



The Scottish Parliament
Pàrlamaid na h-Alba

Information Management and Governance
Scottish Parliament
Edinburgh
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1 April 2022

Dear Requester,

REVIEW OF YOUR REQUEST FOR INFORMATION

On 7 March 2022 you asked us to review our decision of 7 March 2022 in relation to your request for information (**2022-671597**) of 8 February 2022.

Your request for a review is as follows:

Section 471 is a reference to the underlying SSI and I don't consider it too much of a leap for this to have been understood given the context.

For clarity I copy below the SSI provision (at para 471):

Paragraph 2(2) enables the SPCB to request that the member who has applied for the grant provides medical evidence from a doctor about the health condition. Additionally, paragraph 2(2) enables the SPCB to require the MSP to be examined by a doctor nominated by it. It is for the SPCB to decide who is to pay for any examination carried out by the nominated doctor and where that examination should take place. It is anticipated that, where an examination is carried out under paragraph 2(2)(b), a copy of any report prepared on the examination will be given to the applicant. The SPCB could, for example, satisfy itself as to an individual's state of health using similar considerations to those set out in Part I of the pension scheme.

I'm disappointed by your response and I sense there is an aversion to disclose information in this field generally which is, to say the least, extremely disappointing.

I do not ask for names and do not agree that it is possible to identify individuals. It is important for the public to understand if these generous payments are being made without due process and so, at least, you should be able to confirm a) whether medical verification was obtained; b) whether SPCB is aware that individuals who have received ill-health retirement grants are now in gainful employment.

Beyond this, I am afraid I need to seek independent review. I really do encourage you to review this policy generally. Other bodies publish substantially more information than you deem it necessary to and such a position is unwelcome and, I suggest, unsustainable.

A review has been carried out in accordance with the Freedom of Information (Scotland) Act 2002.

For the purposes of considering this review request we have interpreted your reference to section 469 of the Scottish Parliamentary Pensions Act 2009 (the 2009 Act) as referring to paragraph 469 of the Explanatory Notes for paragraph 2 of Schedule 2 of the 2009 Act which provides as follows:

An ill-health retirement grant is only payable where the MSP resigns during the parliamentary session (paragraph 2(1)(a)). If an MSP stands down after an election for ill-health reasons they will be entitled to an MSP resettlement grant (paragraph 1). An MSP is not entitled to receive both a resettlement grant and an ill-health retirement grant.

In relation to your reference to section 471 we have interpreted this as paragraph 471 of the explanatory notes for paragraph 2 of Schedule 2 of the 2009 Act which provides as follows:

Paragraph 2(2) enables the SPCB to request that the member who has applied for the grant provides medical evidence from a doctor about the health condition. Additionally, paragraph 2(2) enables the SPCB to require the MSP to be examined by a doctor nominated by it. It is for the SPCB to decide who is to pay for any examination carried out by the nominated doctor and where that examination should take place. It is anticipated that, where an examination is carried out under paragraph 2(2)(b), a copy of any report prepared on the examination will be given to the applicant. The SPCB could, for example, satisfy itself as to an individual's state of health using similar considerations to those set out in Part I of the pension scheme.

An ill-health retirement grant and a resettlement grant are two distinct payments and the ability of the SPCB to seek medical evidence should it deem it necessary only applies to the former payment. In your original request you asked for information about payment of resettlement grants which we interpreted as relating to the provisions for MSP ill-health retirement grants, in respect of which we would be unable to disclose information that could lead to the identification of former Members in receipt of such payments, were it to be held.

At review your request was considered afresh by two FOI reviewers who were not involved in consideration of the original request. Following consideration of the additional information which you have provided in the review request the FOI reviewers have substituted a different decision. The reason for this is that the information that you have requested, which we interpret as relating to ill-health retirement grants that are payable when an individual stops being an MSP as a direct

consequence of ill-health, is not held by the Parliament. This is because there have been no such payments under the 2009 Act.

Accordingly, responding to each part of your original request in turn the position is as follows:

- total number of resettlement grants paid under section 469 of the Scottish Parliamentary Pensions Act (ill health early retirement)

No ill-health retirement grants have been paid.

- total amount paid

The amount paid is nil.

- the number of cases where SPCB exercised its right (section 471) to request medical evidence in relation to these payments

As no ill-health retirement grants have been paid the SPCB has not been required to exercise its discretion to request medical evidence in terms of paragraph 2 of schedule 2 to the 2009 Act.

- confirmation that the SPCB are not aware of any scenarios where ill-health resettlement grants have been made and where the subjects are or were subsequent to the payments being made in gainful employment

As no ill-health retirement grants have been paid there is no requirement for the SPCB to be aware subsequent to payment being made if the individual is in gainful employment.

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

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.

Yours sincerely,

Robin Davidson
Head of Information Governance