

Scottish Firefighters' Pension Scheme Advisory Board

MINUTES

Date: 24 October 2019

Location: Victoria Quay, Edinburgh

Chair: Jim Preston (SPPA)

Attendees: Ramona Coxall (Scottish Fire and Rescue Service)
Gordon McQuade (Fire Brigades Union)
Glyn Morgan (Fire Officers' Association)
Sean Starbuck (Fire Brigades Union)
Claire Hey (Local Government Association)

Apologies: Nicola Hector (Scottish Fire and Rescue Service)
Chris McGlone (Fire Brigades Union)

Secretariat: Clare Moffat (SPPA)

Scottish Government/Scottish Public Pensions Agency Officials:
Claire McGow (SPPA)
Lorna Smith (SG)

Apologies: Lorimer Mackenzie (SPPA)

1. Welcome and introductions

1.1 The Chair welcomed everyone to the Scheme Advisory Board (SAB) meeting and led introductions for the benefit of new member, Ramona Coxall (SFRS), and observer, Claire Hey (LGA).

2. Conflicts of interest

2.1 No new conflicts of interest declared.

3. Minutes and actions of previous meeting

3.1 FBU member asked for organisation title to be amended to Fire Brigades Union.

Action Point

SPPA to amend minutes before publishing on SPPA website

3.2 Minutes of previous meeting (11/12/2018) were accepted, subject to amendment. SPPA to publish at earliest convenience.

3.3 The Chair explained that action point 46 was not completed due to the pause to the cost cap remedy and that this action point should be closed pending the outcome of the cost cap pause.

- 3.4 The FBU confirmed that they have requested HM Treasury to remove the pause on the cost cap remedy as transitional arrangements are a separate issue to cost cap remedy. The FBU has written to the UK Government and the devolved administrations requesting the cost cap pause to be lifted and have received a common response from all confirming the pause must remain. The FBU retains its position that the cost cap pause should not be applied and will raise this again in further correspondence.

4. Regulations update

- 4.1 The Chair explained regulations to allow for the overpayment of GMP to continue being paid as an increased pension entitlement (IPE) are to be laid on 11 November. The group were also informed that two amending instruments are due to be laid on 29 October 2019.
- 4.2 The Firefighters' Pension Scheme (Scotland) Amendment Order 2019 will amend The Firemen's Pension Scheme Order 1992:

In rule B5A (entitlement to two pensions)

– to clarify that where a firefighter has an entitlement to two pension under the 1992 Scheme, the amount of the first pension is uprated annually from the date that the firefighter ceased to earn the higher rate of pay.

- 4.3 The Firefighters' Pension Scheme (Scotland) Amendment Regulations 2019 will amend The Firefighters' Pension Scheme (Scotland) Order 2007:

(a) in Schedule 1, Part 1 to reflect the changes following the Brewster case i.e. to remove the requirement for a deceased member and the surviving partner to have completed a nomination form before a survivor's pension can be paid and make consequential changes as nominated partners become cohabiting partners

(b) in Part 3, rule 7 (entitlement to two pensions)

- where a firefighter has an entitlement to two pension under the 2006 Scheme, the amount of the first pension is uprated annually from the date that the firefighter ceased to earn the higher rate of pay.

(c) in Part 6, rule 2 commutation of pension credit benefits

- to update an out of date statutory reference

- 4.4 A discussion followed on the subject of split pensions (tabled as item 7). FBU advised that issues have arisen where members retiring with split pensions have not had the first part of their pension indexed correctly. SPPA confirmed that their Customer Services Team had already reviewed split pension retirals and taken corrective action for seven cases pension as per LGA technical note *Entitlement to two pensions* issued April 2019.
- 4.5 It was noted that there may be some pensioners with entitlement to two pensions which require revision therefore SPPA agreed to check further pensioners calculations and report back on findings.

Action Point

SPPA to review pension calculations to ensure split pension calculations processed have been applied correctly.

5. Participation Rates

- 5.1 The Chair introduced paper 3 *Scheme Participation Rate 1 April 2016-30 June 2019*. SPPA outlined the main conclusions within the report which contained new data for Q2 2019-20.
- 5.2 Members discussed the strong participation rate within the wholetime and retained schemes, particularly noting the low opt out rate for younger members which supports the continued effective communication of the benefits of the scheme by the SFRS, member organisations and SPPA.
- 5.3 Members highlighted that the data in table 3.52 *RDS opt outs by age* was incorrect and required review.

Action Point

SPPA to review opt out data and amend report before circulating to members by email

- 5.3 Following a discussion around the reported reasons for opting out, the Chair explained that the Scottish Teachers' Pension Scheme replaced tick boxes on the opt out form with a comments box to encourage more detail from members at the time of opting out to enable accurate analysis. SPPA confirmed that further data on the reason for opting out may be possible with support and agreement from SFRS. More accurate information on the reason for members opting out of the scheme allows greater awareness of any emerging trends allowing the SAB to consider potential policies to address any fall in the participation rate.

6. Update on Sargeant

- 6.1 The Chair highlighted the need to address the age discrimination identified within the transitional protections introduced in April 2015 across all schemes and explained that the next stage in this process is the Case Management Discussion Hearing for Firefighters on 18 December 2019.
- 6.2 The Chair outlined that he expected the SAB to have sight of any remedy proposals for consideration and comment before implementation, and warned that meetings may be called at short notice to discuss.
- 6.3 FBU asked that, whilst the current legislation dictates that retirements are calculated under the one pot rule, immediate consideration should be given to a change of approach as following the judges' preliminary hearing, the FBU's legal team have advised that any affected members should be treated as if they were still eligible to be in the 1992 scheme until a remedy is agreed (as documented in FBU circular 2019HOC0527SS dated 15 October 2019).
- 6.4 A read across from the judges' case, which the FBU expected to be replicated in the following weeks Police Case Management Discussion Hearing, would allow ill-health cases to be considered with immediate effect. For former members of the 1992 FPS ill health retirements are being processed based on the 2015 regulations. The FBU stated that the immediate issue was to ensure that these members are treated as if they were still members of the 1992 FPS. The FBU confirmed they have also raised this with LGA and the Home Office. The FBU stated that the number of compensation claims will be high unless a sensible approach is agreed soon.
- 6.5 The FBU also informed the SAB that a further claim had been lodged covering a 2006 member who had full protection but would have benefited from membership of the 2015 scheme. This underlines the fact that in providing a remedy simply moving everyone back to their original scheme does not benefit all members.

- 6.6 Following discussion, the FBU outlined that members should be offered the “best of both worlds” with a choice at the beginning or at the end of their pension journey to make decisions which best suit their circumstances. If any members are worse off as a result of transitional protections, the FBU have confirmed that they will initiate claims to rectify this.
- 6.7 The Chair queried how members who joined the scheme after April 2012 should be treated. The Chair reminded the board that HM Treasury will consult on any proposed remedy solution which will aim to reflect a consistent approach cross public service schemes.
- 6.8 FBU requested that SPPA and SAB put pressure on HM Treasury to apply the outcome of the judge’s case and allow consideration of ill-health cases as described above ahead of the scheduled Firefighters’ Case Management Discussion Hearing on 18 December 2019.

Action Point

SPPA to highlight to HM Treasury the SAB request for early consideration of affected ill-health cases.

- 6.9 The Chair was asked whether Scottish Ministers would be likely to follow HM Treasury guidance and advised that any decision would be made by Scottish Ministers, but indicated that previously Scottish Ministers had ensured that Scottish firefighters were no worse off than their UK counterparts as a result of changes to the scheme.

7. Split pensions

Discussed at item 4 following update on regulation changes.

8. Annual Allowance

- 8.1 FBU explained that they are working with Ministers to investigate the impact of Annual Allowance (AA) on the workplace and asked SAB members if they have any evidence of the impact AA tax charges may be having on the service e.g. evidence of recruitment issues caused by applicant not taking a promotion post due to the impact of annual allowance charges resulting from the increases in pension.
- 8.2 The Chair confirmed there are already discussions underway, driven primarily by the NHS, considering the impact of AA charges on frontline services and that HM Treasury are leading a review of the AA taper and its impact on the delivery of public services. Staff members indicated that probably the largest issue with the Firefighters scheme is the lack of flexibility and that a 50/50 option would offer some flexibility for members which would help cover any affordability issues.
- 8.3 The Chair confirmed that a NHS consultation in England and Wales includes introducing a range of flexibilities to address the impact the AA and in particular the AA taper is having on front line service delivery. This consultation ends on 1 November 2019 and until then, it is unclear whether any outcomes may read across other schemes.
- 8.4 FBU raised concerns that action should be taken to futureproof the Firefighters’ scheme now by introducing flexibility which will offer options against any changes which may prompt members to leave e.g. Brexit, changes in annual allowance etc. The FBU staff members confirmed they would be pressing for flexibilities to be considered for the scheme.
- 8.5 The Chair advised that any policy that reduced income to the scheme required careful consideration given the way unfunded schemes are actually funded. Reductions in member contributions reduce the yield expected as part of the financing of the scheme which could lead to higher contributions being required at future valuations..

- 8.6 The employer member confirmed that annual allowance only affects recruitment when officers are promoted on a temporary basis and staff members agreed that temporary promotion remains an issue.
- 8.7 A discussion followed around the issues which can arise when members had temporary promotions and the SAB was referred to advice given in 2016.

9. AOB

- 9.1 FBU raised that they have agreed to accept a stay until 27 January 2020 in relation to the O'Brien case, which challenges the eligibility date for retained firefighters to join the 2006 Modified Scheme, and that they recommend an options exercise for all members (not only those who are in the scheme).
- 9.2 FBU updated the SAB that discussions are continuing around the legal challenge that SFRS have not backdated pay to July 2017 for those who retired before the date the pay award was agreed. The new SFRS chief is considering this issue and it is hoped this will be resolved soon. The Chair confirmed that SPPA are aware that this may result in revisions of pensionable pay and possibly impact on lump sum tax.

10. Future meeting dates

- 10.1 The next meeting was provisionally scheduled for 17 December 2019. Members agreed that it would be more productive to meet in January 2020 after the Firefighters Case Management Hearing but recognising there may be the need to meet before then if required.

Action Point: Secretariat to issue Doodle Poll to arrange next meeting.

**These minutes were approved on 2 March 2020 as a correct record
of the meeting held on 24 October 2019.**

Scottish Firefighters' Pension Scheme Advisory Board

Action Ref.	Action	Date raised	Latest position	Status
52	Secretariat to arrange next meeting for January 2020	2019/01 24/10/2019		New
51	SPPA to notify Customer Services of possible split pension entitlements	2019/01 24/10/2019		New
50	Chair to request early consideration of ill-health cases	2019/01 24/10/2019		New
49	SPPA to review opt out data, amend report then circulate to SAB members by email	2019/01 24/10/2019		New
48	SPPA to review split pension calculations to date	2019/01 24/10/2019		New
47	SPPA to amend minutes of 11/12/2018 before publishing on website	2019/01 24/10/2019		New
46	GAD to provide figures to illustrate comparisons of member with reduced accrual rate of 1/56.3 to increase commutation to 20:1 against member with improved accrual rate of 1/52.6	2018/06 11/12/2018	No longer required – remedy paused	Closed
45	SAB to consider default and choice options and provide any comments to SPPA by CoP 23/11/2018. Following review of feedback received 23/11/2018, another meeting should be scheduled if agreement is not reached.	2018/05 14/11/2018	Actioned - meeting scheduled for 14/12/2018	Closed

44	<p>GAD to provide costings on variety of options before next meeting on 14/11/2018:</p> <p>(a) increase CARE accrual rate to 1/52.6 to rectify cost cap (default option)</p> <p>(b) reduce member contributions by 5.2% of pay to rectify cost cap</p> <p>(c) (i) increase CARE accrual rate to rectify ¾ of cost cap breach (3.9%) and reduce member contributions to rectify ¼ of cost cap breach (1.3%)</p> <p>(ii) increase CARE accrual rate to rectify ½ of cost cap breach (2.6%) and reduce member contributions to rectify ½ of cost cap breach (2.6%)</p> <p>(iii) increase CARE accrual rate to rectify ¼ of cost cap breach (1.3%) and reduce member contributions to rectify ¾ of cost cap breach (3.9%)</p> <p>(d) offer members a choice* of:</p> <p>(i) continue current member contribution with increased accrual rate of 1/52.6 (i.e. pay the same for improved benefits), or</p> <p>(ii) reduce member contribution by 5.2% and maintain accrual rate of 1/61.6 (i.e. pay less for same benefits)</p> <p><i>* based on confirmation that this could not be excluded from any contribution reduction under the terms of the directions</i></p> <p>(e) Increase CARE commutation rate from 12:1 to 20:1 (40% of cost cap breach) and increase CARE accrual rate to level necessary to rectify remaining cost cap breach (approx. 60%)</p>	2018/04	Actioned	Closed
43	SPPA to add review of contribution rates from April 2018 to Work Plan	2018/03	Actioned	Closed
42	GAD to summarise worked examples if accrual rate is adjusted to 52.6 by next SAB meeting on 01/11/2018.	2018/02	Actioned	Closed

41	GAD to provide figures to illustrate impact of options available to re-set the cost cap: <ul style="list-style-type: none"> • with worked examples of lower range earner, mid-range earner and higher earner, and also • how increasing the accrual rate may affect the impact of the AA 	2018/01	Actioned	Closed
40	SPPA to circulate Scheme Participation rates quarterly.	2017/13		Closed
39	SAB to make any comments on proposed changes to restricted commutation within 21 days	2017/12	Actioned – SPPA to issue formal response	Closed
38	SPPA to locate historic FPC papers on abatement	2017/11	Unable to locate – for discussion	Closed
37	SAB to pass any comments on the draft amendment order by 8 November 2017	2017/10	Actioned	Closed
36	SPPA to issue details of the Police pension scheme contribution rates	2017/09	Actioned	Closed
35	SPPA to request modellers from GAD to see if contribution tiers could be flattened.	2017/08	Ongoing – to be discussed	Open
34	SPPA requested any comments on the proposed change to the IDR process by sent to Lorraine Gallagher	2017/07	Actioned	Closed
33	GAD asked that any comments on the assumptions be fed back to SPPA by 17 November	2017/06	Actioned	Closed
32	SPPA to investigate and report back to the group regarding funding for SAB actuarial and legal advice	2017/05	Carry forward	Open
31	SPPA and SG colleagues to meet and discuss proposals for change to SFRS so that consequential pension costs can be assessed	2017/04	ongoing	Open
30	SPPA to investigate if data can be broken down to include the number of members in each scheme	2017/03	Actioned and will be included in all participation data	Closed

29	Clarify guidance regarding quorum to SAB within TOR and report findings to the group	2017/02	Actioned	Closed
28	Secretariat to amend the attendees listed in the minutes	2017/01	Actioned	Closed
27	Secretariat to email the group to advise when minutes have been published to website. Added to open action 2015/7	2015/27	Actioned	Closed
26	SPPA to discuss communications issues with Operations directorate although this is the area of work for Pension Boards.	2015/26	On-going if required	Closed
25	FBU to write to SPPA to request further investigation on club transfers into the modified scheme and will also engage methods to provide figures of affected members to SPPA.	2015/25	On-going	Closed
24	SPPA have given agreement to investigate issues surrounding transfers from 2006 to the 2015 scheme.	2015/24	Awaiting further paper from FBU	Closed
23	FBU to provide comments on the pensionable pay and this item will be carried forward to the agenda for the next meeting.	2015/23	On hold at FBU's request	Open
22	Finalised draft member communication will be shared by SPPA with FBU relating to contracting out.	2015/22	Issued	Closed
21	Updated Action Log will be issued to members proceeding meetings.	2015/21		Closed
20	Holding lines relating to 18-20 issue to be refreshed on the web	2015/20		Closed
19	Ensure all members of the group have been issued with the slide presentation.	2015/19		Closed
18	Chad to feed back to the group the parties who were involved in the customer service review	2015/18		Closed
17	SPPA/SG to establish what participation data is currently provided by SFRS.	2015/17		Closed

16	SPPA to advise the group of the position with the Police scheme regarding removable allowances.	2015/16	Actioned	Closed
15	SPPA to confirm details of when refunds are expected to commence and how tax relief payments to HMRC will be managed	2015/15	Actioned	Closed
14	Chair to continue discussion with SAB member regarding potential conflict of interest	2015/14	Actioned	Closed
13	Secretariat to send a list of proposed dates in September	2015/13	Actioned	Closed
12	FBU to provide a paper to the Scheme Advisory Board on the issue of 2006 transfers into the 2015 scheme	2015/12	Issued – further action in AP 2015/24	Closed
11	SPPA to organise training session on regulations	2015/11	Actioned	Closed
10	Agenda's to be published on the SPPA website	2015/10	Actioned	Closed
9	Minutes to be actions/outcomes based.	2015/09	Completed	Closed
8	Secretariat to circulate draft media and publications policies to SAB members for comment once drafted.	2015/08	Actioned	Closed
7	Secretariat to ensure that approved agendas, minutes and Work Plan are shared with the Pension Board and published on the SPPA website, as appropriate.	2015/07	On-going Minutes to be approved by SAB prior to publishing	Closed
6	SPPA to publish the 2012 valuation report and supporting papers on the SPPA website	2015/06	Actioned	Closed
5	SPPA to provide answers to questions raised, for example through discussion with GAD	2015/05	No questions	Closed
4	Board members to submit questions on the valuations, the associated published papers or the presentation to the secretariat	2015/04	No questions	Closed

3	Members to provide views on need to have standing orders as part of the meeting process.	2015/03	Members to discuss Agenda item	Closed
2	Future meetings to be located in Edinburgh	2015/02	Secretariat will arrange	Closed
1	SPPA to organise and agree background scheme briefing for members	2015/1	Actioned	Closed