

NHS Pension Scheme Scotland Scheme Advisory Board

Draft Minutes

Date	11 August 2022
May	Virtual meeting via Microsoft Teams
Chair	Matt McLaughlin (Unison)
Attendees	Alan Robertson (BMA) Andrew Carter (NHS Borders) Derek Lindsay (NHS Ayrshire & Arran) Graham Pirie (RCPOD) Greg Donaldson (GAD) Jackie Mitchell (RCM) Jane Christie-Flight (Unite) Philip McEvoy (BDA) Ros Shaw (RCN) Ruth Kelly (NHS Lothian)
SG / SPPA Officials	Brenda Callow (SPPA) Greg Walker (SPPA) Ian Coltman (SPPA) Paul Gibson (SPPA)
Secretariat	Carole Bertram (SPPA)
Apologies	Lorraine Hunter (NHS Grampian) Robin McNaught (State Hospital) Stuart MacArthur (SPPA) Daniel MacDonald (SG)

1. Welcome and Apologies

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

2. Minutes of previous meetings

Paper 2a – Draft SAB minutes of 16 May 2022

2.1. Derek Lindsay asked if point 3.9 was accurate as DHSC have gone back out for consultation.

2.2. Phil McEvoy confirmed that DHSC have gone back out for consultation on uprating the tiers in line with AFC pay uplifts.

2.3. Graham Pirie asked if his employer title could read RCPOD.

2.4. The minutes of the previous meeting were held as accurate.

Matters Arising: Member Contribution Consultation

2.5. Greg Walker gave an update on SPPA's ongoing work around the reform of member contributions. Greg apologised for the continued delay and the issues this causes for staff-side colleagues, in engaging with members on these changes, and for employers who need to prepare for payroll system changes.

2.6. Greg informed the Board that the hold-up was primarily due to delays with finalising the membership data from the 2020 valuation which is to be used to provide an accurate assessment of the impact of the contribution proposals.

2.7. Greg also commented on discussions the Scottish Government have had with HM Treasury around delaying the implementation of member contribution changes because of increasing inflation projections and the deepening cost of living crisis from October 2022. Scottish Ministers will take a decision on the most appropriate implementation date between October 2022 and April 2023 but the changes will be implemented by 1 April 2023 at the very latest.

2.8 Alan Robertson voiced concern that the rest of the UK are moving to a new contribution structure from October 2022 but the changes will be delayed in Scotland. This means that higher earning NHS staff in Scotland will be paying a higher contribution rate than higher earners elsewhere in the UK. Alan felt the decision to delay had been made without agreement from SAB and was very unhappy with this.

2.9 Ros Shaw echoed Alan Robertson's comments. Ros was concerned about how she communicates this continued delay to RCN members. Ros asked if SAB can see advice which was sent to Scottish Ministers

2.10. Greg Walker replied that official advice to Ministers cannot be shared with the SAB. However, Greg confirmed that SPPA will seek SAB's advice on revised proposals before proceeding to public consultation.

2.11. Phil McEvoy shared with the SAB that the Scheme in Northern Ireland will implement contribution changes from November 2022. Phil highlighted the issue of part-time members who will continue to contribute based on their whole-time equivalent pay until the changes are implemented.

2.12. Alan Robertson commented that he felt the interim consultation response published by SPPA gave a commitment to introduce changes from 1 October 2022. Alan noted that the BMA will consider the legal implications of this further delay and reiterated his dissatisfaction that he felt the SAB have not been kept properly informed of developments.

2.13. Derek Lindsay noted at the last SAB meeting in May that a series of next steps had been outlined. Derek asked what had changed in the interim and how this has been communicated with the SAB.

2.14. Greg Walker noted that the SAB had received three email updates since the last SAB, on 27th June, 14th July and 27th July, which highlighted ongoing issues with the valuation data and that this was delaying any work on revised contribution proposals.

2.15. Phil McEvoy asked for confirmation that the changes will not now be implemented on 1 October 2022 and that April 2023 is now more likely.

2.16. Greg Walker replied that he wasn't in a position to confirm that implementation would not happen from 1 October 2022, however, it looks unlikely. Greg confirmed that a decision on the final implementation date is ultimately for Ministers to take.

Paper 2b – Action Log

2.17. Greg Walker provided the following update on the open action points:

AP2021/02 – Pensionable pay guidance, allowances and contractual overtime

2.18. The action point is to be merged with AP2022/08 which asked for any further SAB views on the Managing Pensionable Pay guidance which was shared at the last meeting.

2.19. SPPA haven't received any further SAB views on the managing pensionable pay guidance. However, it is understood that the guidance was also considered by the NHS Management Steering Group and employers were not in favour of its introduction. SPPA will consider this further. This action point shall remain open and the reconstituted Technical Working Group will consider pensionable allowances further, after which this can be considered by the SAB again. **Action point carried forward**

AP2021/25 – Salary Sacrifice and Electric Vehicles (EVs)

2.20. Greg reminded the group that the position with salary sacrifice is that it's not covered by the Scheme regulations. However, SPPA currently allow for some salary sacrifice to be pensionable, where contributions are deducted from the full (pre-salary sacrifice) salary. These are called 'approved' salary sacrifice schemes for the purposes of the pension scheme and not to be confused with salary sacrifice schemes which are 'approved' by HMRC. The current approved schemes for pension purposes are limited to childcare vouchers and cycles.

2.21. SPPA are seeking the views of the SAB, and in particular employer representatives, on what arrangements they would like to have in place in relation to salary sacrifice for EVs. Do they want it to be pensionable (pension contributions deducted from pre-salary salary sacrifice salary), non-pensionable (contributions deducted from reduced salary after salary sacrifice) or should individuals have a choice about how they want salary sacrifice treated for pension purposes. Once SPPA are clear about what the request is they will seek HMT agreement on that approach.

2.22. Derek Lindsay replied that NHS Shetland raised the Electric Vehicle question. The deduction whether before or after pension deductions has not been agreed. NHS Ayrshire is starting the scheme on 1 September 2022.

2.23. Alan Robertson noted this was key in saving Tax and NI. This could be an option for members to pension it or not. All Health Boards should be offering this. Consistency was important.

2.24. Derek Lindsay confirmed that he felt that approach should be universal and if salary sacrifice for EVs should be deemed pensionable or non-pensionable.

2.25. The Chair suggested we should discuss this at the next meeting. Derek Lindsay to provide feedback on behalf of employers on what approach employers would like.

Action point carried forward.

AP2022/05 – Numbers of staff in groups affected by move from WTE to actual pay

Greg Walker noted that 77,000 of 178,000 (43%) of NHS staff are currently working on a part-time contract and that most of them would be better off by a move to basing contribution rates on actual pay. SPPA will include full analysis in the revised consultation document on how many part-time staff would benefit from the move to using actual pay. **Action point closed**

AP2022/06 – Revised Member Contributions consultation document

Covered earlier under matters arising. **Action point carried forward.**

AP2022/07 – Managing pensionable pay guidance, feedback from SAB

Covered under AP 2021/02. **Action point closed**

AP2022/08 – Flexible Accrual business case

Work is ongoing and we're looking to schedule a further meeting of the working group in w/c 29th August. A draft of the business case will be shared with the working group in advance. **Action point carried forward**

AP2022/09 – Letter of thanks to Willie Duffy

The secretariat have sent a letter to Willie on behalf of the SAB thanking him for his contribution over many years. **Action point closed**

Paper 3 Participation Rates

3.1 Paul Gibson introduced and presented a paper on the NHS Scotland participation rates for Q4 2021/22 and Q1 2022/23 for Health Boards, GPs and Dental.

3.2 Alan Robertson commented on the GP data and noted that it doesn't capture GPs who opt out and opt back in again within the same Scheme year or those that are in the Scheme for only part of the year. Alan asked if this could be captured in the data.

3.3 Greg Walker replied SPPA will look at this issue. However, Practitioner Services (PS) own the data, therefore, it will depend what is possible from a PS perspective. SPPA will explore with PS.

Action Point 2022/10: SPPA to explore with Practitioner Services if GP data can show all those who were members of the scheme during the relevant period, including start and end dates.

3.8 Ros Shaw asked why the participation reports show a reduction in the number of NHS staff employed at Band 5 over the two quarters

3.9 Greg Walker was unable to explain the reduction in total number of staff over the period. Greg noted that the SAB's focus is more on scheme participation by those employed rather than workforce numbers specifically.

3.10 The Chair commented the number of retirements have increased the SAB need to understand the extent of those retirements.

3.11 Greg Walker replied number of retirements and opt outs can be added to the participation data that is provided to SAB on a six monthly basis.

3.13 Alan Robertson confirmed participation rates are useful but it would also be helpful to have retirement data alongside.

3.14 SPPA will look at what is possible.

Action Point 2022/11: SPPA to explore adding retirement figures to the participation report to be presented at the Q1 2023 meeting.

Paper 4 - NHS Pensions Schemes (Scotland) - Impact of high inflation

4.1 Greg Donaldson gave a high level overview of the impact of high inflation on public service pension schemes. The presentation covered the impact of high inflation on members and scheme cashflow, the impact on scheme valuations, and also the impact on Annual Allowance (AA) calculations for 2022-23.

4.2 Alan Robertson reflected on the complexity and thanked Greg for his presentation. Alan commented on the slide which discussed the impact of timing of retirements and how some members can be financially better off retiring.

4.3 Greg Donaldson confirmed his understanding that the Treasury are considering options to deal with the impact on AA calculations, known as the 'CPI disconnect'.

4.4 Derek Lindsay commented that as a result of the 2015 reforms, some members will have been accruing CARE Scheme benefits since 2015. The more CARE benefits a member has increases the impact of high CPI. For many members these CARE benefits will be returned to the final salary scheme in October 2023 as part of the McCloud remedy. Derek suggested SAB write to HMT to make the point that benefits should be returned to the legacy scheme from 1 April 2022 for pension tax purposes.

4.5 The SAB agreed to write to HMT to make the case for a solution to the CPI disconnect. The suggested solutions to be put forward by SAB are; to allow for aggregation of pension growth across the legacy and reformed NHS pension schemes, to neutralise the impact of CPI on pension growth calculations by realigning CPI figures and to implement the retrospective McCloud remedy from 1 April 2022 for pension tax purposes.

Action Point 2022/12: SPPA to draft a letter to the Treasury, on behalf of the SAB, on fixing the CPI disconnect

Paper 5 - Abatement and 16 hour rule

5.1 Greg Walker explained the current position with the temporary suspension of; abatement for Special Class Stauts (SCS) members in the 1995 Scheme, draw-down abatement in the 2008 and 2015 schemes, and the 16-hour rule which prevents retired members returning to work for more than 16 hours per week in the first month following retirement.

5.2. Greg highlighted that these temporary restrictions are due to come to an end on 31 October 2022 and sought the SAB's views on any further extension.

5.3 Ros Shaw confirmed that while she understands the rationale behind abatement rules for SCS members, she is still keen to see the suspension extended further given the current workforce challenges in the NHS.

5.3 Alan Robertson agreed. Abatement is not in the 2008 or 2015 and he would support a further extension.

5.4 Phil McEvoy commented that these restrictions are not required and should be abolished not suspended. Members should be free to take their pension and carry on working.

5.6 Ruth Kelly agreed that an extension was required over the winter period.

5.7 Derek Lindsay agreed to an extension of the abatement on Special Class Members (SCM) until 31/3/2023 and suggested the permanent removal of the 16 hour rule.

5.8 Ian Coltman suggested SAB writes to Scottish Ministers recommending an extension of the suspended abatement rules and the permanent removal of the 16-hour rule.

Action Point 2022/13: SPPA to draft letter, on behalf of the SAB, to Scottish Ministers advocating an extension of the suspended abatement rules and the permanent removal of the 16-hour rule.

Paper 6 - Remedy Update

6.1. Brenda Callow provided an update on progress with the 2015 Remedy which covered an update on the legislative timeline and the schedule of topics which will be considered by the SAB McCloud sub-group. Brenda also highlighted that the 2015 Remedy Modeller is currently in UAT and will shortly be available.

6.2. There was some discussion about the scheduling for the sub-group.

6.3. Alan Robertson was concerned about when the tax provision definition document (PDD) will be available as it is key to many aspects of remedy.

6.4. Phil McEvoy suggested that it would be beneficial to work with other UK nations on remedy policy development, to avoid duplication and ensure policy is aligned.

6.5. Greg Walker confirmed Finn Mackenzie is keen to work with E&W and has reached out to DHSC officials.

7- AOB

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