

NHS Pension Scheme Scotland

Scheme Advisory Board

Minutes

Date: 16 November 2018

Meeting reference:

Location: St Andrew's House, Edinburgh

Chair: Derek Lindsay(NHS A&A)

Attendees: Members

Ros Shaw (RCN)
Jackie Mitchell (RCM)
Margo McGurk(NHS24)
Lorraine Hunter (NHS Grampian)
Willie Duffy (Unison)
Jane Christie-Flight (UNITE)

Scottish Government

Lorimer Mackenzie (SPPA)
Jim Preston (SPPA)
Greg Walker (SPPA)
Colin Cowie(Scottish Government)

By invitation

George Russell (GAD)

By telephone link

Phil McEvoy (BDA)
Garry Swann (GAD)
Alan Robertson (BMA)

Secretariat

Carole Bertram (SPPA)

Apologies: Chris Raftery (Scottish Government)
Graham Pirie (CoP)
Dorothy Wright (NES)

1. Welcome and Apologies

1.1 The Chair welcomed everyone to the meeting including those dialling-in and led introductions

1.2 All confirmed that they had no conflicts of interest.

2. Minutes of the meeting held on 24 October 2018

2.1 The Chair asked for accuracy of these minutes. The minutes were approved as an accurate record of the meeting.

3. Matters arising

3.1 The Chair sought confirmation that the levels of funding from HM Treasury will be not be known until the UKG's Spring Statement. Lorimer Mackenzie replied that Ministers have written to HMT requesting full funding for all schemes to cover the SCAPE rate change. The Chair highlighted his concerns around timing and potential late notice for employers.

3.2 The Chair enquired why the cost of moving from whole-time equivalent (WTE) to actual salary contributions was 0.5% in Scotland and only 0.4% in England and Wales (E&W). Garry Swan confirmed this is because there are more people in part time employment in the NHS in Scotland than in E&W.

3.3 Willie Duffy commented that the cost cap rectification proposals put forward by the E&W SAB were proposals that member representative groups on this SAB would be happy to support.

3.4 Jim Preston advised there was an informal agreement with HM Treasury on moving from WTE to Actuals as part of the cost cap rectification.

3.5 Lorimer MacKenzie commented that recent SAB meeting minutes should not be published on the SPPA website until the valuation process had concluded. This to avoid the minutes of different meetings appearing to contradict to the final decision of the SAB.

4. Action Log

4.1 **The** action log was updated

5. NHS E&W SAB – Cost Cap Rectification Proposals

5.1 Jim Preston provided an update from the NHS E&W SAB of 6 November 2018 and summarised the 7 proposals put forward by the E&W SAB for rectifying the cost cap. These proposals were as follows:

1. Use actual pay rather than whole-time equivalent (WTE) pay to determine the tier used for member contribution rates
2. Index the pay tier boundaries of the member contribution rate structure annually in line with general pay award.
3. Combine the three highest member contribution rates at 12.5% of pay

4. Equalise survivor benefits earned before 6 April 1988 for all active members of the scheme as at 1 April 2015
5. Reduce member contribution rates for all active 2015 Scheme members by up to 1%
6. Introduce a new benefit for the 2015 Scheme where members build up cash on top of Scheme pension.
7. Scheme changes be accompanied by a firm commitment to establish a timeline to introduce flexibilities (such as 50/50 option or an ability to limit the level of pay which is pensionable) to ensure the scheme remains sustainable.

5.2 Phil McEvoy commented that points 1 - 4 were likely to be agreed by HM Treasury and that point 5 was desirable and could be used as a negotiating position on a sliding scale between point 5 and point 6.

5.3 Phil McEvoy highlighted that additional cash lump sum was more punitive in terms of the Annual Allowance, however, it was easier to communicate to members than increased pension accrual and could more easily be removed, if required, following the next valuation.

5.4 Phil McEvoy went on to discuss point 7 which is not part of cost cap rectification but the E&W SAB are looking for a commitment to introduce flexibilities in order to ensure the scheme remains sustainable in the long term. Phil commented that he felt E&W points were a good model for the Scottish SAB to follow.

5.5 Alan Robertson commented that he felt the E&W SAB letter was well written and provided a balanced and reasonable approach to cost cap rectification and also covered other issues well.

5.6 Phil McEvoy sought clarification on next steps once the SAB had submitted their recommendations to Ministers. He highlighted the Regulations which provide for the procedure for agreeing cost cap rectification dictate that Scottish Ministers must seek to reach agreement with the SAB.

5.7 Lorimer Mackenzie replied by expressing concern that we are running out of time to reach agreement in order to implement regulations. Lorimer also commented, that the group should be mindful that cost cap changes may have to be removed in 4 years' time depending on the result of the 2023 valuation. The changes being considered might not be able to be reversed, in 4 years' time, because accrual is the default measure.

5.8 The Chair commented that points 1 to 4 from the E&W SAB are not a surprise, and that 1 – 3 were not controversial and represents a relatively small percentage, but was concerned that point 4 may not be acceptable to Scottish Ministers.

5.9 Jim Preston highlighted that equalising survivor benefits was controversial as it goes against HM Treasury's position.

5.10 Lorimer Mackenzie commented that HM Treasury's position on member contribution reductions is that the cost will have to come out of the Health budget. Lorimer also confirmed that HM Treasury are content with a scheme yield of 9.6%.

5.11 Lorimer Mackenzie confirmed that 1.2 billion had been allocated by the UK Government to cover pension costs for the NHS in England and Wales. Through Barnett Consequentials this equated to approximately £122 million for the NHS in Scotland. As a result of the profile of the workforce in the NHS in Scotland this will result in a funding shortfall. All devolved administrations have written to the Chancellor seeking full funding to cover costs of increased employer contributions.

5.12 Willie Duffy confirmed that all parties agreed point 6 in E&W letter and he highlighted we don't need point 2 in Scotland. Willie raised the point about what happens if HM Treasury refuse point 5.

5.16 Lorimer Mackenzie replied if employers and HM Treasury don't agree point 5 then there will be a need for further discussions.

5.17 Ros Shaw indicated her agreement to all 6 points, particularly point 5, as she feels the SAB has to take into account all members of the scheme. Ros commented that the SAB must prepare back up plan if point 5 is refused by HMT.

5.18 Garry Swann clarified that points 1 and 3 are only applicable 2015 members.

5.19 Phil McEvoy commented on issues with payrolls coping with 2 levels of contributions for 1995/2008 members and for 2015 members. Lorraine Hunter commented she will talk with her provider to question if this change could be made available from April 2019.

5.20 Derek Lindsay asked why England and Wales have preferred the additional cash lump sum point over improved accrual rate. Phil McEvoy replied that the lump sum was a stand-alone benefit, would be easier to administer and easier to remove if the next valuation produced a difference in scheme costs. Alan Robertson confirmed there would be a slightly greater impact on Annual Allowance compared to improved accrual.

6. Cost cap rectification

6.1 Gary Swann talked through the GAD paper which provided a number of costed options for rectifying the cost cap. At the previous request of the SAB the paper included figures on reducing the early retirement reduction.

6.2 A discussion took place around improving lump sum commutation factors as a means of rectifying the cost cap. It was stated that this option would only benefits a small number of scheme members and may influence the behaviour of scheme members. Jim Preston noted that SPPA do not have good data on commutation trends in the 2015 scheme as they have not had a huge amount of normal retirements from the 2015 scheme to date, most 2015 scheme retirements are ill health.

6.3 There was a discussion around the merits of improving early retirement terms in the 2015 Scheme as part of the cost cap rectification. The proposal was based on the 'soft landing' in the Teacher's Pension Scheme by providing for a 3% early retirement reduction in the 3 years between age 65 and a member's normal pension age. Garry Swann clarified this would only effect early retirements from the 2015 scheme from 2019 onwards.

6.4 Lorimer Mackenzie stressed the importance on getting agreement from the SAB cost cap rectification proposals by the end of the meeting.

6.5 The Chair proposed the group should include a 1% reduction in member contributions, as per the E&W SAB proposal.

6.6 Willie Duffy raised concerns regarding the issue of improved accrual rate on Annual Allowance. Jim Preston replied that the additional cash lump sum would impact more on AA than the improved accrual.

6.7 Lorimer Mackenzie confirmed point 5 is asking HMT to change their ground rules around reductions in member contributions.

6.8 The Chair commented to reduce early retirement factors to 3% would make the terms of the scheme equivalent to the Teachers Scheme. Should this be added as an additional proposal.

6.9 Ros Shaw commented that changing to 3% potentially only for a 4 year period was not significant. Lorimer Mackenzie commented that the change in early retirement factors would benefit those closest to retirement.

6.10 The Chair provided a summary of the 6 options agreed by the SAB and reminded the Board that options 1 and 3 refer only to the 2015 scheme.

6.11 Lorimer Mackenzie requested the SAB draft a letter and make sure letter shows the SAB are in agreement.

6.12 Phil McEvoy suggested the SAB do not include reference to the OBR report, included in the E&W letter, as the OBR projections are not the same for Scotland.

6.13 The Chair confirmed SPPA to draft a letter on behalf of SAB for 6 points in E & W, point 2 is not required, point 4 leave in and leave out ERF change but keep as a back-up.

AP2019/01 – SPPA to draft letter on behalf of the SAB setting cost cap rectification proposals

6.14 Jim Preston confirmed this draft letter will be issued by SPPA next week.

6.15 On 26 November SPPA circulated to the SAB the final agreed draft of the letter to the Minister confirming the SAB recommendations on cost cap rectifications. At the same time SPPA confirmed that before presenting the advice to the Minister it had approached HMT for its view on the proposals to establish what, if any, issues it may have on the agreed points. A response was not received by SPPA and following the announcement of the McCloud/Sargeant Court of Appeal case on 17 December HMT's consideration on how the cost cap rectification work across the public service schemes became subject to review. Details of HMT's view on the proposed rectification was therefore not received and HMT announced in January that work on the cost cap should be paused due to the Court of Appeal case. On that basis those schemes where rectification recommendation had still to be presented to the Minister were similarly paused.

7. NHS Scheme Participation Rates

7.1 The Chair sought agreement from the SAB to delay the participation rate paper until the next meeting due to lack of time. This was agreed by the Board.

8. Date of next meeting

8.1 The next meeting will be arranged when we receive timescales from HMT.