

Scottish Teachers' Pension Scheme Advisory Board

Minutes

Date: 9 September 2019

Location: Verity House, Haymarket Edinburgh

Chair: Jim Goodfellow (COSLA - Employer)

Attendees: Greg Dempster (AHDS), Fiona Dalziel (SSTA), Michael Dolan (EIS), Euan Duncan (SSTA), Alison Newlands (SCIS), Des Morris (EIS), Jim Preston (SPPA), Mary Senior (UCU), Dave Wilkinson (NASUWT), George Russell (GAD), Stephen Stewart (EIS), Trudi Tokarczyk (Colleges Scotland), Stuart Robb (SGEWU) Stephanie Walsh (SGEWU), Stuart Bain (COSLA) Louise Wilson (EIS), Garren Conway (SPPA Customer Services), Phil Daggart (COSLA), Clair Ramage (COSLA), Brenda Callow (SPPA)
Dial In - Murray McLeod (COSLA) and Greg Dempster (AHDS)

Secretariat: Lorraine Gallagher

Apologies: Lorimer Mackenzie (SPPA), David Parker (COSLA), Andy Witty (Colleges Scotland), Dougie Atkinson (VOICE), Neil Shaw (SLS), Debbie Walls (COSLA), John Edward (SCIS), Graham Nicol (COSLA), Stephen Uphill (Abertay University)

1. Welcome and Introductions

1.1 The Chair welcomed everyone to the meeting, noting apologies. The Chair confirmed current SAB vacancies and welcomed introductions from all attendees. It was agreed that item 4 on the agenda would be moved to item 2.

2. SNCT Terms and Conditions

2.1 Murray McLeod provided remotely a presentation excel spreadsheet for 2017 - 2018, offering details of a leavers calculation, which had been shared electronically with the SAB ahead of the meeting. He highlighted the difficulties in providing calculations due to the difference between Financial and Academic years (Financial year - 1 April to 31 March, Academic - August to August). Proposed changes affect both the Final Salary (FS) and Career Average Revalued Earnings (CARE) schemes. He confirmed that SNCT Teachers Pay conditions are incompatible with the STPS regulations. They deliver continuity of payment to teachers throughout the summer months, but consequently, payments made are not aligned with monies due, necessitating adjustments at the start and end of pensionable employment. The SPPA raised concerns that

pension does not necessarily fall into the relevant scheme year and on the level of contributions due to be paid. This could result in several unfavourable outcomes for members. Staff confirmed that a lot of examples require to be worked through which should also include promotion, reducing pay, part time to full time and vice versa, supply teaching and different stages scheme membership. Murray confirmed that an adjustment is required for every teacher leaving the scheme. The example he provided, of one particular council is that over the course of a year 400/500 changes are made. Staff advised that they thought it would be useful for notional hours in separate factors ie 1/235, 1/261.

2.2 The SPPA re-iterated that any changes would require to be provided under scheme regulations which would require HM Treasury agreement.

2.3 Due to the complexities it was agreed that a small subgroup should be set up to consider the examples and bring back to the next meeting. This group is to include COSLA, Union Representation and SPPA.

2.4 Staff highlighted that this area could become a big issue on McCloud/Sargeant introspection on pension.

2.5 Clarification was given that this applies to Local Authorities only.

Action: Small Sub group to be set up to take forward examples

3. Conflicts of Interest

3.1 The Chair asked the board if any new conflicts of interest were to be declared. None noted.

4. Minutes of the Previous Meeting

4.1 The minutes of the previous meeting were agreed as accurate. Staff raised Action 3.5 from the previous minutes relating to additional training requirements for the SAB. It was proposed that a tutorial session, offering details surrounding the complexities of the scheme would be beneficial to enhance SAB member's effective contribution. In particular, suggestions included complexities of old scheme/new scheme accrual rates, buying out actuarial reduction, death in service, what comes with McCloud/Sargeant, regulatory framework from Pension Regulator to Pension Ombudsman.

4.2 SPPA noted how GAD had provided training in relation to the cost cap mechanism and this would be provided for the next subsequent valuation in 2020. SPPA also confirmed that key pieces of work, which may arise for the SAB, would be accompanied with relevant training. It was noted that SAB member engagement and feedback would be crucial for providing the correct levels and subject matters for training.

4.3 It is expected that any training will be arranged early in 2020 timeframe, taking account of SPPA workload and conflicting priorities.

4.4 Staff suggested that joint training between the SAB and Pension Board might be considered.

4.5 GAD noted that future training in respect of McCloud/Sargeant would help to provide the foundations of how the scheme works in an interactive manner.

Action: SAB members to email SPPA with details of training requirements.

5. Participation Rates/Opt out form

5.1 A discussion took place on the latest participation rates paper issued to the Board. Staff highlighted that the format for presenting statistics around higher education was greatly appreciated.

5.2 Staff opened discussions regarding the current reasons for leaving the scheme that are available on the opt out paper. It was noted that it would be helpful if the area of financial reasons, and other could be expanded, however it was acknowledged that this would be challenging.

5.3 A discussion followed to clarify what purpose the member responses were needed for and perhaps there should be more focus to establish if specific scheme changes are the reason for members opting out and not just a reference to personal circumstances. It was agreed that a comprehensive note of scheme benefits should be attached to the opt out request form, allowing members to make an informed decision regarding their scheme membership and benefits.

5.4 The group discussed the circular and commented the information was helpful; however, amendments were required, specifically relating to making the document user friendly and in particular, indexation. In addition, it was noted that members should be made fully aware of the significant contribution, which is made by the employer to the employee's pension fund. In respect of the final paragraph of the opt out section of the circular the wording "independent financial advice" should be amended to "independent financial guidance".

5.5 The Chair noted that the SAB should have a clear mechanism of how information gathered is used. It was discussed that the wider leadership should be a part of drawing members attention to this area and it was agreed that the requirement for a nomination form should be removed in light of the Brewster case.

5.6 Discussions then focused on what mechanisms SPPA stakeholders use to communicate information provided on circulars, ensuring that all relevant parties are notified. It was apparent that there was no overall consistency and this would need further investigation.

5.7 Following debate of how questions on the form could be presented in a meaningful manner, Staff proposed that the group should move towards agreement to use one direct question, asking the member to state the reason they have chosen to opt out. It was further agreed that the introductory paragraph on the opt out document would replace the reference currently "to help the Scottish Ministers" to "help us".

Action: SPPA to amend the wording on the opt out document to reflect the word us as agreed by the SAB.

Action: SPPA to amend wording in the circular to reflect the above agreement.

6. Phased Retirement

6.1 It was agreed by the SAB that the section of the circular relating to phased retirement should be provided as a separate entity and removed from this circular.

6.2 Employers confirmed that it would be a good principal to highlight to employers and employees side. Consideration to be given to the wording in particular financial guidance. The SAB also agreed that reference to “those aged 50” should be removed.

6.3 SPPA noted that the mechanism for cascading scheme information to members should be an area of discussion for the Pension Board as the Policy had been settled. Staff noted that the Policy may not be settled, dependant on the outcome from McCloud/Sargeant, therefore it could be an area for the SAB.

Action: SPPA to separate draft circular into two, amend as requested, issue to the SAB for final agreement before issue.

7. McCloud/Sargeant

7.1 SPPA provided an update on the McCloud/Sargeant case and noted that the UK government were not granted leave to appeal the decision, the case being based around challenges of age and transitional protection. The outcome of the employment tribunal review must see any element of discrimination removed. SPPA also noted that the ministerial statement would impact across all schemes and a remedy between Treasury and public sector pensions would be required. The remedy will ultimately require more work from schemes and will be followed by scheme specific discussions.

7.2 Staff asked if the SG and Treasury would look at a core remedy requiring changes to primary legislation for separating scheme and normal pension age. SPPA noted that they were not aware of any intentions to decouple pension ages between scheme and the state pension age. The SAB also asked if they would have any influence over the decision process and what the timescales would be for delivery of any outcome.

7.3 SPPA advised that currently timescales were difficult to confirm due to the continuation of the legal process.

8. Cost Cap

8.1 Staff noted that the TUC had asked for the cost cap pause to be reversed through a letter dated 13 June 2019, issued to the Chief Secretary to the Treasury, Liz Truss MP regarding public sector pensions. SPPA reiterated that the cost cap is part of reserved policy and the Scottish Government have no ability to change this legislation.

8.2 The SPPA clarified that Scottish Minister Kate Forbes has part portfolio for public service pensions and confirmed that the SAB request had been forwarded to the minister. The SPPA confirmed that the minister is awaiting clarification on the outcome from McCloud/Sargeant due to the volatility of changing schemes. There is an understanding that the cost caps will run again.

8.3 Staff advised that they were disappointed that the SAB request that the cost pause should be lifted had not been escalated by Scottish Ministers and frustrated that McCloud/Sargeant was

dragging on when agreement on this was approximately one year ago. Staff requested that Scottish Ministers were contacted again to request that they write to Treasury and that the reply should be shared with membership. Staff also asked for sight of the request from SAB to the Scottish Minister. Both SGEWU and SPPA confirmed that they were unable to share ministerial briefing.

8.4 Staff confirmed that there are members in England and Wales that are seeking private legal advice.

8.5 The SPPA confirmed that the Firefighters/Police/NHS had all paused in Scotland and were awaiting HM Treasury remedy. The SAB was advised that everyone will be covered by the remedy.

8.6 Staff requested that when the remedy is known that Teachers are compared with Firefighters/Police/NHS ie retirement ages, ARP, deaths etc. SPPA advised that with the help of GAD, an extract of summaries from the valuation reports would show the benefits of the schemes.

Action: SPPA to re-contact Scottish Minister re. pausing cost cap

Action: SPPA to liaise with GAD on summary of scheme benefits

9. Scheme Eligibility Update

9.1 The SAB were content with the scheme eligibility paper that was issued to HM Treasury. The question has been asked if the SAB had considered the risk to a discrimination pay claim being made say through LGPS and SNCT. Staff confirmed that some roles in England and Wales depends on the employer and can be in one scheme.

9.2 SPPA asked if the SAB wished to consider this situation. Staff confirmed that they would need to take independent legal advice. The SPPA noted that the purpose of establishing a member's pension rights would ensure the right person was able to take up any post. The SAB also noted that teacher's career paths could affect the schemes they would join. Staff requested that the Eligibility paper should be re-circulated to the board.

Action: SPPA to re-circulate Scheme Eligibility paper

10. Request of sharing of draft minutes with Pension Board

10.1 The group agreed that they are not willing to share draft minutes with the Pension Board so that points cannot be misconstrued between boards. Therefore it was decided that only agreed minutes are to be shared.

Action: SPPA to advise Pension Board only agreed minutes to be shared

11. Dates of Next Meetings

11.1 It was advised that COSLA had arranged the next meeting for 2 December 2019. The Chair requested that the SPPA discuss room availability with COSLA for a possible February meeting.

12. Any other business

12.1 No further business was discussed

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Action Ref.	Action	Action Owner and date raised	Latest position	Action closed
71	SPPA to advise Pension Board only agreed minutes to be shared	SPPA	Ongoing	Open
70	SPPA to re-circulate Scheme Eligibility Paper	SPPA	Re-circulated	Closed
69	SPPA to liaise with GAD on summary of scheme benefits	SPPA	Ongoing	Open
68	SPPA to separate topics on Circular so that 2 Circulars are issued. Phased retirement circular to be amended and forwarded to SAB for final agreement before issue	SPPA	Opt Out Circular issued on 01/11/2019 Phased Retirement to be transferred to Pension Board	Closed
67	SPPA to amend wording in the Circular on Scheme Participation	SPPA	Completed on 01/11/2019	Closed
66	SPPA to amend the wording on the opt out document to reflect the wording as agreed by the SAB	SPPA	Completed on 01/11/2019	Closed
65	SAB members to forward training requests by e-mail to SPPA, with SPPA to arrange subsequent training	All SAB members	Ongoing	Open

64	Small sub group to be set up to take SNCT examples forward	Murray McLeod, COSLA, EIS and SPPA	Ongoing	Open
63	SAB to ask SG to make representation to the UK Government on unpausing the cost cap	SPPA	Actioned but remains ongoing	Open
62	SPPA to distribute copy of TUC letter to full SAB on behalf of Staff side	SPPA	Issued to SAB on 10/07/2019	Closed
61	Chair to investigate Opt Out process undertaken by his own HR/Payroll teams	Chair		Open
60	SPPA to provide teacher census information	SPPA	Included in Q1 2019/2020 Participation Rates paper	Closed
59	SAB members to forward further questions on SNCT to the SPPA	SAB members		Open
58	Murray McLeod to work along with EIS on SNCT examples and forward to the SPPA	Murray McLeod		Open
57	SPPA to circulate SNCT presentation electronically	SPPA	Issued to SAB on 10/07/2019	Closed
56	SPPA to forward details of the scheme structure and GAD Valuation Training to all new members of the SAB	SPPA	Issued to SAB on 10/07/2019	Closed
55	SPPA to confirm if guidance has been produced on EU Nationals for circulation	SPPA 19/02/2019	Issued to SAB on 10/07/2019	Closed

54	Employers to liaise with SPPA on Chair and room availability	Employers 19/02/2019	Completed	Closed
53	SPPA to investigate if additional wording on Phased retirement can be included on a member's ABS	SPPA 19/02/2019	Transferred to Pension Board	Closed
52	SPPA/GAD to provide illustrations of effect of Sargeant/McCloud when greater understanding known	SPPA 19/02/2019	Ongoing	Open
50	Participation rates - SAB members to forward any further data requests or ideas for future Opt Out Papers	SAB Members 21/06/2019	Completed – issued on 01/11/2019	Closed
27	SPPA to consider training for board members and report back in due course	SPPA 05/09/2016	See action point 65.	Closed
8	Secretariat to ensure approved agendas, minutes, and work plan are shared with the Pension Board and published on the SPPA website as appropriate	SPPA 18/06/2015 Secretariat	C/F to action when minutes approved	Remains open, no action necessary