

NORTH WALES FIRE AUTHORITY

These are the minutes of the Executive Panel meeting of the North Wales Fire Authority held on Monday 23rd February 2004 at Russell House, Rhyl. Meeting commenced at 10:30am.

Present:

Councillor

Representing

T Roberts (Chairman)
M LI Davies (Vice-Chairman)

Gwynedd Council
Denbighshire County Council

J R Hughes
S C Jones
D Jones MBE
D M Morris
R P MacFarlane
D G Parry
W J Chorlton
E C George

Conwy County Borough Council
Conwy County Borough Council
Denbighshire County Council
Denbighshire County Council
Flintshire County Council
Flintshire County Council
Isle of Anglesey County Council
Wrexham County Borough Council

Also present:

S A Smith (Chief Fire Officer and Chief Executive); I R Miller (Clerk and Monitoring Officer to the Authority); K W Finch (Treasurer to the Authority); P S Coles (Deputy Chief Fire Officer); C Hanks (Assistant Chief Fire Officer, Service Support); P L Slee (Assistant Chief Officer, Corporate Services); S Morris (Projects Officer) and Rh Evans (Member Liaison Officer).

PART I

1) Apologies

Councillor

Representing

D B Evans
J A Roberts
F A Nichols

Gwynedd Council
Isle of Anglesey County Council
Wrexham County Borough Council

P S Claydon

Assistant Chief Fire Officer, Service Delivery

The Chairman asked members whether they would be willing to commence the meeting without the availability of the translation service as the simultaneous translator had not arrived by the scheduled start time for the meeting; upon his arrival the normal service would resume. The Clerk advised that every effort

would be made to provide members with a summary of any discussion that took place in Welsh if any members wished to address the meeting in Welsh. It was:

Resolved: - to commence the meeting without the services of a simultaneous translator being present

2) Notice of Urgent Matters

The Chairman advised that no items had been submitted to him or the Clerk for consideration.

3) Minutes (Part I)

The following minutes were submitted:

- i. Executive Panel meeting held on 14th January 2004

Resolved: - to approve the minutes as a true and correct record of proceedings

4) Matters Arising

Business Item 5 –Revenue Budget Update 2004/05 -Transitional Funding: The Treasurer informed members that following the Executive Panel's decision on 14th January 2004 not to submit an application for any transitional funding made available to the Authority if the funding offered was in the form of a loan, the Authority had since been offered the sum of £382,381 transitional funding. All correspondence received to date lacked clarity on whether this funding was actually in grant or loan form. The Treasurer explained that he had recently attended a meeting with Assembly officials who were also unable to confirm whether any of this funding would be repayable from the constituent authorities' Revenue Support Grant for 2005/06. The officials had informed him that negotiations were currently taking place between Assembly officials and the UK Government, at which the case was being pressed that the funding allocated to Welsh fire authorities should not be repayable as savings. Members were advised by the Treasurer that, following consultation with the Chairman, Vice-Chairman, Chief Fire Officer and the Clerk, it had been decided to accept the transitional funding offered to the Authority in order to alleviate the pressures on the revenue budget for 2004/05. This had resulted in the reduction in the contribution requested from each constituent authority for 2004/05; therefore the contribution requested from each authority for the 2004/05 year had only increased by an average of 6.1%

Business Item 6- Proposed meeting of the Wales Fire Services' Forum: The Chairman informed the Panel that, although every effort had been made to convene a meeting of the Forum on 19th February 2004 in order to discuss the Fire and Rescue Services Bill, the meeting had to be cancelled due to an emergency meeting of the Welsh Local Government Association (WLGA) being called. The Forum's next scheduled meeting was due to be held on 10th March

2004 when a report prepared by the 3 Welsh Chief Fire Officers on the way forward for the Forum following devolution would be discussed. Councillor E C George emphasised the importance of resolving this issue in order that the Welsh Local Government Association (WLGA) could elect its fire representative. The Chairman undertook to report on the progress to date to the Authority at its meeting on 15th March 2004.

Business Item 10- Attendance of Standards Committee Members at Authority meetings: Councillor W J Chorlton enquired, following a conversation with the Monitoring Officer of his own constituent authority, whether it would be appropriate to seek further legal advice on the appropriateness of Standards Committee members being present at Authority meetings. The Clerk advised that the Standards Committee had discussed this point at their last meeting on 28th January 2004. Prior to that meeting the Clerk had sought the views of all the constituent authorities' monitoring officers on the matters raised at the last Executive Panel meeting. The Monitoring Officers shared his view that, as all meetings were public meetings, it would be inappropriate to exclude members of standards committees from a meeting during discussions of Part I business. On the issue of whether or not it would be appropriate for a member of the standards committee to sit in deliberation of a complaint, which had been received in respect of an incident to which that member had been a witness, the Clerk had undertaken to the Standards Committee to reflect further on this point. Councillor Chorlton indicated that he would be satisfied with this procedure. In reply to a question, the Clerk advised that any Standards Committee member who attended a meeting of the Authority was under no obligation to declare the capacity in which he/she was in attendance.

The simultaneous translation service became available at this point.

5) Integrated Risk Management Plan – outcome of consultation exercise

The Chief Fire Officer introduced his report (previously circulated) informing the Panel of the responses received to the public consultation on the Authority's Integrated Risk Management Plan (IRMP) "Having your say". He explained that the responses received were as detailed in the report and annex and apologised that the Welsh version of the annex was not yet available but that the translation work on the document was underway at present. Members were advised by the Chief Fire Officer that a number of responses had been received after the closing date and that every effort would be made to take account of these responses. The Clerk drew the Panel's attention to his advice in paragraph 4.7 of the report regarding the enhanced risk that the Authority may be challenged on the standards it had set in the Plan. He advised that a recent letter issued by the Office of the Deputy Prime Minister (ODPM) confirmed the advice given by him.

Members had differing views on whether it would be appropriate to change any of the proposed responses contained within the Plan, prior to submission to the Authority's March meeting for adoption. Some were of the view that the

recommendation should be to approve the Plan as drafted, as the document was a framework to build upon in future plans. In their opinion it would be more appropriate to revisit areas that were not performing as expected once the changes had been implemented and whilst drawing up the Action Plan for the following year. Other members felt that going out to public consultation without including any changes to the Plan, which obviously would enhance it, would render the consultation exercise futile. The Chief Fire Officer informed members that the Audit Commission's verification report had complimented the Authority on the member led way in which it had undertaken the IRMP process. The Commission had given the Authority an overall favourable report but had also highlighted areas in which it was of the view that further improvements could be achieved. The Clerk commented that the annex to the report listed responses which had been marked as "noted": these suggestions could be areas for consideration in future Plans.

The Projects Officer gave an overview of the responses received on each of the 8 risk areas identified within the Plan, along with the supplementary comments received on the "Challenges for the Future" section and other more general responses. The Chief Fire Officer informed the Panel that it had not been possible to synchronise the current Plan with the budget setting process; future Plans would be aligned with the budget process. Before proceeding to ask members to give Officers a steer on which presentational changes they wished to include on each of the risk areas for submission to the Authority meeting in March for adoption, the Chief Fire Officer advised that this Plan would now have to take into account the recently published Fire and Rescue Services Bill. The Clerk suggested that any approved changes could be highlighted in the covering report that would be submitted to the meeting in March. Following a discussion on each area it was:

Resolved: to recommend to the Authority to adopt the draft Plan pending the following amendments:

Risk 1 -Fire Deaths: to approve the proposed actions, but to include a comment in the section titled "What we will do about it" emphasising that whilst the Authority would encourage partnership working to augment prevention work, the Authority would remain the lead authority for all fire safety issues. Details also to be included within this section showing the number of fire deaths in North Wales and the times of day the calls were received

Risk 2 - Fire & Rescue Service Presence: approved as drafted

Risk 3 - Automatic Fire Alarms: approve subject to unambiguous confirmation being included that it was not the Authority's intention to adopt a policy of indiscriminate non-response to actuations from automatic fire alarms. A thorough assessment would be undertaken of each individual call to establish whether an attendance was, in fact, required; and in seeking to increase the availability of resources to respond to genuine calls for assistance, the Authority would be developing a package of measures designed to reduce the number of

false alarms being generated. In addition to individual call management, this package of measures might include reviewing the scale of response to calls, and possibly charging for unnecessary turnouts – an option which may become available to fire and rescue authorities at some stage following the enactment of the Fire and Rescue Services Bill

Risk 4 - Standards of Fire Cover: approve as drafted but to include additional details of the new standards and an assurance that these would be closely monitored

Risk 5 - Shift Patterns: this section to be revisited to assess the detailed financial implications to the Authority of changing the shift patterns on day crewed stations, in order to show a comparison between the cost of the proposed working day and the cost of the working day based on availability on station between 9am and 7pm and standby time off-station between the hours of 7pm and 9pm, and to include the implications these changes may have on catering staff at day crewed stations

Risk 6 - Resource Balance: approved as drafted

Risk 7 - Arson: approved as drafted

Risk 8 - Structure: approved as drafted

Challenges for the Future: to include a reference that a road safety strategy would be developed under a future plan as responding to road traffic accidents would become one of the Authority's statutory duties once the Fire and Rescue Services Bill became law

Meeting adjourned at 12:25pm and reconvened at 12:35pm

The Chairman informed the Panel that, as a number of members had indicated that they required to leave the meeting in order to attend other scheduled meetings, he had decided to vary the order of business and that the next item of business would be the discussion of the report on Allowances for Fire Authority Members.

6) Allowances for Fire Authority Members

The Clerk introduced his report (previously circulated) seeking the Panel to consider the National Assembly for Wales' (NAfW) Minister for Finance, Local Government and Public Services response to the representations that the Fire Authority had made; and what further steps it wished to take. He informed members that this issue had links with the item on the IRMP due to the considerable work they had undertaken in the planning process. Copies of the Minister's letter along with copies of the Clerk's correspondence on the Authority's behalf were annexed to the report for information. Although the Minister agreed with the Authority's view that allowances paid to fire authority

members should be pensionable in the same way as allowances paid to county councillors, which will become pensionable from June 2004, Assembly officials were currently in discussion with the ODPM about amending legislation that would be necessary to permit it. However, she argued in her letter that it would be inappropriate to backdate the payment of the allowances to an earlier date in the 2003/04 financial year. The Minister's argument for not backdating, on the basis that the allowances would be a means of recognising the additional roles and responsibilities members would be expected to undertake as part of the modernisation process, could be challenged on the grounds that members had already taken on these extra responsibilities in preparing the IRMP and in view of the fact that no such link had been made when a decision was taken to pay allowances to members of English fire authorities. Members agreed with the Clerk's view. The Clerk then drew members' attention to the final paragraph of the Minister's letter which stated that the Assembly's Finance, Local Government and Public Services Committee, at its meeting on 28th January, had recommended that the draft regulations be approved. It had since transpired that the Committee had recommended approval subject to the inclusion of an amendment, which was that a more appropriate date for the regulations to come into force would be after the local authority elections in June 2004. The Minister had made no reference to this amendment in her letter.

Following the revelation of this amendment the Clerk had contacted Assembly officials who had confirmed that the Minister would, most probably, agree to the amendment. They had also informed him that it was possible that the Minister would agree to the inclusion of the clause prohibiting members of fire authorities, who were already receiving any Special Responsibility Allowance (SRA) from a council, from receiving an allowance for the additional responsibilities they would undertake if elected as either chair or vice-chair of a fire authority. In reply to a question, the Clerk advised that he was not aware that this prohibition was applied to councillors who served on either the Police or National Park authorities. Members agreed with the Clerk's view that this was a matter of principle which was of paramount importance, as the approval of the regulations as drafted would give inconsistent treatment to members of combined fire authorities in comparison to other local authority members who served on other bodies. Members felt aggrieved by the manner with which the NAFW had dealt with the entire issue and were of the view that the Authority should seek an urgent meeting with the Minister in order to discuss the matter. They also felt that it might prove useful if confirmation could be received as to whether the chairs of the Assembly's own committees received remuneration, over and above their basic salaries, for the additional duties they undertook in those roles and to check with the Local Government Association (LGA) whether any such prohibitions were in operation with regards to fire authority members in England. The Clerk agreed that requesting an urgent meeting with the Minister would be the best way forward, and that it would be advisable to send a delegation to meet her in order to underline the importance of the issue. He was also of the view that it would be appropriate to raise the Authority's concerns over the discriminatory way in which the allowance scheme was proposed to be applied to fire authority members in Wales compared to their counterparts in

England, and the Authority's disappointment at the manner with which the matter had been handled by both the Assembly's Minister and the subject committee, with the WLGA. Members thanked the Clerk for his diligent work in lobbying and corresponding on this issue and:

Resolved: - that

- i. an urgent meeting be sought with the Minister for Finance, Local Government and Public Services in order to emphasise the Authority's grievances regarding the delay in the introduction of a scheme of members allowances for fire authority members in Wales, the discriminatory and unfair treatment given to fire authority members in Wales in relation to the payment of the Special Responsibilities Allowances as per the drafted regulations, the decision not to backdate the payment of the allowances on the grounds that they would come into force to reflect the additional responsibilities the modernisation programme would place on members when these additional responsibilities had already been undertaken during the IRMP process;***
- ii. that Councillors T Roberts (Chairman), M Ll Davies (Vice-Chairman); E C George and S C Jones along with the Clerk to the Authority or, in his absence, the Assistant Chief Officer (Corporate Services), serve as the delegation to represent the Authority at the meeting with the Minister; and***
- iii. that a letter be sent to the WLGA highlighting the issues noted above and raising concerns about the manner with which the Assembly has dealt with the entire issue***

Councillors W J Chorlton and D M Morris left the meeting at this point.

7) The Fire and Rescue Services Bill

The Clerk introduced his report (previously circulated), including the annex which contained a draft of comments he had prepared on various clauses included in the Bill, for the Panel to give further consideration to the Fire and Rescue Services Bill and to agree the methods of lobbying they wished to undertake. He explained that the Bill would repeal the Fire Services Acts of 1947 and 1959, although it would also reintroduce most of the contents of both Acts and include additional statutory duties which the Authority would be required to provide, such as responding to road traffic accidents. The Clerk proceeded to explain that the powers of direction and intervention included within the Bill were far in excess of those contained within the Fire Services Acts of 1947 and 2003. He detailed to the Panel all the points listed in his report and answered members' questions on the anomalies which he had raised.

The Panel was of the view that the NAFW should not be given the power to negotiate the terms and conditions of service; but that Wales should be granted a representative from the Employers' side to serve on the UK negotiating body. Nor should the Assembly have the power to appoint fire authority members or to merge fire authorities in Wales by virtue of a simple majority vote. Members also agreed that the Secretary of State should not retain the power for the operation

of Best Value for Welsh fire authorities. This should be transferred to NAFW and come under the auspices of the Wales Programme for Improvement (WPI).

The Clerk advised that some aspects of the Bill required clarification. One of these areas on which clarification should be sought was the inference in the Bill that the Assembly may be able to establish its own Fire Services' Inspectorate; it was normally the Crown that established an inspectorate, although the Assembly may be able to appoint an Assistant Inspector. Members were of the view that it could be advantageous if the Assembly were allowed to appoint an assistant inspector, or at least a dedicated representative in Wales, to oversee the Service. Members agreed with the Clerk's view that the principle of creating new powers of direction and intervention should be strongly opposed. They also agreed that, regardless of the issue of principle on this matter, detailed points should be raised on the drafting and operation of these powers in relation to their successful cross-border operation.

Panel members were advised by the Clerk that a separate consultation document had recently been published titled "Charging by Fire and Rescue Authorities". It was proposed that this paper would be discussed at the Panel's next meeting with the closing date for responses set as the 7th May 2004.

In addition to the points detailed in the annex the Chief Fire Officer requested that clarification be sought on whether the powers in the event of an emergency in Clause 43, and powers of entry in Clause 44, authorised the Authority's personnel to close a highway and restrain individuals without obtaining prior consent from the Police. The Vice-Chairman also requested that comments be included in the submission that Part 5 of the Bill be strengthened to include a requirement for water companies to ensure an adequate water supply and sufficient water pressure in order to facilitate the installation of sprinkler systems in residential properties.

Members thanked the Clerk for his very detailed report and presentation on the Bill and:

Resolved: - that

- i. the comments detailed in the annex to the report, along with the supplementary comments listed above, be submitted to the ODPM;***
- ii. that a copy of the submission be sent to all North Wales Members of both Houses of Parliament and to any Welsh Member of Parliament sitting on the Standing Committee dealing with the Bill; and***
- iii. that representations should also be made on the points raised with the National Assembly's Minister for Social Justice and Regeneration***

8) A response to the Draft Fire and Rescue Service National Framework Document

The Chief Fire Officer introduced his report (previously circulated) to seek members' approval to submit a draft response (annexed to the report) to the ODPM as part of the consultation exercise on the Draft Fire and Rescue National Framework. He advised the Panel that the draft response had been drawn up along the guidelines members had specified at the earlier meeting of the Panel, which was that comments should only be made on issues that had cross-border implications as other issues would be addressed in the Draft Fire and Rescue Service National Framework Document for Wales. The Panel:

Resolved: - to endorse the draft response annexed to the report for submission to the ODPM

9) Minutes

The following minutes were submitted:

- i. Appointments Sub-Panel 12th February 2004

Resolved: - to approve the minutes as a true and correct record of proceedings and to extend the Authority's congratulations to Assistant Chief Fire Officer Paul Claydon on his appointment and wish him well in his new post

10) Urgent Matters

None.

The Chairman informed members that it was recommended that the remainder of the business items on the agenda be discussed without the public or Press present. Members:

Resolved: - pursuant to Section 100A(4) of the Local Government Act, 1972 that the Press and Public be excluded from the meeting during consideration of the following items of business because it was likely that there would be disclosed to them exempt information as defined in Paragraphs 1, 8, 9 and 10 of Part I of Schedule 12A of the Local Government Act, 1972.

PART II

11) Former Llanfairfechan Fire Station Site

The Chief Fire Officer introduced his report (previously circulated) requesting the Panel to consider further the disposal of the old Llanfairfechan fire station. Both the Chief Fire Officer and the Clerk advised members that the report and annex were self explanatory and detailed all the points they should consider before arriving at a decision. In reply to a question, members were informed that no

approach had been received from the Town Council regarding the availability of the site. The Treasurer commented that the Town Council was, on the other hand, most probably aware of the request regarding its availability that the Authority had received. Councillor S C Jones and the Treasurer commented that the only misgivings they had about the application received was the absence of a business plan to support the application. Both the Clerk and the Treasurer reminded members that their primary duty was to safeguard the Authority's assets. If it was their wish to lease the building to the interested party at a peppercorn rent it would be advisable to request sight of the applicant's business plan before proceeding. The majority of members agreed with this view and:

Resolved: -

- i. in principle to lease the building, pending the submission to the Authority of a viable business plan, to the applicant for a peppercorn rent until funding for purchase was available at the market value, subject to a maximum lease of two years; and***
- ii. that the liability regarding the insurance and maintenance costs of the building and site be borne by the tenant***

12) Date(s) of future Executive Panel meeting(s)

The Chairman informed members that it was his intention to hold a meeting of the sub-committee, established by the Panel at its meeting on 27th October 2003, immediately following the Panel's next meeting. He requested that both the Chief Fire Officer and the Clerk prepare a report for the sub-committee's meeting. The Clerk reminded members whom they had appointed to serve on the sub-committee. It was:

Resolved: - that the Executive Panel's next meeting be held on Thursday 22nd April 2004 at 10am, with the sub-committee to convene immediately following the Panel's meeting

Meeting concluded at 1:35pm.

The above minutes, pending any inclusions shown, are approved as a true and correct record of proceedings.

Signed: I Roberts

Dated: 22 April, 2004

