



## **Actions and agreements**

**8 June 2023**

**Location: MS Teams**

### **PRESENT**

Joanne Livingstone	SAB Chair
Philip Hayes	Scheme Member Representative (FRSA) (present for part of the meeting)
Mark Rowe	Scheme Member Representative (FBU)
Pete Smith	Scheme Member Representative (FBU)
Andrew Scattergood	Scheme Member Representative (FBU)
Glyn Morgan	Scheme Member Representative (FOA)
Des Prichard	Scheme Member Representative (FLA)
Janet Perry	Scheme Employer Representative (LGA)
Cllr Roger Price	Scheme Employer Representative (LGA)
Cllr Nikki Hennessy	Scheme Employer Representative (LGA) (present for part of the meeting)
Helen Scargill	Technical Adviser
Craig Moran	First Actuarial
Mark Poulston	Legal Adviser
Philip Woolham	Legal Adviser
Elena Johnson	LGA – Firefighter Pension Advisor
Tara Atkins	LGA- Firefighter Pension Advisor
Joanne Donnelly	LGA – Head of Pensions
Helen Fisher	Home Office
Tantara Fox-Stillwell	Home Office

Karen Gilchrist	SPPA (observer)
Jenny Gregory	Civica (present from Item 9)
Claire Hey	Heywood Pension Technologies (present from Item 9)
Jay Little	Heywood Pension Technologies (present from Item 9)
Matthew Armitage	Heywood Pension Technologies (present from Item 9)
Tim Hill	Heywood Pension Technologies (present from Item 9)

## **1. Introductions, apologies, and conflict of interest**

- 1.1 Tony Curry, Cllr Leslie Byrom and James Allen sent their apologies. Cllr Roger Hirst was substituted by Janet Perry (JP).
- 1.2 Joanne Livingstone advised that the meeting is low on numbers and ten members are needed for quoracy rules. JL said that given some members were not going to be there for the full meeting SAB would need to treat the minimum of ten as including advisers.
- 1.3 JL reminded members of the Board to declare if any new conflict has arisen. It was confirmed that there is no requirement for forms to be completed. No conflicts were declared.

## **2. Actions arising (23 March 2023) and Chair's update.**

- 2.1 JL asked if there were any comments on the minutes from the meeting of 23 March 2023. There were no comments on the minutes, and they were approved.
- 2.2 JL informed the SAB that she had a meeting with The Pensions Ombudsman (TPO) on 7 June 2023. He is meeting with all the chairs of the Public Service Pension Scheme SABs as he has more experience of private sector pensions and is keen to know more about the public sector. He asked what areas are likely to create future pensions ombudsman cases. JL told him that these might arise from remedy, for example in connect with the exercise of discretions. TPO advised JL that he has been involved in discussions on the compensation scheme and is keen to be involved in areas like this. JL told the Board that this is positive and provides an open door for the SAB to seek

help when processes are not working. If processes do not work, then it often gives rise to IDRP cases with ultimate recourse to The Pensions Ombudsman.

2.3 JL said that a chair for the Local Pension Board Effectiveness committee is required as soon as possible. Mark Rowe (MR) offered to discuss this with the employee representatives and asked JL to email him so that he could respond accordingly.

2.4 JL advised that the SAB response to the consultation on retrospective remedy had been submitted. JL also said that there is a new area on the [fpsboard](#) website which holds the responses from other areas, for example, the National Police Chiefs' Council response.

2.5 JL informed the Board that there is a consultation on the [Public Service Pension Scheme Rectification of Unlawful Discrimination Tax Regulations \(No 2\) \(2023\)](#). These regulations are the second set of tax regulations which are designed to set out how the tax rules work to ensure that remedy can be implemented. JL told the Board that there was a useful roundtable discussion which HMRC held to explain these regulations. Janet Perry (JP), Glyn Morgan (GM) and Helen Scargill (HS) confirmed that they had also attended a session.

2.6 JL said that it was made clear by HMRC the in-scope years were only the most recent four tax years of the remedy period, and they are unable to do anything about the earlier tax years. Questions raised on the out-of-scope-years were met with a response that this needed to be referred to HM Treasury.

2.7 JP advised that she had found the session hard to follow and had asked what the intention of the regulations were. It was noted that the intention was that people would be put back in the position that they would have been had the discrimination not occurred.

2.8 Helen Scargill (HS) felt that the processes seemed complicated and had many stages to them. In the session that she attended it became clear that

the regulations are missing a section on recovering overpaid tax where the administrator had made the payment on behalf of the fire authority. HMRC said that they were aware of this and were addressing it.

2.9 GM felt that it was very technical, and some elements only applied to the civil service and judge's schemes. The proof will be in the delivery. JL agreed and was concerned there was an onus being placed on the member to submit various pieces of information.

2.10 JL felt that responding to the consultation would be difficult for SAB due to the technical aspect of this. JP asked if there was anyone in the SAB who could assist with a response. JL suggested concentrating on responding based on the principles that we are trying to achieve, and JP agreed. JP will also send JL her own response once it has been written. The SAB will respond mainly based on principles.

2.11 JL advised the Board that the Matthews consultation is open until 9 June 2023, and this will feature later in the agenda. Home Office provided an engagement session on 25 May 2023 for the SAB which was helpful. Additionally, the SAB agreed for the GAD calculator to contain the benefit calculator element to enable fire authorities to quote member benefits.

2.12 JL told the Board that 2020 valuation materials are starting to be issued. There are two meetings in respect of this. The first meeting would be on 14 June concentrating on valuation directions and the second one is on 27 June on the valuation assumptions.

2.13 JL was pleased to tell the Board that the [Fire and Police data conference](#) of 17 May 2023 went extremely well and was attended by 140 delegates. This was followed on by a [coffee morning on 24 May 2023](#) where feedback from the workshops was given. EJ informed the Board that the FPS Regulations and Guidance website has a good write up on the [Events page](#) about the conference along with photos and all the presentation slides.

2.14 JL said she had seen some news around pension dashboards. Joanne Donnelly (JD) said that she had read the [written ministerial statement](#) which

said that the deadline date for connection to dashboards is going to be 31 October 2026 and the staging dates are to be for guidance only.

### **3. Home Office update**

3.1 Tantara Fox-Stilwell (TF) provided the Board with an update from the Home Office.

3.2 TF said that the aim of the Home Office is to publish the consultation response and regulations for retrospective remedy before the summer recess, that is, before the end of July 2023.

3.3 TF said that the Matthews consultation closes on 9 June 2023 and the consultation response and regulations will be issued early September 2023.

3.4 JP asked if she would be able to submit a letter for Matthews after the deadline. Helen Fisher (HF) confirmed that the deadline for consideration of responses would be 9 June 2023, however if there are further thoughts to add after that point then the Home Office would take them into account in their analysis, but they wouldn't be able to formally respond to them.

3.5 JL asked if the retrospective remedy regulations would be the final regulations. HF confirmed that this is the plan.

3.6 JL pointed out that further regulations will be needed to account for the Matthews and McCloud interaction and seeing a draft of these would be helpful. JL also pointed out that because of the uncertainty around contribution processes, waiting for final regulations is time wasted if a draft could be shared earlier..

3.7 HF advised that there is a cross reference between police and fire and where there is a shift in policy, Home Office will try and engage with the sector before final regulations are laid.

3.8 JL noted that the Police response included legal advice from a top pensions KC questioning certain aspects of the draft regulations and asked the Home Office how they would respond. HF advised that this was passed to HM

Treasury because it related to contributions. She explained that it is essentially a government policy decision to protect the scheme finances in a flexible way that ensures adjustments to contributions can happen at the point of crystallisation and not just at the point of rollbacks.

3.9 HF gave an update on the remedy consultation responses. Many were received from members and the content of the consultation responses were as expected by the Home Office. The Home Office is working hard to analyse the responses received.

3.10 HF confirmed that they are re-drafting the ill health section at the moment.

3.11 HF re-iterated that the Matthews consultation closes on 9 June and that the Treasury valuation directions meeting is on 14 June.

3.12 JL asked about other matters raised by the SAB in its response to McCloud such as how discretions will be managed and anything missing from the materials published on the compensation scheme. HF said that the compensation directions are owned by HM Treasury but that the Home Office is currently working with HM Treasury on a discretions document on where funding will sit. HF said to contact HM Treasury if there are areas missing from the funding arrangements. In respect of discretions, HF said that if this area has been raised in the consultation, then it will be responded to by Home Office accordingly.

3.13 JL asked HF about how to obtain clarity for the processes for out-of-scope tax years and explained that people are concerned about how this will work. There seem to be missing processes around how FRAs will receive money due to be paid back to them. HF said that the funding structure is not currently clear, and that Home Office have also been asking HM Treasury for details on this. A document was provided in December, but nothing has been received since.

3.14 Mark Rowe (MR) asked HF if they have received the FBU response. HF confirmed that they have received it.

#### 4. SPPA Update

4.1 Karen Gilchrist (KG) gave an update on behalf of SPPA. KG confirmed that retrospective remedy consultation was launched on 16 May 2023 and closes on 23 July 2023.

4.2 KG said that the Scottish Fire and Rescue Service had contacted her recently regarding the availability of IQMPs and asked if this was also an issue in England. KG said that there was concern around the number of reassessments which may be needed for the retrospective remedy. HF said that she knew that the IQMP market was quite exhausted at this moment in time, and she would take a look at how the ill health section of the regulations could be drafted to make it clear where reassessments were or were not needed.

4.3 In terms of Matthews, this legislation is currently being drafted and there will be an eight-week consultation period. They are looking to lay the legislation in October and for it to take effect from 1 December 2023.

#### 5. First Actuarial Update: [SCAPE discount rate](#)

5.1 Craig Moran (CM) provided a helpful presentation which explained the impact of the SCAPE discount rate on the firefighters' pension schemes.

5.2 CM explained the impact that change in discount rate would have on the factors for commutations from the 1992 Scheme. Janet Perry (JP) asked how the scheme is made more or less generous if the cost cap were to apply, given that specific factors have to be used in the 2006 and 2016 schemes. CM explained that changing the accrual rate could be an option if the scheme needs to be made more or less generous. He also explained that changing early retirement factors is also an option as is changing the employee contribution rates. This would be a change going forward rather than amending the terms of the scheme in the past.

- 5.3 JL referred to a BBC article which highlights members of pension schemes waiting for factors to calculate the pension sharing on divorce and confirmed that the fire schemes had now received revised factors.
- 5.4 Des Prichard (DP) thanked CM for providing an excellent and understandable presentation. DP suggested that for SAB, it is necessary to highlight that, for the fire schemes, the change to the SCAPE discount rate has a disproportionate effect on the schemes and the increase to employer contribution rates has an effect on employer budgets and the running of the fire service.
- 5.5 JL agreed and pointed out that the funding arrangements are known for 2024/25, however it is unclear what will happen after that point. This creates uncertainty in the sector.
- 5.6 Councillor Price (RP) said that currently the cost is funded, however a change in government in the future might change this. RP supported DP's view that it is necessary to highlight the impact that SCAPE has on the fire scheme.
- 5.7 CM confirmed that the cost has been met, however there will be organisations that will struggle such as independent schools and organisations who employ NHS staff that may not get the funding for this.
- 5.8 DP said that his understanding was that government had agreed to increase departmental budgets which he said was not the same as each fire and rescue service receiving the money and asked for clarity. Joanne Donnelly (JD) confirmed that the commitment was for the first year only and that the Teachers' Pension scheme has a specifically named grant which is there to pay the increase in employer pension contributions.
- 5.9 HF confirmed that it is normal practice not to commit to spending outside of a normal spending review and this is the reason why funding has been committed explicitly only for 2024/25. The next spending review will consider the further funding required for the increase in employer contributions. JL asked if it would be a good idea for the SAB to write and seek clarity. HF offered to seek clarity from Home Office funding colleagues about how

funding would look and work for future years. HF added that once the valuation results are known, the situation will become much clearer.

**ACTION: 08.06.2023 (5.9): HO to seek clarity regarding funding for increased employer contribution rates due to a reduction in the SCAPE discount rate.**

## **6. SAB response to Home Office retrospective remedy consultation**

6.1 EJ asked the Board to note that the [SAB response](#) to the Home Office consultation on retrospective remedy was submitted accordingly.

## **7. SAB draft response to the Home Office consultation on the Matthews Second Options Exercise**

7.1 JL explained that a draft response to the consultation on the Matthews second options exercise had been compiled and circulated to SAB members.

7.2 EJ explained that some suggestions had been received from First Actuarial which the SAB may wish to take a view on. EJ went through the draft response to the consultation and comments added by First Actuarial.

7.3 Philip Woolham (PW) asked whether the SAB felt that the nine-month window quoted in the consultation gave enough flexibility for firefighters. EJ said that this could be included in the consultation response.

7.4 Glyn Morgan said that at meetings which he had attended, there was concern about how firefighters could be contacted given the historic nature of this exercise and felt that the Board may need to consider this issue going forward.

7.5 CM made the point, in terms of assumptions, that firefighters may provide evidence only when it would be of benefit to the firefighter; and otherwise not share any evidence of lower benefits. He suggested this might be something which the Home Office wishes to consider.

7.6 The Board discussed whether the eighteen-month window was sufficient but noted that there is existing flexibility within the draft regulations for cases

which may exceed this timeframe. It was noted that where a firefighter may need to contact HMRC for earnings figures this would take some time to obtain a response from HMRC. This situation would need consideration and firefighters may be able to ask for an extension to the timeline.

7.7 EJ indicated that First Actuarial had raised the point that, in terms of financing, fire authorities have different numbers of retained firefighters which should be a consideration when thinking about how Matthews is to be paid for. HS added that one of WYPF's FRAs has around 2000 retained staff whereas another has 50.

7.8 JL raised that the interaction between Matthews and McCloud would also need to be clear as processes would need to be developed when considering the payment of pensions and lump sums. In addition, clarity on trivial commutation payments is needed.

7.9 EJ said that she would finalise the draft and submit on behalf of the Board by the deadline of 9 June 2023.

**ACTION: 08.06.2023 (7.9): Secretariat to submit final response to the consultation accordingly.**

## **8. Action summary and review**

8.1 As the meeting was overrunning, the following action was discussed.

8.2 Action 11.6.20 (6.3) was discussed and it was confirmed that the legal note on the correction of pensionable pay had been issued, however views were requested on whether the same guidance would apply if a pay element was made non-pensionable and so would result in a reduction to a pension in payment. Mark Poulston (MP) confirmed that Weightmans felt that the same principles would apply and therefore the guidance note can be used for these cases.

8.3 The remaining actions would be held over to the September meeting.

## 9. Software supplier update

- 9.1 JL advised that both Civica and Heywood Pension Technologies had been invited to the meeting to provide an update on the progress they have made on the development of the software needed for remedy.
- 9.2 Jenny Gregory (JG) was invited into the meeting and gave a [presentation](#) on the progress to date made by Civica.
- 9.3 JG advised that good progress was being made and although the project is running slightly behind, there is confidence of an 80/20 compliance by 1 October 2023.
- 9.4 JG explained which elements of calculations are contained within each software release and highlighted the different sorts of stakeholder collaboration which Civica are involved in to make the project run smoothly.
- 9.5 JG explained that a significant blocker is the lack of sight of the contribution calculator. The development of the fields needed on the software will take time and it was not clear what the output of the contribution calculator would look like. JG also highlighted the pressures created by the GAD factor reviews and there was also a need to consider any software changes needed as a result of Matthews.
- 9.6 JL thanked JG for the presentation and JG left the call.
- 9.7 Heywood Pension Technologies joined the call and provided a [presentation](#) on the progress they have made on the remedy project.
- 9.8 Matthew Armitage (MA) confirmed that phase one was complete and phase two was in the process of being delivered. Phases three and four are currently awaiting approval.
- 9.9 MA explained that there were certain calculations which would now need to be done manually by administrators. Recalculations were out of scope due to uncertainty over value for money of implementing a full solution. JL asked what was meant by recalculations. MA confirmed that this referred to anyone

who had a benefit which was already in payment. MA said that it was recognised that this would mean manual calculations and stressed that Heywoods are looking at possible workarounds to help administrators. He confirmed this would be in the form of documentation/guidance on how to update the system manually and partial solutions for those case loads which had the largest number of cases in that cohort.

9.10 As with Civica, the blockers include the lack of sight of the contribution's calculator. Heywood also sighted amendments to the Club memorandum as being a particular area which will need consideration. Additionally, there are competing priorities in relation to annual allowance revaluation date changes, changes due to SCAPE and factor reviews.

#### **10.AOB and date of the next meeting**

10.1 It was agreed that the remainder of the action summary paper would be taken forward to the next meeting due to time constraints.

10.2 The date of the next meeting is 14 September 2023 at 18 Smith Square, London.