

NHS Pension Scheme Scotland Scheme Advisory Board

Draft Minutes

Date	9 February 2022
Location	Virtual meeting via Microsoft Teams
Chair	Derek Lindsay (NHS Ayrshire & Arran)
Attendees	Ros Shaw (RCN) Graham Pirie (CoP) Willie Duffy (Unison) Jackie Mitchell (RCM) Philip McEvoy (BDA) Alan Robertson (BMA) Andrew Carter (NHS Borders) Ruth Kelly (NHS Lothian) George Russell (GAD) Robin McNaught (State Hospital) Lorraine Hunter (NHS Grampian) Greg Walker (SPPA) Iain Coltman (SPPA) Brian Nisbet Martin Ward Greg Donaldson
SG / SPPA Officials	Iain Coltman (SPPA) Greg Walker (SPPA) Daniel MacDonald (SG)
Secretariat	Paul Gibson (SPPA)
Apologies	Jane Christie-Flight (Unite)

1. Welcome and Apologies

1.1 The Chair welcomed attendees and asked if there were any conflicts of interest.

1.2 No new conflicts of interest were declared.

1.3 Greg Walker welcomed Ruth Kelly to the Board and advised she had replaced Kay Sandilands who would retain her position on the Pension Board

2. Minutes of previous meetings

Paper 2a – Draft SAB minutes of 1 September 2021

2.1 The minutes were approved.

Paper 2b – Draft minutes of Extraordinary SAB meeting 19 November 2021

2.2 The minutes were approved.

Paper 2c – Action Log

2.3 Action Point 2021/02 – Greg Walker explained that the definition of ‘regular’ pensionable allowances is clear on the SPPA website and this is not currently generating enquiries to SPPA.

2.4 Greg also suggested that the definition of overtime in the 2015 regulations would appear to allow for overtime where it is contracted in the normal course of events. Alan Robertson highlighted that definition of overtime would create issues for junior doctors/consultants carrying out additional activities. Willie Duffy suggested further discussion will take place with employers to ascertain staff numbers on contractual overtime. Greg will further investigate and clarify the definition of overtime.

2.5 Greg suggested that all of the flexibility to manage the pensionable pay of high earners allowed within the Regulations is available to employers. Alan Robertson highlighted that employer guidance has not been published on pensionable pay but has been in England and Wales have. **Action point remaining open.**

2.6 Action Point 2021/21 – Action point closed.

2.7 Action Point 2021/22 – It was advised that this was the subject of a paper on the Agenda.

2.8 Action Point 2021/23 – Greg Walker advised that data had been provided to the SAB and the action point closed.

2.9 Action Point 2021/24 – Greg Walker advised that a sub-group had been established and the action point was now closed. The intention is that the sub-group will continue to meet going forward as the remedy implementation progresses

2.10 Action Point 2021/25 – Greg Walker noted minimal feedback from employers and confirmed he was agreeable to raise the issue with HM Treasury. A discussion took place between the board relating to salary sacrifice schemes available with general consensus reached on Childcare vouchers and Cycle to Work being the likely available schemes. It was suggested that Electric Vehicles could become a subject for such a scheme in future. **Action Point carried forward to next meeting**

2.11 Action Point 2021/26 – Greg Walker confirmed he had raised the issue with GAD and acknowledged that a review would result in large increases for certain tiers. SPPA recognised the issue but acknowledged that the issue was the level of increase in this year. Action point closed.

2.12 Action Point 2021/27 – Greg Walker confirmed that the information had been shared. Action point closed.

2.13 Action Point 2021/28 – Action point remains open.

3 – NHS Pension Scheme (Scotland): proposed changes to member contributions from 1 April 2022 Scottish Government consultation 2022.

3.1 Before introducing the paper Greg Walker provided an update to the SAB on discussions with HMT around the member contribution yield and referred to the letter from the Cabinet Secretary for Health and Social Care to the Chief Secretary to the Treasury. Greg highlighted that discussions with HMT were currently live and that a response on the yield and requirements for the SG to fund the shortfall was expected from HMT imminently.

3.2 Greg explained that once HMT's position on the yield was made clear, Scottish Ministers will consider the consultation further and whether Ministers' preference for a 9.6% yield position is achievable without placing demands on SG budgets. Ministers will also consider whether year 2 of the phased approach should be withdrawn from the consultation as stakeholder feedback suggests this is causing concern. Once Ministers have had a chance to review the consultation they will consider re-issuing the consultation document with additional contribution structure proposals. Greg committed to keep the SAB updated on progress.

3.3 Greg's update and the plans to review and potentially re-issue the consultation document were met with deep displeasure from members of the SAB. Some members raised concerns about the legal basis for amending the consultation. Concerns were also raised about the short timescales of the current consultation which was only running for five weeks.

3.4 The Chair asked about the withdrawal of 2023/24 proposal, Greg Walker advised that there was a preference to consult on a proposed structure for 1 year only and to revisit proposal for 2023/24 when 2020 valuation data could be used to assess contribution yield.

3.5 Ros Shaw expressed concern about the possible changes and said it was becoming increasingly confusing for members and asked if she should be consulting with members on one or more than one consultation. The Board advised that it was their strong preference that consultation should continue as currently written.

3.6 Alan Robertson echoed the point and voiced serious concerns of BMA, adding that they were unaware that the delay was due to discussions with HMT and would be seeking legal advice on the possible changes.

3.7 Lorraine Hunter raised a concern over a consultation potentially being extended but not being concluded. The uncertainty is causing issues for employer's payroll departments in preparing for changes.

3.8 Willie Duffy advised that following Unison consultation with members the position was to reject the proposals and considered that other Unions would reject due to the possible impact on their members. It was also noted by Unison that it would be unlikely to receive a collective SAB response to the proposals. Unison also voiced concerns over wording of Consultation question 1 and suggested that it sent the wrong message to members.

3.9 Daniel MacDonald noted the words and feeling of the Board and advised that he appreciated the complexity of the issue. He confirmed that the comments of the Board would be fed back to the Scottish Ministers.

3.10 Alan Robertson raised a point about the legal perspectives and asked if the consultation would stop or be changed. Iain Coltman explained the limitations on SPPA and the Scottish Government and noted that although instruction was expected from HMT regarding the consultation and the language used, the Consultation would proceed.

3.11 The Chair closed the discussion, noting the views of the Board and the undertaking given to provide all feedback to the Scottish Ministers. The Chair suggested that the SAB hold off from providing a joint response to the consultation.

4 – Final pay control charges

4.1 Greg Walker presented a paper to the Board seeking views and approval over the possible requirement to change final pay control rules in Scotland in light of similar changes in England and Wales.

4.2 Andrew Carter thanked Greg for the presentation and confirmed that he would be agreeable to the changes to be looked at, referring to additional responsibilities taken

on by managers and other staff during the Covid pandemic. This view was echoed by Alan Robertson and Lorraine Hunter who had no objections from their side.

4.3 The Chair noted the Board's approval and asked how far back changes would go. SPPA advised that the length of any period of backdating would be considered and the changes would be fully consulted on before they are implemented in regulation.

5 – Flexible Accrual

5.1. The Chair introduced the paper and asked about the introduction of flexible accrual in the Scheme. SPPA advised that they had discussed with HMT and they had indicated that there was very high bar to success in achieving changes but confirmed they would consider a business case from the SAB.

5.2 Alan Robertson confirmed interest in the idea and noted that it seemed sensible and felt that the ability to adjust at the end of the year to pay more contributions would be useful and worth exploring.

5.3 Philip McEvoy voiced general support and acknowledged the high bar set by HMT and voiced concerns with timings and possible lost contribution revenue for HMT. It was also noted that in England and Wales there was considerable support for this and was felt to be beneficial to members of all levels if left as member choice.

5.4 Iain Coltman noted the cost neutrality to the scheme and the difficulty posed by the HMT requirements. It was suggested that SPPA would support the formation of a SAB Subgroup to consider the issue further.

5.5 The Chair proposed the formation of a Sub Group to explore the issue further and asked for volunteers to participate.

- Daniel MacDonald confirmed that he would put staff forward for the board
- Philip McEvoy volunteered from the member side
- Andrew Carter volunteered from the employer side

Action point 2022/01: SPPA to initiate sub-group to consider further

6 – Normal Minimum Pension Age (NMPA)

6.1 Greg Walker presented an update paper on the increases to the Normal Minimum Pension Age (MPA) and led a brief discussion on the subject. It was explained that HMT view on protected MPA was based on regulations and legal advice had been taken by SPPA to see if this was contrary to the spirit of the regulations.

6.2 Alan Robertson asked if MHO and 2008 staff were the only protected groups under the regulations. SPPA confirmed that this was the case and that DHSC appeared to accept this position but the issue would continue to be raised with HMT.

7 – McCloud Communications

7.1 The Chair introduced the subject and asked SPPA to provide an update.

7.2 Greg Walker detailed the different groups that letters had been sent to. It was advised that in December 2021 and January 2022 letters were sent to members likely to be affected by the changes and letters would begin to go to non-affected members from March 2022. SPPA advised that a new communications manager was in place with oversight of the McCloud communications, it was noted that Provision Definition Documents, which set the policy direction on issues arising from remedy, were close to sign-off.

7.3 Alan Robertson asked if letters had been issued to deferred members; questions were also raised about regulation changes and systems during the process. SPPA advised that prospective legislation was on course for Royal assent and due to come into force in May 2022, with the retrospective legislation process due to start after this. SPPA summarised the position and advised that confirmation of timescales would follow.

7.4 The Chair asked about the percentage of people contacted about the subject. SPPA advised that the only group to be notified are those who would be unaffected by the changes, with this round of communication starting in March 2022. It was advised that total numbers of members contacted were not available at that time.

7.5 Willie Duffy asked if a breakdown of numbers by Protected / Unprotected / Unaffected could be given to the Board. SPPA confirmed that this was possible.

Action Point 2022/02: SPPA to produce a breakdown of member numbers by Protected / Unprotected / Unaffected status.

7.6 An issue was raised by Lorraine Hunter and Alan Robertson who felt that the previous sub-group did not meet its aims in terms of communications. Alan Robertson also noted that some deferred members had reported not receiving communication from SPPA. SPPA advised that the understanding was that deferred members had been notified as required but confirmed this would be looked into.

Action point 2022/03: SPPA to check if deferred members had been contacted.

8- Any Other Business

8.1 Willie Duffy referred to earlier discussion on the changes to the Consultation process and asked if a further SAB meeting was required. The Chair was unclear on this and put it to the Board for discussion.

8.2 Willie Duffy referred to the legal position of the proposal and asked if a meeting was needed, or if communication by letter would be suitable. The Chair confirmed that

the Board's position was to advise SPPA and the Scottish Ministers so considered that a SAB meeting would hold little or no value.

8.3 Iain Coltman advised that further advice information would be provided to the Board if the Cabinet Secretary considered that they needed further advice and noted that SPPA would be open to holding another meeting but this was for the SAB to consider.

8.4 The Chair confirmed that moving forward, Quarterly meetings for the rest of the year would be acceptable and an extraordinary meeting would be raised if needed.

Action Point 2022/04: SPPA to set a date for the next SAB meeting and distribute the relevant Doodle poll. SPPA to consider dates for future NHS SAB meetings and distribute Doodle polls as required

8.5 The Chair thanked everyone for their attendance and closed the meeting.