

Firefighters' Pension Scheme Advisory Board for Wales 24 July 2020

Virtual Meeting via Microsoft Teams

Note of Meeting

Present

Michael Prior

Independent Chair

Employee Members

Cerith Griffiths

Fire Brigades Union

Sean Starbuck

Fire Brigades Union

Ade Robinson

Fire Officers' Association

Richie Fairhead

Fire Leaders' Association

Employer Members

Cllr Edward Thomas

Mid and West Wales FRA

Cllr Bryan Apsley

North Wales FRA

Officers in attendance

Kevin Jones

Mid and West Wales FRA

Helen MacArthur

North Wales FRA

Alison Reed

South Wales FRA

Observers

Chris Barton

South Wales FRA

Mark Miles

Mid and West Wales FRA

Sarah Tilman

Mid and West Wales FRA

Others in attendance

Clair Alcock

Local Government Association

Claire Hey

Local Government Association

WG Officials

Steve Pomeroy

Welsh Government

Kerry Citric

Welsh Government

Cerys Myers

Welsh Government

Natalie Spiller

Welsh Government

AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS

1.1 Michael Prior praised firefighters and operational staff for the significant work undertaken during Covid-19.

1.2 Michael Prior welcomed attendees, particularly Cllr Edward Thomas who was attending the meeting for the first time and had replaced Cllr Claire Mills as the

employer representative for Mid and West Wales FRA. MP also welcomed Clair Alcock and Clair Hey (Local Government Association) and Steve Pomeroy (Welsh Government).

1.3 Apologies for absence were received from Cllr Sue Pickering (South Wales FRA) and Tristan Ashby (Fire and Rescue Services Association). Phil Hayes had attempted to join the meeting in place of Tristan but was prevented from doing so due to difficulties with technology.

1.4 1.4 Members confirmed that they had no conflicts of interest to declare.

AGENDA ITEM 2 – NOTES FROM LAST MEETING AND MATTERS ARISING

2.1 The notes of the previous meeting held on 18 February were agreed as an accurate record of discussions. The actions from the last meeting had been completed and an update on the outstanding issues from earlier meetings was provided.

2.2 There were four outstanding action points :-

- **Ill health retirement** – Clair Alcock confirmed that work on ill-health guidance had been postponed until the post remedy on Transitional Protection. LGA had provided interim guidance to FRAs under [Bulletin 27](#). A further update would be provided once clarity on post remedy had been received.
- **IDRP** – Clair Alcock confirmed that the SABE was content to maintain the two stage approach in respect of the IDRP process. The amended guidance had been approved and a [factsheet](#) had been published to the FPS website. SABW members had previously indicated their preference for maintaining the two stage approach, consistent across Wales. The SABW would be asked to consider and agree the guidance at the next meeting. Earlier guidance had been issued via a Welsh Government circular and for consistency officials would issue a similar circular for the new guidance.
- **Fire and Rescue Services Association Representation** – FRSA continue to seek a replacement for Adrian Hughes. Tristan Ashby was to cover the role until a local representative was confirmed. Sean Starbuck raised concern about the lack of representation from the FRSA and indicated that the FBU already represented the views of retained firefighters. He raised a concern that the FRSA had not taken up the seat on a regular basis which placed the employee side at a disadvantage especially in these important discussions and that the FBU would take up the additional seat if needed.
- **SABs views on scheme flexibilities to Welsh Ministers** – The action related to the impact of tax allowances on members in front line services. It had been raised following a discussion about UK 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. The action had not been taken forward due to prioritising workloads on pension related issues.

AGENDA ITEM 3 – HMT’S PUBLIC SERVICE PENSIONS CONSULTATION: RESPONSE TO THE MCCLLOUD JUDGEMENT

3.1 The paper presented to the SABW sought members’ agreement to the Welsh Government’s proposed approach to the Treasury’s consultation. The SABW had submitted comments to the Treasury in March following discussions on a pre-consultation technical paper regarding the two options for the remedy period - immediate and deferred choice. It was not suggested that members have a detailed discussion about the consultation proposals themselves at this stage; rather the Welsh Government was seeking members agreement to the proposed handling of the consultation in Wales. The Treasury proposed closing the legacy schemes on 31 March 2022 to all members. As this would be done via primary legislation which remained a matter reserved to the UK Parliament, members noted that this was outside the Welsh Government’s control.

3.2 The Welsh Government set out the following approach to the consultation regarding proposals for the remedy period 2015-2022 :-

- The Welsh Government did not plan to consult separately on remedy options as the Treasury consultation already set out fair, clear and comprehensive proposals for the remedy period to 31 March 2022.
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- Instead the Welsh Government were inviting SABW members to share their organisation’s response to the consultation with Welsh Government officials, and to provide a separate response from their organisation directly to officials, if they felt there was an issue of direct relevance to the Welsh schemes that did not apply more broadly across the UK;
- The Welsh Government also asked SABW to itself hold further discussions during the consultation period. This could include both the SABW’s divergent views on the overarching options set out in the consultation as well as raising any areas where technical clarification might be needed. SABW could also decide whether it wished to send a collective response to Treasury too.
- The Welsh Government planned to consider the responses to the Treasury consultation that it received along with the Treasury’s overall response to these, and any feedback from SABW meetings before deciding on its final approach to amending scheme rules. A full public consultation would be undertaken on the regulations required to implement the final remedy.

3.3 Members were content with the Welsh Government’s proposed approach.

3.4 Members made the following initial observations:-

- Sean Starbuck noted the illustrative examples provided in the consultation document focussed on other scheme and not firefighters. He felt it would be useful for SABW to see examples in the context of the firefighter schemes. It was noted that GAD had previously provided worked examples of benefits in the Welsh Schemes. It was likely that those could be updated now that further information on the options was available. Welsh Government would also consider whether different examples, including ill-health retirements and commutation could also be provided.

ACTION POINT: Welsh Government to commission GAD to develop the worked examples of benefits in Welsh Schemes for the remedy period.

- The Welsh Government would be happy to meet individual organisations if any members felt that would be useful.

ACTION POINT: Welsh Government to extend an invitation to meet with individual organisations represented at SABW.

- Each of the FRAs confirmed that the consultation was to be discussed at their forthcoming Local Pension Board meetings. FRAs would submit individual responses to the Treasury, and share these with the Welsh Government, but welcomed the opportunity to use the SABW as a platform for a collective discussion beforehand. Whilst the FRAs were content to share their thinking with the SABW, timeframes for doing so needed to be considered. Members agreed to hold a further SABW meeting to discuss the proposals, once all LPB meetings had taken place. A date toward the latter end of September would be sought. This would allow time for final responses to be sent by the consultation closing date of 11 October.

ACTION POINT: Secretariat to arrange a further meeting of SABW in late September.

- Clair Alcock advised that the SABE had not yet considered its approach to the consultation. It was anticipated that the varying organisations represented at the SABE would wish to submit individual responses which would incorporate the views of scheme administrators. The SABE would consider whether to submit a further technical response or whether to respond with a copy of their very detailed response to the earlier informal technical consultation.
- The Welsh Government confirmed that it was content that the SABW response to HM Treasury, dated 11 March could be shared more widely by members. The SABW's deliberations on this issue were already set out in the notes of meetings which were published anyway.
- Members raised the issue of immediate detriment cases, including the handling of tapered protection members. Both employees and employers indicated that they needed advice and direction from Welsh Government. It was noted that the

SABE had written to Home Office to escalate a response on the [matter](#). Members recommended that SABW as a Board raise the need for guidance with the Welsh Government.

ACTION POINT: Welsh Government to consider views of the SABW and provide a position in respect of guidance on immediate detriment cases.

3.5 Members were advised that the Treasury planned to hold a central event with Unions in September. The Welsh Government would provide relevant contact details for the fire schemes in Wales although it was acknowledged that there was some duplication of members between scheme advisory boards.

AGENDA ITEM 4 – FIREFIGHTERS PENSION SCHEME VALUATION 2016 AND 2020 (FPSABW(20)04)

Valuation 2016

4.1 Kerry Citric referred to Treasury's [announcement](#) to re-commence the cost cap element of the 2016 valuation. The announcement had confirmed that the cost of Sargeant/McCloud remedy would be included within the process. The Government Actuary's Department was unable to confirm their timetable for completing the 2016 valuation process until Treasury had issued new directions.

4.2 Sean Starbuck welcomed the restart of the cost cap but was concerned about some of the content of the ministerial statement in relation to the proposed consideration of the age discrimination remedy costs and the impact it would have on the 2016 valuation and specifically changes to member benefits. It was likely that the FBU would have to consider amending the terms of their judicial review as a result of the Treasury announcement.

Valuation 2020

4.3 The Treasury had also announced that the review of the cost control mechanism would now take place in 2021. Members were advised that any recommendations would not affect the 2016 valuation but would be considered as part of the 2020 valuation process. GAD had provided some clarity on the timescales for the 2020 valuation, although these were not yet finalised. FRAs were being asked to submit their valuation data by December 2020.

4.4 The SABW was reminded of its role during the Valuation process. Following the data collection and analysis, the Board would be asked to provide feedback and advice on GAD's draft assumptions. If GAD reported a breach of the cost cap floor or ceiling following its valuation calculations the Board would need to make

recommendations to Welsh Ministers on the steps required to rectify the breach and achieve the target cost.

4.5 It was suggested that Valuation refresher training for members take place in late 2021 to prepare members in advance of the assumption setting stage, but it was noted that training may be brought forward, depending on when the revised 2016 valuation results were provided by GAD, and the changes that those results reflected.

ACTION POINT: Secretariat to arrange valuation training for members in 2020-21 (timing to be determined).

AGENDA ITEM 5 - COVID-19, ADMIN AND MANAGEMENT OF THE FPS DURING GOV RESTRICTIONS (FPSABW(20)05)

5.1 Michael Prior had requested an update from FRAs on the impact of COVID-19 on the management and administration of pensions.

5.2 South Wales FRA advised that they had experienced some issues with the volume of transactions combined with the resources available but there were no specific concerns to raise. Both North Wales FRA and Mid and West Wales FRA confirmed that administrators had implemented contingency plans immediately which had allowed business to continue unaffected. No problems or issues had been highlighted and recognition was given to Dyfed Pension Fund scheme administrators for their role.

5.3 The FRAs were encouraged to reflect on the details provided so that lessons could be learned for the future.

5.4 Members were advised that the Welsh Government had intentionally limited their engagement with FRAs throughout the lockdown period to weekly meetings with Chief Fire Officers, which had covered FRAs' response and management of the crisis, including discussion about any pension and compensation scheme issues. Low absence rates and reliance on retained firefighters had meant that the FRAs in Wales had not needed to bring firefighters out of retirement. As such, issues regarding abatement rules and protected pension age and temporary contracts had not been issues in Wales.

5.5 It was noted that the LGA had published a lot of useful material for FRAs during [COVID-19](#). The LGA had sought legal advice on the treatment of temporary contracts during COVID and whether they were deemed pensionable. The advice concluded that firefighters employed under a temporary contract of employment were to be excluded from being members of the pension scheme and compensation scheme. Papers on temporary contracts and pensionable pay issues had been presented to the SABE and had been made available to members through the LGA website.

AGENDA ITEM 6 – UPDATES FROM PENSION BOARDS

(FPSABW(20)06)

SABE

6.1 Clair Alcock reported that the English SAB had met on 11 June. The meeting had predominantly focussed on the Treasury consultation. A new Chair had been appointed, and subject to security checks, would be announced in August.

Mid and West Wales FRA

6.2 Mid and West Wales FRA had appointed a new chair to the Local Pension Board. The next LPB was to take place on 29 July 2020 and would be a virtual meeting.

North Wales FRA

6.3 North Wales FRA had held a virtual meeting of their LPB in June. Despite initial technical difficulties, the virtual meeting had enabled scheme administrators to join the meeting and as such were able to provide an update on the administration of the Firefighter pension schemes. The continuation of virtual meetings would provide an opportunity for scheme administrators to attend more frequently. The next LPB was to take place in August.

South Wales FRA

6.4 South Wales FRA advised that scheme administrators had provided a presentation on Pensions Taxation in order to upskill the knowledge of the LPB. The next LPB had been scheduled for October but a number of extraordinary meetings would be held prior to then.

AGENDA ITEM 6 – SCHEME DATA (FPSABW(20)07)

7.1 Members had been provided with three sets of figures, FRA pension fund scheme income and expenditure, the employee contribution rate yield and latest scheme opt out data.

Scheme Costs

7.2 Members noted the significant difference in employer contribution costs which had increased from £10m to £17m during 2018-19 to 2019-20. This was as a result of the employer contribution increases resulting from the 2016 valuation. It was

noted that the Welsh Government had provided £5.8m to FRAs via a top up grant to cover these costs.

Employee Contribution Rates: Yield

7.3 The 2015 firefighter pension scheme design included an original target rate of 13.2% for employee contribution yield. In 2018, GAD had estimated a yield of 13% for the period April 2019-March 2023, which HM Treasury agreed could be used as the target yield in the 2016 valuation process.

7.4 The calculation of the yield for 2019-20 had been based on pensionable pay and employee contribution data taken from FRAs Firefighter Pension account returns submitted in March/April. The information indicated an employee yield of 13.09% for the first year of the 4 year valuation period.

Opt Out Data

7.5 Members had been provided with updated opt out data based on the latest returns from FRAs.

7.6 At the October 2019 meeting, SABW agreed that it would be useful to receive a further breakdown of the data, by age and salary, to understand whether annual allowance tax charges were potentially impacting on members' decisions regarding retirement and/or continued scheme membership. A breakdown of the data, by age and salary, had been provided for financial year 2019/20 to allow members to consider this. Based on the information collected, it appeared that only two members who earned over £40,000 had opted out. These were both over the age of 56.

7.7 Members had also requested a breakdown between new starters and existing employees who had opted out following auto enrolment. Based on the data collected for financial year 2020-21, there had been 11 opt outs, of which; 1 was a new starter and 3 were existing employees who had opted out following auto enrolment.

7.8 Members indicated that they were content with the data provided.

AGENDA ITEM 8 – ANY OTHER BUSINESS

8.1 Firefighters' Pension Scheme Amendments

- [Consultation](#) on amendments – members were advised that the Welsh Government had published its consultation which covered proposed amendments following the Supreme Court rulings in the cases of Walker and McLaughlin as well as minor amendments in respect of the calculation of split pensions, pension

sharing on divorce, special member commutation factors and club transfer value payments. The consultation was due to close on 2 October.

- [Goodwin](#) – The SABW was informed of a sexual orientation discrimination case brought in the Employment Tribunal against the Secretary of State for Education. The claimant claimed that he should receive survivor pension payments that include his wife's accrued service before April 1988, as comparable same-sex survivors now do following the Supreme Court ruling in *Walker vs Innospec*. Clair Alcock said that the ruling did not appear to apply to the English Fire schemes due to the equalisation of the schemes in 1972. The Welsh Government had sought legal advice in respect of limitation dates relating to GMP. Information had been sought from Welsh FRAs in respect of the number of female members with pre 1988 service. The FRAs had confirmed that the potential numbers that could be impacted by the ruling were extremely low. A further update would be provided to the SABW in due course.

8.2 Protected Pension Age - Alison Reed provided an update on the Pensions Ombudsman [conclusion](#). Three members in South Wales FRA had been affected by significant tax implications following their retirement and re-entering to the Service on a part time basis. The Pensions Ombudsman had upheld the complaints against South Wales FRA as it was seen as the employer's responsibility to provide advice to their firefighters on the matter. South Wales FRA was to liaise with tax experts to work out the liability which was believed to be circa £180,000. Reference was made to another tax treatment case which had upheld similar complaints against Police employers. Members noted the importance of having good governance structures in place. Clair Alcock said that key messages and guidance notes had been published to the members' password protected section of the FPS website to ensure reaching wide audience.

8.3 [Pensions Dashboard](#) – Members were advised that the Bill containing the dashboard legislation was expected to receive Royal Assent by the end of the year. It was anticipated that a more detailed timetable for implementation would be available later in the year. The Treasury were asking that scheme managers and administrators reviewed the quality of their data in preparation. The Pensions Dashboard Programme had launched a Call for Input on their data working papers via an [online survey](#), to be completed by **31st August 2020**.