

**NORTH WALES FIRE AUTHORITY**

**EXECUTIVE PANEL**

**14 JANUARY 2004**

**FIRE AUTHORITY ALLOWANCE REGULATIONS**

Report by the Clerk

**Purpose of Report**

- 1 To agree a response to the draft Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004.

**Background**

- 2 The National Assembly issued proposals for an allowances scheme for members of fire authorities in March 2003 and the Executive Panel agreed a response supporting the proposals at its meeting on 28 April 2003. Nothing further had been heard from the Assembly until draft regulations were issued on 18 December with a deadline for comments of 21 January. (At its meeting on 15 December, the Fire Authority resolved to send a letter to the Minister asking her to make the regulations as quickly as possible in this financial year with a power to backdate the payments to the beginning of the year and for the payments to be pensionable. This letter will be sent in addition to comments on the draft regulations.)
- 3 The consultation letter and draft regulations are at annex 2 and a draft response at annex 1.

**Advice**

- 4 The key issues are:
  - 4.1 when the scheme is to come into force. It is not acceptable that this should be delayed to April 2004 when combined fire authorities in England have been empowered to pay allowances since May 2003. The Assembly Government's delay of over 6 months in producing draft regulations since the earlier consultation should not be used as a reason for delaying implementing allowances in the current financial year. The regulations governing allowances for county and county borough councils were made in July 2002 and allowed backdating of allowances to 1 April 2002, and there is no reason why a similar approach could not be adopted for fire authorities;
  - 4.2 the suggestion that members of a council's cabinet or board should not be eligible to receive an allowance for being chair or vice-chair of a fire authority. I think this proposal – which did not appear in the earlier consultation paper - should be opposed as a matter of principle. Anyone who was undertaking both

roles would have an additional work burden that deserved recognition. There would be inconsistent treatment for other recipients of special responsibility allowances from councils, when their allowances may be similar to those received by members of cabinets or boards. Moreover there is no requirement in the allowances scheme for councils or elsewhere that members of cabinets or boards are full-time roles. (It might be added that the regulations assume that all members of cabinets or boards receive a special responsibility allowance, when that is not a requirement of the regulations governing allowances for councils.)

- 4.3 that the allowances should be pensionable. As the consultation letter points out, this would require an amendment to primary legislation that is not in the Assembly's gift. The authority has a clear policy stance on this issue.
- 5 Under regulation 13(2), the maximum allowance for mileage would be limited to the equivalent allowance paid to Assembly Members. The regulations governing allowances paid by councils allow councils to continue to pay higher rates if they existed prior to 2002. While this regulation may mean that the mileage allowances paid to members will reduce slightly in some cases, I do not believe that the Panel should object. Firstly, it would ensure that all members of the fire authority were treated equally (councils may pay different rates of mileage allowance at the moment). Secondly, in view of the introduction of the basic allowance for all fire authority members, all members will be better off financially than now.

### **Recommendation**

- 6 The Executive Panel is invited to discuss the draft regulations and agree the draft response in annex 1, subject to any amendments that it wishes to make.

## **Annex 1**

### **DRAFT**

#### **FIRE AUTHORITY ALLOWANCE REGULATIONS**

- 1 The draft Local Authorities (Allowances for Members of Fire Authorities) (Wales) Regulations 2004 issued on 18 December were discussed by the Executive Panel of North Wales Fire Authority at its meeting on 14 January.
- 2 The principle of the regulations continues to be strongly supported. However, the authority has concerns about 3 important issues.

#### **Commencement**

- 3 The consultation paper issued in March 2003 proposed that regulations should be drafted so as to allow fire authorities to adopt schemes for 2003-04 with allowances backdated to 1 April 2003. The Authority strongly supported that suggestion in its response on 1 May. The Assembly Government's delay of over 6 months in producing draft regulations since the earlier consultation should not be used as a reason for delaying implementing allowances in the current financial year. The regulations governing allowances for county and county borough councils were made in July 2002 and allowed backdating of allowances to 1 April 2002, and there is no reason why a similar approach could not be adopted for fire authorities. It is not acceptable that Welsh fire authorities should have to wait perhaps until April 2004 when combined fire authorities in England have been empowered to pay allowances since May 2003.
- 4 The North Wales Fire Authority therefore strongly urges that the regulations should be made as quickly as possible before the end of the current financial year; and that the definition of "initial period" should be omitted and replaced by a requirement for a scheme to be adopted "in respect of the current year and subsequent years" as in regulation 5(1) of the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 No 1895 (the 2002 Regulations).

#### **Allowances for chair and vice-chair**

- 5 The Authority supports the proposal for special responsibility allowances for these post holders. However it strongly opposes regulation 8(2) which seeks to prevent members of the cabinet or board of a council from receiving an allowance as chair or vice chair of a fire authority. This proposal did not feature in the earlier consultation paper and should be omitted.
- 6 Anyone who was both a member of a cabinet or board and a chair or vice-chair of a fire authority would have an additional work burden and level of responsibility that deserved recognition. There is no requirement in the allowances scheme for councils or elsewhere that members of cabinets or boards are full-time roles. The regulations should not seek to discriminate against members of cabinets or boards, by offering no financial reward for them if they also hold senior office within a fire authority. This is starkly illustrated by the fact that they would suffer

inconsistent treatment compared to other recipients of special responsibility allowances from councils, whose allowances may be similar to those received by members of cabinets or boards. (Moreover the regulations assume that all members of cabinets or boards receive a special responsibility allowance, when that is not a requirement of the regulations governing allowances for councils.)

## **Pensions**

- 7 As was made clear in its response of 1 May, the Authority believes that basic and special responsibility allowances paid to members of fire authorities should be pensionable. It therefore calls on the Assembly Government to ensure that primary legislation is amended by the UK Government accordingly to permit this as soon as possible.

## **Detailed drafting points**

Regulation 2, definition of “fire authority allowance”. The definition seems to require the words “by a fire authority” after “payable”. A similar point arises on the definitions of the chairperson’s and vice-chairperson’s allowances.

Regulation 2, definition of “vice-chairperson”. “chairperson” in the 2<sup>nd</sup> line should be “vice-chairperson”.

Regulation 5(1) See comment above about substituting “current year” for “initial period”. The definition of “initial period” in regulation 2 and all other references to it can then be omitted.

Regulation 12(2)(b) “dependant” in the 2<sup>nd</sup> line has been misspelled. In the penultimate line, an apostrophe is required in “that member’s duties”.

Regulation 14(2) Words on the lines “from a fire authority or any other person” do not appear in regulation 16(1) of the 2002 Regulations and seem unnecessary here. If they are retained, it is suggested that “a” should be “the” – if a member sought to claim twice for an allowance, from his or her fire authority and from another fire authority, the words “or any other person” would include the other fire authority.

Regulation 16(2) Regulation 19(2) of the 2002 Regulations obliges councils to publish information also on care allowances. There is no reason why that a similar obligation should not apply to fire authorities.