



ACTIONS AND AGREEMENTS

Thursday 14 March 2019

18 Smith Square, Westminster, London SW1P 3HZ

PRESENT

Malcolm Eastwood	Chair
Cllr Roger Phillips	Scheme Employer Representative (LGA)
Cllr Roger Price	Scheme Employer Representative (LGA)
Cllr John Bell	Scheme Employer Representative (LGA)
Cllr Nick Chard	Scheme Employer Representative (LGA)
Des Prichard	Scheme Member Representative (FLA)
Dave Limer	Scheme Member Representative (FBU)
Sean Starbuck	Scheme Member Representative (FBU)
Tristan Ashby	Scheme Member Representative (FRSA)
Glyn Morgan	Scheme Member Representative (FOA)
Brian Hooper	Scheme Member Representative (FBU)
Matt Lamb	Scheme Member Representative (FBU)
Jane Marshall	Legal Adviser
Craig Moran	Actuarial Adviser
Clair Alcock	LGA – Board secretariat
Claire Hey	LGA – Board secretariat

1. Apologies

- 1.1 Apologies were received from Fiona Twycross AM, Cllr Ian Stephens, Helen Scargill and the Home Office.

2. Changes to membership

- 2.1 Clair Alcock (CA) confirmed that the appointment of Labour councillor Nikki Hennessy is being progressed with the Home Office. Cllr John Bell (JB) was attending his final meeting before retirement, which would leave a vacancy for an employer representative on the Board.
- 2.2 CA noted that discussions had taken place with the Home Office with regards to a replacement, as the current Board has 12 months term remaining. The Board were asked for views on the following options:

- i. A replacement is not sought in the interim and the Board carries a vacancy for 12 months.
- ii. The Conservative group are asked to put forward a nomination.
- iii. Alternative representation is sought from an employer body, such as NFCC or the Fire Finance Network (FFN).

2.3 Des Prichard (DP) stated that the principle of the SAB calls for equal numbers of employer and scheme member representatives, therefore any vacancy should be filled. Cllr Roger Phillips (RPH) agreed that a balance should be maintained. Cllr Nick Chard (NC) requested that the LGA seek a nomination from the Conservative group, a view which received general consensus.

3. Conflict of interest

3.1 All Board members completed a standard conflict of interest form. No interests were declared.

4. Minutes from previous meeting

4.1 The minutes of the meetings held on 5 December 2018¹ and 24 January 2019² were agreed as an accurate record.

5. Chair's update

5.1 Malcolm Eastwood (ME) informed the group of events attended in his capacity as chair of the SAB since the last meeting:

- Communications group
- Admin and benchmarking committee
- Technical Group
- Pensions Tax Working Group
- TPO stakeholder event
- SAB induction training
- Eastern Regional Group and London Pension Board Training
- West Midlands Pension Board

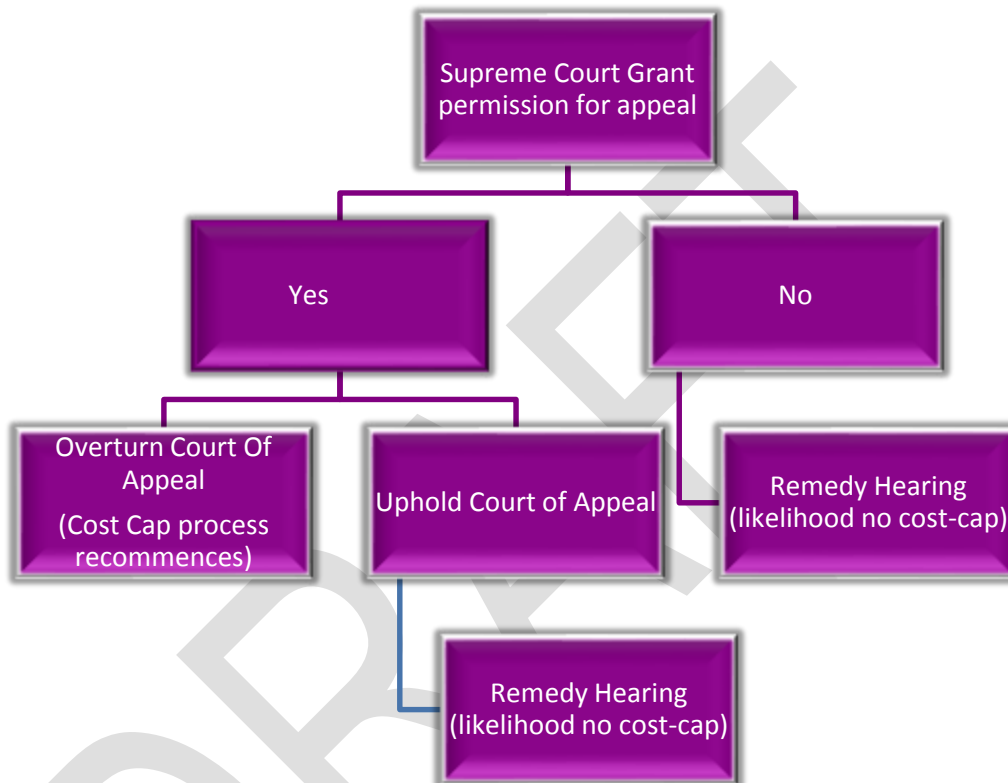
5.2 ME highlighted the benefits of being invited to industry events and engaging with stakeholders. ME noted that local boards are transient with changing FRA governance structures, for example West Midlands LPB are currently transferring to mayoral governance

¹ <http://www.fpsboard.org/images/PDF/Meetings/05122018/Minutes051218.pdf>

² <http://www.fpsboard.org/images/PDF/Meetings/24012019/Minutes240119.pdf>

6. 2016 Valuation Update

6.1 CA confirmed that all board members were acquainted with the background to the valuation process. HM Treasury (HMT) paused the cost-cap process on 30 January 2019 and issued new Directions on 14 February 2019. At this point, GAD were able to finalise the 2016 valuation and issue scheme specific employer contribution rates. Whether the cost-cap element recommendations will depend on the outcome of the Government's request to appeal to the Supreme Court and any subsequent determination. A decision on the leave to appeal should be known in April.



6.2 Cllr Roger Price (RP) confirmed that FRAs have now received notification of the scheme specific rates. Agreement had previously been received from Government that in year one they would provide funding to FRAs to meet the increased costs over and above £10 million, which equated to about 90% of the total bill to English Fire Authorities when based on an average rate. However, now that individual rates have been calculated, FRAs are estimating that the pressure on budgets could lead to them funding more than 10% of the increases. RP asked whether the difference will also be funded centrally. An all-party meeting was held with the Home Office, which mentioned the Comprehensive Spending Review (CSR) in relation to pensions. This will be added to the list of cost elements, although no guarantees were given.

6.3 RPH echoed this, noting concern on both the employer and member sides regarding the funding in year one and inclusion in the CSR in subsequent years. RPH stated that the lack of clarity is unhelpful.

6.4 DP added that concern had been raised by the Board when the initial results were known, that the scheme was becoming unaffordable for employers and this could potentially impact on frontline services. DP suggested that the Board take an action to write to the Secretary of State to express these concerns, although the impact cannot be altered.

6.5 NC highlighted that the autumn CSR must be transparent, as pensions is only one issue among many that will be picked up by the review.

6.6 CA reminded the Board that while the funding situation is undoubtedly difficult for employers and their concerns were appreciated, it does not fall not within the SAB remit. CA in her LGA role supports employers and attends both the FFN and the NFCC finance committee, and is liaising with Home Office on these matters. The Home Office are in discussion with HMT with regards to the original guarantee that everything above £10m will still be funded. CA will provide an update to FRAs as soon as possible.

6.7 RPH commented that any reversal of this position will cause mistrust at employers, and the problems of years two to four still remains. ME asked the Board if all were willing to support DP's proposal of writing to the Secretary of State.

7. Sub-committees update

Local Pension Board effectiveness

7.1 Tristan Ashby (TA) gave an update on the work of the LPB effectiveness committee:

- The ABS 2018 survey results had been analysed and a report issued to the committee to review before publication.
- One joint board application is in progress. If the application is successful, the committee will release the guidance as drafted.
- An annual report template is to be produced.
- The committee are engaging with LPBs by attending meetings. Feedback from the sessions is good, although it is a struggle to engage with certain boards to see what support is needed.

7.2 Dave Limer (DL) checked that the guidance for joint board applications will be referred back to the committee rather than full SAB. CA confirmed, and that this is pending the outcome of the East Midlands application.

Administration and Benchmarking

7.3 DP updated the Board on the meeting of the Administration and Benchmarking committee in February:

- A general discussion took place on administration and benchmarking at FRAs and the difficulty around record keeping and data.
- Aon gave a presentation on some initial findings from the administration and cost benchmarking review.

- A data seminar is taking place on 3 April 2019.
- The committee heard the headline results from the ABS 2018 survey.
- The 2019 workplan was discussed, pending the outcome from the benchmarking review. Scheme specific data requirements for TPR will be reviewed.

7.4 ME confirmed that all Board members are welcome to attend the data seminar. RPH commented that poor data undermines the function of schemes, and the SAB should undertake to ensure that data quality is improving and administrators are being recognised for their hard work.

Cost-effectiveness

7.5 CA provided a brief summary as no meetings have been held since RPH took the role of chair. The committee proved to be very useful in the data gathering stage of the proposal to rectify the cost-cap breach, however, there is no further update as the process has now been paused.

8. SAB Request for information update ([Paper 1](#))

8.1 Paper 1 describes a request for information made on behalf of the SAB to collect data on opt out rates and tax liabilities. ME noted that there had been limited response from FRAs to date and thanked CA for following up on non-responses.

8.2 CA outlined the background to the request, noting that the information supported not only the cost-cap rectification discussion in relation to contribution flexibility reducing numbers of optant outs, but also the tax working group in gathering data on the impact of tax charges on recruitment, retention and promotion. As the FPS is a relatively small scheme, it would be difficult to make a case to HMT without collaboration with other public service schemes via the tax working group.

8.3 CA reiterated that there had been limited response to the requests made in the December and January bulletins, adding that the evidence received does not reflect the anecdotal feedback. However, this could reflect a lack of internal communication at FRAs.

8.4 Responses received indicate that optant outs relate mainly to retained firefighters or are as a result of auto-enrolment exercises. The Home Office have recently recommenced collecting opt-out statistics. FRAs have reported that data on opt-outs is not collected in relation to salary band, although this could be established. Data on reasons for opting out is considered unreliable; the template forms developed by the Fire Communications Working Group (FCWG) include this as a question.

8.5 CA explained that a direct email to CFOs in mid-January had generated a flurry of individual responses. In particular, a detailed response from Becci Bryant at Staffordshire would be useful evidence to present to Government on the impact that pension tax may have on equality and diversity in the fire service. To further this, CA proposed contacting the Women in Fire group to consider barriers to recruitment and promotion.

- 8.6 ME stated that education and perception is one of the key issues. Perceived tax implications are reportedly affecting motivation and skills loss, with a reduced number and quality of applications for senior positions.
- 8.7 NC acknowledged that pension tax implications are a problem and thanked CA for the helpful paper; however, the anecdotes are not reflected in the statistics. NC suggested that it may be worthwhile having less empirical evidence and instead focusing on holistic case-studies of a sample three or four FRAs, adding that there is increasing interest in the managerial leadership of FRAs through the HMICFRS process, which could be tied in to this work.
- 8.8 Sean Starbuck (SS) raised concern over opt out rates from the schemes. Following the Hutton review, the FBU assessed the impact of members opting out of the scheme, and believe that the scheme is untenable based on current rates. It is not known why people are choosing to opt out, which also raises concern that they are not being informed of the benefits of the scheme. Greater communication may be needed.
- 8.9 Glyn Morgan (GM) acknowledged that it is difficult to collect hard data and evidence, while recognising that tax is a growing concern. GM supported drilling down into a small cohort of FRAs. JB queried whether there are figures available on opt out rates for retained versus wholetime firefighters, as affordability could be a particular issue for retained.
- 8.10 CA responded that it would be necessary to drill down further into the statistics to obtain this information. There is potential to communicate scheme benefits through the current on-call recruitment campaign. The secretariat has previously discussed with First Actuarial production of a leaflet outlining the benefits of the scheme in comparison to a private pension arrangement. However, given the current uncertainty surrounding future scheme design, it would not appropriate at this time.
- 8.11 TA confirmed that the reasons for on-call firefighters opting out are different than for wholetime staff. These may include a lack of understanding about the scheme, a shorter term career path, and lower earnings. DL noted a reported 10% opt out rate at LFB and suggested that individuals usually have to give a reason for opting out. Jane Marshall (JM) confirmed that it will depend on the wording of the election form.
- 8.12 RPH emphasised that communication is key. Members need to be educated on the benefit of remaining in the scheme. SS added that the FBU actively encourage members to remain in an occupational scheme. DP suggested that the issue could be raised at the data conference in April, based on the statistics received from the request for information.
- 8.13 NC suggested progression through the FRA chairs to obtain data, adding that the reason is more important than the number in relation to optant outs. SS agreed that FRAs should do more to establish the basis for individuals opting out.
- 8.14 Claire Hey (CH) highlighted the opt out form template and supporting notes that had been developed by the FCWG, which gives members a list of options to choose from to indicate a reason for leaving the scheme. The template is available for FRAs to use, however, it is not possible to enforce its use, nor can it be made mandatory for the reason to be specified.

Opting out of FPS 1992 – notes
Opting out of FPS 2006 (standard member) – notes
Opting out of FPS 2006 (special member) – notes
Opting out of FPS 2015 – notes
Election to opt out (all schemes)

Extract from election form:

SECTION D: REASON FOR OPTING OUT (OPTIONAL)	
What is your main reason for opting out of the scheme? (Tick one)	
1	Cost of the scheme (contributions)
2	Other financial commitments
3	Made alternative arrangements
4	Annual/ lifetime allowance implications (tax)
5	Transfer to FPS 2015
6	Promotion
7	Lack of job security
8	Unclear on benefits of scheme
9	Other reason (please specify):

Extract from notes:

Section D asks for the reason that you have decided to opt out and this is optional. We ask for this information as part of our on-going commitment to monitor the efficiency and cost-effectiveness of the Firefighters' Pension Schemes in order to make recommendations to the Government.

8.15 JM proposed that the form should be more widely promoted to FRAs, along with the rationale for collecting the reason for opting out. RP added that this should be a consideration for Local Pension Boards and form part of their annual reports.

8.16 GM remarked that the SAB are limited in what recommendations can be made, regardless of the underlying reasons. Flexibility is key and should be the focus. RPH agreed that this is a national issue across public service which the FPS can feed into, but also as it applies locally to the scheme, it should be discussed at the forthcoming data event.

9. Technical Group Update ([Paper 2](#))

9.1 CA prepared the above paper to give a brief update on technical queries discussed at the technical meeting of 12 February 2019. The group's remit is to reach consensus on technical issues relating to administration or interpretation of scheme regulations, thereby achieving consistency of application. If consensus cannot be reached, issues are referred upwards to the SAB to consider the need for legal advice.

9.2 On this occasion, the group were able to reach agreement on all of the points raised without need for escalation. The Board noted the contents of the report.

10. Update on actions summary/ items delivered

10.1 As recent meetings have focused solely on the valuation, CA gave a detailed update on the actions summary. Items highlighted in yellow indicate completed actions since the last meeting:

- Board policies to be drafted – Ongoing
- To note that past service costs on pensionable pay remains a risk – Open, ongoing. There is concern that FRAs are not treating pensionable pay correctly, which may affect future valuations. This action will feed in to the planned guidance, which is awaiting the outcome of the MAWW TPO appeal. A seminar is planned for 18 July to provide a refresher on pensionable pay issues. There is a huge variation in local arrangements and TPO rely largely on case law, however, as the firefighter role is constantly evolving, previous judgements are not always relevant to current responsibilities. Authorities should not make decisions based on the name of a payment, but also consider what the required activity is.
- Survey FRAs on impact of pensionable pay – Closed – new item on pensionable pay
- Draft guidance note to boards to ensure they satisfy themselves that pensionable pay is correct in light of Norman V Cheshire – Closed new item on pensionable pay
- Risk strategy
 - i. LPBs – Provided guidance
 - ii. Board – Done – ongoing review
- SAB to lead on data improvement – In progress - data conference, working with admin and bench marking committee – Done issued [guidance](#) in [bulletin 11](#) on data scoring and conditional data. Will need to monitor success. New item track data guidance
- SAB to champion use of on line technology – Ongoing, part of data conference. Member self-service solutions will be discussed and demonstrated at the conference. The Board acknowledge that there is a challenge around cost. FRAs could consider a five year plan to implement.
- The board to respond to TPO judgment on pensionable pay – Summary of case included in [bulletin 14](#), likely to be challenged. Closed – new item on pensionable pay
- AGM – Closed
- Re-issue IDRPs guidance (done) – offer training and support to FRAS (still in progress)

- LGA to establish ill-health working group with SAB and stakeholders – In progress, discussing with Home Office. Initially in relation to the upward review of tier, further issues have arisen in relation to the 2015 scheme. This item to be tabled for the June meeting.
- Home Office to consult with SAB on valuation results – Done
- Further tax training sessions and materials to be procured – Ongoing, to support FRAs with education and myth busting.
- Evidence gathered for public service tax liabilities – Done (Paper 1)
- Legal opinion to be obtained on award of pension credit benefits for transitional members – Item closed (paper 2)
- Monitor data guidance – Ongoing. Data conference, including session on TPR date scoring. Guidance to be revised for 2019 return. As data is such a key issue, this event will be run on an annual basis.

11. Future meeting dates and venues

11.1 All meetings in the 2019 cycle to be held at 18 Smith Square from 10:30 to 15:30. The following dates have been agreed:

Thursday 14 March
 Thursday 13 June
 Thursday 10 October
 Thursday 12 December

11.2 NC noted that the October date clashes with a key NJC meeting. As this affects several members of the Board, the October date will be rescheduled. The suggested revised date is

Thursday 3 October

11.3 ME informed the Board of the following FPS events running throughout the year. SAB attendance is not mandatory, although the support of Board members is always appreciated.

Wednesday 3 April	– Data seminar
Wednesday 15 May	– Joint Fire and Police governance event
Wednesday 19 June	– Ill-health and medical appeals seminar
Thursday 18 July	– Pensionable pay workshop
Tuesday 12 November	– Pensions tax seminar

11.4 The FPS AGM will be held across 24-25 September and a LPB wrap-up training event will be held in June, date to be confirmed.

11.5 ME stated that the SAB induction training in January had not been well attended, and made a plea to members to respond to meeting and training invitations.

11.6 CA proposed that the date for the March 2020 meeting is booked for the Monday prior to the start of the LGA Fire conference in Blackpool, as the majority of employer representatives will be in attendance. Date to be confirmed. RP suggested that a presentation slot should be requested from FSMC, on pensions, the importance of data, and the tax challenge.

12. AOB

12.1 CA updated the meeting on the £95k exit cap provisions, which are expected to be legislated for shortly. Although the effect will be limited for Fire, as redundancy is limited to the statutory payment, there are two specific circumstances to be considered.

12.2 Where FRAs use their discretion to enhance commutation to the full 25% for a member aged over 50 with more than 25 years' service in FPS 1992, which would otherwise be limited to 2.25 times pension, the employer payment to the notional fund may qualify towards the cap. SS raised that enhancement is deemed to be actuarially neutral as the member commutes a higher portion of their pension. CA confirmed that this has been queried with the Home Office.

12.3 The other situation which may qualify is Authority Initiated Retirement in the 2006 and 2015 schemes, whereby an FRA has the discretion to waive any early retirement reductions which would apply, and pay the difference between the reduced and unreduced pension to the notional fund. However, as this is currently paid on an annual basis, a formula would need to be provided to calculate a capitalised amount. This has also been queried with the Home Office.

12.4 CH noted a question raised by an FRA on whether the SAB collect data on IDRPs patterns or trends to establish where advice and guidance is needed. As this data is not currently collated, the Board were asked to consider whether this is a suitable action. All agreed. The secretariat will progress.

12.5 ME prompted members to read the FPS bulletins when they are circulated and stated that the SAB are ahead of other boards in terms of the website and communications. On the pensions dashboard project, ME noted that CA had provided a response³ to the DWP consultation⁴. It has been confirmed that the dashboard will be mandatory, within a likely timescale of three to four years. As yet there is no information available on costs or data required.

12.6 ME thanked Cllr Bell for his contribution to the Board. The meeting closed at 12:40.

³ <http://www.fpsboard.org/images/PDF/Consultations/DWPdashboard280119.pdf>

⁴ <https://www.gov.uk/government/consultations/pensions-dashboards-feasibility-report-and-consultation/pensions-dashboards-working-together-for-the-consumer>