

NORTH WALES FIRE AUTHORITY

EXECUTIVE PANEL

26 AUGUST 2004

FIRE AND RESCUE SERVICES ACT 2004

Report by the Clerk

Purpose of Report

- 1** To brief the Panel on the provisions of the Act and timetable for its implementation.

Background

- 2** The Act received Royal Assent on 22 July. The text of it may be seen at www.uk-legislation.hmso.gov.uk/acts/acts2004/20040021.html
- 3** The Act repeals the Fire Services Acts of 1947, 1951 and 1959 which have provided the statutory framework for the fire service for over 50 years. The Central Fire Brigades Advisory Council is also abolished. The principal features of the Act are:
 - 3.1** the transfer of responsibility for the fire and rescue service in Wales to the National Assembly, including the power for the Assembly to commence the provisions of the Act in Wales;
 - 3.2** while the existing combined fire authorities continue by virtue of section 4, the Assembly will have a power to merge fire authorities with the possibility of the Assembly appointing a minority of members of a new combined fire authority. We were not successful in lobbying to have the power to make appointments removed;
 - 3.3** a coherent set of powers for fire and rescue authorities including duties to promote fire safety, fight fires and rescue people from road traffic accidents as well as to deal with other emergencies specified by the Assembly and a power to respond to other eventualities which involve potential harm to individuals or the environment;
 - 3.4** while there are duties and powers for fire and rescue authorities to enter reinforcement schemes and discharge functions on behalf of others, there are also wide-ranging powers of direction and intervention by the Assembly in respect of such matters. These powers do not operate

- across the border with England, so neither the Assembly nor the Secretary of State can direct a Welsh fire authority and an English fire authority to collaborate;
- 3.5 section 19 confers a power on fire and rescue authorities to charge for certain services they provide, subject to regulations to be made by the Assembly;
 - 3.6 section 20 requires the Assembly to prepare and publish a Fire and Rescue National Framework. Fire and rescue authorities must act in accordance with it. The Assembly has intervention powers if they do not do so;
 - 3.7 the Assembly has the power to establish a statutory negotiating body in respect of terms and conditions of employees, and will also have powers in respect of the pension scheme for employees. Our lobbying attempts to seek the removal of powers for the Assembly in respect of terms and conditions and pensions, and a clear provision that an Assembly Minister could not be appointed as independent chair of a negotiating body, were not successful;
 - 3.8 various miscellaneous provisions in respect of water supply, powers of fire-fighters in an emergency etc.
- 4 The Executive Panel agreed that lobbying should be undertaken on the legislation as it passed through Parliament. In addition to the points noted above, I draw the Panel's attention to the following:
- 4.1 Government amendments dealt with points that we had raised in respect of Welsh fire and rescue authorities being within the Wales Programme for Improvement under best value; not subjecting the National Framework for Wales to Parliamentary procedures; and a minor amendment to the Severn Bridges Act 1992;
 - 4.2 While section 49, which makes giving false alarm of fire an offence, has not been extended to cover all alarms, ODPM officials assured us that other false alarms given by telephone were covered by a similar provision in telecommunications legislation;
 - 4.3 Despite intense lobbying, we were not able to secure an amendment to provide for allowances of fire authority members to be pensionable.

Advice

- 5 The focus now shifts to implementation. The Assembly has powers to commence the Act but has not yet provided any information about the timetable.
- 6 Nor have we had any information from the Assembly about its proposals for and the timing of secondary legislation under the Act. For example, the Office of the Deputy Prime Minister published its proposals for regulations on charging under section 19 some months ago but we have

yet to receive any proposals from the Assembly. The Panel wishes to have a power to charge for attendance at automatic fire alarms where there is no fire, and this should be addressed in the Assembly's regulations.

- 7 Other secondary legislation that will be essential include amendments to the existing combination orders formally to change the name of the fire authorities to fire and rescue authorities.
- 8 The fire authority has already agreed changes to the delegations to the chief fire officer that reflect the 2004 Act.

Recommendation

- 9 The Executive Panel is invited to note the provisions of the Fire and Rescue Services Act 2004 and the other information in this report.