

# Firefighters' Pension Scheme Advisory Board for Wales

2 November 2023

Hybrid Meeting – Welsh Government Offices, Merthyr Tydfil / Microsoft Teams

## Note of Meeting

### Present

Michael Prior Chair

### Employee Members

Ade Robinson	Fire Officers Association
Stuart Millington	Fire Leaders' Association
Cerith Griffiths	Fire Brigades Union
Anthony Maude	Fire and Rescue Services Association

### Employer Members

Cllr Kim Broom Mid and West Wales FRA

### Others in attendance

Tara Atkins	Local Government Association
Claire Johnson	Local Government Association
Kim Jeal	South Wales FRA
Alison Reed	South Wales FRA
Helen McArthur	North Wales FRA
Nicola Westcott	Mid and West Wales FRA
Sarah Tilman	Mid and West Wales FRA
Mydrian Harries	Mid and West Wales FRA

### WG Officials

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

## APOLOGIES

Mark Rowe	Fire Brigades Union
Tristan Ashby	Fire and Rescue Services Association
Cllr Aurfron Roberts	South Wales FRA
Chris Barton	South Wales FRA
Mark Miles	Mid and West Wales FRA
Nicola Westcott	Mid and West Wales FRA
Cllr John Brynmor Hughes	North Wales FRA
Becky Marfleet	North Wales FRA

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

1.1 The Chair welcomed everyone to the meeting. Apologies were presented for Mark Rowe, Tristan Ashby, Cllr John Brynmor Hughes, Cllr Aurfron Roberts, Rebecca Marfleet, Mark Miles and Steve Pomeroy. The Chair welcomed Anthony Maude to the meeting who was attending on behalf of the Fire and Rescue Services Association.

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 28 July and invited members to agree them for accuracy.

2.2 Members highlighted a typographical error that had been made in paragraph 20, the date should read 2024 and not 2014 as stated. The Secretariat agreed to rectify this error before publishing the Minutes. The notes were agreed as a true record.

**ACTION : Secretariat to amend the Minutes from the meeting which was held on the 28 July to rectify the typographical error.**

### **MATTERS ARISING**

2.3 An update on the actions from the previous meeting, and outstanding actions from earlier meetings was provided as a front page to the notes. No further comments were provided.

## **3. AGENDA ITEM 3 – SCHEME DATA**

3.1 KC provided SABW Members with an annual update on pension scheme costs. She explained that the data was provided by the FRAs as part of their FPF Returns and was used to calculate grant funding to FRAs each year to top up the shortfall between income from employer and employee contributions, and payments to pensioners. The information was also fed into updates to the Office of Budgetary Responsibility and Welsh Government internal budgeting processes. KC referred to Annex 1, which showed employer contributions had increased considerably from 2019 onwards as a result of the increase in the employer contribution rate following the 2016 valuation.

3.2 Members were also provided with an update on the employee contribution yield (Annex 2). KC advised that the yield had been set as part of the original 2015 scheme design to achieve HM Treasury's aim of protecting the public purse by ensuring funding into the scheme was fairly apportioned between employers and employees. The Welsh Government monitored the employee yield on a yearly basis to monitor whether the target rate of 13.2 % had been achieved. The SABW had previously been advised each year that if the target rate was not achieved, action to increase the employee contribution rate may be required. In 2018, GAD estimated a yield of 13% for the period April 2019-March 2023, and HM Treasury agreed that this lower rate could be used in the 2016 valuation process. KC confirmed that the scheme had achieved a yield of 12.94% over the 4 year period, which was significantly below the 13.2% and also below the 13% used in the valuation process. The yield would be discussed in greater detail under Agenda Item 4.

3.3. NS provided an update on pension scheme opt out data, which had been outlined in Annexes 3 and 4. She advised that an update had been provided for quarters 1-3 of the 2022-23 financial period at the SABW meeting held in January. The information provided at this meeting would include quarter 4 (2022-23). Members were advised that there had been 51 Opt Outs in total for the 2022-23 financial period, which equated to 1.72%. This was a slight increase on the 2021-22 figures. The Secretariat had reviewed the data but had been unable to identify any discernible trends, this could have been due to the low number of opt outs recorded for this period. NS further advised that the Secretariat would continue to monitor for any emerging trends, and an update for the 2023-24 period would be provided once all returns had been submitted by the FRAs.

3.4 Samantha Watts (GAD) queried whether the data distinguished between the number of individuals opting out following a re-enrolment exercise and those opting out on commencement of employment. KC confirmed that the data has been separated between first time auto enrolments and auto enrolment of existing members. KC advised that there had recently been some confusion regarding the definitions for each of the categories. A meeting was being scheduled with the FRAs to ensure a consistent approach was adopted. In future the Secretariat would merge data for several financial periods to ascertain whether there were any clear trends emerging. An update would be provided at a future SABW meeting.

**ACTION: Secretariat to merge and analyse opt out data in order to ascertain whether there were clear trends emerging and provide an update at a future SABW meeting.**

#### **4. AGENDA ITEM 4 – 2020 PROVISIONAL VALUATION RESULTS**

4.1 The Chair invited SW to provide a presentation on the provisional 2020 valuation results. SW thanked the SABW for their letter of response dated 30 August which provided SABW's formal agreement to the core assumptions and the assumptions relating to the RDS second options exercise. SW confirmed that due to lack of available evidence relating to the likely take up rate of the second options exercise, the Welsh Government had requested that the assumption be based on

actual data of take up rate for the first options exercise (30% of eligible firefighters). GAD had since prepared provisional valuation results for discussion with the SABW, however, SW confirmed that the figures contained within the report were still provisional and therefore subject to change.

4.2 Members were advised that the report showed an overall Employer Contribution Rate of 31.7% of pensionable pay, payable over the period 2024-2027. This represented a 3.4% increase from the 2016 Valuation Employer Contribution Rate of 28.3%. SW confirmed that net of ill health retirement charges, which were expected to equate to 0.7% of pensionable pay, the rate for the 2015 scheme effective over the implementation period was 31.0% of pensionable pay. KJ queried whether the increase in pensionable pay since 2020 had been factored into the calculation. GAD advised that actual salary figures would not have included the increase as the data was taken as at 2020, however, actual data was taken into account when calculating how liabilities were spread over a 15 year period.

4.3 SW further advised that the cost cap cost of the scheme was 11.6% of pensionable pay, which was 5.5% below the target 17.1% employer cost cap. However, when GAD applied the economic check, the cost cap costs were increased to 19.6% of pensionable pay, which was 2.5% above the employer cost cap rate of 17.1%. Therefore, as a result of the economic check a breach of the cost cap corridor has not occurred. As a result, there was no requirement for the Welsh Ministers to consult on changes to the scheme.

4.4 Members were advised that the provisional results had been derived in accordance with benefits as set out in scheme regulations, methodology as described in the Public Service Pensions (Valuation and Employer Cost Cap) Directions 2023, information supplied by the administrators of the Firefighters' Pension Schemes (Wales) and assumptions, some of which were set by the Welsh Ministers and others that were specified by HM Treasury Directions. SW confirmed that the increase in the Employer Contribution Rate was mainly driven by the change to the SCAPE discount rate. However, a number of other factors had been considered.

4.5 SW advised that HM Treasury had agreed to using an Employee Contribution yield of 13.0% for the 2016 Valuation. KC advised that, as set out in the previous agenda item, a yield of 12.94% had been achieved over the 4 year period since April 2019. For the 2020 Valuation HM Treasury had however required an Employee Contribution Yield figure of 13.2 % to be included in line with the original scheme design. KC indicated that, as a result, the Welsh Government would be required to review employee contribution rates to ensure that the required yield was achieved during the period covered by the valuation results. KC advised that the HM Treasury Directions being published later than planned had delayed the valuation and the decision regarding the yield rate to be included. That meant that implementing changes to the employee contribution rates by April 2024 would not be possible. Instead the aim would be to implement new rates from April 2025 following full engagement with the SABW and full public consultation. The issue would be discussed in further detail at the next meeting.

**ACTION : Secretariat to provide an update on the amendments required to the employee contribution rate at the next SABW meeting.**

4.6 The FRAs advised that they would be required to submit their financial plans for the 2024-25 financial period within the next 2-3 weeks and queried whether they could refer to the increase in the employer contribution rate contained in the report for budget setting purposes. They also queried whether there would be an increase in funding to relieve financial pressure on the FRAs. GAD confirmed that the figures could be used, however, SW reiterated that they were currently provisional results and therefore subject to change. GAD anticipated that the valuation report would be finalised and formally signed by the new Chief Government Actuary within the next 4-6 weeks.

4.7 KC indicated that the Welsh Government expected to receive a Barnett consequential of any HM Treasury funding to Home Office in respect of costs associated with the SCAPE element of the increase, but figures had not yet been formally confirmed. HM Treasury had not yet confirmed whether they would provide funding for the element of the employer contribution rate increase associated with Matthews / O'Brien implementation costs.

4.8 SW referred to the error in the CARE Revaluation Orders for 2021 and 2022. She confirmed that the 2020 Valuation had included the corrected CARE revaluation rate. She also advised Members of the assumptions that the employer contribution rate and the costs cap cost were most sensitive to, indicating that the more significant assumptions tended to be set by HM Treasury Directions. Changes to the SCAPE discount rate, pension increases for deferred pensions and pensions in payment, and future mortality improvement assumptions all had a significant impact on the employer rate. In addition, SW reiterated that the full cost of the RDS second options exercise was currently unknown as take up rate for the second options exercise could be very different to that anticipated. GAD would have data on the take up rate for the 2024 valuation and would adjust the employer contribution rate accordingly. The new employer contribution rate for the 2024 Valuation would come into force on the 1 April 2027.

## **5. AGENDA ITEM 5 – UPDATE ON SCHEME AMENDMENTS**

### **Age Discrimination Remedy**

5.1 KC advised Members that the Firefighters' Pensions (Remedial Service) (Wales) Regulations 2023 had been made at the beginning of September and came into force on the 1 October. She advised Members, particularly scheme managers, to note and ensure that they were fully conversant with the differences in approach in Wales, for instance:-

- Slight differences in the content of a Remedial Service Statement
- No qualifications on opt-ins.
- Differences in default decisions for choice mechanisms - in Wales there was no scheme manager discretion.
- Difference in contribution repayments.
- Limited provisions for waiving costs owed to the scheme manager.

5.2 It was likely therefore that templates / guidance issued by the LGA would need to be tweaked for the Welsh Firefighter Pension Schemes in order to take into account of these difference.

5.3 Further regulations however, would be required in due course to amend some small, mostly formatting, errors that has been identified in the Welsh version of the Regulations. In addition, there were concerns that Regulation 22(2)(a) might not be clear enough to scheme administrators in terms of how the calculation should be applied. The Welsh Government were currently considering their approach to rectifying this issue but in the meantime, scheme administrators were advised to refer to the examples set out in the Provision Definition Document (“PDD”) that related to divorce. The Secretariat agreed to recirculate the PDD for reference.

5.4 KC advised that HMT were also undertaking work to update their Directions, it was anticipated that this would be completed by the end of the year. HMRC were developing a further set of tax regulations which were anticipated to come into force early 2024. The regulations would largely be scheme specific based on changes which may be required as a result of provisions in scheme regulations.

5.5 KJ queried whether the proposed amendments to the Directions would impact on the GAD Calculator and whether remedy payments should be paused in the interim. The Secretariat agreed to liaise with HM Treasury regarding this and update the FRAs once clarity had been received.

### **O’Brien Second Options Exercise**

5.6 Officials were currently in the process of analysing responses and instructing lawyers on resultant amendments to the provisions, following closure of the Welsh Government’s consultation on the 6 October.

5.7 In addition, Officials had also reviewed the amendments Home Office had made to their draft Regulations as a result of their consultation process. Subsequently, there were a few additional amendments that the Welsh Government were considering including in the draft provisions as a result of their review, they included the following:-

- Including 25% of wholetime reference pay as the default for calculation of the death grant for the extended limited period.
- Including 25% of wholetime reference pay as the default for pre-2000 service where the authority did not hold pay records and they had to determine pensionable pay from other records or local experience. In such a case, where this determination indicated an amount lower than 25%, then 25% would become the default.
- Providing for the 30 year maximum service cap not to be breached as a result of added pension purchased in the first options exercise and decisions to purchase further service in the second options exercise.

- Applying interest to the tax relief amount that would be debited off contributions owed (as well as applying interest to payments owed).
- Making the same provisions as Home Office in terms of membership conversions.

5.8 KC advised that the Welsh Government would normally undertake a further consultation exercise for any new provisions that hadn't been raised as part of the consultation response or outlined in the original consultation document itself. However, she explained that this would not be necessary on this occasion as all of the above amendments would benefit scheme members and were raised in response to the English consultation exercise. The Secretariat agreed to circulate a summary of the proposed amendments to SABW Members for formal agreement. KC confirmed that provided the SABW were content, the Welsh Government would proceed to include the proposed amendments within the final amending Regulations.

5.9 Members were further advised that the GAD payment calculator would require further amendment in order to take into account the different approach taken in Wales with regard to repayment contributions. The Welsh Government were currently discussing the cost of undertaking this work with the GAD. KC confirmed that in order to include the additional provisions the implementation date for the amending Regulations had been delayed slightly, she anticipated that they would now come into force on the 1 February 2024.

### **Revaluation Correction**

5.10 At the last SABW meeting in July, the Welsh Government consulted Members on proposals to amend errors identified in the HMT Revaluation Orders 2021 & 2022. Subsequently, the Welsh Government had liaised with colleagues in the other devolved nations regarding the proposed amendments. The Scottish Government had agreed to lead on the drafting the relevant provisions and had published a consultation outlining their proposals, a link to which had been included in the Agenda for Member's information. KC confirmed that all devolved nations would be mirroring the draft Regulations introduced by the Scottish Government.

5.11 KC advised that the Welsh Government had initially hoped that the amendments could have been included in the Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023 which came into force on the 1 October or within the RDS second options Order, however due to the tight timescale this would not be possible. It was anticipated that the amendments would instead be included the remediable service regulation amendments referred to previously.

5.12 Home Office had issued a letter on the 20 October advising scheme managers to apply the necessary administration changes needed to correct the error in advance of the regulatory changes being formally introduced. The Welsh Government would not be providing similar formal advice to FRAs.

5.13 KC also clarified that there was a clear interaction between Sargeant / McCloud and O'Brien remedy. The Welsh Government had been advised that

O'Brien remedy could not be applied up to 2022, instead remedy could only be applied up to 2015. Those members would then be entitled to age discrimination remedy as a result of being entitled to O'Brien remedy. Remedy for O'Brien would therefore need to be implemented for those members before remedy in relation to Sargeant / McCloud could be applied. Failure to do so would result in affected members being entitled to standard 2007 scheme membership under the legacy scheme as opposed to special modified scheme benefits.

**Action: Secretariat to re-circulate the Provision Definition Document relating to divorce.**

**Action: Secretariat to liaise with HM Treasury regarding proposed amendments to the Directions and whether these were likely to impact on the GAD Calculator.**

**Action: Secretariat to circulate a summary of proposed amendments resulting from the English consultation on the O'Brien second options exercise.**

**ACTION: Members to provide comments / feedback on the proposed amendments by the 8 November.**

## **6. AGENDA ITEM 6 – UPDATES FROM LOCAL PENSION BOARDS**

6.1 The Chair invited Claire Johnson to provide an update on LGA and SABE discussions. CJ informed Members that the SABE had met in September. During the meeting they had discussed the outcome of the Home Office's consultation on age discrimination remedy and the RDS second options exercise. GAD also attended the meeting and provided Members with an update on the Matthews/ O'Brien calculator. GAD were unable to provide an update on the final 2020 valuation results as the report had not been finalised at this point. However, the LGA had held a separate meeting with the SABE in order to discuss the valuation results in detail.

6.2 Scheme Managers had also been reminded of the requirement under Regulation 8 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2015 to notify individuals of material alterations to basic scheme information within 90 days of the Sargeant / McCloud and O'Brien remedies coming into force. KC confirmed that this only currently applied to age discrimination remedy which came into force on 1 October, amending regulations in relation to O'Brien had not yet been introduced.

### **North Wales FRA**

6.3 The Local Pension Board had met on 11 July and 24 October. At the meeting on the 11 July, the Board appointed Stuart Millington as the new Chair. In addition, approval was sought from the Scheme Manager to expand the membership from both the employee and employer side to ensure that all meetings progressed as planned. The Board also reviewed the Terms of Reference and an update on the pension fund account was provided to Members. An update on scheme membership



was provided which confirmed that there was 691 active members with 513 pensions in payment and 554 deferred members. Deferred members were largely from the retained cohort of staff. Legal matters were discussed, particularly the position regarding the Sargeant / McCloud and O'Brien remedy. A review of the risk register was undertaken, together with funding and compliance risks for the period. In addition, the pension scheme administrator confirmed activity and also provided assurance that all Welsh Government circulars have been actioned. Members also received training on the 2020 valuation in preparation for the forthcoming valuation results.

### **Mid and West Wales FRA**

6.4 The Local Pension Board met on the 14 June, 19 July and 4 October. During the meetings the Board considered the response to the age discrimination remedy and RDS second option exercise consultations. Members received a presentation on data protection and information security and funding and accounting of the Firefighter's Pension Scheme. The Board also received and considered the Local Pension Board Annual Report for 2022/23. The next LPB meeting was scheduled to take place on 27 November.

### **South Wales FRA**

6.5 Local Pension Board meetings were held on 23 January, 3 July and 16 October. During these meetings the Board considered key metrics and performance. A report on Internal Dispute Resolution Procedures was shared for information, and Members were updated on the number of cases that had been received. In addition, Members were updated on the latest position on the McCloud remedy and the number of immediate detriment cases processed (over 50 at the end of September). An update on the current position with regard to O'Brien was also provided. A report was also shared which contained the completed public service pension scheme returns that had been submitted to The Pensions Regulator. In addition, Members received copies of the FRAs response to the Welsh Government's consultation exercises and also the Government responses. A verbal update on the topics discussed at SABW was also provided. A new Members training session was held at the July meeting.

## **7. AGENDA ITEM 7 – ANY OTHER BUSINESS**

### **Pensions Dashboard**

7.1 Members were advised that The Pensions Dashboards (Amendment) Regulations 2023 which came into force in June had introduced a single connection deadline of the 31 October 2026. HM Treasury would be scheduling a technical meeting specifically for scheme managers and administrators in order to discuss plans for connection to the dashboard in greater detail. The Secretariat agreed to provide SABW Members with further details once available.

### **Date of next meeting**

7.2 KC confirmed that the next meeting would be scheduled for four months time. However, this was subject to change should the need arise for an earlier / later meeting. The Secretariat would be in touch shortly to ascertain member availability.

**Action: Secretariat to confirm details of the next SABW meeting.**