

SCOTTISH PARLIAMENTARY PENSION SCHEME COMMITTEE

Tuesday 18 September 2007

Session 3

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SCOTTISH PARLIAMENTARY PENSION SCHEME COMMITTEE

1st Meeting 2007, Session 3

OLDEST COMMITTEE MEMBER

*Alasdair Morgan (South of Scotland) (SNP)

COMMITTEE MEMBERS

*David McLetchie (Edinburgh Pentlands) (Con)

*Hugh O'Donnell (Central Scotland) (LD)

*Peter Peacock (Highlands and Islands) (Lab)

*attended

CLERK TO THE COMMITTEE

David Cullum

SENIOR ASSISTANT CLERKS

Ruth Cooper

Derek Stein

LOCATION

Committee Room 6

Scottish Parliament

Scottish Parliamentary Pension Scheme Committee

Tuesday 18 September 2007

[THE OLDEST COMMITTEE MEMBER *opened the meeting at 15:00*]

Interests

Alasdair Morgan (Oldest Committee Member): Good afternoon, ladies and gentlemen. Welcome to the first meeting of the Scottish Parliamentary Pension Scheme Committee. I remind all members to switch off mobile phones and other noisy devices. I am chairing the meeting because—as I was devastated to find out—I am the oldest committee member. That came as much as a shock to me as I suspect it did to other members.

Agenda item 1 is declaration of interests. I think that we can take it as read that, as members of the Parliament, we all have an interest in the outcome of any pension scheme that affects us. However, that is not a declarable interest in terms of the register of interests. For the record, I state that I have no relevant interests to declare.

Do other members have interests to declare?

Peter Peacock (Highlands and Islands) (Lab): I hold shares in Standard Life, which are declared in the register of interests and which I should redeclare now. As a former office holder and as an MSP, I share the general interest that Alasdair Morgan mentioned.

Hugh O'Donnell (Central Scotland) (LD): I have no registrable interests to declare. Obviously, as the previous speakers have mentioned, as an MSP I have an interest in the proceedings of the committee.

David McLetchie (Edinburgh Pentlands) (Con): I have no registrable interests, but I have a collection of pension policies that I have acquired from previous gainful employment that are capable of being transferred into a parliamentary pension scheme. Clearly, the structure of the scheme will have a bearing on any decision that I may take on my pension interests.

Alasdair Morgan: I hope that you were not implying that employment here is not gainful.

Peter Peacock: I should also declare that I have a Standard Life pension as well as shares. The pension has not yet been transferred, but it may be capable of being transferred at some future point.

Hugh O'Donnell: For clarification, in light of what has just been said, I have a private pension that as of yesterday, 17 September, was transferred into the parliamentary pension scheme.

Alasdair Morgan: For further information, I might as well state that I have a pension under the Westminster pension scheme.

David McLetchie: Good for you.

Alasdair Morgan: Indeed.

Convener

15:02

Alasdair Morgan: Item 2 is choice of convener. On 27 June, Parliament agreed motion S3M-249, which resolved that only members of the Scottish National Party are eligible to be convener of the committee. I invite nominations for the position of convener.

Peter Peacock: I nominate Alasdair Morgan.

Alasdair Morgan was chosen as convener.

The Convener (Alasdair Morgan): I thank members for that.

Deputy Convener

15:03

The Convener: Motion S3M-249 also resolved that only members of the Labour Party are eligible to be deputy convener of the committee. I invite nominations for that position.

David McLetchie: I nominate Peter Peacock.

Peter Peacock was chosen as deputy convener.

Scottish Parliamentary Pension Scheme Inquiry

15:03

The Convener: For item 4, an approach paper has been circulated that sets out the proposed structure and timetable for our inquiry. Do members have any comments on the approach paper?

Peter Peacock: I want to raise a point about the overall timetable that is outlined in paragraph 9. I hope that we will be able to have the debate in Parliament before the summer recess next year. I see from the detailed timetable in annex A that we aim to agree our final report by the end of May, so it seems to me possible for us to have the debate before the summer recess. If that is achievable, that would certainly be my preference.

The Convener: I will ask the clerks to look into the timetabling possibilities. As members will notice, the draft timetable includes one or two meetings that may not be necessary but the consultation requires a fixed timescale that we would not want to shorten. In addition, some of the timetabling is driven by parliamentary drafting considerations. However, we hear what you say, we will look at the issue and we will come back to the next meeting with potential changes if necessary.

Other than that, are members happy with the draft timetable for the inquiry?

Peter Peacock: Paragraph 11 suggests that we should take oral evidence from representatives of each political party. I understand the reason for that suggestion, but I think that my political group might want to send me to give evidence. However, I am a member of the committee. Can we carry our position as nominees of our parties or must we formally take evidence from other party representatives? I do not know how other members have ended up here.

The Convener: Do other members have any comments on that point?

Hugh O'Donnell: Like Peter Peacock, I was nominated and elected by my party's parliamentary group and, as such, I am in effect the parliamentary party's representative. I will take advice from other party members, but I see no difficulty in representing their views provided that that is within the committee's protocols.

David McLetchie: To an extent, I share the views that Peter Peacock and Hugh O'Donnell have expressed, but I do not think that it is wholly appropriate to seek a collective view from a party on the pension scheme. It would be more

appropriate to issue a call—as has been done by the allowances review—for written submissions from individual members. Beyond that, if an individual member expresses a desire to give oral evidence or if we want to explore further issues that have been raised in written evidence, we might invite a member to give oral evidence. I think that it would probably be best to seek evidence from individual members.

The Convener: I take the point that any party-political group would probably find it almost impossible to reach a settled will on the pension scheme even if it had the necessary mechanisms and time to agree on such a submission. It might be sensible to agree that, if a written submission strikes us as raising an interesting point that we want to pursue further, we will take up the point with the individual and inform the political parties of our intention. It will then be up to each party's business manager—or convener or whoever—to make any points that he or she wants to raise on behalf of that party group. Is that agreed?

Members indicated agreement.

David McLetchie: I have a question relating to the background papers, of which we have had many. I seek clarification on whether, as a general principle, the current Scottish Parliament pension scheme that was set up under the Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999 (SI 1999/1082) was in effect a Scottish Parliament version of the Westminster scheme at that time. Broadly speaking, will our committee simply be updating our scheme in parallel with a process that has already updated the Westminster scheme? Is that broadly correct?

The Convener: I do not think that the two schemes were identical by any means.

Ruth Cooper (Clerk): I think that the Scottish Parliament scheme was very similar to the Westminster scheme. We will be engaged in an updating process. It should be borne in mind that Westminster has updated the rules for its scheme as it has gone along but, because the Scottish Parliament scheme needed primary legislation to replace the arrangements that were made under the Scotland Act 1998, this Parliament was unable to update its scheme.

David McLetchie: Would it be possible—forgive me if this information is buried in one of the volumes that we have been given—to have a short paper that sets out where matters stood in 1999? What differences existed between the Scottish Parliament pension scheme when it came into place in 1999 and the Westminster scheme at that time? I would be looking for differences of substance rather than differences of detail.

Peter Peacock: I was going to make a similar point later, but David McLetchie puts the point well. I would find it helpful if the paperwork for a future meeting included a column showing, as David McLetchie has requested, the 1999 position as well as the current position for how the Scottish Parliament scheme compares with the Westminster scheme. I think that a lot of work on the issue has been done by the National Assembly for Wales, which has changed its scheme. I would like to be able to see where the divergence has taken place. That may just be a matter of presentation, as the information is probably largely locked up in the paragraphs that we have been given. It would be useful to see that.

The Convener: I will ask the clerks to look at that, but it may not be possible to produce something that is as simple as members might hope for. A difficulty is that the differences can quite often be matters of considerable detail and complexity that cannot be reduced to a simple tabular form.

David McLetchie: I understand.

The Convener: For example, one major difference that occurs to me is that the Westminster pension fund had trustees, whereas our fund is run by the Scottish Parliamentary Corporate Body. I am sure that there are other differences.

Are members content with the adviser appointments that have been suggested?

Members indicated agreement.

The Convener: It has been suggested that we should finalise our list of witnesses and the evidence-taking programme once the consultation has been concluded. I take it that members are happy with that approach.

Under item 5, the committee will consider an issues paper, copies of which members have before them. I intend to work through the paper, which contains a lot, paragraph by paragraph.

Part A, which is the blue paper, considers the changes that we think we are required to make to the pension scheme as a result of recent legislation. The first issue is pension sharing on divorce or the dissolution of a civil partnership. Are members happy to ask for views on how that matter should be covered?

Members indicated agreement.

The Convener: Paragraphs 14 to 17 of part A deal with what happens when members attain the age of 75. It is stated that the Finance Act 2004

"prevents scheme members on reaching age 75 from taking a tax-free lump sum with their pension, receiving tax relief on contributions or payment of a tax free lump sum after death in service."

That clearly affects the existing scheme rules. Do members agree that we should seek evidence on that?

Members indicated agreement.

The Convener: Paragraph 18 states that, under the 2004 act,

"the minimum retirement age for members is 55 from 2010."

Do members agree that we should seek comments on that?

Members indicated agreement.

The Convener: Paragraph 19 states:

"the rules require to provide that transfers in and out of the SPPS can only come from a pension scheme registered with HMRC".

Do members agree that we should ask about that?

Members indicated agreement.

The Convener: Paragraph 21 states:

"The Scheme rules require to reflect reporting requirements on trustees or the manager in relation to the Lifetime Allowance and the Annual Allowance"

that any member incurs as a result of their contributions. Do members agree that we should seek views on that?

Members indicated agreement.

The Convener: The need for flexibility to change and update rules in the future is identified. Do members agree that there should be flexibility and that we should ask about that?

Members indicated agreement.

The Convener: That concludes consideration of part A, which deals with mandatory changes. Part B, which is the pink paper, covers discretionary changes. Paragraph 7 of part B states:

"The 2004 Act removes the need to limit service counting for pension and it also removes the former Revenue limit of 2/3 final remuneration as a maximum pension. There is now no maximum amount of pension payable from a registered scheme."

Are members happy that that matter should be included in the consultation paper?

Members indicated agreement.

The Convener: There is also the issue of whether retained benefits should be taken into account in calculations. Are members happy that that matter should be included in the consultation paper?

Members indicated agreement.

The Convener: We turn to tax-free lump sums. Paragraph 10 of part B states:

"the 2004 Act now allows up to 25% of the value of all accrued benefits taken on retirement to be taken as a lump sum"

and that, currently, the scheme allows

"a commutation to a maximum of 1½ times final salary."

Do members agree that we should seek views on that?

Members indicated agreement.

David McLetchie: So is one greater than the other?

The Convener: If they are not the same, one will be greater than the other. I think that it is not always the case that one or the other will be the greater. I presume that things will depend on the length of service and any benefits that have been transferred.

David McLetchie: So should there be a consultation on whether scheme members should be entitled to take per the formula that currently exists or per any possible future formula?

The Convener: I think so. Once the revenue is decided in general, the pension scheme should allow 25 per cent of the value to be taken as a lump sum. The question is whether we should put on our own limit, which would relate to previous legislation, or simply continue to go with the new revenue limit.

15:15

David McLetchie: I am just thinking about protected rights of members in the scheme. If 25 per cent of the value of a member's accrued benefits were calculated to be less than the final salary formulation, that person would be disadvantaged by a change—if I understand the arrangement. That person should have the option to be no worse off than they would have been if the rule had not changed—or rather, we should consult on whether a rule should say that such a person should be no worse off.

The Convener: I very much take that point.

Paragraphs 12 and 13 are on the death in service gratuity, which is three times final salary under the current scheme. The Finance Act 2004 raised the limit for the gratuity. Are we happy to include that change?

Members indicated agreement.

The Convener: Various points are made in the paper about children's pensions for the children of MSPs, former MSPs and retired MSPs who die. Three points have been highlighted. The wording of the rules could be clearer. The upper age limit for a child in full-time education could be raised to 23 to allow for completion of a Scottish four-year degree. Finally, the scheme could be amended to

provide benefits for children who are over 23 but who were dependent on the scheme participant at the participant's death because of physical or mental impairment. Are members happy with that?

Members indicated agreement.

The Convener: Paragraphs 18 to 21 deal with employee contributions. All taxpayers may now contribute up to 100 per cent of their earnings into pension arrangements. The existing scheme rules set a limit on overall contributions of 15 per cent of salary, which includes the 6 per cent contribution level that is set for all scheme members as well as additional voluntary contributions and the purchase of added years. Should we seek views on the percentage?

Members indicated agreement.

Peter Peacock: Paragraph 25 says that Westminster and the National Assembly for Wales have generally agreed to limit contributions to 10 per cent of salary. It might be interesting to understand the reasoning behind that, given the flexibility to set a greater limit.

The Convener: We will make a note to ask our colleagues in Wales and Westminster that question when we write to them.

On AVCs and added years, the main question is whether we should continue to provide such a facility. If so, should the purchase of added years be subject to an age limit of 65? Should a portion of an AVC benefit be able to be taken as a tax-free lump sum? Do members agree to seek views on those questions?

Members indicated agreement.

The Convener: On flexible retirement, paragraph 27 says that, in general,

"It is now possible for a pension scheme member to continue in post and begin to receive pension benefits."

Should we seek views on whether members of the Scottish Parliament should be able to receive a pension and a salary at the same time?

Members indicated agreement.

The Convener: I can foresee the reception that that proposal will get in some quarters, but we should at least seek views on it.

I admit that I forget what trivial commutation is, but on the basis that it might not be trivial, we should seek views on it.

Peter Peacock: It is like Trivial Pursuit but more difficult.

David McLetchie: It is harder to answer.

The Convener: On ill-health provision, the scheme rules provide for an enhanced pension to be payable before normal retirement age if a

member cannot perform their duties as an MSP because of illness. We should consider a twin-track approach to early ill-health retirement, whereby a member receives a full pension if incapable of doing any job or a reduced pension when it is decided that they cannot perform their duties as an MSP but may be capable of performing another job. Are members happy with that?

Peter Peacock: We should consult on that.

The Convener: Paragraph 35 is on options that are available on retirement. Numerous options and permutations are possible. Given the number of issues involved, do we agree to leave the matter to the scheme's managers or trustees to consider in a later exercise?

Peter Peacock: Why have those provisions been picked out to be left for later when other complex provisions have not?

The Convener: I seek the clerk's advice, although the subject may be too complex for her to give an answer on.

Ruth Cooper: Because of the complexity and breadth of the options, it was felt that they should be visited in depth later. However, we can produce information to develop the issues and allow members to consider them next time, if that would help.

The Convener: That would help.

Hugh O'Donnell: If the subject is complex, it helps to have more notice of it and of the amount of paperwork that must be gone through.

The Convener: Clearly, if a change were required to the scheme, that would have to come before Parliament. If that is a possibility, we should know about it sooner rather than later.

Paragraph 36 refers to increases to pensions. Should we raise that issue in our consultation document?

Peter Peacock: One thing in paragraph 36 slightly surprised me, although again there may be a good reason for it. It refers to increasing pensions in line with the retail prices index and mentions the option of having a more stringent level of increase than the RPI, but it does not give the option of linking pensions to increases in the pay of serving MSPs. I wonder whether that is an option that we should not rule out. I am not arguing for it, but I think that we should consult people on it.

The Convener: Given that some parties have policies to link pensions in general to earnings, that seems a reasonable point.

Paragraphs 37 to 43 deal with calculation of early retirement pensions. It appears that the

current approach could be argued to be discriminatory, and consideration could be given to providing an option to members who stand down or who are not re-elected to receive their pensions, subject to reductions, between the ages of 55 and 65. Shall we cover that in the consultation?

Members indicated agreement.

Peter Peacock: As the issue has been raised, I should point out that members who are no longer with us since the last election, but who might have liked to be with us, are faced with some tough choices about what to do. Can we be clear—perhaps through a note at a future meeting—whether any such changes apply to former MSPs?

Hugh O'Donnell: Retrospective application.

Peter Peacock: I am not sure that that is how it would be described, but are MSPs who stood for election but were defeated locked into the scheme as it is, or would any changes in the scheme apply to them? I ask that because there are material decisions to take that might be altered by whether such people qualify.

The Convener: Clearly, such people would remain members of the scheme, as they have made contributions to it, so my instinct is that they would be affected by any changes. However, we had better check, just in case we need to consider any issues.

Paragraph 46 is on the refund of contributions. Currently, there is a restriction on the refund of contributions at age 65 for men and age 60 for women, which is clearly an issue to be consulted on.

Members indicated agreement.

The Convener: Paragraphs 47 to 48 deal with loss of surviving spouse pension on remarriage or cohabitation. Part of the pension scheme provides that a surviving spouse or civil partner loses their pension on remarriage or cohabitation, and the question is whether that rule should continue. It is also noted that the SPCB currently has the discretion to refuse payment of a pension when a marriage or civil partnership took place within six months of the MSP's death. We should clearly consult on those points.

Members indicated agreement.

The Convener: It is amazing what you find out.

David McLetchie: It could make for a very pleasant final six months, though, with people queueing up to look after you.

The Convener: Strike that from the record!

David McLetchie: Sorry about that, convener.

The Convener: The last two paragraphs in part B deal with commutation of pension for lump sum following death in service. It is now possible to include an option for the spouse or civil partner to commute part of the pension payable for a lump sum when a member dies in service. Any such sum would be payable in addition to the death in service lump sum. We may wish to consider amending our pension rules to include that facility.

That is part B done. We move now to part C, which is the green paper.

David McLetchie: May I ask just one question? Part B refers to consultation on the purchase of added years, additional voluntary contributions and so on. I may have missed it, but I did not see any reference to transfers. Is that because there are no issues relating to transfers?

Ruth Cooper: We have not highlighted any transfer issues, apart from the issue of retained benefits, but that is not to say that they should not be included.

David McLetchie: As I understand it, members who have accrued benefits in other schemes can transfer them through payment of a lump sum—in effect, they can purchase additional years. Are there any issues on the rules that relate to that, in the same way that there are issues on AVCs?

The Convener: As the clerk said, I think that the only issue relates to retained benefits in other public service pension schemes, which we have highlighted, but the general provision on moving one's pension from one employer to the next as one moves through one's career applies to the Parliament's scheme in the same way that it applies to any other scheme.

Peter Peacock: From reading some of the material on the scheme, I think that there seems to be a slight anomaly at the heart of it. I completely understand how that anomaly has arisen and it may relate partly to what David McLetchie has said. As regards the transfer of benefits, different categories of MSPs have different rights, depending on their previous place of employment and the benefits that they had there. I do not intend this as a slight on you, convener, but someone who happens to have been an MP or a member of the European Parliament has the right to have that service counted as if it had been service in the Scottish Parliament. The same right does not apply to people who transfer from another scheme—their previous service does not count. That has an impact on early retirement and a range of other issues. I completely understand how that situation has arisen, but it seems to be slightly anomalous. Perhaps we should ask about that in the consultation. I emphasise that I am not seeking to deprive you of your rights, convener.

The Convener: I think that I left all mine in the previous place. We will check up on that and come back to you with an explanation. You are right; I spotted such an anomaly.

Hugh O'Donnell: An elected member who was a member in session 1, was not elected in session 2 and was re-elected in session 3 has brought to my attention the fact that the scheme that he was part of in session 1 apparently does not continue. It is as if his session 1 pension stands in isolation. Can we find out whether that is the case or whether he has been misinformed? We need to know whether there is an anomaly in the current scheme as regards continuity of service—albeit that there was a hiatus of four years in the case to which I refer.

The Convener: That is not one of the anomalies that we have picked up, so we will look into the matter and come back to you on it.

Part C deals with additional issues that we have picked up that are not necessarily a consequence of legislation.

Paragraphs 2 to 5 deal with the business of whether our scheme should be administered by trustees or by the SPCB, which I have already mentioned. Do members agree to consult on the points that are set out?

Members indicated agreement.

The Convener: On accrual rates, which are dealt with in paragraphs 6 to 8, you will notice that both Westminster and the National Assembly for Wales have two options available. Do members agree to ask for views on the options on accrual rates?

Members indicated agreement.

The Convener: Paragraphs 9 to 11 relate to the earnings cap, which is the maximum salary on which a pension can be based. Do members agree to ask about the retention of that cap, in view of the change to the legislation?

Members indicated agreement.

The Convener: Paragraphs 12 to 15 deal with office holders—that covers me, because I am an office holder. It has been noted that no enhancement of an office holder's pension applies in respect of the additional pension paid to a surviving spouse, civil partner or child of that office holder. Do members agree to include that issue in the consultation paper?

Members indicated agreement.

The Convener: Paragraphs 16 to 22 address the position of the Lord Advocate and the Solicitor General for Scotland. There are three areas in which their pension differs from that of an MSP. For example, if they were to die in office before

they reached the age of 65, their survivors' pension would be less than that of the survivors of MSPs. Do members agree to consult on whether those differences should continue?

Members *indicated agreement.*

The Convener: Paragraphs 23 to 27 relate to the First Minister and the Presiding Officer. Both those gentlemen—so far, the persons concerned have been gentlemen—are entitled to a separate pension that is linked to those offices and which is over and above the MSP pension. There are aspects of that scheme that we may wish to explore, although such pensions are not paid out of the SPPS. Are members happy for us to consult on those matters?

Members *indicated agreement.*

15:30

The Convener: Part D, which is the orange paper, is entitled "Grants to Members and Office Holders". The grants order is a Westminster order—the Scotland Act 1998 (Transitory and Transitional Provisions) (Grants to Members and Officeholders) Order 1999 (SI 1999/1081). Although it is a separate provision, we are dealing with it because it is linked to pensions in that it covers the associated issue of ill-health retirement grants. It also covers resettlement grants and severance grants. Are members happy that we consult on those matters as well?

Members *indicated agreement.*

The Convener: It seems that members have no more issues to raise under item 5.

Witness Expenses

15:30

The Convener: Item 6 relates to witness expenses. Are members happy to delegate responsibility to me for arranging for the SPCB to pay witness expenses that arise during the inquiry?

Members *indicated agreement.*

The Convener: If any claim is rejected, I will bring it back to the committee to consider.

Decision on Taking Business in Private

15:31

The Convener: At our next meeting, which is scheduled for 2 October, we aim to consider and agree the consultation paper, the bulk of which will have been determined as a result of today's discussions. In effect, the consultation is a draft report, so I suggest that we follow normal practice and take consideration of it in private. Are members content with that suggestion?

Members *indicated agreement.*

The Convener: Once it has been agreed, the finalised paper will be a public document—if it were not, it would be a bit difficult to consult on it. The next meeting will be on 2 October at 3 pm.

Meeting closed at 15:31.

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