

Firefighters' Pension Scheme Advisory Board for Wales

4 November 2021

Virtual Meeting via Microsoft Teams

Note of Meeting

Present

Michael Prior Independent Chair

Employee Members

Cerith Griffiths Fire Brigades Union
Ade Robinson Fire Officers' Association
Tristan Ashby Fire and Rescue Services Association

Employer Members

Cllr Pamela Drake South Wales FRA

Officers in attendance

Helen MacArthur North Wales FRA
Alison Reed South Wales FRA
Chris Barton South Wales FRA
Kevin Jones Mid and West Wales FRA
Mark Miles Mid and West Wales FRA
Sarah Tilman Mid and West Wales FRA

WG Officials

Steve Pomeroy Welsh Government
Kerry Citric Welsh Government
Cerys Myers Welsh Government
Natalie Spiller Welsh Government
Steffan Herdman Welsh Government

Apologies

Cllr Edward Thomas Mid and West Wales FRA
Cllr Bryan Apsley North Wales FRA
Mark Rowe FBU
Richard Fairhead Fire Leaders' Association
Claire Hey Local Government Association

1. AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS

1.1 Michael Prior welcomed everyone to the meeting.

1.2 The Chair welcomed Steffan Herdman who had recently joined Welsh Government Fire Branch. In addition, best wishes were extended to Kevin Jones on his forthcoming retirement. The Chair expressed his thanks for Kevin's contribution to the SABW over the years.

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

2. AGENDA ITEM 2 – NOTES FROM LAST MEETING AND MATTERS ARISING

2.1 The Chair referred to the notes of the previous meeting held on 25 June and invited members to agree them for accuracy. No comments were made and the notes were agreed as a true record.

2.2 An update on the actions from the previous meeting, and outstanding actions from earlier meetings was provided as a front page to the notes. KC provided an update on HM Treasury's consultations on the Cost Control Mechanism and SCAPE mechanism. HM Treasury had held a consultation engagement event on 6 July which several SABW members had attended. Following the event the Secretariat had contacted SABW members via email to ascertain whether they wished to submit a collective SABW response to the consultation. No responses had been received and therefore no formal SABW response had been submitted to HM Treasury.

2.3 HM Treasury had since published its response to the Cost Control Mechanism consultation on 4 October. KC advised that the following changes would be implemented at the next valuation:-

- The mechanism would only consider past and future service in the reformed schemes, costs related to legacy schemes would be excluded.
- The corridor would be widened from 2% to 3% of Pensionable Pay.
- An economic check would be introduced so that a breach of the mechanism would only be implemented if it would still have occurred had any changes in the long-term economic assumptions been considered.

2.4 A link to the response had been provided to the SABW for ease of reference. KC advised that HM Treasury had not yet published their response to their SCAPE Methodology consultation. The Secretariat would share a copy of the response with the SABW once published.

2.5 KC provided an update on Pension Dashboard staging. The SABW response to Pension Dashboard Programme (PDP) on 8 July had set out that implementation in the first tranche of schemes from April 2023 was not achievable due to the complexities around implementing McCloud remedy. The PDP had subsequently discussed whether an extended joining date of late December 2023 /

early January 2024 would be achievable at a HM Treasury pensions (MOCOP) meeting in August. Following this meeting, Welsh Government had liaised with FRAs and Pension Administrators on this proposal and advised PDP that this was still not achievable. Welsh Government had not received a final position on this proposal. The Secretariat would keep the SABW updated on future developments.

ACTION: Secretariat to circulate a link HM Treasury's response to SCAPE methodology consultation when published.

ACTION: Secretariat to update members on developments regarding Pension Dashboard Staging

3. AGENDA ITEM 3 – PUBLIC SERVICE PENSIONS AND JUDICIAL OFFICES BILL – CONSULTATION ON AMENDMENTS TO FIREFIGHTERS' PENSION SCHEMES 2021

3.1 SP advised the Board that the Public Service Pensions and Judicial Offices Bill had been introduced into the House of Lords on 19 July. The Bill required responsible authorities to make the necessary changes to firefighter pension scheme rules, the Welsh Ministers were subsequently required to introduce two sets of regulations. Firstly, Prospective Regulations were required to be introduced by 30 March 2022, in order to transfer "protected members" into the 2015 Scheme as of 1 April 2022. Regulations to implement retrospective remedy would be introduced by October 2023. The Bill removed the powers in PSPA 13 to make exceptions to the closing date of legacy schemes (including exceptions in respect of transitional and tapered protection) from 1 April 2022.

3.2 The Welsh Government had published its consultation on the proposed amendments to the 2015 Scheme on the 25 October, together with a copy of the draft amending prospective regulations which modified the transitional provisions in the 2015 scheme to transfer "protected members" into the 2015 scheme as of 1 April 2022. SP reiterated that the overall shape of the remedy were matters for the UK Government and the Welsh Ministers were therefore obliged to implement the position of HM Treasury as reflected in the Bill.

3.3 The majority of transitional arrangements already included in the 2015 Scheme would continue. This included the final salary link, weighted accrual in respect of the 1992 scheme, periodic payments for added pension in legacy schemes (where an election was made prior to transfer), and legacy scheme transfers in the Public Sector Transfer Club.

3.4 SP advised however, that a complexity in relation to ill health retirement provisions had emerged. The terms on which firefighters retired on grounds of ill health varied across the three schemes, with the 1992 Scheme being generally the most beneficial, in particular because of its lower NPA. In order to avoid potential unfairness of a member receiving a lower ill health pension because the decision

making process spanned their transfer date, transitional arrangements in the 2015 scheme allowed members of legacy schemes already in the ill health retirement process to remain in, and be assessed for ill-health retirement, under legacy scheme rules and retire accordingly with legacy scheme benefits. However, the Bill would not allow for this to continue. Instead the policy intention was to transfer all such members into the 2015 scheme and to provide an underpin in the 2015 scheme which would ensure that such members were no worse off than they would have been if they had been assessed under legacy scheme rules and retired on 31 March 2022.

3.5 SP advised that at the time Welsh Government's draft Regulations were finalised for consultation, the policy and legal position in this area had been unclear. As such the draft Regulations did not contain any provision for such ill health retirements. Welsh Government would however use existing powers to make final Regulations protecting the position of ill health retirees whose cases were pending on 31 March next year, and in particular to ensure they were no worse off as a result of a retirement decision being made after that date. This would entail providing an "underpin" which would mean that such members received a 2015 Scheme ill health pension calculated at the date they actually retire; but that if a legacy scheme pension calculated as at 31 March 2022 would have been greater, the 2015 Scheme pension must be increased by the difference between the two.

3.6 SABW members expressed their concerns that HM Treasury's failure to include ill health provisions on the face of the Bill may result in future legal challenge on the grounds of disability discrimination. SP advised that the Welsh Government would ensure the 2015 Scheme Regulations were amended to fully address this issue. Welsh Government officials would, if possible, provide updated Regulations to the SABW prior to the closure of the Welsh Government's consultation on the 20 December. This was dependent on their availability before that date and on Welsh Government drafting lawyers' agreement that they could be shared.

3.7 All members felt a joint SABW response to the consultation would be beneficial in addition to individual responses on behalf of their respective organisations. Members agreed to submit their views on the proposals to the Secretariat by 25 November to ensure a response was submitted before the consultation closing date.

3.8 KC asked what plans employers and Unions had to communicate with those pension scheme members who were affected by the proposals. KC and ST indicated that the LGA had been working on a suite of communication tools which could be accessed by the Welsh FRAs. This included updating the LGA firefighter pensions' members' web-page, commissioning the development of a video, and production of letters which could be used for FRAs to correspond with affected members. The letters had been drafted but had not yet been circulated.

ACTION: Welsh Government Officials to circulate updated Regulations containing ill health provisions to the SABW.

ACTION: SABW members to provide comments on Welsh Government's consultation to the Secretariat by the 25 November.

ACTION: Secretariat to draft combined SABW response to consultation by closing date of 20 December.

4. AGENDA ITEM 4 – PROVISION DEFINITION DOCUMENTS (PDDs)

4.1 Members were informed at the SABW meeting in March that HM Treasury intended to develop a set of Provision Definition Documents (PDDs) which would support implementation of the age discrimination remedy. Completion of the PDDs had taken much longer than originally anticipated, however, the first two PDDs relating to transfers between unfunded scheme and LGPS, and the prospective policy note, had now been approved by HM Treasury and circulated to the SABW. In addition, a target timetable for delivery of the full set of PDDs had also been circulated to Members. The target date for completion was the end of November. However, it was acknowledged that this may be optimistic given the delays in delivering the PDDs to date. The Secretariat would forward the remaining PDDs to the SABW once received.

4.2 At previous SABW meetings, the Secretariat had raised the possibility of developing a Sub Group to assist in the development of the retrospective Regulations. However, following emerging policy notes from HM Treasury and discussions with devolved administrations, the Welsh Government now felt that they had sufficient information to proceed with the drafting of retrospective Regulations, and as such sub group meetings would only be required on an exceptional basis. SP confirmed that Welsh Government hoped that retrospective Regulations would be drafted by October 2022, which would allow administrators sufficient time to process remedy payments. However, the Secretariat were happy to facilitate discussions relating to the PDDs in order to support the FRAs and Pensions Scheme Administrators if Members felt that it would be helpful. KC advised that SABE had not yet made a decision in relation to the handling of the PDDs.

4.3 Members were in agreement that a Sub Group would be beneficial and welcomed the opportunity to evaluate and discuss the PDDs in greater detail. It was hoped that the meetings would allow administrators to prepare for the processing of McCloud remedy payments. The Secretariat agreed to arrange a meeting of the Sub Group in early 2022 once all of the PDDs had been made available.

Action: Secretariat to arrange a meeting of the Sub Group in early 2022 to discuss the PDDs in greater detail.

5. AGENDA ITEM 5 – COMPLETION OF THE 2016 VALUATION

5.1 KC advised that HM Treasury had published the final Directions for the 2016 valuation. A link to the Directions had been provided for members' information. GAD were in the process of drafting the finalised assumptions, methodology and data reports, and final draft 2016 valuation reports for each scheme.

5.2 Members were advised that the results in the final draft report for the firefighter scheme in Wales was not expected to change significantly from the figures presented to SABW in March, and was therefore expected to identify a ceiling breach. However, this would not be formally confirmed until the GAD documents were received. Members were aware that the Public Service Pensions and Judicial Offices Bill included specific clauses which would waive any ceiling breach once the Bill became law. Welsh Government were not yet aware of when the report for the firefighter scheme in Wales would be provided, but officials would discuss handling and next steps with the SABW Chair and share the results when they became available. .

ACTION: Welsh Government officials would discuss handling with the SABW Chair and share the final draft valuation report on receipt from GAD.

6. AGENDA ITEM 6 – UPDATES FROM PENSION BOARDS

6.1 The Chair congratulated Claire Hey who had recently been promoted as Clair Alcock's successor.

6.2 In Claire absence, KC referred to the LGA Bulletins which were circulated on a monthly basis. KC brought members attention to 2 issues covered in recent bulletins:-

TPR's 2020 -21 Governance Administration Survey report had been published on the 1 July. The English SAB were considering whether any actions were required as a result of the findings. The TPR six key processes factsheet would also be updated to reflect the latest performance and give further guidance to FRAs.

TPR had consulted on a proposed new code of practice earlier in the year. The interim response to the code of practice consultation had been published on 24 August 2021. TPR were currently reviewing the detailed feedback received, it was anticipated that the new code would become effective in summer 2022.

Local Pension Board Updates

6.4 **North Wales FRA** – Discussions had taken place around the Home Office guidance on Immediate Detriment at the last LPB meeting on the 20 October. Training had been undertaken of the Pension's Regulator toolkit focusing on the

modules three and four. In addition, concerns were raised around delays in cases that had been sent to the Pensions Ombudsman

6.5 South Wales FRA - Training in relation to McCloud and Immediate Detriment had been provided during the LPB meeting on 28 June. The LPB had also reviewed their Terms of Reference and the SLA agreement for the provision of services relating to fire pensions. In addition, the LPB also reviewed the updated IDRPs guidance issued by the Welsh Government on 10 June.

6.6 Mid and West Wales FRA – During the LPB meeting on the 12 July the LPB discussed the Pension Scheme Activity and Annual Report. Training was held on cyber security and GDPR Regulations. In addition, the Board reviewed the Immediate Detriment Guidance issued by Home Office.

7. AGENDA ITEM 7 – SCHEME DATA

7.1 FRA Pension Fund Income and Expenditure and Employee Yield papers were provided to SABW on an annual basis. KC advised that the information provided in Annex 1 showed the Scheme Costs for 2020-21, which were calculated following receipt of FPF Returns from FRAs. In 2018 HM Treasury had agreed an employer yield of 13% for the 2019-2023 period. KC reported that the data showed that the actual yield achieved for the first half of that 4 year period was 13.05%.

7.2 NS referred to Annexes 3 and 4 which were standard agenda items which provided updated opt out data up to and including the first two quarters of 2021-22. NS advised that there had been 17 Opt Outs for the first two quarters of 2021-22. As Opt Out numbers were so low, it was suggested that trends would be more easily identified if data was presented to the SABW on an annual basis instead of at each meeting. Members agreed that this was a sensible approach.

Action: Secretariat to provide an update on Opt Out data to the SABW on an annual basis.

8. AGENDA ITEM 8 – ANY OTHER BUSINESS

8.1 KC advised that meetings were likely to take place virtually for the foreseeable future. It was anticipated that the SABW meetings would take place on a quarterly basis, however, this may be subject change depending on the 2020 valuation timetable. The secretariat would email members to ascertain their availability for forthcoming meetings with the next meeting potentially taking place in February depending on availability.

Action: Secretariat to seek Member availability to attend the next SABW meeting in February 2022.