

1. AGENDA ITEM 1 – WELCOME AND INTRODUCTIONS

1.1 The Chair welcomed everyone to the meeting. Apologies were presented for Cerith Griffiths, Mydrian Harries, Alison Reed, Sarah Tillman, Cllr John Brynmor Hughes and Nicola Wescott.

1.2 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 30 January and invited members to agree them for accuracy. No comments were made and the notes were agreed as a true record.

MATTERS ARISING

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. Kerry Citric (KC) provided an update on Matters Arising:-

Scape Methodology Consultation

2.2.1 KC advised Members that the UK Government announced its response to the SCAPE Methodology Consultation on the 30 March, a link to the response had been circulated to Members for information. The consultation response confirmed that the new SCAPE discount rate to be used as part of the ongoing 2020 valuation had reduced to CPI+1.7% p.a.

2020 Valuation

2.2.2 Following the announcement of the new SCAPE rate, GAD were currently producing a draft assumptions report, which would be available for discussion with SABW Members early July. The Chair suggested that in order to ensure an effective discussion on the valuation assumptions, the July meeting would be better held in person. KC confirmed that this was also GAD's view. The meeting would therefore be arranged to take place in person at the Welsh Government Offices in Cathays Park, Cardiff. Members requested that potential dates for this meeting be sent out as soon as possible so that dates could be held in diaries. This was important as travel time would also need to be factored in. It was anticipated that draft valuation results would be available to the SABW in September.

GAD Factor Review

2.2.3 Members were advised that the announcement of the new SCAPE rate had triggered a review of the factors used for calculating public sector pensions. Scheme managers and administrators had been informed immediately when action to suspend factors or introduce new ones had been

advised by GAD. A timetable of the factors that GAD planned to update as part of the factor review had been produced, a copy would be circulated to scheme managers and administrators for information.

Action: Secretariat to issue holding dates for the “in person” SABW meeting in July to members as soon as possible.

Action: Secretariat to circulate Factor Review Timetable to scheme managers and administrators for information.

3. AGENDA ITEM 3 – CONSULTATION ON REMEDYING AGE DISCRIMINATION IN FIREFIGHTERS’ PENSIONS IN WALES 2023.

3.1 Steve Pomeroy (SP) introduced the discussion seeking members contribution to a SABW response to the Welsh Government’s “Consultation on Remedying Age Discrimination in Firefighters’ Pensions in Wales 2023”. SP explained that, in simple terms, remedy consisted of :-

- Placing affected members back into their legacy schemes for the 7 year remedy period and;
- Providing these members with a choice at retirement (or immediately, if already retired), of either legacy scheme or 2015 scheme benefits for the remedy period.

3.2 This was though complicated significantly by having to unpick and correct the detail of the various elements of members pensions and decisions during the remedy period. The consultation document itself was deliberately lengthy in an attempt to explain the retrospective consequential changes that needed to be made, and in a way that would be understood by individual scheme members and not just member representatives and employers.

3.3 Members agreed to focus on a few key questions at the SABW meeting. These comments would be reflected in a note of the meeting to be shared with members within one week. Members would then be given the opportunity to confirm that they agreed with the summary of the discussion, and also be given an opportunity to provide comments on any of the other consultation questions that they felt would benefit from being covered in a joint SABW response, rather than just being included in individual responses to the consultation.

Action : Secretariate to share a note of the meeting with members by 10 May.

Action: Members to provide the Secretariat with further comments to be included in the SABW response to the Welsh Government’s consultation by 22 May

Action: Secretariat to draft a joint SABW response to the Welsh Government's consultation on age discrimination remedy and circulate to Members for agreement by 26 May.

3.4 Discussion then focussed on the following key elements of the consultation:-

General comments

3.5 **WASPI** - Cllr Roberts queried whether the legal challenge by WASPI regarding injustice suffered by women born in the 1950s and 1960s as result of an increase in the state pension age would affect the proposed amendments. SP advised that this would not have an effect on the draft Regulations, however, there could potentially be an impact more generally on entitlement to a deferred pension. Welsh Government would consider this in greater detail in due course.

3.6 **Guidance** - Catherine Black (Pension Administrator for Rhondda Cynon Taff County Borough Council) indicated that clear guidance on age discrimination remedy would be required to allow administrators to effectively implement the required changes. She also raised concerns regarding resource levels and stressed the importance that the necessary software was developed and installed quickly to ensure administrators were able to complete the calculations.

Action: Welsh Government to consider effect of WASPI legal action on deferred pension entitlement.

Contributions

3.7 The Welsh Government's Consultation proposed to correct the amount of contributions for remedy period service, and the amount of tax relief on them, in consequence of (a) retrospective reversion to legacy schemes, and (b) a deferred choice ("DC") or immediate choice ("IC") election for 2015 Scheme remedy period service. The Welsh Government proposed making provision for any deficit in contributions to be repaid by instalments over 10 years or by lump sum, as scheme members preferred. There would be no automatic right to pay the total deficit at retirement from a member's lump sum as this was not an option that was available to protected members, or 2015 scheme members who weren't eligible for remedy and the Welsh Government wanted to avoid introducing a further form of age discrimination. However, if a member retired before their periodic payments had been fully re-paid they would be able to meet the balance from their pension lump sum.

3.8 SABW Members discussed this proposal at length, the following points were raised:-

- SABW Members welcomed the pragmatic approach that had been taken by the Welsh Government and agreed with the proposal to provide increased flexibility in repaying a deficit in employee contributions, as providing an option to repay contributions via periodic instalments as well as by lump sum would help to minimise potential financial hardship to Scheme Members.

- FRA Officers from both North and South Wales FRAs confirmed that providing Scheme Members with a choice of repayment options would be more equitable and was consistent with the approach already implemented with regard to buy back of contributions in relation to RDS Service in the 2007 Modified Pension Scheme.
- Cllr Broom asked whether contribution limits would impact on the proposals for lump sum or periodic payments. KC advised that HMT had provided guidance on the handling of tax relief on pension contributions, and on how remedy impacted on Annual Allowance limits, with arrangements in place to deal with over or underpaid annual allowance. The guidance had been shared with the SAB previously.
- KC queried whether pension scheme administrators would find the use of periodic instalments more difficult to manage. Catherine Black (RCT County Borough Council) advised that this would not cause an issue for administrators as the contribution process was managed by the FRAs as Scheme Managers. The FRAs were responsible for providing the relevant scheme data to the administrators for their pension calculations. Employer representatives agreed that Scheme Managers would need to devise a payment mechanism, however, they confirmed that this would be fairly straight forward as a process had already been developed in order to manage the payment of periodic contributions for historic service in the 2007 Modified Scheme.
- Elena Johnson (LGA) raised concerns regarding how departure from the approach taken in England may affect those Firefighters who transfer across the border. The LGA advised that they had raised this issue with Home Office directly and requested that clarity should be included in their amending regulations. It was agreed that Welsh Government would discuss this in greater detail with Home Office colleagues.

Action: Welsh Government to discuss cross border transfer issue with Home Office colleagues.

Opt Outs

3.9 SP advised Members that the Public Service Pensions and Judicial Offices Act 2022 enabled (but did not require) the Welsh Ministers to impose conditions and limitations on the right to opt back in. This included requiring those wishing to opt back in to prove that their original reasons for opting out were related to the discrimination they experienced. The Welsh Government did not propose to introduce this requirement. Firefighters were not required to give a reason for opting out at the point that they did so, and many chose not to. Therefore, it would be difficult for them to prove retrospectively that they opted out because of age discrimination, other than to assert that this was the case. It would though be equally difficult for a scheme manager to rebut such an assertion. Members confirmed that they were content with this proposal.

3.10 However, Members welcomed further discussion around the period that members could buy back scheme membership. It was noted that the PSPJO Act did not provide for members to opt back into the legacy scheme for any period prior to the remedy window (April 2015-April 2022). The provisions allowed for opting in for the remedy period only and were set out so that anybody that opted out during the remedy period would be eligible to opt back in. This was on the premise that anybody that had opted out before the start of the remedy would be auto-enrolled back into the 2015 scheme at some point during the remedy period and so would opt out of the scheme again during the remedy period itself.

3.11 Employer Representatives advised however that they had identified a small number of individuals who had opted out of their legacy scheme prior to the start of the remedy period (1 April 2015). These members had joined the 2015 scheme just prior to the closure of all of the legacy schemes in April 2022. The FRAs queried whether such individuals would be eligible to automatically opt back into their legacy scheme retrospectively under the proposed scheme rules, or whether their re-joining the 2015 scheme prior to the closure of the remedy period would disqualify them from opting back in for the whole remedy period.

3.12 SP advised that this was not the intention but that the draft regulations would need to be reviewed to establish whether this was an unintended consequence of the provisions as currently set out. If so, the regulations would need to be amended. It was agreed that Officials and FRS officers would discuss this further.

Action: Welsh Government to consider opt out eligibility in greater detail with employers to ensure that the regulations provided for members to opt in to scheme membership for the remedy period worked as intended for all cases.

Survivor Benefits

3.13 SP advised Members that the Welsh Government propose that where the deceased member made a valid immediate or deferred choice before s/he died, then that choice should hold, and an eligible decision maker should not be entitled to revisit and change that. This was because the choice was primarily for the scheme member to make, not her or his survivors, and should be honoured. This approach differs slightly from the Home Office who have suggested that the eligible decision maker of a deceased scheme members should be entitled to revisit a members DC/IC election where the member had died before the pension came into payment.

3.14 Members agreed that the Scheme member's original choice should be honoured and were thus content with the Welsh Government's proposal.

Choice Mechanism

3.15 Chris Barton commented that for administration purposes, clear deadlines for members making choices between legacy scheme or 2015 scheme benefits should be set to ensure adequate timeframes were provided for scheme managers/administrators to implement.

3.16 SP agreed that this would be a sensible approach, and the Welsh Government would consider including a suitable deadline within the amending regulations on receipt of the SABW consultation response.

Action: Welsh Government to consider including a choice mechanism deadline within the amending Regulations.

Transfers

3.17 Chris Barton queried the level of compensation available to Scheme Members in the event that an external non-club scheme would not accept a “top-up” CETV. KC advised that HM Treasury had recently produced a tax policy note for transfers which provided clarification on this issue. The Secretariat would send this to the SABW as soon as HM Treasury confirmed that it could be shared but in summary HM Treasury had clarified that there were three potential options 1) transfer to a non-occupational pension scheme 2) payment as a trivial commutation amount (if the relevant criteria was met), or 3) compensation which would be taxable (to provide consistency with trivial commutation) based on the tax year in which the top-up payment was made. All amounts would be subject to interest as set out in Treasury Directions.

Action: Secretariat to circulate HM Treasury Tax Guidance to SABW Members for information.

Next Steps

3.18 KC advised Members that following the closure of the consultation exercise on the 23 June, the Welsh Government would analyse the responses received and finalise the draft Regulations over the summer period. The Regulations would then be made and laid at the end of August, early September to ensure a coming into force date of 1 October 2023.

AGENDA ITEM 4 – ANY OTHER BUSINESS

4.1 No items were raised.