

NHS Pension Scheme Scotland Scheme Advisory Board

The minutes of NHS SAB meeting of 21 March 2024 were agreed on 23 June 2024 as accurate by members who attended the previous meeting.

Minutes

Date	21 March 2024
May	Virtual meeting via Microsoft Teams
Chair	Matt McLaughlin (Unison)
Attendees	Anne-Marie Pettie (GAD) Andrew Carter (NHS Borders) Derek Lindsay (NHS Ayrshire & Arran) Graham Pirie (RCPOD) Jane Christie-Flight (Unite) Lorraine Hunter (NHS Grampian) Philip McEvoy (BDA) Robin McNaught (State Hospital) Ros Shaw (RCN) Ruth Kelly (NHS Lothian) Tim Weir (GAD)
SG / SPPA Officials	Brian Nisbet (SG) Daniel MacDonald (SG) Finn Mckenzie (SPPA) Greg Walker (SPPA) Iain Coltman (SPPA) Jack McAllister (SPPA)
Secretariat	Carole Bertram (SPPA)
Apologies	Jackie Mitchell (RCM) Alan Robertson (BMA)

1. Welcome and Apologies

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

2. Minutes of previous meeting and action log

Paper 2a – Draft SAB minutes of 30 November 2023

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

Paper 2b – Action Log

25 Action point 2021/02 – Greg Walker confirmed that the matter of pensionable allowances within the NHPS(S) is on the agenda at today's meeting under paper 3. **Closed**

26 Action point 2023/05 – Greg Walker confirmed this action would also be covered under the pensionable allowances on the agenda at today's meeting under paper 3. **Closed**

27 Action point 2023/06 – Greg Walker confirmed that the Ready for Retirement webinar recording is now available and he will circulate to SAB members after the meeting. **Closed**

28 Action point 2023/07 – Greg Walker confirmed that this action point is covered under the 2015 Remedy agenda item at today's meeting. **Closed**

Matters arising

29 Graham Pirie highlighted that Jackie Mitchell is retiring from RCM and wished to discuss the process for her replacement.

210 Matt McLaughlin confirmed that his understanding was that this vacancy was a RCM seat and as such the process to replace her with another RCM representative from the staff-side had begun and should be in place for the next meeting.

211 Greg Walker confirmed that Jackie Mitchell's space would be filled by an RCM representative.

212 Matt McLaughlin raised that consideration should be given in future regarding the most appropriate way to fill staff-side positions within the SAB. **(Action point 2024/01)**

Paper 3 – NHSPS(S) Pensionable Allowances and Pay Enhancements

31 Greg Walker provided a summary of the NHSPS(S) Pensionable Allowances and Pay Enhancements paper for SAB members consideration.

32 Phil McEvoy thanked Greg for his thorough paper and suggested members be allowed more time to consult with colleagues before providing further written comment and agreeing next steps. Phil also queried if there is a scope for further discussion if staff-side members and colleagues do not agree with any of the proposed treatments for pensionable allowances outlined within the paper.

33 Greg Walker confirmed SPPA would consider any comments or objections that were provided by SAB members on the potential treatment of each pensionable allowance going forward. Greg also outlined that the working group for this exercise considered in full what the current treatment is for each pensionable allowance and how it is set up on NHS pay roll systems at present.

34 Graham Pirie queried a discrepancy in the paper regarding overtime for AfC staff, highlighting that some pages noted it as above 37 hours and others as 37.5 hours.

35 Greg Walker replied that the intention was to future proof the document to reflect the changes for AfC staff from 1 April 2024 and any errors within the document that state overtime for AfC staff as above 37.5 hours will be corrected.

37 Matt McLaughlin also queried that, in the context of future proofing, SAB may need to consider a different form of wording going forward when discussing the standard working week in general and suggested that SPPA work with SG colleagues to ensure future proofing is achieved.

3.8 Daniel MacDonald and Greg Walker agreed that SPPA and SG colleagues will work together to ensure consistency regarding definition of standard working week for NHS AfC staff going forward. **(Action point 2024/02)**

39 Ruth Kelly highlighted that often employers receive requests from members to have superannuable payments as non-superannuable and asked if that flexibility will still be there.

310 Greg Walker replied stating that SPPA had previously developed guidance for the treatment of local payments within each health board which outlined that if the employer deemed these payments to not be regular or temporary then that flexibility would still be there to make them non-pensionable within the scheme rules.

311 Ruth Kelly queried if this included national payments like the Medical Directors Allowance.

312 Greg Walker clarified that if they are national payments that are deemed regular then, in line with scheme regulations, they would be deemed pensionable but that these types of payments would be considered on a case-by-case basis.

313 Lorraine Hunter highlighted that these considerations were discussed with the TWG and it was determined that to ensure consistency non-regular payments would

be deemed non-pensionable and regular payments would be considered pensionable.

3.14 Matt McLaughlin suggested that clarity be provided to this treatment of regular/non-regular payments. **(Action point 2024/03)**

3.15 Andrew Carter also asked if consideration was given to part-time workers regulations, which ensure there is not less favourable treatment for these members.

3.16 Lorraine Hunter replied that considerations were given to equal treatment of part-time staff members but also noted that the working group had to ensure that treatment for each pensionable allowance was feasible from an employers payroll system point of view, citing that otherwise each part-time staff would end up being considered on an extremely individual basis.

3.17 Greg Walker outlined that this exercise has considered and covered this point regarding part time members as previously we were uprating allowances for part time members which actually disadvantaged full-time members. Greg committed to setting out the points raised in an annex to the paper confirming that it does equalise treatment between whole time and part time members which was the aim.

3.20 Matt McLaughlin confirmed that members should provide comments and review the paper within a month as agreed with SAB.

Paper 4 - NHSPS(S) Contribution Flexibility

4.1 Jack McAllister gave a full account of this paper.

4.2 Ros Shaw highlighted that she agreed with contribution flexibility in regard to its ability to encourage members who are opting out to still build some long term saving habits but raised concern around the significant number who could take up this option and the subsequent impact this could have on the cost to the scheme.

4.3 Phil McEvoy outlined that this was discussed at the NHS England and Wales SAB previously and that the BDA have been advocates of this for quite a while but highlighted that it was designed in England and Wales as an initial conversation starter and consideration was particularly given to how HMT could see these flexibilities as desirable. Phil also highlighted that after discussions in England and Wales at both SAB and TAG it was decided that any further work regarding these flexibilities would be put on hold until later in the year.

4.4 Jack McAllister agreed with Phil and outlined that it was important to be put on our agenda to prompt an initial discussion regarding these options like that of England and Wales.

4.5 Derek Lindsay outlined his concern around the burden some of these options may place on the employer in the longer term due to the employer contributions being retained at 100% as well as the effects these options could have on the long-term viability of the scheme. Derek suggested consideration could be given to the LGPS 50/50 option that was mentioned in the paper.

4.6 Matt McLaughlin highlighted concerns around introducing such flexibilities during a cost-of-living crisis were members may give up long term savings for short term gains. Matt also outlined the need to protect and ensure that lower paid NHS workers have an adequate income as pensioners.

4.7 Phil McEvoy highlighted that this is a great pension scheme but members are opting out frequently at present due to the cost of living crisis and these flexibility options present members with something inbetween the binary opt in/opt out model at present while also safeguarding ancillary benefits like Death in Service.

4.8 Lorraine Hunter asked why employer contributions were retained at 100%.

4.9 Iain Coltman advised this was because the ancillary benefits such as Death in Service were retained at 100% in these scenarios as well as final salary linking.

4.10 Jack McAllister advised that in terms of next steps this was placed on agenda as a conversation starter to note comments for SPPA to consider and we will wait for next steps from E&W later in the year.

4.11 Greg Walker confirmed that after initial discussion in E&W, GAD were commissioned to produce a paper providing further detail on flexible accrual options which could also be conducted for Scotland.

4.12 Ann-Marie Pettie confirmed she will provide a paper for Scotland providing further detail on flexible accrual options. **(Action Point 2024/04)**

Paper 5 – NHSPS(S) Consultation Response – Changes to employer contribution rate and miscellaneous amendments from April 2024

5.1 Greg Walker provided a summary of paper 5.

5.2 Phil McEvoy highlighted that if a member entered into a salary sacrifice arrangement before 1 April 2024 that this be a legitimate way to reduce pensionable pay by 10% to access partial retirement since the changes to regulation don't come into effect until that date. Phil also suggested that a discussion should be had in future around the pensionability of overtime particularly in a CARE scheme as it would seem more fair in a CARE scheme if overtime was allowed to be pensionable.

5.3 Greg Walker committed to providing a response to SAB members regarding the use of salary sacrifice arrangements as a means to access partial retirement prior to 1 April 2024. (Action point 2024/05)

5.4 Matt McLaughlin asked when regulations will be laid.

5.5 Greg Walker replied that regulations will be laid in the middle of April with retrospective effect from 1 April 2024. Greg also confirmed a circular will be sent to Employers to reflect these regulation changes.

Paper 6a - Summary of NHS SAB Remedy sub-group sessions since meeting of 30 November 2023

6.1 Finn Mackenzie provided a summary of the Remedy sub group sessions that have taken place since previous SAB meeting. It was noted that the Contingent Decisions (15) Remedy Hub hypertext link, goes to the Teachers Scheme Hyper link. Iain Coltman fixed the link.

6.2 Phil McEvoy asked how many 'Choice 2' revocation cases there are.

6.3 Finn Mackenzie replied roughly 2500.

6.4 Matt McLaughlin asked that SAB be kept updated on progress with the Choice 2 revocation exercise.

6.4 Derek Lindsay asked what the opt out buy back option would mean for employers' contributions, particularly if a member now has a different employer.

6.5 Finn Mackenzie confirmed that SPPA would not ask an employer to pay contributions on a buy back option from another employer.

Paper 6b- 2015 Remedy Correction of Payments – Interest and Unauthorised Payment Charge

6.6 Finn Mackenzie provided a summary of the paper.

6.7 Derek Lindsay asked if this only applied to pensioners.

6.7 Finn Mackenzie explained it would apply where there is a change to the pension that would mean the scheme would have to pay arrears to a pensioner.

6.8 Phil McEvoy outlined that the lump sum interest rate was noted at 8% which was higher than the commercial rate that HMT will allow and therefore there is charge on the difference.

6.9 Finn Mackenzie confirmed that is the correct but that would be subject to change if interest rates changed.

6.10 Phil McEvoy asked if HMRC have agreed to levelling up to reflect the rates actually being paid by the scheme.

6.11 Finn Mackenzie confirmed that HMT were not minded to agree to that.

6.12 Matt McLaughlin noted that the employer newsletter mentioned in paper 6a has been extremely helpful and useful.

AOB

7.1 Matt McLaughlin closed the meeting.