

NORTH WALES FIRE AND RESCUE AUTHORITY

EXECUTIVE PANEL

26 OCTOBER 2005

CONSULTATION ON FIRE AND RESCUE SERVICES (CHARGING AND EMERGENCIES) (WALES) ORDER 2005

Report by the Clerk

Purpose of Report

- 1 To consider a response to this draft legislation.

Background

- 2 The consultation paper was issued on 13 October and responses have been requested by 25 November. The draft order sets out the services for which fire and rescue authorities may charge (although the level of charges are a matter for them to determine, and can be nil) and the emergencies other than fires and road traffic accidents for which authorities must make provision.
- 3 Since November 2004 when the Fire and Rescue Services Act 2004 was brought into force, the statutory position has been that authorities in Wales have not had clear powers to levy charges: no such gap between the 1947 Act and the 2004 Act existed in England. Likewise the absence of legislation under section 9 of the 2004 Act has left something of a vacuum in terms of the legal basis for many other sorts of emergencies and incidents to which fire and rescue services have traditionally responded.

Charging

- 4 The draft order for Wales replicates an order that came into force in England on 1 October 2004. The delay of over 12 months in simply copying the ODPM's work is a cause for concern about the capacity of the Welsh Assembly Government properly to administer the responsibilities that it now has for the fire and rescue service. That concern is reinforced by the failure to pay any regard to the representations that this authority submitted to the ODPM, and copied to the Welsh Assembly Government, on the Fire and Rescue Services Bill

during February and March 2004, that the order in Wales should make provision to enable charges to be levied for responding to false automatic fire alarm calls. These comments were echoed in the Authority's submission to the ODPM in May 2004 in response to the English consultation document on charging. False automatic fire alarm calls are a significant burden on the service, diverting resources that might be genuinely needed elsewhere, and charging would represent a method of encouraging owners of premises to reduce unnecessary call outs.

- 5 Apart from lobbying again for such provision to be included in this order, another point that has been identified is that the legislation in Scotland uses different wording with respect to extinguishing fires etc at sea:

Draft order for Wales	Scotland (SI 2005/343)
Extinguishing fires at or under the sea, or protecting life and property in the event of such fires	Extinguishing fires at sea, protecting life at sea or protecting property in the event of fires at sea

This may reflect differences in the wording of the two Acts but the Scottish wording ("protecting life at sea") is wider than the proposed wording for Wales, which enables a charge to be levied only where protecting lives in the event of a fire at sea.

- 6 The consultation paper seeks views on whether there should be any limitation on charging for advice on the face of the order, for example community fire safety advice to individual businesses compared to consultancy advice on major projects such as new shopping developments and other major civil engineering projects. No such limitation has been imposed in England or Scotland. It is proposed that we should argue against any limitation in Wales: the order does not permit charging for advice to individual members of the public and the wording "trade, business or other undertaking" may exclude some other categories such as churches. Beyond that, any exemptions from charging for advice should be a matter for authorities to determine.
- 7 Once the order has been finalised, a report will be brought to a future meeting of the Executive Panel or full authority about the terms of a policy on charging.

Emergencies

- 8 Articles 5 to 10 of the order sets out types of incidents, other than fires and road traffic accidents, where the authority must make provision. These seem generally acceptable and cover services that the authority has provided in the past.

- 9 However article 8 does not deal adequately with the full range of services that might be provided on vessels. For example, it is not clear that a fire on a ship in dock is “a major transport incident at sea”. Article 8(2) is unnecessary because all three authorities in Wales border the sea. However this provision should not apply to South Wales Fire Authority because only North Wales and Mid and West Wales Fire Authorities provide services at sea.

Recommendation

- 10 That the Panel considers the terms of its response to the order (a draft will be tabled at the meeting).