

## Firefighters' Pension Scheme Advisory Board for Wales

25 June 2021

### Virtual Meeting via Microsoft Teams

#### Note of Meeting

##### Present

Michael Prior Independent Chair

##### Employee Members

Mark Rowe FBU  
Ade Robinson Fire Officers' Association  
Richard Fairhead Fire Leaders' Association  
Tristan Ashby Fire and Rescue Services Association

##### Employer Members

Cllr Bryan Apsley North Wales FRA  
Cllr Pamela Drake South Wales FRA

##### Officers in attendance

Helen MacArthur North Wales FRA  
Kevin Jones Mid and West Wales FRA

##### Observers

Chris Barton South 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

##### Apologies

Cllr Edward Thomas Mid and West Wales FRA  
Mark Miles Mid and West Wales FRA  
Alison Reed South Wales FRA  
Cerith Griffiths Fire Brigades Union

## **1. AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS**

1.1 Michael Prior welcomed everyone to the meeting.

1.2 The Chair advised Clair Alcock had accepted a post of Head of Police Pensions for NPCC, with effect from August. Michael extended his thanks and best wishes on behalf of SABW for the support and technical advice that Clair had provided over the years, not only to the FRAs but also to the Scheme Advisory Board.

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 24 March 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. Members noted that an action from October 2019 remained outstanding. This related to briefing Welsh Ministers on the impact of annual/lifetime allowance tax issues, the potential for this to impact on firefighter retention in key middle manager posts, and scope to consider adding flexibility into the schemes to reduce this risk (following similar changes to the NHS scheme). KC advised that this action would not be taken forward until Sargeant / McCloud remedy had been implemented. Officials would update the SABW on this issue once advice had been submitted to Ministers

## **3. AGENDA ITEM 3 – VALUATION**

### **Completion of 2016 Valuation**

3.1 KC provided an update on the recalculation of the cost cap element of the 2016 valuation. Final directions from Treasury, and the resulting final valuation report from GAD were not expected until late summer.

3.2 At the last meeting GAD had provided a summary of their assessment of the valuation assumptions. Treasury directions indicated that assumptions could only be changed from those used in the original valuation where they resulted in a significant change as a result of remedy. As GAD were not recommending any such changes, the SAB was not being formally consulted. However, the Welsh Government had indicated that it was still happy to discuss any issues with members, and several issues such as pay and mortality rates had been raised.

3.3 In advance of this meeting, the SAB had been provided with GAD's more detailed assumptions, data and methodology report. KC made specific reference to:-

- The potential limitations that GAD had identified in terms of the original 2016 valuation data to identify members in scope, but that these were not expected to have a material impact on results;
- The calculation methodology recommended by GAD at page 8 of the presentation. Members were asked for any comments on whether any allowance for the cost of reinstating opted out members should be included.

3.4 No comments were made and KC advised that she would be responding to GAD to confirm that the Welsh Government was content with the recommendations.

### **SCAPE methodology and Cost Control Mechanism reform consultations**

3.5 KC referred to the Consultations which had been published by HM Treasury in relation to the SCAPE Discount Rate Methodology and Cost Control Mechanism on 24 June. Both papers had been shared with Members prior to the meeting, however, it was noted that there had been limited time for members to digest the information.

3.6 KC advised that the SCAPE consultation sought views on two approaches to setting the rate, the first based on expected long-term GDP growth (the current model), the second on the Social Time Preference Rate, which had been used pre 2011, both with possible modifications that could be applied. HM Treasury was also proposing to alter the timings of the SCAPE discount rate review to align with the valuation cycle, with an aim of conducting one review of the rate per valuation cycle.

3.7 Members noted that the SCAPE discount rate had a significant impact on employer contribution rates. The rate had been reduced in 2016, and then again in 2018, by a total of 0.6%. This had resulted in a large increase in employer contribution rates set in 2019.

3.8 Following the consultation, HM Treasury would carry out a separate review exercise to set a new SCAPE discount rate in line with the chosen methodology and to feed into the 2020 valuation.

3.9 HM Treasury had also published a consultation in relation to the Cost Control Mechanism. Reform of the mechanism was required following the breach of the 2016 valuation, as concerns were raised that the current mechanism was too volatile. A breach was only expected to occur as a result of extraordinary events.

3.10 The consultation document proposes making three changes to the current mechanism:-

- Moving to a reformed scheme only design would remove any allowance for legacy schemes in the cost control mechanism, so the mechanism would only consider past and future service in the reformed schemes. This would ensure

consistency between the set of benefits being assessed and the set of benefits potentially being adjusted;

- Widening the corridor from 2% to 3% of pensionable pay would make it less likely that a breach of the cost cap floor or ceiling would occur.
- Introducing an economic check so that a breach of the mechanism would only be implemented if it would be affordable to do so.

3.11 KC advised that the consultations were due to close on the 19 August, and, as the SABW was not due to meet again until September, any response from the Board would need to be discussed via correspondence with members. HM Treasury had advised that it was planning on holding a number of stakeholder engagement events in the coming weeks to discuss proposals in greater detail. The secretariat would inform the SABW of the proposed dates for the sessions in due course. Members would be invited to confirm whether a SABW response was required and to provide contributions to that response following the stakeholder event.

#### **4. AGENDA ITEM 4 – REFORM**

##### **Immediate Detriment**

4.1 SP advised the SABW that HM Treasury and the Home Office had published revised guidance in relation to Immediate Detriment on the 10 June, which outlined the latest decisions set out in HM Treasury's consultation response in February. The LGA had also issued supporting guidance to provide additional information relating to immediate detriment. SP reiterated that the Welsh Government did not have any power to issue statutory guidance or directions to Scheme Managers on this matter, nor did the Home Office or the Treasury. However, given that the scheme provisions in Wales were almost identical to those in England, the guidance documents issued contained useful information in relation to processing claims.

4.2 The Chair confirmed that there were a number of FRAs in England which had started to process Immediate Detriment Cases. However, it was understood that the Welsh FRAs had raised concerns about doing so until clarity had been received on the finer details. SP confirmed that the LGA and FBU were in the process of developing a framework, which would assist the FRAs in processing Immediate Detriment payments. It was hoped that this would be in place by September.

4.3 SP advised that Welsh Government would be prepared to facilitate discussions between the Welsh FRAs to ensure a consistent approach to processing Immediate Detriment cases should they so wish.

4.4 CA confirmed that HM Treasury had not yet determined the policy in relation to how calculations should be settled. There was therefore a gap in the guidance. FRAs would be required to adapt their approach once HM Treasury has confirmed their position.

4.5 Members made the following observations:

- The FRAs expressed concern in relation to the administrative burden of processing Immediate Detriment cases with limited resources. Clarification was sought on whether there was a budget available to assist the FRAs in funding the cost of administration. SP advised that Welsh Government did not have access to a budget to cover such costs, nor was he aware of funding being made available to FRAs in England.
- Scheme Administrators had advised that they would not be in a position to produce the software necessary to process the Immediate Detriment cases until revised legislation had been implemented. The FRAs agreed that clarity from HM Treasury on the timings for publishing the final Provision Definition Documents (PPDs) would be helpful.

### **Public Service Pensions and Judicial Offices Bill**

4.6 SP confirmed that HM Treasury was in the process of drafting the Public Service Pensions and Judicial Offices Bill, the exact date for introduction had not been confirmed. However, the Bill was required to be in force in time for the introduction of the prospective regulations which would close any future accrual to the legacy schemes from April 2022. Whilst the exact content of the Bill was not yet fully known, SP confirmed that it would be prescriptive and set out clearly mechanisms for the introduction of the deferred choice underpin in individual scheme regulations, the closing date for the legacy schemes and the date by which retrospective remedy must be introduced.

4.7 Prospective regulations to transfer all remaining members of legacy schemes into the 2015 Scheme were required to come into force by the 1 April 2022. The Welsh Government had instructed Lawyers with a view to consulting on the regulations in the Autumn. Retrospective regulations were required to come in force by 1 October 2023, however, the Welsh Government was awaiting clarity on a number of issues before taking forward retrospective arrangements to the scheme regulations. The Secretariat would engage with the SAB in due course.

### **Provision Definition Documents Timings (PDDs)**

4.8 HM Treasury had produced a series of PDDs for each policy area which would assist in formulating the amendments to pension scheme regulations. HM Treasury had initially indicated that the PDDs were likely to be agreed and published by Summer 2021, however, outstanding issues remained, particularly around tax, that prevented the PDDs from being finalised.

4.9 KC advised that membership of the SABW sub group to review the PDDs had been agreed, but meetings would be delayed until finalised versions of the PDDs

were available for discussion. The LGA had reviewed and provided comments on draft PDDs to date, it was therefore felt that reviewing the documents as part of the Sub Group in their current form would add little value to the process and would result in duplication of work. CH agreed that the LGA would continue to liaise with HM Treasury on this issue and feed back to the SABW.

4.10 The FRAs reiterated concerns that Immediate Detriment cases could not be processed as software providers were unable to implement the necessary software until the revised regulations were in force. It was agreed that the FRAs would collaborate to provide a consistent approach to processing Immediate Detriment claims once the final PDDs became available.

## **5. AGENDA ITEM 5 – PENSIONS DASHBOARD**

5.1 KC advised members that the Pension Dashboard Programme (PDP) had requested input from schemes in relation to the timings and order of when pension schemes would connect with the pensions dashboard infrastructure. The staging principles focused on achieving the widest coverage of pensions as soon as possible, while considering industry, regulatory and PDP deliverability. The PDP were particularly keen to understand what the McCloud remedy meant in practice for schemes and their ability to prepare for pensions dashboards. Members were asked to consider whether it would be prudent for the SAB to formulate a joint response to the consultation if members had a collective and consistent view. Members were also encouraged to provide individual feedback on the proposals.

5.2 Both employer and employee representatives agreed that implementation of remedy alongside the dashboard could not be supported. Members raised the following observations:-

- Members agreed that key information in relation to pension entitlement would only be available following implementation of the Sargeant remedy. Annual benefit statements would be updated to include the remedy in 2024, therefore there would be little value in providing member information prior to this date as the data available to Scheme Members would be incomplete and inaccurate.
- Firefighter Unions supported the introduction of the Pensions Dashboard but added that members would be likely to visit the on-line data once and if it did not meet their expectations in terms of usefulness they would be unlikely to use it again. Therefore, their preference would be for the data to be complete and include remedy before making it available. In addition, they felt that members' priority would be accessing their benefits via Sargeant/McCloud implementation, rather than accessing information via the dashboard.

- FRAs in Wales were small organisations with limited resources, therefore implementing the McCloud / Sargeant remedy may be more of a challenge for them than other centrally administered pension schemes. They would subsequently struggle to implement the Sargeant remedy alongside the dashboard.

5.3 Members agreed that the firefighters' pension schemes should not be included in the first tranche of the staging process. Due to the complexities around implementing the Sargeant remedy, members felt that the larger public pension schemes should be implemented first, with the firefighter pension schemes joining once remedy had been finalised. It was agreed that the Members would provide further input and evidence to the Secretariat to assist in the drafting of a joint SAB response to PDP by the closing date of 9 July.

## **6. AGENDA ITEM 6 – PENSION ENTITLEMENTS FOR RDS FIREFIGHTERS (O'BRIEN VS MINISTRY OF JUSTICE)**

6.1 Helen McArthur asked for an update on proposed timings for implementing the judgment in the case O'Brien vs Ministry of Justice. The [CJEU](#) had concluded that periods of service prior to the transposition date of the Part Time Workers Directive in 2000 were to be taken into account when calculating pensionable service for fee paid judges. The judgment was applicable to the RDS Modified Scheme as the current provisions only allowed scheme members to "buy back" pension rights from 2000. Amendments to the Modified Scheme would therefore be required to allow members to purchase pensionable service for their whole career.

6.2 SP informed members that officials had discussed the implications of O'Brien with Welsh Government lawyers and the other devolved administrations. It was likely, given the complexities of the proposed amendments, that the administrations would need to work together to develop a solution for RDS firefighters. An options exercise of all eligible RDS firefighters would be required, to provide members with another opportunity to access the RDS scheme, including those that had not taken up the opportunity to join the modified section of the 2007 scheme when it was introduced in 2014.

6.3 Officials felt that attempts to implement both the Sargeant remedy and O'Brien judgment simultaneously could create unnecessary administrative burden on both the scheme administrators and FRAs. It was therefore the Welsh Government's intention to delay action on O'Brien to ensure priority could be given to the Sargeant / McCloud remedy.

6.4 Firefighter Unions agreed that the process of identifying those affected by the judgment was proving difficult. A Memorandum of Understanding, in relation to the options exercise, was in the process of being agreed. In addition, concerns were raised that there could be a gap in the membership data going back to 1978, this would make it administratively very difficult to ascertain who may be affected by the judgment.

## 7. AGENDA ITEM 7 – UPDATES FROM PENSION BOARDS

### English Scheme Advisory Board

7.1 The Chair invited Claire Hey to provide an update on behalf of the LGA. CH advised that focus had been mainly on the Sargeant / McCloud remedy and conflicting priorities with the staging of the Pension Dashboard. Members were advised that the Pensions Regulator's consultation on a new Modular Code of Practice had closed on the 17 March 2021. Discussions would be held with the Local Pension Board Effectiveness Committee to discuss definitions. In addition, the LGA were collecting data on patterns of IDRPCs, to understand if there are any topical or frequent disputes on particular areas, how often a stage one hearing went to a stage two hearing, and the result. Results would be made available via the Monthly Bulletins.

### Local Pension Board Updates

7.2 **North Wales FRA** - In addition to the standard items of discussion, North Wales LPB had conducted training on the transitional protection case and Immediate Detriment at its LPB meeting on the 21 April. In addition, discussions were held on how best to engage with staff via My Pensions Online.

7.3 **South Wales FRA** - Discussions were held around the Sargeant/ McCloud remedy at the last LPB meeting on the 28 January. In addition training had been provided on the role of RCT Pensions as the Service's Pensions Administrator. Members had also been presented with the final version of the Members Handbook.

7.4 **Mid and West Wales FRA** - At the LPB meeting on 22 March, Mid and West Wales LPB considered a report on the transitional protection judgment. Members also received and noted a report on the outcome of the Pension Regulator's Governance and Administration Survey 2019. Training had also been provided by the LGA on the Firefighters' Pension Scheme and HMT Consultation issues.

7.5 The Chair queried whether the Welsh LPB's and SABW would benefit from attending an All Wales Training Event. Consideration would be given to holding a joint event should a need for bespoke training be identified.

## 8. AGENDA ITEM 8 – SCHEME OPT OUT DATA

8.1 CM presented the Opt Out papers and confirmed that the data provided a complete record for 2020-21 financial year. Data for 2021-22 financial year would be submitted to the Welsh Government shortly.



8.2 CM referred to Annex 2 which provided a breakdown of the data collected, including a further breakdown by age and salary, as well as differentiating between first time auto enrolment and auto enrolment of existing members. CM advised members that a recording issue had been identified in respect of the auto enrolment information submitted. Some of the returns had listed 'not applicable' when asked if the opt out was due to 'auto enrolment', which appeared to contradict the length of pensionable service. Further analysis of the data had confirmed that the opt outs had taken place within the first three months of individuals joining the pension schemes and it was suggested that the entries should have been categorised as first time auto-enrolments. CM advised that she was following this up with the FRA and would circulate revised figures to the SAB, once details had been confirmed.

## **9. ANY OTHER BUSINESS AND DATE OF NEXT MEETING**

9.1 KC advised Members that new guidance had been introduced in relation to the publishing of documents on the Welsh Government website. All documents were required to meet accessibility standards to ensure individuals with sight issues were able to navigate through the documents effectively. This also applied to any documents produced by third parties which were published on the Welsh Government website. As a result Welsh Government had circulated a circular which contained an updated guidance note and factors provided by GAD (W-FRSC(2021)03 - Continual Professional Development – Additional Pension Benefit) but were unable to make it available on the website because the attachments did not meet the standards. This would remain the position for any future circulars with GAD attachments.

9.2 GAD was currently undertaking an exercise to review the accessibility of the documents that they produced, however, it was unlikely that this will be completed until the end of the year. In the meantime, the Welsh Government would continue to issue circulars relating to factors but the Annexes prepared by GAD would need to be requested from the Welsh Government directly until accessibility issues were resolved.

9.3 Clair Hey requested that she be added to the distribution list for the next SAB meeting, as she will be attending the meetings going forward.

9.4 The Chair referred to the date of the next meeting which had been scheduled to take place on 24 September 2021.

