



The Scottish Parliament
Pàrlamaid na h-Alba

Information Management and Governance
Scottish Parliament
Edinburgh
EH99 1SP

foi.officer@parliament.scot

11 January 2022

Dear Requester

REQUEST FOR INFORMATION: 2021-669655

We acknowledge your request for the following information:

Please note several aspects of it have not been fulfilled and I additionally seek further information in respect of your responses. I'm satisfied that you can regard this as falling within the timescales of a new request although in substance many aspects of this are reiterations of my request made on 15 November.

In respect of point 1) you have provided contribution rates and not funding levels. Please provide the funding levels (it would be helpful if you could link to the published financial reports containing their disclosure and notes on the underlying assumptions.

In respect of point 2) please provide a breakdown between a) serious ill-health, and b) ill-health. Please specify this by year of retirement. Please additionally disclose the difference in terms of benefits between the two using monetary sums to illustrate. In respect of these early retirements, please indicate the cost to the fund of providing these early benefits in total monetary sums based on expected life. In respect of these retirements please confirm that the rules require that there be no expectation of future employment. Please also confirm that the Trustees are unaware of any beneficiary receiving ill-health benefits and being in gainful employment. Please confirm that the rules intend that anyone who retires from ill-health is treated as though they had remaining an MSP (with additional allowances where appropriate) until the retirement age and does not require to provide any contribution to the costs such as continuing their contributions.

In respect of point 3) respectfully I suggest that the Trustees should hold and have access to this information. I do not accept the grounds on which you are

unable to provide it or the suggestion I should obtain it from a third-party. Please reconsider this request.

In respect of point 3) please clarify the cost of obtaining future benefits and clarify if it is possible under the rules for an individual to obtain additional years while an MSP and then to apply to these additional years to a pensionable salary inclusive of an additional allowance such as but not limited to a ministerial allowance? If so, please disclose whether any member (of the 15) has acquired benefits in this manner.

In respect of point 5) respectfully I suggest your information is incorrect and I further do not accept it reasonable that a contract of this value is clearly being operated outside of the Procurement Regulations. Please a) obtain and disclose the TOTAL fees (including amounts paid to the Investment Manager in respect of underlying holdings) for all periods back to contract commencement. I do not accept that the Trustees do not hold this information which is material to their accounts or that they are unable to easily obtain it from the Investment Manager. It may help you to search that the sum should be around 10 times greater than that you have disclosed. Please also disclose the basis on which you consider the contract to be exempt from Procurement Regulations and the principles of best value.

Additionally, please disclose the names of the Trustees, identifying any who act as a Professional Trustee, the relevant qualifications to act as such (for all Trustees) and their training records in respect of the pension scheme.

Additionally, the Fund has not aligned, as almost all other public sector pension schemes have, to the rising state pension age (retaining a retirement age of 65). Have the Trustees considered this and how do they believe this is appropriate?

Your request was received on 13 December 2021 and has been handled in accordance with the Freedom of Information (Scotland) Act 2002 (FOI(S)A).

Responding to each part of your request in turn, the position is as follows:

Point 1

In respect of point 1) you have provided contribution rates and not funding levels. Please provide the funding levels (it would be helpful if you could link to the published financial reports containing their disclosure and notes on the underlying assumptions.

Further details about the funding levels and the underlying assumptions can be found in the SPPS Annual Accounts and Reports which are published on the Scottish Parliament website at the following link: [Scottish Parliament accounts | Scottish Parliament Website](#)

As this information is publicly available on the Scottish Parliament website, we have attached a notice in terms of section 25 of FOI(S)A.

Point 2

In respect of point 2) please provide a breakdown between a) serious ill-health, and b) ill-health.

Please specify this by year of retirement.

It may be helpful if I explain how the SPPS was established. The original legislation that governed the SPPS was [The Scotland Act 1998 \(Transitory and Transitional Provisions\) \(Scottish Parliamentary Pension Scheme\) Order 1999 \(S.I. 1999 No.1082\)](#) - (the 1999 Order). Part J of the 1999 Order made provision for a single tier ill-health retirement scheme.

Following a review of the scheme rules the [Scottish Parliamentary Pensions Act 2009](#) (the 2009 Act) was then established with a new two tier ill-health retirement scheme coming into force from 1 September 2009. Provision for serious ill-health retirement is made under Schedule 1, Part I, Rule 47 of the 2009 Act. Provision for ordinary ill-health retirement is made under Schedule 1, Part I, Rule 48 of the 2009 Act.

We are unable to provide a breakdown of retirement benefits by serious ill-health and ill-health and by year of retirement as this information is personal data of the individuals receiving payments. This information is therefore exempt from disclosure in accordance with section 38(1)(b) of FOI(S)A. This is also set out in the attached refusal notice.

I can however confirm that 3 former members retired on ill-health retirement grounds under the 1999 Order between 1999 and 2009 and one former member retired on ill-health retirement grounds under the 2009 Act between 2009 and 2021.

Please additionally disclose the difference in terms of benefits between the two using monetary sums to illustrate.

Part J of the 1999 Order made provision for a single tier ill-health retirement scheme therefore all ill-health retirement benefits were calculated in the same way under this legislation.

The 2009 Act introduced a two tier ill-health retirement scheme for serious ill-health retirement and ordinary ill-health retirement. The amount of benefits payable under ill-health retirement varies from person to person and depends on a number of factors such as pensionable service, pension accrual rate, pensionable salary, age and type of ill-health retirement. We do not hold information as to the difference between serious ill-health and ill-health benefits on retirement and there is no requirement to create this information for the purposes of responding to the request.

In line with the requirements of FOI(S)A we have provided a notice advising that the information you have requested is not held by the Scottish Parliament.

I can, however, confirm that the main difference between serious ill-health retirement and ordinary ill-health retirement is that benefits under serious ill-health retirement are based on pensionable service enhanced to age 65 whereas there is no enhancement of pensionable service for ordinary ill-health retirement.

In respect of these early retirements, please indicate the cost to the fund of providing these early benefits in total monetary sums based on expected life.

The cost of ill health retirement benefits based on life expectancy is not a factor taken into account when determining ill-health retirement applications therefore this information is not held.

In line with the requirements of FOI(S)A we have provided a notice advising that the information you have requested is not held by the Scottish Parliament.

In respect of these retirements please confirm that the rules require that there be no expectation of future employment.

To qualify for serious ill-health Condition 4 under Schedule 1, Part I, Rule 47 requires that the health condition prevents the individual from doing any gainful work.

Please also confirm that the Trustees are unaware of any beneficiary receiving ill-health benefits and being in gainful employment.

The SPCB has not been made aware by the Trustees of any beneficiary receiving serious ill-health benefits and being in gainful employment.

Please confirm that the rules intend that anyone who retires from ill-health is treated as though they had remaining an MSP (with additional allowances where appropriate) until the retirement age and does not require to provide any contribution to the costs such as continuing their contributions.

I can confirm that all MSP remuneration ceases from the date of ill-health retirement including payment of pension contributions.

Point 3

In respect of point 3) respectfully I suggest that the Trustees should hold and have access to this information. I do not accept the grounds on which you are unable to provide it or the suggestion I should obtain it from a third-party. Please reconsider this request.

The Fund Trustees have a contract with the Scottish Public Pensions Agency (SPPA) for the provision of a pension administration service. All information and data relating to the Pension Scheme and/or the Pension Fund is the property of the Fund Trustees and not the SPCB. This information is therefore not held by the SPCB and we cannot provide it to you.

In line with the requirements of FOI(S)A we have provided a notice advising that the information you have requested is not held by the Scottish Parliament.

The limitations on buying added years are provided for under Schedule 1, Part O, Rule 89 of the 2009 Act.

In respect of point 3) please clarify the cost of obtaining future benefits

This information is not held by the SPCB. All purchases of additional benefits, i.e. added years are carried out in accordance with the scheme rules. The cost and number of added years that can be bought is based on a number of factors such as age, reckonable service, pension accrual rate and whether the purchase of added years is being made by lump sum or paid over a number of years. Because of these variable factors the cost to buy added years varies from individual to individual and is not based on a fixed rate. The calculations are undertaken by the SPPA and on completion they advise us how much to deduct from the individual's salary each month to pay for the added years

In line with the requirements of FOI(S)A we have provided a notice advising that the information you have requested is not held by the Scottish Parliament.

and clarify if it is possible under the rules for an individual to obtain additional years while an MSP and then to apply to these additional years to a pensionable salary inclusive of an additional allowance such as but not limited to a ministerial allowance?

An individual who is an MSP member may apply to buy added years in respect of reckonable service as an MSP only. An individual who is an officeholder member but not an MSP may apply to buy added years in respect of reckonable service as an officeholder only.

The Scottish Parliamentary Pensions Act 2009 contains information on purchasing additional years and the criteria which can be accessed here: <https://www.legislation.gov.uk/asp/2009/1/schedule/1/part/O>

If so, please disclose whether any member (of the 15) has acquired benefits in this manner.

The scheme rules do not permit an individual to purchase added years in respect of reckonable service as an MSP and then apply it to service as an officeholder, so the answer is none.

Point 5

In respect of point 5) respectfully I suggest your information is incorrect and I further do not accept it reasonable that a contract of this value is clearly being operated outside of the Procurement Regulations.

Please a) obtain and disclose the TOTAL fees (including amounts paid to the Investment Manager in respect of underlying holdings) for all periods back to contract commencement.

Details of the Investment Manager fees are detailed in the SPPS Annual Accounts and Report which can be found at:

[Scottish Parliament accounts | Scottish Parliament Website](#)

This includes details of the Investment Manager fees for the years 2013-14 to 2020-21.

As this information is publicly available on the Scottish Parliament website, we have provided a notice under Section 25 of FOI(S)A.

Please also disclose the basis on which you consider the contract to be exempt from Procurement Regulations and the principles of best value.

The contract was awarded by the SPCB on behalf of the Scottish Parliamentary Pension Scheme (SPPS) Fund Trustees; therefore, the relevant body are the SPPS Fund Trustees and not the SPCB. The contract does not fall into the scope of the public contract regulations because the SPPS Fund Trustees are not a “contracting authority” as is required for the legislation to apply.

Additionally, please disclose the names of the Trustees, identifying any who act as a Professional Trustee, the relevant qualifications to act as such (for all Trustees) and their training records in respect of the pension scheme.

The names of the Trustees who manage and administer the fund in accordance with the Scheme Rules are published on the Scottish Parliament website at the following link: [SPPS Pension Scheme - MSPs : Scottish Parliament](#)

There are no professional Trustees and we do not hold information of their training records in respect of the pension scheme. As this information is not held, we have attached a notice in terms of the requirements under FOI(S)A.

The Pensions Regulator website is used as a source of training material for the Fund Trustees including the completion of the trustee toolkit online learning programme. Further training is provided on an ad hoc basis by the scheme actuary and investment fund manager.

Additionally, the Fund has not aligned, as almost all other public sector pension schemes have, to the rising state pension age (retaining a

retirement age of 65). Have the Trustees considered this and how do they believe this is appropriate?

Changes to the pension scheme rules would require primary legislation, therefore, it's a matter for Parliament to determine.

In keeping with our FOI procedures, this information may also be posted on the Parliament's disclosure log (usually within 24 hours). For further details on the Parliament's Disclosure Log and the information released under FOI, visit:

<https://archive2021.parliament.scot/abouttheparliament/17700.aspx>

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<https://www.parliament.scot/about/copyright>

We would welcome feedback or comment on how we handled your request.

Please feel free to contact the Head of Information Governance at

foi.officer@parliament.scot

Please find below Annex A, which explains how we handle FOI requests and reviews.

We are currently working remotely and so would ask you to contact us by email at foi.officer@parliament.scot

Yours sincerely,

Robin Davidson
Head of Information Governance

REQUESTS MADE UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

How we handle FOI requests

Information on how we handle FOI requests is available on the Parliament's website at:

<https://www.parliament.scot/about/information-rights/requesting-information>

Alternatively, please contact the Public Information & Resources Team to request a copy.

<https://www.parliament.scot/contact-us>

Review

If you are dissatisfied with the way in which we have dealt with your request for information, you can ask us to review our decision and actions. You must do this in writing (or other permanent form) within 40 working days of the date of this letter, stating the reasons for your dissatisfaction, and we will respond within 20 working days of receipt. A request for a review should be made to the Head of Information Governance:

Post: Head of Information Governance
The Scottish Parliament
Edinburgh
EH99 1SP

Telephone: 0131 348 6913

We welcome calls using the Text Relay service or in British Sign Language through [contactSCOTLAND-BSL](#).

E-mail: foi.officer@parliament.scot

Application to the Scottish Information Commissioner

If, on the outcome of any review, you are still dissatisfied, or if we are unable to resolve any other complaint, then you can contact the Scottish Information Commissioner:

Post: The Office of the Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Email: www.itspublicknowledge.info/Appeal

Telephone: 01334 464610

Fax: 01334 464611

Website: www.itspublicknowledge.info

A decision by the Scottish Information Commissioner may be appealed on a point of law to the Court of Session.

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Feedback or comment

We would welcome feedback or comment on how we handled your request. Please contact the Head of Information Governance.

Data Protection

If you wish to find out more about how we use your personal data then you can access our Privacy Notice at the following link:

<https://www.parliament.scot/about/information-rights/data-protection/privacy-notice/freedom-of-information-handling>

Complaints

If you are dissatisfied with the way in which we dealt with your enquiry, then you may wish to raise the matter with Public Information and Resources.

How to contact us

Post: The Scottish Parliament
Edinburgh
EH99 1SP

Telephone: 0131 348 5000
0800 092 7500 (Public Enquiries)
0131 348 5395 (Gàidhlig)

We also welcome calls using the Text Relay service or in British Sign Language through [contactSCOTLAND-BSL](#).

E-mail: info@parliament.scot