Sub-total	(2,984)	(3,070)	424	(2,646)	0	(2,647)	80	(2,566)	(53)	(2,619)
Net	6,722	6,594	(423)	6,171	25	6,196	141	6,338	(128)	6,210
General Reserve	100	(10)	10	0	0	0	0	0	0	0
Organisational Development	(110)	0	27	27	0	27	13	40	0	40
Business Reserve	0	135	(135)	(0)	0	0	0	0	0	0
Invest to Save Reserve	0	0	0	0	(25)	(25)	25	0	0	0
Premises reserve	0	0	(8)	(8)	0	(8)	0	(8)	(76)	(84)
Contribution to Earmarked Reserves (valuation)	35	35	0	35	0	35	(105)	(70)	105	35
Management Expenses charged to Pension Fund	(6,222)	(6,257)	529	(5,728)	0	(5,728)	(75)	(5,803)	99	(5,704)
Management Expenses charged to Residual Liabilities	(497)	(497)	0	(497)	0	(497)	0	(497)	0	(497)
Net Operational Expenses	28	(0)	0	(0)	0	0	(0)	0	(0)	0

Pension Fund

	2011/12 Forecast £000s	2011/12 Budget £000s	Year on Year Movement £000s	2012/13 Draft Budget £000s	Year on Year Movement £000s	2013/14 Draft Budget £000s	Year on Year Movement £000s	2014/15 Draft Budget £000s
Contributions Receivable	(172,128)	(179,246)	(1,612)	(180,858)	0	(180,858)	0	(180,858)
Transfers in	(37,793)	(38,989)	13,989	(25,000)	0	(25,000)	0	(25,000)
Contributions to the Fund	(209,921)	(218,235)	12,377	(205,858)	0	(205,858)	0	(205,858)
Admin and Actuarial costs	177	73	18	91	0	91	0	91
Pensions Payable	202,984	204,757	8,141	212,898	5,322	218,221	5,456	223,676
Retirement Grants	38,270	34,886	7,384	42,270	0	42,270	0	42,270
Death Grants	2,658	2,658	0	2,658	0	2,658	0	2,658
Transfer Values Payable	43,642	42,000	500	42,500	0	42,500	0	42,500
Refunds to Contributors	17	26	(12)	14	0	14	0	14
LPFA Management Costs	6,222	6,257	(529)	5,728	75	5,803	(99)	5,704
Investment Manager Fees	11,058	9,953	829	10,782	270	11,051	276	11,328
Benefits Payable	305,029	300,610	16,331	316,941	5,667	322,608	5,633	328,241
Investment income	(39,053)	(43,784)	1,431	(42,352)	0	(42,352)	0	(42,352)
Net (Incr)/Decr in Fund	56,055	38,592	30,139	68,731	5,667	74,398	5,633	80,030

Residual Liabilities	Greater London	Inner London	Greater London	Inner London	Greater London	Inner London	Greater London	Inner London	Greater London	Inner London
	2011/12	2011/12	2011/12	2011/12	2012/13	2012/13	2013/14	2013/14	2014/15	2014/15
	Forecast £000s	Forecast £000s	Budget £000s	Budget £000s	Draft Budget £000s	Draft Budget £000s	Draft Budget £000s	Draft Budget £000s	Draft Budget £000s	Draft Budget £000s
Non Funded Pension Retirement	7,818	12,965	7,904	13,295	8,135	12,983	8,146	13,243	8,054	12,866
Direct Costs	(9)	(16)	315	53	308	50	308	50	308	50
LPFA Management Expenses	299	198	299	198	299	198	299	198	299	198
Expenditure	8,109	13,146	8,518	13,545	8,742	13,231	8,753	13,491	8,661	13,114
Income from HEFCE	0	(670)	0	(670)	0	0	0	(692)	0	(672)
Interest	(217)	(9)	(200)	(10)	(200)	(10)	(200)	(10)	(200)	(10)
Income	(217)	(679)	(200)	(680)	(200)	(10)	(200)	(702)	(200)	(682)
Net Expenditure	7,892	12,467	8,318	12,865	8,542	13,221	8,553	12,789	8,461	12,432
Contribution to/(from) Balances & Provisions	2,426	598	2,000	200	1,776	(155)	1,764	277	1,856	634
Levy	10,318	13,065	10,318	13,065	10,318	13,065	10,318	13,065	10,318	13,065

Total Levy 2011/12 £		Council Tax Base 2012/13	Greater London Levy £	Inner London Levy £	Total Levy 2012/13 £	Estimated % Change
	Inner London					
88,343	Corporation of London	6,067	20,528	67,310	87,838	-0.57%
1,412,894	Camden	97,350	329,365	1,079,963	1,409,328	-0.25%
1,164,278	Greenwich	81,019	274,112	898,794	1,172,906	0.74%
1,112,954	Hackney	76,093	257,446	844,146	1,101,592	-1.02%
1,167,159	Hammersmith & Fulham	82,140	277,905	911,229	1,189,134	1.88%
1,286,644	Islington	89,782	303,760	996,006	1,299,766	1.02%
1,455,691	Kensington & Chelsea	99,699	337,312	1,106,022	1,443,334	-0.85%
1,557,095	Lambeth	106,459	360,184	1,181,015	1,541,199	-1.02%
1,294,231	Lewisham	88,487	299,379	981,640	1,281,019	-1.02%
1,447,908	Southwark	100,031	338,437	1,109,709	1,448,146	0.02%
1,300,521	Tower Hamlets	90,828	307,299	1,007,610	1,314,909	1.11%
1,856,084	Wandsworth	128,358	434,275	1,423,954	1,858,229	0.12%
1,900,357	Westminster	131,409	444,597	1,457,801	1,902,398	0.11%
17,044,159		1,177,723	3,984,599	13,065,199	17,049,798	0.03%
	Greater London					
180,026	Barking & Dagenham	53,087	179,609		179,609	-0.23%
476,858	Barnet	143,178	484,415		484,415	1.58%
287,367	Bexley	84,605	286,245		286,245	-0.39%
332,066	Brent	98,398	332,911		332,911	0.25%
455,255	Bromley	134,061	453,570		453,570	-0.37%
436,789	Croydon	129,148	436,947		436,947	0.04%
405,816	Ealing	119,685	404,931		404,931	-0.22%
376,325	Enfield	110,214	372,888		372,888	-0.91%
295,583	Haringey	86,567	292,883		292,883	-0.91%
297,566	Harrow	88,140	298,205		298,205	0.21%
306,280	Havering	90,139	304,968		304,968	-0.43%
338,438	Hillingdon	100,236	339,129		339,129	0.20%
296,508	Hounslow	86,838	293,800		293,800	-0.91%
214,615	Kingston	63,168	213,717		213,717	-0.42%
254,332	Merton	74,816	253,126		253,126	-0.47%
258,279	Newham	77,030	260,616		260,616	0.90%
310,255	Redbridge	91,170	308,456		308,456	-0.58%
304,884	Richmond	89,992	304,471		304,471	-0.14%
252,478	Sutton	74,141	250,840		250,840	-0.65%
259,071	Waltham Forest	77,269	261,425		261,425	0.91%
6,338,791		1,871,882	6,333,152	-	6,333,152	-0.09%
23,382,950	Total all Boroughs	3,049,604	10,317,750	13,065,200	23,382,950	0.00%

Operational Expenses	Commercial Operations	LPFA Operations	Total
<u>2012/13</u>	£000	£000	£000
Board Expenses	0	150	150
Staff Expenses	1,848	3,905	5,753
Premises	0	1,205	1,205
Information Technology	324	513	837
Other Expenses	29	428	457
Office Expenses	162	253	415
Other VAB Expenditure	26	0	26
TOTAL Expenditure	2,388	6,455	8,843
Agency Income	(2,195)	0	(2,195)
Income	(20)	(102)	(121)
VAB Income	(330)	0	(330)
Total	(156)	6,353	6,196
Reserves	0	29	29
GRAND TOTAL	(156)	6,382	6,225

<u>2013/14</u>			
Total Expenditure	2,308	6,596	8,904
Total Income	(2,465)	(101)	(2,566)
Reserves	0	(38)	(38)
GRAND TOTAL	(157)	6,458	6,300

<u>2014/15</u>			
Total Expenditure	2,360	6,469	8,829
Total Income	(2,518)	(102)	(2,619)
Reserves	0	(9)	(9)
GRAND TOTAL	(158)	6,358	6,201

Proposed budget savings 2012/13

ANNEX B

Budget Head	£000	Narrative	Budget Manager
Growth			
Loss of Hammersmith&Fulham/Brent contracts	194	Reduction in income net of costs	Commercial Director
Increased depreciation costs	105	In line with with capital spending profile and implementation of Altair.	Corporate Accountant
Contractual inflation	10	Where defined in contracts	All
IT Computer support	67	Greater than expected Axis costs, new contracts.	ICT Manager
IT Programmer extension	45	Additional resource required to implement ICT strategy	ICT Manager
Recruitment	22	CMT post	HR Manager
General reserve	10	Contribution from reserve no longer required	Corporate Accountant
Business Reserve	27	Re-imbursement of reserve re HR restructure	Corporate Accountant
Total Growth	479		
Savings			
One-off items in 2011-12	(148)	Posts in relation to implementation of new contracts	Business Improvement and Programme Manager/ ICT Manager
One-off items in 2011-12	(135)	Business reserve contribution to fund new contract work	Corporate Accountant
Sub-total	(283)		
Staff costs	(93)	Pension services reductions re streamlined processes	Pension Services Manager
Staff costs	(13)	Employer Services - maternity leave covered within existing resources	Employer Services Manager
Staff costs	(11)	Facilities reduced scanning requirement	Corporate Development Manager
Staff costs	(166)	Commercial contracts restructure	Commercial Director
Business Development	(87)	Set-up costs no longer required	Commercial Director
Printing, Postage and Comms	(116)	Increased use of new processes, e-mail, scanning and web-based products	Corporate Development Manager
Staff costs	(35)	CMT pension opt-out	Director of Finance
Board Costs	(23)	Investment advisors charged to Pension fund	Corporate Development Manager
Telephones	(6)	Planned reduction in handsets and associated costs	ICT Manager
Meetings	(3)	Reduce external meeting/catering requirements	Corporate Development Manager
Legal fees	(30)	Reduced requirement, better nmanagement of contract	HR Manager
Use of Invest to Save Reserve	(25)	To part fund ICT programmer extension	ICT Manager
Actuarial fees	(15)	Reduced usage	Employer Services Manager
Sub-total	(622)		
Income Related			
Training Charges	15	Expected increase not achieved	Commercial Director
Interest Received	5	Expected rate rises have not materialised	Corporate Accountant
Fund member charges	(60)	Additional Charges to Employers	Employer Services Manager
Commercial contracts charges	(10)	Additional Charges over and above contractual rates	Commercial Director
VAB income	(53)	Additional surplus net of 2 new posts and other costs	Commercial Director
Sub-total	(103)		
Total savings	(1,007)		
Total	(529)		

Forecast Reserves

Reserves	Business	General	Premises	Valuation	Org'l Develop't	Invest to save	Total
	£000	£000	£000	£000	£000	£000	£000
01/04/2011	86	172	100	0	140	76	574
Changes	0	72	0	35	(110)	0	(3)
31/03/2012	86	244	100	35	30	76	571
Changes	0	0	(8)	35	27	(25)	29
31/03/2013	86	244	92	70	57	51	600
Changes	0	0	(8)	(70)	40	0	(38)
31/03/2014	86	244	84	0	97	51	562
Changes	0	0	(84)	35	40	0	(9)
31/03/2015	86	244	0	35	137	51	553

The **business reserve** is funded from, and used to support, commercial activities

The **premises reserve** is to be used to support work relating the end of the existing lease at Dexter House in December 2014 and the identification of new premises (if required).

The **valuation reserve** is to support the higher costs of actuarial work in a valuation year, the reserve being built up in the other two years.

The **organisational development reserve** is used to support changes to the organisation in particular the costs of staff departures.

The **invest to save reserve** is funded from some of the surplus from Value Added Business (over that budgeted) and is used to support staff suggestions for projects that will lead to savings in future years.

The use of the general reserve and the business reserve is to be approved by the Audit Committee. The use of earmarked reserves (premises, valuation, organisational development and invest to save) is approved by the Corporate Management Team and reported to Audit Committee.

Borrowing Limit

Legal background

Affordable borrowing limit

LPFA has a duty to set an affordable borrowing limit and to do so with reference to the CIPFA Prudential Code. The statutory requirement is contained in Section 3 (1) of The Local Government Act 2003 Act.

The Prudential Code has been reviewed and revised as the 2011 edition, but the duty placed on local authorities has not substantially changed, particularly in relation to the LPFA.

Section 3 of the 2003 Act

Subsection (1) provides that 'A local authority shall determine and keep under review how much money it can afford to borrow'. The purpose of such a determination is in effect to limit the power of a local authority to borrow to the amount of its affordable borrowing limit as determined under Section 3.

Subsection (8) provides that a local authority's function under subsection (1) shall be discharged only by the authority; in LPFA's case the affordable borrowing limit must be determined by the Board.

The effect of Section 3 is therefore that LPFA Board is under a duty to make a determination of the Authority's affordable borrowing limit.

The Prudential Code for capital finance in local authorities

The prudential capital finance system relies on the provisions of Part 1 of the Local Government Act 2003.

Objectives

The key objectives of the Prudential Code are to ensure within a clear framework that

- capital investment plans of local authorities are affordable, prudent and sustainable; and
- treasury management decisions are taken in accordance with good professional practice.

Prudential Indicators

To demonstrate that authorities have fulfilled these objectives, the Prudential Code sets out the indicators that must be used and factors to be taken into account. The Code does not include suggested limits or ratios, as these are for the local authority to set.

The prudential indicators for the forthcoming year and following years must be set before the beginning of the year. They may be revised at any time, following due process, and must be reviewed and revised if appropriate, for the current year when the prudential indicators are set for the following year.

Analysis

In all material respects, the authority is not affected by the practice and the Code.

1. LPFA levies finance the payment of statutory compensation following the abolition of the former GLC and ILEA. The levies are not a function of capital financing decisions.
2. The Authority does not borrow to fund either annual running costs or capital investment (met from revenue).
3. The Authority has an integrated treasury management strategy in which investments are managed in accordance with the Code of Practice for Treasury Management in Public Services, published by CIPFA.

Temporary Borrowing

In the context of the 2003 Act, there is a power for the Authority to borrow temporarily against future income yet to be received, provided the delayed receipt of such future income was not taken into account in the setting the affordable borrowing limit.

This power is now contained in Section 5 of the Local Government Act 2003 which applies to LPFA by virtue of Regulation 32 of the Local Government (Capital Finance and Accounting) (England) Regulations 2003.

Duty to determine an affordable borrowing limit

Whilst the LPFA's lack of need to undertake external borrowing renders much of the Code inapplicable to it, the legislation still imposes a duty to set an Affordable Borrowing Limit. LPFA should demonstrate proper consideration so, although the Authority does not generally need to borrow, other than for temporary purposes, a notional amount of £5m for the Pension Fund, £3m for Residual Liabilities and £2m for Operational activities is proposed.

The Director of Finance reports that the Authority has had no difficulty in terms of limits formerly set, nor, are any difficulties envisaged for current or future years. This view takes into account current commitments, existing plans and proposals in the budget report. In accordance with Section 3(1) of the Local Government Act 2003 (the duty to determine an affordable borrowing limit) the borrowing limit be set for 2012/13 at £5m for the Pension Fund, £3m for Residual Liabilities and £2m for Operational activities (a total of £10m as in 2011/12) as the maximum amount LPFA can afford to borrow and keep this limit under review.

Council tax information 2012/13

The London Pensions Fund Authority (LPFA) raises a levy each year to meet expenditure on premature retirement compensation and outstanding personnel matters for which LPFA is responsible and cannot charge to the pension fund. These payments relate to former employees of the Greater London Council (GLC), the Inner London Education Authority (ILEA) and the London Residuary Body (LRB).

For 2012/13, the income to be raised by levies is set out below. The Greater London levy is payable in all boroughs, the Inner London levy only in Inner London Boroughs (including the City of London). The figures show the total to be raised and, in brackets, the percentage change on the previous year.

• Inner London	£13,065k	(0%)
• Greater London	£10,318k	(0%)
• Total	£23,383k	(0%)

Based on the experience of past years, the inclusion here of LPFA contact details results in enquiries directed to us which only relate to borough matters and not the levy, so they are omitted.

However, if you do receive any queries on this levy, please direct them to the LPFA at Dexter House, 2 Royal Mint Court, London EC3N 4LP

- ~ Tel: 020 7369 6013
- ~ Fax: 020 7369 6111
- ~ E-mail: corporate@lpfa.org.uk

In light of the above please do not publicise these details.

Key legal issues for determining the LPFA's budget and levy

Duty to Prepare a Draft Budget and Consult the Mayor of London

LPFA is under a duty to prepare a draft budget statement for each financial year and specifying the amount of any levy, which the LPFA proposes to make on any class of authority in respect of that year and submit the statement to the Mayor on or before 31st December in the preceding financial year.

The above statutory requirement refers to the complete budget of the LPFA related to both pension fund and non-pension fund income and expenditure and not only to the non-pension fund expenditure required to assess the calculation of the levy.

Whilst, if the Mayor provides comments on or before 31st January, the LPFA must "have regard" to them before finally setting its budget and levy, it is not bound to follow such comments. However, LPFA, when deciding whether or not to follow such comments, should act in accordance with the principles of reasonableness (as set out in the judgement in *Associated British Picture Houses Limited v. Wednesbury Corporation* (see paragraph on "Working Balances and Contingency Reserves" below).

Transactions of the Pension Fund

LPFA is under a requirement to credit to the Pension Fund for which it is the administering authority employers' contributions, members' contributions (other than those paid for additional voluntary contributions), capital money and investment income derived from the investment of the Pension Fund, and any other sums specified by regulations.

The regulations relating to the Local Government Pension Scheme specify the payments that may be made from the Pension Fund, e.g. pension benefits, transfer values, etc. Any net sums not immediately required are to be invested in accordance with regulations.

Discretion to meet certain expenditure from the Pension Fund

The LPFA has a discretionary power to pay from the Pension Fund any costs, charges and expenses incurred administering the Fund. This discretion does not extend to any expenditure incurred in connection with an FSAVC scheme or recoverable costs and charges under the Welfare Reform and Pensions Act 1999, Sections 23, 24 or 41).

Accordingly the LPFA needs to regularly consider whether or not to continue to exercise this discretion and to what extent, especially having regard to whether or not it is appropriate to charge all or any of this expenditure on the pension fund rather than to include it in its non-pension fund budget which will affect the level of its levy upon the London Boroughs and the City of London. Again such consideration should be exercised reasonably in accordance with the principles of the *Wednesbury* case referred to in the paragraph entitled "Working Balances and Contingency Reserves".

Non-Pension Fund Income and Expenditure

The following key legal issues relate to the budget of the LPFA in respect of income and expenditure other than that to be credited to, or met from, the Pension Fund and in relation to the power to raise a levy to meet any net expenditure not to be met from the Pension Fund.

Power to Levy

The LPFA has the power to raise a levy or levies on local government bodies in Greater London to meet its "net expenditure". Net expenditure means " *all expenditure and costs incurred by the Authority less receipts (if any) but excluding any expenditure or costs payable out of, or receipts which fall to be credited to, the pension fund*".

Levies may be made on the following classes of authorities: -

- all London Borough Councils and the Common Council of the City of London;
- inner London Borough Councils and the Common Council of the City of London;
- outer London Borough Councils.

Levies on each class of authority are to relate to the elements of net expenditure properly chargeable upon that class. The amount to be paid by each authority is to be determined by reference to its council tax base.

A levy must relate to a financial year. The LPFA cannot issue a supplementary levy but may issue a substituted levy (i.e. one lower than the original levy). The levy is to be issued before 15th February in each year but may be issued earlier provided a reasonable balance is drawn between having the best information on which to base the levy and the desirability of giving billing authorities as much notice as possible.

(Consultation continues between London Councils and the Department for Communities and Local Government (CLG) to consider additional 'levies' to recover deficits attributable to former GLC, LRB and ILEA members.)

General Principles

In formulating its budget for each financial year, the LPFA should have regard to the following general principles: -

- It must exercise its statutory powers and duties for the purposes for which they were enacted and must comply with the requirements of all relevant enactments;
- It is under a duty at common law to act reasonably in the *Wednesbury* sense (i.e. it must take into account relevant factors and no irrelevant ones and must not come to a decision that is irrational);
- It has to comply with its duty properly to administer the Pension Fund in accordance with the applicable legislation and its fiduciary duty to promote the financial interests of the pensioners, members and employers of the Fund;
- It has a general fiduciary duty to the council taxpayers of the authorities upon which any levy is to be raised to strike a fair balance between the financial interests of those taxpayers and the interests of those who will benefit from the expenditure or the foregoing of income.

Working Balances and Contingency Reserves

Any budget needs to be capable of meeting unexpected fluctuations in income and expenditure. It is, therefore, necessary for the LPFA to make appropriate judgements on any financial uncertainties possibly affecting the budget and to make provision for any working balances and/or contingency reserves it considers appropriate to provide for those uncertainties.

A further relevant factor is the power of the LPFA to borrow temporarily against sums due to it but not yet received (see paragraph below).

In considering the need for and amount of any such balances and reserves, the Authority must act reasonably (as set out in the judgement in *Associated British Picture Houses Limited v. Wednesbury Corporation*), i.e. to take into account all relevant considerations, ignore irrelevant ones and in doing so it must not come to a decision so unreasonable that no reasonable body would come to it. In addition the Authority has a fiduciary duty to the council taxpayers (and non-domestic ratepayers) of Greater London (or of outer London Boroughs or inner London Boroughs as the case may be) to fairly balance the need to raise a levy to meet such balances and reserves against the financial interests of the relevant council taxpayers and ratepayers.

Determination of Affordable Borrowing Limit and Power to Borrow Temporarily

The LPFA may borrow money for the purpose of its non-pension fund statutory functions and for the prudent management of its financial affairs (except in relation to the pension fund). It is required to determine and keep under review the amount of money it can afford to borrow ("affordable borrowing limit") and in this connection must have regard to the Prudential Code issued by CIPFA.

The affordable borrowing limit may be increased by the amount of any payment, which is due to the LPFA and has not received by it (provided that debt has not already been taken into account in determining the affordable borrowing limit).

Agency Services

The LPFA provides agency services to a number of London Boroughs, the London Fire and Emergency Planning Authority, and Hertfordshire County Council. The LPFA must consider the terms of payment of such services and should operate a fair and equitable charging regime designed not only to recoup its marginal additional costs in providing the services but also to provide (so far as reasonably possible) a contribution to LPFA's overheads so as to share the benefits of its provision of these services to the advantage of the Pension Fund and in reducing the levy.

Residual Employer Liabilities

There is no change in the position with regard to the residual employer liabilities (following Counsels' advice obtained in 1994/5 as to their legality) and the budget and levy should continue to be determined on the basis that the LPFA will remain liable to meet these payments.

[This summary of key issues reflects advice given by Nabarro Nathanson in January 2006 with a further review carried out in December 2008, and officer review subsequently.]

