

## **LOCAL GOVERNMENT AND PUBLIC SERVICES COMMITTEE**

### **DRAFT REGULATIONS FOR ALLOWANCES FOR MEMBERS OF FIRE AUTHORITIES**

#### **Purpose**

1. To provide the Committee with details of the draft Regulations introducing allowances for members of fire authorities.

#### **Recommendation**

2. That you comment on:

- the draft regulations ( Annex A);
- the proposals contained in this covering report; and
- the draft regulatory appraisal ( Annex B).

#### **Summary**

3. This paper outlines the reasons and proposals for introducing allowances for members of Welsh fire authorities.

#### **Background**

4. Currently members of the 3 Welsh fire authorities do not receive allowances for the time they spend on fire authority business. They do, however, receive travel and subsistence allowances from their local authorities for attending meetings associated with their roles as fire authority members. All fire authority members are members of county/county borough councils and receive remuneration allowances from their authorities for undertaking council business. The rates are set out in the guidance accompanying the Local Authorities (Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 SI 2002/1895 ("the 2002 Regulations") which covers basic allowances for ordinary councillors and special responsibility allowances for council leaders (where a council operates executive arrangements which take the form of a leader and cabinet executive), cabinet members of a council operating executive arrangements, board members of a council operating alternative arrangements and other members holding positions of responsibility.

5. The Welsh Assembly Government consulted during the period 19 March 2003– 19 May 2003 on whether members of fire authorities should receive remuneration. The consultation was directed at local

authorities, fire authorities and the WLGA. The consultation followed ODPM's announcement that it intended to introduce allowances for members of fire authorities in England and the proposals in the Bain Review and the UK Government's Fire White Paper to increase the responsibility of fire authorities in managing the fire service. The consultation paper proposed the establishment of an allowances scheme for members of the 3 Welsh fire authorities which would provide annual allowances to the chairs, vice chairs and members of fire authorities. It also proposed that the allowances would be paid on a pro rata basis to reflect the number of days within the year spent on fire authorities' business. The consultation with authorities supported the principle of the allowances.

6. The Welsh Assembly Government issued the draft Regulations for consultation to local authorities and fire authorities before Christmas 2003. The consultation period will end on 21 January. At the time of writing (15 January) the Welsh Assembly Government has not received any responses. Officials will inform the Committee orally of authorities' views.

### **The Draft Regulations**

7. The Welsh Assembly Government opted to make separate fire authority allowances regulations rather than to amend the 2002 Regulations. This would enable the Assembly to expedite the making of the Regulations. It was considered unlikely that the 2002 Regulations would be amended until late 2004. Separate Regulations would also be easier for fire authority members to access.

8. The draft Regulations require fire authorities in Wales to make a scheme for the payment of an allowance to every member of a fire authority (called a Fire Authority allowance) and a "special responsibility allowance" for the chairs and vice chairs of fire authorities – (called a Fire Authority chairpersons' and a Fire Authority vice chairpersons' allowance) ( See Annex A). The draft regulations also provide for the fire authority to pay travel and subsistence allowances. In addition, the draft regulations enable fire authorities to pay care allowances.

9. The draft Regulations do not specify how fire authority members' allowances will be determined. The Welsh Assembly Government proposes that the actual allowances paid to fire authority chairs and vice chairs would be equivalent to those paid to the chairs and vice chairs of national park authorities – fire authority chairs would receive allowances capped at a maximum level of Band 4 of the existing guidance and vice chairs remuneration would be capped at a maximum level of Band 5. Ordinary members of fire authorities would receive a fire authorities allowance based on the basic allowance paid to members of county and county borough councils and national park authorities. This would maintain a link between fire authorities' and local authorities' allowances.

10. The maximum remuneration members would receive would be as follows – based on 2003 rates:

Chairs £8,783 per annum

Vice Chairs £6,863 per annum

Members £966 per annum.

11. The Welsh Assembly Government is in the process of consulting on whether this methodology should be specified on the face of the Regulations or in guidance. Placing details of how the allowances are to be determined on the face of the regulations would limit the discretion available to fire authorities to vary the allowances and would enable the Assembly and fire authorities' auditors to enforce the maximum limits should authorities exceed them. Placing such information in guidance would provide fire authorities with indicative levels of allowances to which they should have regard. Details of how county and county borough council members' allowances are determined are set out in statutory guidance: " The Allowances for Members of County and County Borough Councils and National Park Authorities : Final Guidance". That guidance was introduced under section 18(5A) of the Local Government and Housing Act 1989. That section could not be relied upon for any guidance to fire authorities.

12. The draft regulations specify that:

- those holding executive or board positions in county and county borough councils and who are also chairs or vice chairs of fire authorities, would receive only a fire authority allowance, which is in effect a basic allowance which all fire authority members receive, in addition to their special responsibility allowances as county councillors.
- the allowances would be subject to National Insurance and Income Tax and would be up-rated annually in line with the procedure set out in the 2002 guidance.

13. Subject to consultation responses, the Welsh Assembly Government would intend to amend the draft Regulations to prohibit the payment of allowances in certain circumstances such as when a fire authority member is disqualified or suspended from duty.

### **Whether the allowances should be pensionable**

14. County and district councillors' allowances in England have been pensionable since May 2003. The Assembly has also approved regulations enabling members of county councils to join the Local Government Pension Scheme. The regulations establish an all Wales remuneration panel which will make recommendations as to which councillors should qualify but it is intended that all members of county/county borough councils will do so after the local government elections in June. The allowances paid to fire authority members in England and those proposed in Wales , are not pensionable. In order for such allowances to be pensionable amendments would have to be made to Section 99 of the Local Government Act 2000 and/or Section 7 of the Superannuation Act 1972 to include fire authority members amongst the category of persons that can receive pensions.

### **Backdating of allowances**

15. The draft regulations do not allow for the back dating of the allowances either to the beginning of the financial year or a later period. Some representations have been made that the draft Regulations should empower authorities to backdate the introduction of the allowances. Their reasoning for this view is that ODPM's regulations came into effect in England in June 2003, members of Welsh fire authorities should not be disadvantaged by foregoing the allowances that they could have received since then . The Welsh Assembly Government believes that the allowances are a reflection of the additional responsibilities that fire authority members will be required to exercise following the implementation of the UK Government's proposals for the fire service. The Local Authorities ( Allowances for Members of County and County Borough Councils and National Park Authorities) (Wales) Regulations 2002 did provide for backdating but there is a distinction that can be drawn between those regulations and the current draft regulations. The 2002 Regulations needed to provide for the continuation of a system of council allowances in operation before the coming into force of those regulations. At present in Wales there are no fire allowances payable and the Welsh Assembly Government is under no obligation to introduce them.

### **Regulatory impact**

The regulatory impact of the draft regulations are set out in Annex B.

### **Compliance**

16. Sections 18 and 21 of the Local Government and Housing Act 1989 enable the National Assembly for Wales to require fire authorities to make a scheme providing for the payment of allowances to their members. Section 100 of the Local Government Act 2000 enables the National Assembly to make provision for travelling and subsistence allowances and the reimbursement of expenses incurred attending to authorities' business. Assembly functions under the Local Government and Housing Act 1989 relevant to their portfolios are delegated to both the Minister for Finance, Local Government and Public Services and to the Minister for Social Justice and Regeneration. Functions of the Assembly under the Local Government Act 2000 is delegated to the Minister for Finance, Local Government and Public Services.

### **Financial Implications**

17. The estimated total cost of these proposals for authorities are £131,625, this comprises North Wales £40,775; Mid and West Wales £35,942; South Wales £36,909. There are no immediate cost implications for the Assembly arising from these proposals as the payment of allowances to fire authority members would be paid by individual fire authorities from the revenue funding they have received from their constituent local authorities.

### **Action for Committee**

18. The Committee is invited to comment on this report, the draft regulations and regulatory

appraisal.

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