

Scottish Police Pension Scheme Advisory Board

MINUTES

Date: 26 October 2021

Location: MS Teams

Chair: Iain Coltman (IC) (SPPA)

Attendees: Calum Steele (CSt) (Scottish Police Federation)
Craig Suttie (CS) (Association Scottish Police Superintendents)
Alasdair Corfield (AC) (Police Scotland)

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

Officials: Alan Wilkinson (AW) (SPPA)
Mhairi Kinnaird (MK) (SPPA)
Peter Jamieson (PJ) (Police Division)
Marie Swinney (MS) (Police Division)
Finn Mackenzie (FM) (SPPA)
Stuart MacArthur (SMacA) (SPPA)

Observer: Clair Alcock (CA) (NPCC)

Apologies: John MacLean (JMc) (Scottish Police Authority)

Secretariat: Clare Campbell (SPPA)

1. Welcome and Introductions

1.1. The Chair welcomed everyone and introduced Alan Wilkinson (AW) as the Policy Lead on Police, Fire and Local Government to the Scheme Advisory Board (SAB) meeting and Clair Alcock from the NPCC as an observer.

2. Conflicts of Interest

2.1 No new conflicts of interest declared.

3. Previous Minutes/Actions

3.1 The minutes from the meeting of 3 June 2021 were adopted without amendment.

3.2 Outstanding actions were reviewed and the following noted:

- Action **68** of 03/06/2021 – FM to cover during meeting – **Close action**
- Action **69** of 03/06/2021 – FM to cover during meeting – **Close action**
- Action **70** of 03/06/2021 – FM to cover during meeting – **Close action**
- Action **71** of 03/06/2021 – To be covered during meeting – **Close action**
- Action **72** of 03/06/2021 – MK has emailed board members inviting them to Pensionable Pay working group and will shortly arrange a doodle poll to find suitable date – **Close action**

4. HMT Response to Cost Control Mechanism

- 4.1 GR gave an overview of HMT's response and confirmed that the consultation outcome will impact on the 2020 Valuation process, which GAD are beginning work on.
- 4.2 AC thanked GR for the update and asked whether this meant there would be any reflection or impact on the 2016 valuation. GR confirmed the 2016 valuation would not be impacted.
- 4.3 CS raised concerns regarding the economic check and enquired as to whether Scottish Ministers have requested a view from the SAB on the valuation. The Chair confirmed that this is a reserved matter, but Ministers are keen to hear the views of SAB members.
- 4.4 CSt stated that the concerns of the staff associations around the economic check are not without their justifications. The Chair acknowledged and noted this.

5. Cost Cap Valuation 2016 Results

- 5.1 GR confirmed that HMT has published the directions required to complete the Cost Control Mechanism for the 2016 valuations. These confirmed that costs resulting from 2015 remedy will be treated as member costs and that GAD in the process of finalising the results. As previously advised, the requirement for rectification of the ceiling breach will be waived.
- 5.2 CS asked whether the Scottish Ministers have requested the SAB provide advice on specific Remedy related matters. In particular there are ongoing concerns over the legitimate expectations of protected members (particularly part-time workers) and the "pensions trap" so it would be useful to know what Scottish Ministers are doing to protect Scottish Police Officers during the remedy period.

The Chair confirmed that the issues regarding reasonable expectations, part-time workers and the pensions trap are recognised and will begin to be analysed in forthcoming Equality Impact Assessments. The Scottish Ministers are engaged and listening to the concerns but the SAB are encouraged to voice their views on the matter. The Chair also asked if the staff side could share the UK Police Staff Association's joint letter to the UK Government with SPPA.

Action 73: Staff side to share the UK Police Staff Association's joint letter to the UK Government with SPPA.

- 5.3 CSt summarised the Federation's position regarding litigation. CS advised that the Home Office have misunderstood the scale of the issue surrounding concerns raised by staff representatives. CS advised that there was a meeting in the middle of the following month with staff representatives UK to take legal advice and discuss potential litigation. CSt advised that at this stage staff representatives from Scotland would be attending for information and would hope that concerns can be dealt with via discussion. The Chair stated that he was not party to information on litigation. CS clarified that he also was not party to information but advised that it is regarding concerns related to the Police pension schemes and not Public Sector in general.

CS requested that it was made clear to the Scottish Ministers that issues raised are specific to the Police pension schemes. CSt asked for clarification on whether Scottish Ministers could take a unilateral decision or whether any decision would need to be ratified by Treasury. The Chair confirmed there was limited scope for separate action within the overarching reserved framework but the Ministers were keen to listen to concerns.

The Chair asked the group whether it would be beneficial to arrange a SAB sub-group to discuss the concerns raised by the staff side in relation to reasonable expectations and the pensions trap. It was agreed that this would be useful and that SPPA would find a suitable date for this in late November/early December 2021.

Action 74: SPPA to convene sub-group in late November/early December 2021 to discuss concerns raised by staff side in relation to reasonable expectations and pensions trap.

6. Remedy Update

6.1 Project Update

FM summarised the 2015 remedy project update paper and invited questions.

6.2 Comms & Engagement

FM indicated the SPPA is keen to engage with the SAB and would welcome any ideas on the best way to engage with members. SPPA will issue their first direct communication by letter to members in October/November. They will differ slightly depending on the member's protection status and will address any myths that appear to be circulating around the membership, namely, the perceived loss of rights to legacy benefits, loss of right to retire at legacy scheme NRA and the automatic tax free lump sum. The letters are to be issued in phases to manage the volume of traffic through the admin team. The FAQs will be updated and members will be directed to the SPPA website in the first instance.

CS welcomed the news that letters will be issued to members. However, believes that police members require a more bespoke set of information than simply these three perceived myths.

AC noted the difficulty in finding the best way to address the myths in a factual way. FM agreed with the concern and frustration that we do not have these policy answers to hand at the present time. SPPA are committed to being open and honest with members and to ensuring the SPPA website is updated as and when developments arise.

6.4 Contingent Decisions

FM informed the group that he proposed to provide a paper covering Contingent Decisions to the board ahead of the next SAB meeting. The group welcomed this and agreed it would be useful.

Action 75: FM to provide SAB members with Contingent Decisions paper ahead of next SAB meeting.

6.5 Immediate Detriment

FM advised that SPPA understand that there is a desire for the Remedy to be offered as widely as possible at as early a time as possible, particularly in sensitive cases.

It's also accepted that members have a right to be treated as a member of their legacy scheme for the remedy period if they wish through the view that Section 61 of the Equality Act 2010 means that discriminatory provisions do not apply.

Following the publication of the Home Office Immediate Detriment Guidance SPPA were preparing to proceed with immediate detriment claims under that guidance. However, from subsequent discussions with HM Treasury it had become clear that the Section 61 position may not give all the powers required to operate the remedy without introducing significant uncertainty over operating issues including the relationship between remedy action and existing pensions tax legislation - meaning members and the pension scheme may be subject to significant tax charges.

SPPA is aware of the LGA-FBU agreement reached with Fire & Rescue Authorities in England & Wales to proceed with cases under the terms in the memorandum of understanding that was signed on 8 October. The Scheme manager in Scotland was not party to that agreement and it doesn't extend to the pension scheme in Scotland. Scottish Ministers are therefore currently considering whether the MOU addresses the concerns set out by HM Treasury. The decision rests with the Minister and SAB members will be informed in due course.

CSt welcomed the update on immediate detriment but questioned how SPPA can say they are responding when nothing is actually happening. CSt asked whether it is the view of the Agency that although the detriment is there and noted it remains the case that members have to suffer. FM clarified that the urgency has been acknowledged and the detriment will be addressed but SPPA are simply not in a position to proceed at this time. CSt stated it would be helpful to have details on what the tax charges mentioned would actually amount to and asked for clarification on what Scottish Minister is responsible for this area. The Chair confirmed the minister responsible.

CA noted that immediate detriment remains a scheme manager decision and the HMT guidance is being considered. CA acknowledged there is great concern regarding immediate detriment and echoed the issues SPPA have raised.

7. PPS 1987 Commutation

- 7.1 MK provided a brief summary of the PPS 1987 Commutation paper.
- 7.2 It was proposed that the SAB write to the Minister on this matter. CSt stated his concern that only the financial aspects were being studied and not the discriminatory aspects. The Chair confirmed the discriminatory aspects could be included in any correspondence to the Minister.
- 7.3 AC asked for clarification on what information SPPA are still awaiting regarding the paper and MK confirmed that JMc was to provide comment on potential retention issues.

8. Participation Rates

- 8.1 MK provided a brief summary of the latest Participation Rates paper which was based on data received from the Police Scotland payroll system. MK confirmed that scheme participation at the end of Quarter 2 2021/2022 stood at 91.7% which remains healthy and is 3% above pre 2020 auto-enrolment levels.
- 8.2 AC asked if it would be possible to receive deeper data in future papers, in particular with regards to including age and rank. The Chair acknowledged this and the importance of the data in the coming months. It is hoped that the recruitment of further business analysts by SPPA will aid this.

9. AOB

- 9.1 CS noted that the commutation factor underpin in the 1987 scheme, which provides Scottish officers with the higher of the factors in Scotland or the equivalent England and Wales scheme is due to expire on 31 March 2022, and asked if there were plans to review this. The Chair confirmed that SPPA would be responsible as scheme managers for issuing a circular regarding the matter. There is also the possibility of undertaking further analysis on this and adding it to the existing 1987 commutation paper that was circulated prior to the meeting.
- 9.2 The Chair introduced a verbal item on board governance. An independent report in 2017 recommended that the practice of SPPA chairing the SAB should be reviewed, and a recent internal governance audit again recommended that Boards consider whether this is appropriate. SPPA will be writing to SAB members to seek their views.

CSt stated that he has found the Chairmanship of the SAB by SPPA to be wholly professional and would be content to put this in writing if required. The Chair noted this and thanked CSt for his comments.

Action 76: SPPA to write to SAB members on SAB chair and share the 2017 report.

10. Dates of future meetings

- 10.1 As previously discussed, the Chair confirmed that SPPA will organise a SAB sub-group meeting for late November/early December. A date for the next full SAB meeting will be proposed in due course.

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
73	5.2	Staff side to share the UK Police Staff Association's joint letter to the UK Government with SPPA.	Staff Associations
74	5.3	SPPA to convene sub-group in late November/early December 2021 to discuss concerns raised by staff side in relation to reasonable expectations and pensions trap.	SPPA
75	6.4	FM to provide SAB members with Contingent Decisions paper ahead of next SAB meeting.	FM
76	9.2	SPPA to write to SAB members on SAB chair and share the 2017 report.	SPPA