



AGENDA ITEM: 15

NORTH WALES FIRE AND RESCUE AUTHORITY

17th March 2008

TEMPORARY DELEGATION OF POWERS BEFORE THE ANNUAL MEETING

**Report by Ian Miller,
Clerk to the Authority**

Purpose of Report

- 1.** To delegate powers from the end of office of the present members of the fire authority to the first meeting of the fire authority after the elections.

Background

- 2.** Local authority elections will be held this year on 1 May. Section 26(3) of the Local Government Act 1972 provides that "on the fourth day after any such ordinary election –
 - (a) the persons who were councillors immediately before the election shall retire; and
 - (b) the newly elected councillors shall assume office."Therefore, councillors continue in office until first thing on Monday 5 May 2008 when the newly elected councillors take office.
- 3.** In the same way the present Fire and Rescue Authority members remain in office until 5 May 2008, but the date of their replacement depends on how quickly the county and county borough councils make appointments in accordance with articles 12 and 13 of the combination order. Such appointments will not necessarily be made at the first meetings of the new councils, particularly if the appointments are executive functions delegated to Cabinets.



Background *(continued)*

4. The Chair and Vice-Chair of the Authority were elected on 18 June 2007. Article 17(2) of the Combination Order provides that they “hold office for a period of one year from the date of their election”. However this does not override paragraph 13 which provides that “a member of the Authority shall hold office for such period as shall be determined by the constituent authority which appoints him” : the term of office of all members is to the elections in May 2008. Therefore, even if the present Chair and Vice-Chair were re-elected as councillors and were re-appointed to the Fire Authority by their councils, they cannot assume or resume any office with the Fire Authority unless the Fire Authority itself so resolves at its meeting on 16 June. Similar considerations apply to members of the Executive Panel and to the two Authority members who serve on the Standards Committee.
5. Thus, between Monday 5 May and the Annual Meeting, scheduled for Monday 16 June, there is no mechanism in place for any decision that would normally fall to elected members to be taken by them. A similar situation will arise every four years, following each ordinary election of councillors.
6. While this gap might be reduced by bringing forward the date of the Annual Meeting, we cannot bring it forward too far because there is a risk that not all councils will have made their appointments.

Advice

7. An appropriate delegation needs to be put in place to cover the interregnum so that any decision that would normally fall to members and that cannot reasonably be delayed until the first meeting of the Fire Authority after the elections in May can be dealt with. The delegation would cover all powers vested in members, including those exercised by the Executive Panel and the Chair and Vice-Chair (which would therefore include, for



Advice *(continued)*

example, the Chair's power under Standing Order 5(1) to call an extraordinary meeting of the Fire Authority).

- 8.** It would be inappropriate for such a delegation to confer any decision-making powers solely on a councillor or councillors because there is no guarantee that any of the existing members will be re-elected as councillors and re-appointed to the Fire Authority.

Recommendation

- 9.1** That all the powers of the Fire Authority, its committees and its office holders be delegated to:
 - 9.1.1** the Chief Fire Officer, in consultation with the Clerk and Treasurer, for the period from 5 May 2008 until either the date on which the Chair or Vice-Chair of the Fire Authority elected in June 2007 are reappointed to the Fire Authority or the first meeting of the Fire Authority on 16 June 2008 if neither of them is so reappointed, whichever date is the earlier;
 - 9.1.2** the Chair and Vice-Chair of the Fire Authority if one or both of them are reappointed to the Fire Authority from the date on which they are so reappointed until the first meeting of the Fire Authority on 16 June 2008.
- 9.2** These delegations shall apply only so far as such powers relate to decisions that cannot reasonably be delayed until the date of that first meeting.