

Meeting of the Board 10 December 2020

## Update on action summary

### Introduction

1. This paper provides an update to the Board on actions taken and planned actions to progress the agreed work plan as outlined in the [action summary](#).

### Completed actions

2. A [revised risk register](#) has been drafted and tabled for discussion at this meeting. [Action 30.11.2016 (9)]

### Actions in progress

3. [Paper 5](#) provided to the Board to recommend commencing the ill-health review group. [Action 04.10.2018 (5)]
4. [Paper 2](#) has been provided to Board along with draft FRA survey for consideration of preparedness of FRA arrangements to respond to age discrimination and Matthews. [Action 03.10.2019 (7)]
5. Draft data guidance document has been considered by the communications group, with a final draft to be circulated in late January once HMT policy decision on remedy is available. Concerns over software providers preparedness for remedy is preventing finalisation of a standard remedy data collection template. [Action 9.01.2020 (11)]
6. [Paper 4](#) tabled at this meeting to discuss further the paper and legal note provided on [temporary roles and secondment](#). [Action 11.06.2020 (6.1)]
7. Follow up discussions with the Home Office are still taking place on the position of rectifying past pensionable pay errors. [Action 11.06.2020 (6.3)]
  - 7.1. The SAB commissioned legal advice through the Board's legal adviser on how retrospective pensionable pay issues should be corrected and paid for and whether FRAs could rely on the limitation act.
  - 7.2. On receipt of such advice, employee representatives could not agree with the advice provided, due to contrary legal advice that FRAs can't use the limitation act to prevent the correction of pensions outside of the six-year period. This would have the effect that all pensions should be corrected to use the pensionable pay identified by the courts regardless of whether there are corresponding pension contributions beyond six years.

- 7.3. A view was sought from the Home Office on the effect of the top-up grant and funding arrangements if the contributions were not to be collected. Any position where members did not pay contributions in return for pension payments would put a strain on the scheme funding which would be reflected in increased employer contributions in the valuation.
8. Further advice has been requested from the SAB legal adviser on the abatement queries discussed by the Board under [item 5.3](#) of the September 2020 meeting. [Action 17.09.2020 (5.3)]
- 8.1. The issue raised with the legal adviser is that outlined in paragraph 7.2 of the [board paper](#) with relation to concurrent employments. The crux of the question is whether HMRCs view on protected pension age that **continued employment constitutes being re-employed**, should be used with regards to interpreting [Part 9, paragraph 3](#) for firefighters with concurrent employment as a wholtime and retained firefighter and who are only retiring from one role.
- 8.2. Further information on HMRC's view on re-employment and how it relates to the loss of protected pension age can be found under the resources tab of the [password protected 'Protected pension age' page](#).
9. [Paper 6](#) supplied to the Board provides information requested on the number of immediate detriment cases and quantum of cases that might experience technical issues through lack of guidance. [Action 17.09.2020 (5.4)]

## Agreed postponed actions

10. Progression of a pensions tax working group with the remit of pursuing evidence and developing proposals for flexibility that may help firefighters manage their tax liabilities and improve retention has been temporarily postponed due to COVID-19. The postponement may be extended pending the outcome of remedy, as this is likely to affect members' tax positions. [Action 03.10.2019 (6)]

## Actions to note

11. GAD requested information from FRAs in respect of changes made to pensionable pay following the Booth vs MAWW judgment. Await 2020 valuation results. [Action 26.05.2016 (3)]

## Board actions

12. The Board are asked to note the contents of this paper.

Board Secretary  
December 2020