

NORTH WALES FIRE AUTHORITY

EXECUTIVE PANEL

23 FEBRUARY, 2004

Report by the Clerk

ALLOWANCES FOR FIRE AUTHORITY MEMBERS

Purpose of Report

- 1** To consider the Minister's response to the representations that the Fire Authority has made; and what (if any) further steps it now wishes to take.

Background

- 2** The Minister's letter of 30 January (appendix 1) responds to the letter that I sent following the Fire Authority's resolution of 15 December. It does not deal explicitly with the letter about the draft regulations which was sent following the Executive Panel's meeting in January, which raised the same and other points. Copies of the letters that I have sent on the Fire Authority's behalf are in appendix 2.

Advice

- 3** While the Minister confirms that work is under way to provide for the allowances to be pensionable, which is welcome, she has not accepted the argument that allowances should be backdated to earlier in 2003-04. The Minister seeks to link the introduction of allowances with the additional responsibilities that members "will be required to exercise" following implementation of modernisation of the fire service. There are 3 points that might be made:
 - no such link has been made in England. The regulations came into force in June 2003;
 - the Assembly Government's consultation document last March did not suggest such a link. Indeed, it explicitly included the suggestion of drafting the regulations so that fire authorities could backdate their decisions to the beginning of 2003-04 (which North Wales Fire Authority supported in its response);

- members *have faced* additional responsibilities arising from modernisation during 2003-04, such as the preparation of the Integrated Risk Management Plan.
- 4 Perhaps the Minister's argument has been developed at this late stage in order to justify the Assembly Government's delay in bringing forward the draft regulations. The Panel will need to decide whether it wishes to continue pressing on this matter, **either** with the Minister or Assembly Members **or** more widely, for example by a press notice to draw attention to the inequitable treatment being offered to members of fire authorities in Wales.

Recommendation

- 5 The Panel is invited to consider the Minister's response and what (if any) further action it wishes to take.

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IRM/KOW

15 January, 2004

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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).

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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. An ideal opportunity is presented by the Fire and Rescue Services Bill.

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 2nd 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 2nd line has been misspelled. In the penultimate line, an apostrophe is required in "that member's duties".

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Rebecca Burley

15 January, 2004

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 a similar obligation should not apply to fire authorities.

Ian Miller
Clerc/Clerk

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RHEOLIADAU AR LWFANSAU I'R AWDURDOD TÂN

- 1 Yn ei gyfarfod ar 14 Ionawr bu Panel Gweithredol Awdurdod Tân Gogledd Cymru yn trafod y Rheoliadau Llywodraeth Leol (Lwfansau i Aelodau Awdurdodau Tân) (Cymru) 2004 drafft a ddaeth allan ar 18 Rhagfyr.
- 2 Mae egwyddor y rheoliadau'n parhau i gael cefnogaeth gadarn. Fodd bynnag, mae'r awdurdod yn pryderu ynghylch 3 mater pwysig.

Pryd mae'n dechrau

- 3 Roedd y papur ymgynghorol a ddaeth allan ym Mawrth 2003 yn cynnig y dylid llunio'r rheoliadau er mwyn caniatáu i awdurdodau tân fabwysiadu cynlluniau ar gyfer 2003-04, ac ôl-ddyddio'r lwfansau i 1 Ebrill 2003. Roedd yr awdurdod yn rhoi cefnogaeth gadarn i'r awgrym hwnnw yn ei ymateb ar 1 Mai. Ni ddylai'r ffaith fod Llywodraeth y Cynulliad wedi oedi am dros 6 mis wrth lunio'r rheoliadau drafft ers dechrau'r ymgynghoriad blaenorol, gael ei ddefnyddio fel rheswm ar gyfer gohirio rhoi'r lwfansau ar waith yn y flwyddyn ariannol bresennol. Cafodd y rheoliadau ynghylch lwfansau i gynghorau sir a bwrdeistrefi sirol eu gwneud yng Ngorffennaf 2002, ac roeddynt yn caniatáu ôl-ddyddio lwfansau i 1 Ebrill 2002, a does dim rheswm pam na ddylid mabwysiadu dull tebyg ar gyfer awdurdodau tân. Nid yw'n dderbyniol y dylai awdurdodau tân yng Nghymru orfod disgwyl tan Ebrill 2004 efallai, pan fo awdurdodau tân cyfunol yn Lloegr wedi cael y pŵer i dalu lwfansau ers Mai 2003.
- 4 Felly, mae Awdurdod Tân Gogledd Cymru yn annog yn gryf y dylid gwneud y rheoliadau cyn gynted ag y bo modd cyn diwedd y flwyddyn ariannol bresennol; ac y dylid hepgor y diffiniad o "*initial period*" a rhoi gofyniad yn ei le bod y cynllun i'w fabwysiadu "*in respect of the current year and subsequent years*" fel sydd yn rheoliad 5(1) o Reoliadau Llywodraeth Leol (Lwfansau i Aelodau Cynghorau Sir a Bwrdeistrefi Sirol ac Awdurdodau Parciau Cenedlaethol) (Cymru) 2002 Rhif 1895 (Rheoliadau 2002).

parhad/...

Lwfansau i'r cadeirydd a'r is-gadeirydd

- 5 Mae'r Awdurdod yn cefnogi'r cynnig i roi lwfansau am gyfrifoldeb arbennig i'r rhai sy'n dal y swyddi hyn. Fodd bynnag, mae'n gwrthwynebu'n gryf reoliad 8(2) sy'n ceisio atal aelodau cabinet neu fyrddau cynghorau rhag derbyn lwfans fel cadeirydd neu is-gadeirydd awdurdod tân. Nid oedd y cynnig hwn yn y papur ymgynghorol blaenorol, a dylid ei hepgor.
- 6 Byddai gan unrhyw un sy'n aelod o cabinet neu fwrdd, ac yn gadeirydd neu'n is-gadeirydd awdurdod tân faich ychwanegol o ran gwaith a hynny'n haeddu cydnabyddiaeth. Does dim gofyniad yn y cynllun lwfansau ar gyfer cynghorau neu unlle arall bod eu swyddogaeth fel aelodau cabinet neu fyrddau yn un llawn amser. Ni ddylai'r rheoliadau geisio gwahaniaethu yn erbyn aelodau cabinetau neu fyrddau trwy beidio â chynnig cydnabyddiaeth ariannol iddynt os ydynt hefyd yn dal uwch swydd o fewn awdurdod tân. Caiff hyn ei ddangos yn amlwg yn y ffaith y byddent yn cael eu trin yn anghyson o'i gymharu â phobl eraill sy'n derbyn lwfansau am gyfrifoldebau arbennig gan gynghorau, lle y byddai eu lwfansau efallai'n debyg i'r hyn mae aelodau cabinetau neu fyrddau'n eu derbyn. (Ar ben hynny, mae'r rheoliadau'n rhagdybio bod holl aelodau cabinetau neu fyrddau yn derbyn lwfansau am gyfrifoldebau arbennig, pryd nad yw hynny'n ofyniad yn y rheoliadau ynghylch lwfansau ar gyfer cynghorau.)

Pensiynau

- 7 Fel y gwnaed yn glir yn ei ymateb ar 1 Mai, mae'r Awdurdod yn credu y dylai'r lwfansau sylfaenol a'r rhai am gyfrifoldebau arbennig sy'n cael eu talu i aelodau awdurdodau tân fod yn bensiynadwy. Felly, mae'n galw ar Lywodraeth y Cynulliad i sicrhau bod Llywodraeth y Deyrnas Gyfunol yn diwygio'r ddeddfwriaeth sylfaenol i ganiatáu hyn cyn gynted ag y bo modd. Mae Mesur Gwasanaethau Tân ac Achub yn cyflwyno cyfle delfrydol i'r perwyl hwn.

Pwyntiau drafftio manwl

Rheoliad 2, y diffiniad o "*fire authority allowance*". Mae'r diffiniad fel petai yn gofyn am y geiriau "*by a fire authority*" ar ôl "*payable*". Mae pwynt tebyg yn codi ar y diffiniadau o lwfansau cadeirydd ac is-gadeirydd.

Rheoliad 2, y diffiniad o "*vice-chairperson*". Dylai "*chairperson*" yn yr 2^{il} linell fod yn "*vice-chairperson*".

Rheoliad 5(1) Gweler y sylw uchod ynghylch newid "*current year*" am "*initial period*". Yna, gellir hepgor y diffiniad o "*initial period*" yn rheoliad 2 ac unrhyw gyfeiriad arall ato.

Rheoliad 12(2)(b) mae "*dependant*" yn yr 2^{il} linell wedi ei gamsillafu. Yn y llinell olaf ond un, mae angen collnod yn "*that member's duties*".

parhad/...

Rebecca Burley

15 Ionawr, 2004

Rheoliad 14(2) Nid yw'r geiriau ar y llinellau "*from a fire authority or any other person*" yn ymddangos yn rheoliad 16(1) o Reoliadau 2002 ac mae'n ymddangos nad oes mo'u hangen yma. Os cedwir hwy, yr awgrym yw y dylai "a" fod yn "*the*" – petai aelod yn ceisio hawlio ddwywaith am lwfans, gan ei awdurdod tân ef neu hi a chan awdurdod tân arall, byddai'r geiriau "*or any other person*" yn cynnwys yr awdurdod tân arall.

Rheoliad 16(2) Mae Rheoliad 19(2) o Reoliadau 2002 yn gorfodi cynghorau i gyhoeddi gwybodaeth hefyd ar lwfansau gofal. Does dim rheswm pam na ddylai gorfodaeth debyg fod ar gyfer awdurdodau tân.

Ian Miller
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7 January, 2004

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Provision of Allowances for Members of Fire Authorities in Wales

On 15 December, the North Wales Fire Authority resolved that a letter be sent to you to register the Authority's dissatisfaction with the Welsh Assembly Government regarding the delay encountered in establishing a scheme of allowances for members of fire authorities in Wales. The Authority responded on 1 May to the consultation in March 2003 on proposals to introduce a scheme but nothing further was heard until the draft regulations that were finally issued on 18 December with comments required later this month.

The Authority considers the delay in introducing the regulations as regrettable, particularly in view of the fact that members of combined fire authorities in England have been receiving their allowances since May 2003. The Authority therefore requests that the proposed scheme for Wales should be made available without further delay and that all allowances be capable of being backdated to 1 April, 2003.

The Authority is also firmly of the view that these allowances should be treated in the same way as allowances paid to county councillors and therefore, from 1 January, 2004, become pensionable.

The Executive Panel of the North Wales Fire Authority will consider the draft regulations at its meeting on 14 January and I expect to be required to reiterate these comments in submitting a response to them.

Ian Miller
Clerc/Clerk

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Darpariaeth Lwfansau ar gyfer Aelodau o Awdurdodau Tân yng Nghymru

Ar 15 Rhagfyr, penderfynodd Awdurdod Tân Gogledd Cymru i anfon llythyr atoch i fynegi anfonlonrwydd yr Awdurdod gyda Llywodraeth Cynulliad Cymru ynghylch yr oedi sydd wedi cymryd lle wrth sefydlu cynllun lwfansau ar gyfer aelodau awdurdodau tân yng Nghymru. Ymatebodd yr Awdurdod ar 1 Mai i'r ymgynghoriad ym mis Mawrth 2003 ar gyflwyno cynllun o'r fath yn brydlon ond ni chlywyd unrhyw beth pellach tan y rheoliadau drafft a gyflwynwyd yn y diwedd ar 18 Rhagfyr gyda'r angen i gyflwyno arnynt yn ddiweddarach y mis hwn.

Mae'r Awdurdod yn gresynu fod yr oedi hyn yn digwydd cyn cyflwyno'r rheoliadau, yn enwedig o gofio fod aelodau awdurdodau tân cyfunol yn Lloegr wedi bod yn derbyn eu lwfansau hwy ers Mai 2003. Felly erfynir y bydd y cynllun cyffelyb ar gael yng Nghymru yn ddiymdroi ac y gellir ôl-dalu'r holl lwfansau i'r 1 Ebrill 2003.

Mae'r Awdurdod hefyd yn bendant o'r farn y dylai'r lwfansau hyn gael eu trin yn yr un modd â lwfansau a delir i gynghorwyr sirol ac felly y dylent, o 1 Ionawr 2004, fod yn bensiynadwy.

Bydd Panel Gweithredol Awdurdod Tân Gogledd Cymru yn ystyried y rheoliadau drafft yn ei gyfarfod ar 14 Ionawr a disgwyliaf y bydd angen i mi ail-adrodd y sylwadau hyn pan yn anfon ymateb iddynt.

Ian Miller
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