

Scottish Police Pension Scheme Advisory Board

MINUTES

Date: 3 June 2021

Location: MS Teams

Chair: Tom Nash (TN) (SPPA)

Attendees: Calum Steele (CSt) (Scottish Police Federation)
Craig Suttie (CS) (Association Scottish Police Superintendents)
John MacLean (JMc) (Scottish Police Authority)

Advisers: George Russell (GR) (GAD)
Anne-Marie Pettie (AP) (GAD)

Officials: Iain Coltman (IC) (SPPA)
Peter Jamieson (PJ) (Police Division)
Marie Swinney (MS) (Police Division)
Finn MacKenzie (FMcK) (SPPA)
Claire McGow (CMcG) (SPPA)
Stuart MacArthur (SMacA) (SPPA)

Observer: David Christie (DC) (Scottish Police Authority)

Apologies: Alasdair Corfield (AC) (Police Scotland)
Mhairi Kinnaird (MK) (SPPA)

Secretariat: Molly Wyllie (MW) (SPPA)

1. Welcome and Introductions

- 1.1. The Chair welcomed everyone to the meeting. Introductions were made for the benefit of new members.

2. Conflicts of Interest

- 2.1 No new conflicts of interest declared.

3. Previous Minutes/Actions

- 3.1 The minutes from the meeting of 21 August 2020 and the Interim meeting of 19 March 2021 were adopted without amendment.
- 3.2 Outstanding actions were reviewed and the following noted:
- Action **44** of 2/10/2018 – following discussion, it was agreed that the action would be closed – action closed
 - Action **48** of 15/11/2018 – Terms of Reference to be re-issued with the minutes of this meeting – action closed
 - Action **58** of 26/6/2019 – this was now with the Police Employer Technical Forum – action closed

- Action **67** of 21/8/2020 – following discussion it was agreed that this action would be closed – action closed
- Action **66** of 21/8/2020 – GR noted that this action had been overtaken by the modeller shared with the SAB – action closed
- Action **65** of 21/8/2020 – IC explained this was linked to data issues and SPPA would consider if there was a need to commission GAD for this work– remains open
- Action **63** of 21/8/2020 – covered in agenda item 6 – action closed

4. Cost Cap Assumptions/Review of Cost Cap Mechanism and SCAPE

4.1 Cost Cap Assumptions

- 4.1.1 The Chair introduced the recommendations made to SPPA by GAD on Cost Cap Assumptions. IC explained that the papers and presentation at the interim Board meeting provided the initial/preliminary cost cap results and reminded members that, although there had been a significant breach in the cost cap ceiling, this breach would be waived. GAD confirmed that the headline message was that there were no changes to the recommended assumptions compared to those used in the earlier 2016 valuation. IC asked the Board if, as there had been no comments received related to the presentation, they accepted the assumptions. The next step would be to agree approach and methodology.
- 4.1.2 GAD also confirmed that calculations had been undertaken based on draft HMT Directions and that it was unlikely that there would be material changes in the final Directions.

Decision: Agreement in principle from the SAB to accept the assumptions used by GAD for cost cap calculations. However, the SAB retains the right to review again if there is a material change in the HMT draft directions.

4.2 Review of Cost Cap Mechanism and SCAPE

- 4.2.1 IC advised the board that it was anticipated that HMT would publish a consultation later this month related to the operation of the Cost Cap Mechanism and also a further consultation on the methodology used to set the SCAPE discount rate.

IC asked the Board to consider if it wishes to respond to the consultation and confirmed that briefing could be provided, if required. GAD also noted that HMT were likely to provide an event for all parties concerned.

Decision: It was agreed that the SAB should respond to the HMT cost cap and SCAPE consultations, as well as individual constituent organisations when the time comes.

5. Update on 2015 Remedy

- 5.1 The Chair advised that SPPA had now established a Programme Board, and had recruited additional resources which were dedicated to the 2015 Remedy project. This would support communications and engagement and aim to provide consistency when responding to member and employer enquiries.
- 5.2 IC provided a summary of the papers and timeline provided. IC explained that, in relation to primary legislation, the second draft of the Bill had been issued for comments, and the intention is that this would be finalised before summer recess. Current plans, consistent with other UK schemes, was that the secondary legislation would be delivered in two phases. The first phase would be to implement the Prospective remedy for April 2022. This would be followed by the Retrospective remedy, which was expected to be

implemented by October 2023. A meeting of the UK Police Pensions joint SAB TWG had been arranged for 17 June 2021.

- 5.3 IC advised that revised guidance covering Immediate Detriment cases would be issued shortly by Home Office. Further discussion with the SAB would take place when more information became available. CS asked that SPPA update their website to advise members of the current position, even if that was that details were not yet known.
- 5.4 FMck confirmed that communication and engagement was a priority and work was already underway with the SPPA Communications team to review and update FAQs. The Chair asked SAB to inform SPPA of FAQs they were receiving, which SPPA may have not seen, as these too could and should be factored in to the FAQs

Action 68: SPPA to consider the communications and engagement approach when reviewing the 2015 Remedy FAQs, including the development of a distinct position on immediate detriment. SPPA to inform and signpost the SAB membership to the updated relevant sections and literature.

- 5.5 DC asked whether communications would be part of the Pension Boards remit, or would a small working group be established to assist with this? SPPA advised that a communications strategy was in development and consideration was being given to the direct communication with scheme members, in particular. The Board agreed that consistency of message was important and that engagement with members was welcomed.

Action 69: Consider establishing a dedicated small working group aimed at ensuring consistency of message related to communications and engagement, but ensuring this did not overlap similar work being pursued by the pension board.

6. Eligibility for Ill-health benefits for deferred members re-joining

- 6.1 IC explained the background to this item, advising that this was an opportunity firstly to examine the process for determining eligibility for ill health on re-enrolment/re-joining the service, and secondly on implication for deferred members re-joining the scheme subsequently deemed ineligible for ill health benefits. The paper examined case details and provided options for discussion by the board.
- 6.2 Proposals were put forward in January 2021 for employer representatives to consider. JMcL contended that there were other implications involved, but in the main it was about fairness to members. Following discussion, it was agreed that legal advice would be sought and a consultation undertaken prior to changes in the regulations being drafted. CS questioned if the salary used to determine this benefit would still be linked to final salary. SPPA said they would ask this in the consultation document.

Decision: The agreed best approach was un-link benefits as per option 2 (Para 16) in the provided paper.

Action 70: SPPA to draft a policy instruction for consultation.

7. Restricted Commutation (PPS 1987 Scheme)

- 7.1 CSt explained that following development of a policy in England & Wales, Home Office and HMT had agreed to lift the restriction on commutation at 2.25 x pension and allow the maximum of 25% in certain circumstances, with the difference in cost to be funded by the authority. CSt stated that, in his view, this was a legally vulnerable issue in Scotland.

- 7.2 JMcL noted that it would be important to consider the impact of removing the restriction from a workforce planning perspective, in particular alongside the impact of 2015 Remedy with 1987 transition scheme members receiving an entitlement to an additional seven years of legacy scheme service.

JMcL also noted that this issue had been discussed previously and a consensus had not been reached. IC confirmed that the previous ministerial position was consistent with the proposals in England and Wales, but the cost associated with permitting this would come from the revenue budget. However, the employer representatives did not agree with this. IC asked if the employer position had changed. JMcL agreed to review the issue again for clarity.

- 7.3 Member representatives confirmed their position was that commutation restrictions should be removed, and that the previous policy position was open to legal challenge. IC agreed that SPPA and employer representatives should review the position in advance of the next SAB.

Action 71: SPPA and employer representatives to review the position regarding the removal of commutation restrictions

8. Pensionable Pay

- 8.1 CSt highlighted recent litigation in relation to the Firefighters' pension scheme, whereby some allowances were considered to be pensionable, if the allowances were "essential for the delivery of services". This was being considered by the SAB in England & Wales e.g.: non-pensionable unsocial hours allowance. A similar case could be made for Police Officers for on-call allowances. It was anticipated that approximately 10% of Officers across the service were involved. CS also suggested essential vehicle allowance would also meet this criterion. Following discussion, it was agreed that a small working group would be formed to review the implications before the next SAB meeting.

Action 72: SAB Chair to commission SPPA to draw together a small working group as soon as possible to look at the issue and implications drawing in SPPA Policy, SG P&N, Employee and Employer Rep. Work to include revision of previous assumptions, workforce planning, member want, costings and recommendations.

9. Any other Business

- 9.1 CS raised correspondence from the Pensions Challenge Group that had been sent to SAB in England and Wales. The Chair confirmed he had not received an equivalent letter in his capacity as Chair of the Police (Scotland) SAB, or as SPPA Head of Regulatory Affairs.
- 9.2 IC advised that at the UK forum, he had committed to approaching the British Transport Police Authority with a view to revisiting the bilateral transfer agreement.

10. Dates of future meetings

- 10.1 Date to be confirmed.

No other matters arose. The Chair thanked everyone for their attendance and closed the meeting.

Summary of New Actions

Action No	Para No	Action	Owner
68	5.4	SPPA to consider the communications and engagement approach when reviewing the 2015 Remedy FAQs, including the development of a distinct position on immediate detriment. SPPA to inform and signpost the SAB membership to the updated relevant sections and literature	SPPA
69	5.5	Consider establishing a dedicated small working group aimed at ensuring consistency of message related to communications and engagement but ensuring this did not overlap similar work being pursued by the pension board.	SAB
70	6.2	SPPA to draft an instruction for inclusion in amendments for future consultation	SPPA
71	7.3	SPPA and employer representatives to review the position regarding the removal of commutation restrictions	SPPA/Employer representative
72	8.1	SAB Chair to commission SPPA to draw together a small working group as soon as possible to look at the issue and implications drawing in SPPA Policy, SG P&N, Employee and Employer Rep. Work to include revision of previous assumptions, workforce planning, member want, costings and recommendations	Chair