

Firefighters' Pension Scheme Advisory Board for Wales

31 October 2019, Newtown Fire Station, Newtown, Powys

Minutes

Members

Michael Prior (MP) Independent Chair

Employer Representatives

Cllr Bryan Apsley (BA) North Wales FRA
Cllr Sue Pickering (SP) South Wales FRA

Employee Representatives

Sean Starbuck (SS) Fire Brigades Union
Cerith Griffiths (CG) Fire Brigades Union
Richie Fairhead (RF) Fire Leaders' Association

Officers in attendance

Mark Miles (MM) Mid and West Wales FRA
Helen MacArthur (HM) North Wales FRA
Alison Reed (AR) South Wales FRA

Observers

Sarah Tillman (ST) Mid and West Wales FRA
Chris Barton (CB) South Wales FRA

Welsh Government Officials (Secretariat)

Kerry Citric (KC) Welsh Government
Cerys Myers (CLM) Welsh Government
Natalie Spiller (NS) Welsh Government

Others in Attendance

Clair Alcock (CA) Local Government Association

Apologies

Cllr Claire Mills Mid and West Wales FRA
Kevin Jones Mid and West Wales FRA
Ade Robinson Fire Officers Association
Adrian Hughes Fire and Rescue Services Association

1. AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS

1.1 MP welcomed everyone to the meeting and noted that Cerith Griffiths had formally been appointment by the Deputy Minister for Housing and Local Government to represent the Fire Brigades Union.

1.2 Apologies were provided for Cllr Claire Mills, Kevin Jones, Ade Robinson and Adrian Hughes. CLM advised that Adrian Hughes had left employment and an alternative representative was to be sought from the Fire and Rescue Services Association.

ACTION: Secretariat to contact the Fire and Rescue Services Association to seek replacement for Adrian Hughes.

1.3 Members confirmed that they had no conflicts of interest to declare.

2. AGENDA ITEM 2 – MINUTES FROM LAST MEETING

2.1 MP referred to the minutes of the previous meeting held on 4 July and invited members to agree the minutes for accuracy. No comments were made and the minutes were agreed as a true record.

MATTERS ARISING

2.2 An update was provided on actions from the last meeting :-

- a) Members had raised an issue in relation to the treatment of ill-health retirement within the schemes. CA advised that guidance on ill-health had been postponed until the outcome of the Firefighter Pensions Supreme Court Judgment on Transitional Protection.
- b) Members had discussed the Internal Dispute Resolution Procedure and had noted that the current guidance was to be reviewed. CA advised that the review had not yet taken place.
- c) An update on Scheme Data as well as updates on Local Pension Boards were covered by the agenda.

3. AGENDA ITEM 3 – FIREFIGHTER PENSIONS SUPREME COURT JUDGMENT ON TRANSITIONAL PROTECTION

3.1 KC explained that the item had been placed on the agenda in anticipation of being able to share information from HM Treasury on the impact of the case on all wider public sector pensions, and the UK Government's plans for dealing with this. However the relevant details were not available to share yet and therefore Welsh Government was unable to provide the update. CA added that the Home Office planned to issue general information, including clarification on procedures. Members were advised that the Case Management Discussion for firefighters was to take place on 18 December 2019.

3.2 SS raised the handling of early retirement cases that were currently being processed by FRAs, or had been dealt with since 2015. The interim position in respect of the police cases was to treat members as if they were still members of their legacy schemes, thereby allowing current early retirement cases to be

effectively processed. The FBU believed that similar arrangements were needed for firefighters as a matter of urgency and were examining the potential for obtaining a consent order for the fire cases to be treated the same.

- 3.3 There were a number of cases in Wales that required immediate handling. The LGA was in discussion with the FBU and Legal Services regarding guidance on handling of ill health retirements for non-litigants. The FRAs were advised to contact CA to discuss any such cases.
- 3.4 The FBU had made a separate claim for scheme members who would receive improved benefits in the 2015 Scheme but had remained in the 2007 scheme as a result of transitional protection arrangements. For similar reasons, there was a group of 2015 scheme members who had transferred from the 2007 scheme who would not want to be transferred back into their legacy scheme. Therefore some kind of options exercise would be necessary for members. Members noted that there were likely to be complicated tax implications that would have to be resolved in respect of incorrect contribution rates and, as a result, incorrect income tax payments.
- 3.5 It was agreed that the item was to remain as an agenda item for future meetings.

4. **AGENDA ITEM 4 – SCHEME OPT OUT DATA (FPSABW(19)06)**

- 4.1 Members were presented with full year data for 2018-19, and 6 month data to September for 2019-20. It was noted that the number of opt outs during 2019-20 was comparatively high but the majority related to withdrawal following auto-enrolment in North Wales FRA. South Wales FRA would be undertaking an auto-enrolment exercise in December so it was likely that a further peak in figures would occur.
- 4.2 At the last meeting, members had indicated that it would be helpful to differentiate between new starters and existing employees who had opted out following re-enrolment. Mid and West Wales FRA and South Wales FRA had been unable to provide the breakdown for previous years but had indicated they would be able to do so from 2019-20 onwards. North Wales FRA had however provided this breakdown for 4 previous years, and a summary was provided to members. Members were asked to note that the figures were not necessarily consistent with previous information provided on auto-enrolment as a “Reason for Opting Out”. This was because auto enrolment/re-enrolment was not specifically identified as a category under this heading in the returns and was therefore only reported where members had specifically given this as a reason for leaving. FRAs would be asked to identify auto-enrolment/re-enrolment as a standard data item in future returns.

ACTION: Secretariat to amend opt out data collection template to include reference to auto-enrolment/re-enrolment and issue to FRAs.

- 4.3 CA advised that the data was consistent with data trends from the English fire schemes. Members indicated that it would be useful to receive a further breakdown of the data, by age category and salary, to understand whether

members were opting out because of annual allowance tax charges. It was agreed that Welsh Government would provide this further detail at the next meeting.

ACTION POINT: Secretariat to provide a breakdown of opt out data submitted by FRAs, by age category and salary.

5. AGENDA ITEM 5 – UPDATES FROM PENSION BOARDS (FPSABW(19)07)

Scheme Advisory Board England

5.1 CA informed members of a pensions tax seminar which was to be delivered by LGA on 12 November.

5.2 The SABE had commissioned AON to undertake an administration and benchmarking review to identify the costs and management and administration of the English Fire Schemes. The findings indicated that the cost to administer the schemes was £5.5m, with 'special projects', such as Milne v GAD, costing around £1m. The report would be used as an evidence base to highlight the complexities of running the fire schemes and to recognise how collaborative working could lead to potential savings. The report provided a number of recommendations to improve the effectiveness and efficiency of the management and administration of the schemes. It was recognised that the position in Wales was less complex with only 2 scheme administrators compared to 19 scheme administrators across 46 FRAs in England.

ACTION: Secretariat to circulate a link to the SABE bench marking report to members.

5.3 Members were advised of the change in contract for the Board of Medical Referees (BMR). The new provider, with effect from 1 October, was Duradiamond Health Ltd. Members had been notified of the change under [W-FRSC\(2019\)15](#).

Mid and West Wales FRA

5.4 Mid and West Wales FRA confirmed that their LPB meeting had taken place on 8 July. The meeting had been well attended and a new member had been appointed to represent employees. In addition to the standard agenda items, the LPB had considered and approved a review of the LPBs terms of reference and draft Annual Report 2018-19. The next LPB was to take place on 18 November 2019.

South Wales FRA

5.5 South Wales FRA had held their LPB meeting on 21 October. As pension scheme administrators, representatives from Rhondda Cynon Taf had been invited to attend the LPB meetings which was found to be beneficial. Future LPB

meetings would be split into two sections to include regular agenda items followed by a training session for members.

North Wales FRA

5.6 North Wales FRA had held their LPB meeting on 7 October. Cllr Bryan Apsley had been appointed as chair of the LPB. The LPB had decided to divide the risk register into 4 areas with one area being reviewed at each of the 4 LPB meetings held annually. North Wales were also providing an ongoing training programme for members as part of each meeting. At the latest meeting, training had been provided on pensionable pay. The scheme administrators, Dyfed Pension Fund, had attended the LPB to provide an update on the administration of the scheme. Their attendance had enabled issues to be discussed and resolved. Encouraging members to view their pension statements on 'My Pensions Online' remained a challenge. FBU colleagues had recognised this as an issue and confirmed that regular conversations took place with members to encourage them to view their pension statements.

LPB Terms of Reference

5.7 The terms of reference of the individual LPBs had been submitted as part of the LPB updates. There was a difference in number of members represented at the North Wales LPB in comparison to Mid and West Wales LPB and South Wales LPB. North Wales FRA confirmed that a minimum of 6 members sat on the LPB but that there were 10 members at present. Members noted that there was similarities across the three LPBs but that there appeared to be inconsistencies with the quorum. A comparison summary of the terms of reference had been provided to the Chair in preparation for the meeting. The summary would be circulated to members.

ACTION: Secretariat to circulate summary of LPB terms of reference to members.

5.8 Members also discussed the relationship between the LPB and the Fire and Rescue Authority. It was suggested that it was good practice to establish a clear reporting relationship between the two.

Data Quality Reports

5.9 The TPR had asked schemes to measure the common and scheme specific data held on members and to report this on the annual scheme return. The FRAs had provided an extract of the data quality reports as part of their update to SABW.

5.10 The following points were made:-

- South Wales FRA had provided a breakdown between schemes as part of their data return whereas a combined scheme return had been submitted by Mid and West Wales FRA and North Wales FRA. This was because South Wales used different scheme administrators.

- The data records held for 1992 and 2007 scheme members was not as accessible as the records held for 2015 scheme members (because of their age and format) which was likely to have had an impact on the overall data scores.
- A change in definition used by the scheme administrators for Mid and West Wales FRA and North Wales FRA had also caused a difference in the scoring.
- North Wales FRA had identified an issue with the historical data used and had raised it with the scheme administrator. The scheme administrator had confirmed that it was an issue for scheme administrators to resolve but confirmed that members' pensions had been calculated correctly.
- Each of the FRAs confirmed that they did not have any specific issues with data collection.

5.11 Members noted that the TPR had updated their guidance on the weighting criteria, to be applied for the 2019 return, to allow schemes to assess the likely accuracy of their data and adjust the score accordingly.

Other Issues

5.12 SS spoke about the split pension rule which was introduced in April 2007 and asked whether consideration had been given to historical / retired firefighters in respect of calculations. North Wales FRA was not aware of any historical cases but advised that a training session on 'split pensions' was to be provided at the next LPB meeting.

5.13 Members were informed that TPR was to rewrite the code of practice so that it would apply across all public and private pension schemes.

6. AGENDA ITEM 6 – THE PENSION REGULATOR GOVERNANCE AND ADMINISTRATION SURVEY 2018 (FPSABW(19)08)

6.1 The Pensions Regulator had published their findings of the Governance and Administration Survey 2018. The survey monitored six key processes as indicators of public service scheme performance.

6.2 Members had received general findings in respect of FRAs as part of the papers for the meeting which suggested some areas for improvement. Scheme Managers were asked what action they had taken, or planned to take, as a result of their individual findings. Each of the FRAs confirmed that they had contributed to the 2018 survey. Reference was made to some of the discussion regarding LPBs and data quality under agenda item 5.

6.3 The LGA had prepared a factsheet to provide guidance to FRAs in order to achieve a higher rate of understanding and compliance ahead of the 2019

survey, which was due to be undertaken in December. The factsheet had been included within [FPS Bulletin 25](#) which had been circulated to members.

6.4 There were indications that TPR would be focussing on a more detailed assessment of the firefighter pension schemes in 2020-21. It was noted that TPR had focussed on LGPS in 2019. Based on experience of that review, it was likely that the review would be in depth. For LGPS, TPR had undertaken site visits at a selected number of LAs, at short notice, as part of their inspection process. This had included at least one scheme manager in each devolved administration. It was reasonable to assume therefore that they would undertake a similar process for the firefighter schemes, and at least one of the FRAs from Wales could expect to be chosen as part of the process. In preparation, the FRAs were advised to revisit their own results from the TPR survey and consider making any necessary improvements.

7. AGENDA ITEM 7 – ANNUAL ALLOWANCE TAX CHARGES – IMPACT ON FRONT LINE SERVICES (FPSABW(19)09)

7.1 Members had briefly discussed Department of Health proposals to add more flexibility into the NHS Pension Scheme, specifically for consultants and GPs, to limit the impact of lifetime and annual allowance tax. Since the last meeting, HM Treasury had indicated that they were open to similar representations for flexibility in other public sector pension schemes providing that there was evidence that scheme members behaviour was being effected by pensions tax issues and that any such behaviour was having an impact on front line services.

7.2 Scheme managers had provided an update on the position in Wales and whilst feedback suggested this was a problem in theory, there was no hard evidence to support this. Without further information, officials did not believe there was a strong enough case to present to Ministers for flexibility in the Welsh schemes.

7.3 There was some discussion about whether the evidence base in Wales was limited because of small numbers, and whether looking to the bigger picture across FRAs in England might provide clearer evidence. CA however indicated that the position identified by SABE and LGA was similar to that in Wales. There was no current firm evidence that concern about the annual allowance was impacting on members decisions to retire early or turn down promotion opportunities. However there was a strong belief that this was an emerging problem, and that if mitigating action was not taken there would be issues with filling certain operational management posts in the future.

7.4 With this in mind, members agreed that Welsh Ministers should be advised to give consideration to flexibility in the firefighter schemes in order to support future FRA workforce planning and staff retention. Discussion had focussed on those in a salary category that might be impacted by the annual allowance. However, members also felt that any flexibilities should be broadened out to all scheme members. There was certainly evidence of members opting out of the scheme because of financial pressures and flexible employee contribution rates had been

one of the SAB's recommendations to Welsh Ministers in response to the cost cap breach before HM Treasury pause in the valuation process.

7.5 Members were advised that HM Treasury had committed to support the flexibility arrangement offered to the NHS scheme. However HM Treasury officials had previously indicated, as part of the Valuation discussions, that they would not fund a reduction in employee contribution rates through Annually Managed Expenditure to the Welsh Government, and the Welsh Government did not have a budget to support a flexibility arrangement. Therefore, unless HM Treasury reversed its position, employee contribution rate flexibility would not be possible. Members therefore felt that HM Treasury should be asked to reconsider its position on funding during the valuation and in light of its flexibility for high earners.

ACTION: Officials to reflect SABs views on scheme flexibilities to Welsh Ministers.

8. AGENDA ITEM 8 – FIREFIGHTERS' PENSION SCHEME AMENDMENTS

8.1 Members were informed that Legal Services had drafted the regulations, and subject to quality assurance checks, the consultation was to take place in January 2020. It was anticipated that the regulations would come into force in June 2020.

9. AGENDA ITEM 8 – ANY OTHER BUSINESS

Funding Position

9.1 South Wales FRA requested an update on the funding position for financial year 2020-2021. The secretariat had raised the matter with the Welsh Government's Strategic Budgeting team, as they led on the comprehensive spending review discussions with HM Treasury, but had not received confirmation of a decision.

ACTION: Secretariat to raise future funding provision with Strategic Budgeting Team.

O'Brien

9.2 The FBU indicated that they were pressing Home Office for an options exercise for all eligible RDS firefighters to provide members with another opportunity to access the RDS scheme, including those that had not taken up the opportunity to join the 2014 modified scheme when it was introduced. The Welsh Government had sought initial advice from its legal services but due to the complexity of the amendments required, it was likely that a UK-wide approach would be taken.

Cost Cap valuation and rectification process

9.3 The FBU had written to Welsh Government, and other scheme administrations, to request the Cost Cap valuation and rectification process be recommenced. It

was noted that the suspension of the cost cap element of the Valuation was a HM Treasury decision over which the Welsh Government had no control.

9.4 No further issues were raised.

Future Meetings

9.5 MP noted that a number of matters had been placed on hold until the outcome of the Firefighter Pensions Supreme Court Judgment on Transitional Protection. It was suggested that the SABW meet again in March when it was hoped that further clarification would be available.

ACTION POINT: Secretariat to seek members' availability and confirm date of next meeting.