



Corporate Services Scrutiny Panel

Public Sector Pensions

Public Hearing with Chairman of PECRS Committee of Management

WEDNESDAY, 23rd APRIL 2014

Panel:

Senator S.C. Ferguson (Chairman)

Deputy J.G. Reed of St. Ouen

Deputy R.J. Rondel of St. Helier

Witness:

Mr. R.J. Amy (Chairman, Committee of Management, P.E.C.R.S. (Public Employees Contributory Retirement Scheme))

[16:02]

Senator S.C. Ferguson (Chairman):

Good afternoon, Mr. Amy.

Chairman, Committee of Management, P.E.C.R.S.:

Good afternoon, Senator Ferguson.

Senator S.C. Ferguson:

It seems quite a long time since we last met. I was going to say welcome to this hearing of the Corporate Services Scrutiny Panel. I believe you have had a copy of the privileges statement.

Chairman, Committee of Management, P.E.C.R.S.:

Yes, I have and I have read that.

Senator S.C. Ferguson:

To begin with, looking at the governance and so on, what do you see the role of the Committee of Management in this revision process?

Chairman, Committee of Management, P.E.C.R.S.:

As far as the reform process is concerned, the Committee of Management expressed concern about the sustainability of P.E.C.R.S. 3 or 4 years ago. We called for a meeting with the Chief Minister and the S.E.B. (States Employment Board) because we felt that P.E.C.R.S. in its current form was not sustainable and there was a need for serious reform. So the Committee of Management, from the outset, initiated the review and has played a critical part in the review. To move on then about the specific interests of the Committee of Management; the Committee of Management is really agnostic to the actual benefits negotiated between the employer and the staff associations or indeed to the contribution rates that are paid. Our concern is that, wherever benefits are to be provided, they are fully funded and that the way that risk is shared between the employers and the members is fair and transparent and, of course, that the governance structure that is put in place for any new scheme remains satisfactory. We can probably go into each of those aspects in more detail but, as an overview, those were the main concerns of the Committee of Management.

Senator S.C. Ferguson:

Yes, because you mention in your written submission that the risk-sharing arrangements between staff and employer appear to have broken down after the 2007 valuation. Do you have a view on the reason for this breakdown?

Chairman, Committee of Management, P.E.C.R.S.:

What should have happened under the Regulations is that meaningful negotiations should have taken place after any valuation that produced a deficit. There were one or two deficits along the way and, in general, a satisfactory solution was found to deal with the deficits. The negotiations take place between the employer, namely the S.E.B., and the staff representatives. So, in some ways, the Committee of Management sits on the side-lines to see the outcome, but after the 2007 valuation there really were no meaningful negotiations. The employers did not enter into negotiation, the main reason being that they did not under any circumstances want to spend any more money on the pension scheme. In the circumstances of there being no agreement, the default is that the members shoulder 100 per cent of the deficit; "members" being members in the broadest sense, including pensioners and deferred pensioners. Pension increases get cut right across the board for the future to deal with the deficit. From a Committee of Management point of view, we felt that if the employers were going to adopt the position that they were never prepared to pay more money into the scheme then all that was going to happen was that every time there was a deficit the members were going to have to shoulder that deficit. Because we were concerned that the funding was inadequate - in other words there were not enough contributions being paid to meet the benefits - then essentially we were promising benefits that could not be afforded and over time they were going to be eroded by cuts in pension increases and ultimately, potentially, cuts in the underlying benefits, which was unsatisfactory. That was really what led us to raise with the Chief Minister and the S.E.B., in June 2010, our concerns about the sustainability of the scheme.

Senator S.C. Ferguson:

Yes. Going on from that, we now have a proposal that there should be a pre-2015 scheme where the debt - I presume there is going to be a debt from what has been said to us - is going to be rolled over on employees, in effect, but post-2015 is going to be kind of two to one, employer/employee, up to a certain limit. Are you happy with this new approach to the risk sharing?

Chairman, Committee of Management, P.E.C.R.S.:

The Committee of Management is content with what is proposed as long as it ends up being delivered through the legislative process. I say that as a caveat because there are a few hurdles to be jumped to get there, but let me just be clear on the pre-2015 scheme. There is a valuation being done as at the end of December last year which will determine at that point whether there was a surplus or a deficit. It is still not clear what will be the case. There might be a small deficit or there might be a small surplus, but that will be dealt with under the current regulations. If the new scheme goes ahead from January 2015, there will be another valuation done at the end of this year and that will determine the starting position for the pre-2015 membership in terms of their

pension increases. At the moment, the pension increases are set at Jersey R.P.I. (Retail Prices Index) minus 0.15 per cent. The two valuations at the end of 2013 and 2014 could adjust the current rate of pension increases up or down. From then on what is proposed is that there is symmetry in terms of the experience of the members. Let us put to one side the pre-1987 debt, which is a separate stream of contributions in relation to legacy liabilities pre-1987. Those are being funded quite separately from the contributions for the new scheme and go into the pre-2015 scheme. There are discussions going on about the payment period of the debt, but that asset belongs to the pre-2015 scheme. The important point that I wanted to make was that there are no other contributions then going into the pre-2015 scheme. The benefits there will depend on the assets and how those assets perform and, if there is a deficit, the pre-2015 benefits will shoulder any deficit by a cut back in pension increases, but if there is a surplus they will benefit from it. At the moment if there is a deficit the default position is 100 per cent of it gets picked up by the membership, but if there is a surplus in default two-thirds of it goes to the employer and only one-third goes to the members. So the arrangement where surpluses and deficits go to the membership is a far fairer arrangement going forward than the current arrangement. There are two limitations to that. If pension increases get to full Jersey R.P.I., which would be great news, then any surplus beyond that will be held in reserve. Benefits would not be increased beyond that point. Also, if there were a really bad run of deficits and there was not enough money to pay pension increases at all and the underlying benefits have to be cut, then there is a contribution underpin that guarantees the benefits that are in payment. There would be no pension increases, but the underpin guarantees the benefits that are in payment. That underpin will only apply if the cost of it can be met from within the cost cap. I am sorry that is all a bit complicated but the long and short of it is that, in relation to pre-2015 benefits, the Committee of Management's view is that the arrangements for risk sharing are much fairer than currently and so we put a big tick in the box in relation to that question.

Deputy R.J. Rondel:

You mentioned a valuation in 2013 was due out shortly. When do you think that will come out and do you envisage any surprises in it?

Chairman, Committee of Management, P.E.C.R.S.:

It takes quite some time to do because all of the data has to be provided by the Dedicated Pensions Unit within Treasury. That is happening around now. The actuary then has to validate all that data and agree the assumptions, which will happen at the June Committee of Management. The sums will be done and provision of results presented around September time. So by the last quarter of this year we should have some clear indication of the results. Again, the Committee of Management will be keeping the Treasurer fully informed during that process.

Senator S.C. Ferguson:

You have presumably seen the Treasury and Resources report on the proposed governance arrangements.

Chairman, Committee of Management, P.E.C.R.S.:

Yes, I have.

Senator S.C. Ferguson:

Is there anything that you would like to see changed? Does it look workable, for instance?

Chairman, Committee of Management, P.E.C.R.S.:

I think it is workable. I think the move to include representation from the admitted bodies is good because they have never had any direct representation on the Committee of Management.

[16:15]

I will deal, first of all, with the membership of the Committee of Management. I think also having some pensioner representation is a good idea. For the Committee of Management, it is important that the Committee of Management is not just seen as a purely administrative committee but that it does have some fiduciary responsibility to act in the interests of the membership. That is not to the exclusion of taking into account the interests of the employers and the taxpayer and so on, but there is nobody else that can fulfil that fiduciary role in relation to looking after members' interests. That was something, when the U.K. (United Kingdom) public service schemes were reformed, that Lord Hutton recommended; that management boards should have some fiduciary responsibilities, a quasi-trustee role. So, in terms of the Committee of Management, I think the proposed arrangements are satisfactory. There has also been a discussion around, if you like, the balance of power between the Committee of Management and the employers. I think we are moving into a healthier relationship with the employers. For many years, to be honest, the employers left the Committee of Management to its own devices. There was no particular interest or involvement in actuarial valuations other than seeing what the results were. What the Committee of Management has agreed as part of this review is that in the future for the post-2015 scheme, the valuation assumptions and methodology would have to be agreed between the Committee and the employers. Not just the Committee of Management to decide but we should seek to agree and we have to agree with the employers, which is the case generally in the U.K. private sector. For the pre-2015 scheme we will seek to agree but, because there would only in remote circumstances be any employer obligation for contributions, for pre-2015 if there is a failure to agree, even having made every effort to agree, then it would be the actuary that decides. I think that is a significant improvement in terms of the main stakeholders in the scheme working together rather than one

party just making all the decisions. Senator Ferguson and the Panel, I think that is a big step forward in terms of working in a co-operative way.

The Deputy of St. Ouen:

How do you ensure the Committee of Management's independence in that sort of arrangement?

Chairman, Committee of Management, P.E.C.R.S.:

Well, when you say "their independence" there are different people sitting around the table. We used to have politicians sitting on the Committee of Management. The previous Comptroller and Auditor General felt that they were too conflicted and since then we have a Committee of Management where, apart from the employee representatives who are nominated through the J.N.G. (Joint Negotiating Group)...and I believe you might have had a meeting earlier today with the chair of the J.N.G...on the employer side the positions have been advertised and the main employer representatives, if we can call them that, are people entirely independent of the civil service and the States and are just people involved in the financial services industry who have experience of investment and pensions. There are appointments other than that. John Mills, for example, was appointed. **[Mobile phone ringing]** Excuse me; let me switch my phone off.

Senator S.C. Ferguson:

That is a £10 fine.

Chairman, Committee of Management, P.E.C.R.S.:

My apologies.

Senator S.C. Ferguson:

No problem.

Chairman, Committee of Management, P.E.C.R.S.:

John Mills is an exception to that, but when they are sitting around the table they are there really as quasi-trustees to administer the scheme in accordance with the regulations and to act in the best interests of the members. "Independence" is a funny word. Clearly in every meeting we make sure that none of the members of the Committee have any conflicts of interests on particular agenda items. That is a standard part of the procedure and clearly if someone does have a conflict - they may know a member whose particular case has come up - then they would probably withdraw from that discussion but, with independence, we are there to fulfil a duty that is pretty clearly set out in the Regulations. I think my role as the chair is keeping the Committee on that track. They really have no vested interest in it and they are there to try and make sure that the

Public Employees Scheme is run properly in accordance with the Regulations. That a bit of a long-winded answer.

The Deputy of St. Ouen:

That is fine, thank you. Just briefly, what in particular are the concerns that the new governance arrangements are seeking to address in your opinion?

Chairman, Committee of Management, P.E.C.R.S.:

In my opinion, there has not been an area of great weakness in the scheme. It was not one of the issues that we raised as being a fundamental part of the reform. Having said that, I think, having taken the scheme apart and tried to think through how things could be done better, there has not been sufficient engagement between the employers and the Committee of Management. Since the new Treasurer arrived, there has been much more engagement between particularly the Treasury and the pension schemes, which I think has been very positive and in fact that has facilitated greatly the reform. The States could have gone ahead with the reform without involving the Committee of Management. It has been very much a process of co-operation to try and find the best all-round solution, but I think the new governance structure will necessitate much greater engagement between employers, including the admitted bodies, and the Committee of Management. I think that is the way it should be.

The Deputy of St. Ouen:

Much has been mentioned regarding the proposals as being fair, such as the move to eliminate the cross-subsidies between uniformed and non-uniformed staff. However, your letter that we received - thank you very much - is silent on the apparent fairness or otherwise of the range of protections which are proposed.

Chairman, Committee of Management, P.E.C.R.S.:

We have not taken a direct view on the negotiations between the employer and the employee representatives. Let me just comment from my own experience. What was happening here was a 24 per cent cake was being cut up and if you are going to provide protections for certain groups of staff who are close to retirement, and it ended up being 7 years from retirement, then that cuts down the cake for everyone else. Now, by definition, those who are close to retirement have enjoyed the final salary benefits under P.E.C.R.S., which have been fully protected up to the date of change, and so they are actually least affected by the change. So we are taking a piece of this cake and we are using it to protect those close to retirement when they are in fact the least affected by the change. I know there are arguments the other way but I think the Committee of Management was neutral in this. It became very much an employee relations issue. Incidentally, in the U.K. a 10-year protection period was built in. So the staff representatives, of course,

knowing that, argued quite vociferously for it, but the Technical Working Group report - and I was privileged to be part of that group - did not recommend protection. It was a product of the negotiations between employer and employees. So we did not see that as an aspect of fairness. In fact, you could argue that is an unfair aspect of the proposals because a particular group are getting greater protection than others.

The Deputy of St. Ouen:

Exactly. If the Committee of Management was not expressing a view about the fairness or otherwise of the scheme, what areas were you focusing on? Did you agree to the overall cost envelope that was being put forward?

Chairman, Committee of Management, P.E.C.R.S.:

Again, for us, as long as the cost envelope was fully adequate to fund the benefits that had been agreed, we were satisfied. Whether that was 24 per cent, 22 per cent or 26 per cent, it had to be sufficient to meet the benefits that were negotiated. That was our concern. We were not particularly concerned about the level of benefits that were negotiated as long as they could be fully funded within the cost envelope, but can I just wind back? You asked me particularly about protection and the fairness of protection and, as I said, the Technical Working Group, did not recommend protection. That came out of negotiations. There were aspects of the existing scheme that we felt were unfair. You mentioned earlier the cross-subsidy from non-uniformed to uniformed, the fact that uniformed were getting much more generous benefits paid at an earlier age and paying the same contribution rate. We have been concerned about that and, in fact, throughout my entire period of service as Chair of the Committee of Management since 1990, we have raised that issue and felt that the employers of uniformed services should have been paying a higher rate and probably so should the members. The other aspect of the final salary scheme, of course, that one could view as unfair is that those who have a rapid salary progression get much, much more out of the scheme, like twice as much out of the scheme in relation to what they have contributed, as your typical average member who just has normal salary progression.

The Deputy of St. Ouen:

Manual labourers.

Chairman, Committee of Management, P.E.C.R.S.:

If, again, you are trying to divide up a limited cake to be giving a big chunk of the cake to those who are fortunate enough to have fast career advancement, that is not necessarily the priority. We did have concerns as the Committee of Management, which were expressed to the Technical Working Group, about the fairness of this final salary arrangement which I think has become

outmoded. It is interesting that the public service schemes in the U.K. have also moved away from a final salary arrangement to career average.

The Deputy of St. Ouen:

Just to be clear, the Committee of Management were expressing a view on the sustainability of a scheme based on what?

Chairman, Committee of Management, P.E.C.R.S.:

Our primary concern is that the benefits being promised are being properly funded. That is the first key issue, that the benefits promised are being properly funded. In fact, I mentioned it on page 2 of my letter under paragraph 5. The second point about sustainability is that the risk-sharing arrangements are fair and workable and that was one of the points of breakdown after the 2007 valuation of the existing scheme. The risk-sharing arrangements had broken down because meaningful negotiations were not taking place on how to deal with deficits. Sustainability is around promising benefits that you can afford and that you are funding properly and, because there will be surpluses and deficits over time because investment returns are uncertain, that you have a fair way and a transparent way of dealing with those. Those were the two aspects of the existing scheme that needed reform.

The Deputy of St. Ouen:

Fine. So, when it comes to employees that are already benefiting from lower accrual rates in the current scheme than others, what is your stance going to be looking to the future? Is it that you believe there is greater equity and fairness across the board?

[16:30]

Chairman, Committee of Management, P.E.C.R.S.:

Now, going forward, putting to one side those people who have been protected because they are within 7 years of retirement and there is also a category who are on a higher rate of accrual who are being protected, everybody will be on the same accrual rate and that has not been the case in the past where there have been various accrual rates. In fact, one way of dealing with deficits in the past - and this was negotiated between the States as an employer and staff representatives - was to cut the benefits for new entrants and so gradually you were creating different tiers of membership. So at least going forward from 2015, if that is when the scheme starts, everybody will be on the same accrual rate, other than those who are protected.

The Deputy of St. Ouen:

Thank you. Tell me, has the Committee of Management made any comment or been involved in the indexation of the C.A.R.E. (Career Average Revalued Earnings) benefits?

Chairman, Committee of Management, P.E.C.R.S.:

Again, we were fully involved in the Technical Working Group report and obviously you have to strike a rate of revaluation for the C.A.R.E. benefits. Now, I was also involved in the Hutton review in the U.K. and the Hutton review, if I may just use this as an example, recommended that the indexation should be linked to full average earnings. In other words, benefits should go up in line with U.K. average earnings. The unions, again working within a cost envelope, right across the board gave up that revaluation in line with average earnings for various R.P.I.-type indexation: R.P.I., R.P.I. plus 1 per cent. Now, what they were able to trade, because it is assumed that average earnings over long periods of time will go up by more than R.P.I. and maybe R.P.I. plus 1.5 per cent or 2 per cent, they were able to negotiate a higher accrual rate. The psychology, in my view, is that people do not trust that their earnings will go up by much more than R.P.I. and, in fact, in recent years we have seen pay increases below R.P.I. It is not surprising, in a negotiating situation people are prepared to trade revaluation linked to earnings which they feel is still under the control of the employer even though there may be negotiations with earnings, for R.P.I. plus 1 per cent or whatever it might be. So that was the outcome in the U.K. and it did not surprise me in Jersey that a similar thing has happened and I believe, even since the most recent report, that there is talk of perhaps not sixty-sixths - one over 66 was the accrual rate with R.P.I. plus 1 per cent - but perhaps one-sixtieth with R.P.I. revaluation. I think those discussions are still going on. It is a point where I think you can have a particular philosophy, but I think one can understand why staff representatives would rather go for the certainty of R.P.I. or R.P.I. plus something rather than rely on a link to earnings where they feel that earnings can be under significant employer influence.

The Deputy of St. Ouen:

Thank you. Richard?

Deputy R.J. Rondel:

Thank you. If we look at the funding of the new arrangements, in your view how critical to the success and sustainability of the new arrangements is the funding of the C.A.R.E. benefits on prudent assumptions?

Chairman, Committee of Management, P.E.C.R.S.:

That does build in a margin, which means the likelihood for a call on further contributions is less. I think that is a very important factor in the sustainability of the new arrangements. Why would they

not be sustainable? They would not be sustainable if there was reluctance by the States to pay an increased contribution. If a demand for increased contributions can be avoided then the scheme is much more likely to be sustainable. So there is almost a direct link there.

Deputy R.J. Rondel:

How then do you reflect that in the draft Law or Regulations?

Chairman, Committee of Management, P.E.C.R.S.:

That is a job for the law draftsmen.

The Deputy of St. Ouen:

That is too easy.

Chairman, Committee of Management, P.E.C.R.S.:

Well, at the end of the day, whatever you put in the Law, somebody has to judge that the assumptions are prudent and that falls really on the actuary. In the past the actuary's word has been the law. The Law has just required the actuary to decide. In future for the post-2015 scheme, agreement will have to be reached on assumptions between the Committee of Management and the employers: the States and admitted bodies. I am not quite sure how the States will involve the admitted bodies. That is another wrinkle that will need to go into the Regulations. It will probably be the S.E.B. that will decide, but by doing that then, if you have set out in the Law the principle that there should be prudent assumptions, then because prudent assumptions mean higher contributions and obviously the Committee of Management in its trustee capacity wants higher adequate contributions. The States, from time to time, might want to pay less contributions. So there is a tension there. I think the Regulations should specify that the funding should be prudent, but the judgment of what is prudent, I think, needs to rest with the actuary.

The Deputy of St. Ouen:

Could I just ask you a quick question? Is there a legal definition of "prudence" or "prudent assumptions" that could be used?

Chairman, Committee of Management, P.E.C.R.S.:

No, it is a judgment. It really relies on professional judgment because at a particular point in time financial conditions are going to vary. Just as a little aside, when the scheme was established in 1988 it was on prudent assumptions and it was assuming a 9 per cent discount rate; in other words, that one could forever get 9 per cent return on investments. The scheme had been reformed in the latter half of the 1980s and we had just had the most wonderful bull run in equity

markets and people genuinely thought that a 9 per cent discount rate, an implied return, was prudent and, of course, that was what set the contribution rate. Looking back, it was anything but prudent. So prudence has to be judged at a point in time and, on reflection, looking back, one might decide that assumptions that were made in all good faith as prudent were not in fact prudent or we might well find that assumptions were over-prudent, but it has to be a judgment at a point in time and the actuary is the poor chap that has got to make that judgment.

Deputy R.J. Rondel:

Are you satisfied with the proposed arrangements by which the funds will be invested in the future?

Chairman, Committee of Management, P.E.C.R.S.:

That really has still to be decided. That will not be prescribed in Regulations. I mean that would be a matter for the Committee of Management and the investment strategy requires the approval of the Minister for Treasury and Resources. Again, there will be a dialogue around that and it is a balance between achieving adequate returns to meet the funding requirement but not taking too much risk. In the early years of the new scheme the assets will take some time to build up. The contributions are going to be in the order of £60 million or £70 million a year to begin with, which compares with current assets of £1.5 billion or £1.6 billion. In the early years the most important investment decisions will be: how should the pre-2015 assets be invested? Again, that will be a matter for consideration going forward, but I would imagine that the strategy will be very similar to the current strategy.

Senator S.C. Ferguson:

If best-estimate financial assumptions are considered to be that the actual outcome is equally likely to be better or worse than the assumption, what degree of prudence would you expect to see within the funding assumptions going forward?

Chairman, Committee of Management, P.E.C.R.S.:

That is a good question, Senator Ferguson. Whereas best estimate is a 50/50 outcome, one might be looking, with prudent assumptions, for a 60 per cent chance of a surplus and a 40 per cent chance of a deficit; maybe even two to one, so two-thirds chance of a surplus and one-third deficit. Very prudent would be 70 per cent chance of a surplus. I would say somewhere in the range of 60 per cent to 70 per cent rather than 50/50. That would be the sort of range where one would expect prudent assumptions to lie.

Senator S.C. Ferguson:

What percentage of actual outcomes would you expect to see being better than the 60 per cent or 70 per cent?

Chairman, Committee of Management, P.E.C.R.S.:

The problem is that in individual years and even individual inter-valuation periods one can get a lot of volatility, so one really has to look at this over the long term. That is one of the reasons that the idea of the funding corridor has been raised. Unless there is a very small surplus that is viewed as temporary, action has to be taken to deal with surpluses and deficits under the current arrangements. This is not an exact science and to have a line drawn at 100 per cent and to have to act on it either side, we think, could lead to unnecessary action. It may just reverse at the next valuation. So the idea has been promoted of a funding corridor from 95 to 105 so that if the outcome is lying within that range then the parties could agree just to carry things forward to the next valuation. I think that makes a lot of sense because there will be a lot of volatility because the fund is taking investment risk to help fund these benefits. If we took no risk at all on the investment side the benefits would cost significantly more than 24 per cent. There has to be an implied investment return target that we are trying to hit and that will not be hit precisely all the time. So there is investment risk being run which leads to volatility, but the funding assumptions are erring on the safe side and that means that, over the longer term, one would expect more surpluses than deficits.

The Deputy of St. Ouen:

Based on the figures that you have just given us of 60 per cent or 70 per cent and the percentage of actual outcomes that you expect to see being better than the assumptions, is there a way of introducing those sorts of numbers within the regulations?

Chairman, Committee of Management, P.E.C.R.S.:

I think that would be too prescriptive within the Regulations. I think it needs to be a matter of judgment and whatever the judgment at a point in time which may lead an actuary to say: "I think there is a 60 per cent chance in the future for surpluses," the chances of that being right are almost nil. It is a judgment.

The Deputy of St. Ouen:

So how could they be reflected?

Chairman, Committee of Management, P.E.C.R.S.:

My personal view - and, again, I go back to saying it will be for a law draftsman to come up with suitable wording - is it will be just establishing the principle, because there will need to be

Regulations that set out the process for actuarial valuations and the fact that the methodology and assumptions have to be agreed between the employer and the Committee of Management and the parties will have to take actuarial advice in fulfilling that process. I think there should be a clause in there to say that the principle in establishing the assumptions is that they should be prudent. I think everybody understands what that means. To go beyond that and try and define “prudence”, I think could be quite dangerous, personally.

The Deputy of St. Ouen:

Can I ask you this question? Obviously one would have hoped that pre-1987 the scheme would have been run on a prudent basis and been considered sustainable. However, following that, in the late 1980s and 1990s we decided it was unsustainable and obviously we then had to deal with a significant debt. What assurances can you give us that the new scheme, even based on prudent assumptions, will not deliver us the same sort of scenario that we have seen earlier?

Chairman, Committee of Management, P.E.C.R.S.:

Just to go back over a little bit of history, the issue pre-1987 was not that the scheme was unsustainable in the sense we are talking about now.

[16:45]

We will come to that situation in a moment. It was the fact that pension increases were being paid on a pay-as-you-go basis. They were not being funded and the bill was escalating significantly and the States said: “Look, we want this obligation put onto the pension scheme.” That is what happened in 1988. The obligation for pension increases, including pension increases on past service, was put on to the scheme so that additional significant liability was placed on the scheme in 1988. The contribution rate was upped for future service from 9 per cent and a bit to 15.6 per cent, but no money was put into the scheme to meet the very significant liability the scheme had just taken on. In other words, it was mortgaged over the future. Now, that is what we call the pre-1987 debt. It was hoped that in 1988, because the assumptions were viewed as prudent, that surpluses would emerge that would pay that debt over time. That, frankly, did not happen and so arrangements have had to be put in place later on to properly finance that debt and the issue is still there today. That was the pre-1987 issue. The issue now is that, with the current P.E.C.R.S., the contributions are not higher than they were back in 1988 and the cost of pensions has gone up 30 per cent and so the scheme generally is not sustainable now because, looking ahead 24, 25 or 26 years, the benefits are not affordable at the contributions that are being paid. What I cannot give you a guarantee on is that in 25 years’ time we will not be facing the same situation again if we continue to have very, very low interest rates and relatively poor investment returns and people are living to 120 then...

Deputy R.J. Rondel:

We will still be talking to you.

Chairman, Committee of Management, P.E.C.R.S.:

...the scheme may not be sustainable.

Senator S.C. Ferguson:

No.

Chairman, Committee of Management, P.E.C.R.S.:

So I think this needs to be kept under review. All we are saying at the moment is that, in good faith, based on what we believe are sensible judgments, this new scheme is sustainable. It is for the States to decide whether it is affordable and, of course, the members are picking up quite a big chunk. The uniformed members' contributions are doubling and for most other members they are going up by 60 per cent. The States' contributions are also going up, of course, but the members are shouldering quite a bit of the increase in cost. So we are getting better funding for benefits that are worth less than the current benefits. It only appears to be costing more because it is based on prudent assumptions rather than best estimate. Let us hope that it is sustainable, but only time will tell.

The Deputy of St. Ouen:

Thank you.

Senator S.C. Ferguson:

Carrying on looking at conflicts of interest, at the current time the Committee of Management and the employer are both advised by actuaries from the same firm albeit based in different offices.

Chairman, Committee of Management, P.E.C.R.S.:

Yes.

Senator S.C. Ferguson:

While there is clearly a physical separation and it is understood that Chinese walls are in place, are you entirely comfortable with this arrangement going forward?

Chairman, Committee of Management, P.E.C.R.S.:

From a Committee of Management point of view, it has not caused us any difficulty and, in fact, throughout the Technical Working Group process the actuary to the Committee of Management provided information to the Technical Working Group and in effect, therefore, the Treasurer.

Under U.K. professional guidance, the actuary cannot advise both parties. He cannot advise the Treasurer or the employer as well as advise the Committee of Management. He can only have one client he advises.

Deputy R.J. Rondel:

Is that normal process?

Chairman, Committee of Management, P.E.C.R.S.:

That all worked pretty well because most of the time there is no conflict. Let me then talk about the specific situation that occurs in the U.K. and will occur in Jersey in the future and that is when the Committee of Management and the employer have to agree on the funding methodology and the assumptions. Now, I think it would be extremely difficult for the two parties to have meaningful discussions - which could end up being a negotiation because their interests are not necessarily the same - without being advised by separate actuaries. That would be the normal case in the U.K. To your specific point of whether the actuaries can be within the same firm, there has been a lot of debate in the profession about this and I think it is preferable if they are from separate firms. It is not prohibited that the actuaries come from the same firm as long as proper arrangements - Chinese walls, separation and so on - are in place. I think that is much easier if they are in different offices and I think you would find it very rare for there to be two actuaries from the same firm in the same office advising two different parties within the same employer-sponsored pension scheme.

Senator S.C. Ferguson:

Could there be a risk that both actuaries would find it difficult to move away from the sort of house view?

Chairman, Committee of Management, P.E.C.R.S.:

One would hope not. They may be relying on the same economic models, but at the end of the day they have to reach their own judgment. By definition, if we are talking about an employer and a Committee of Management or trustees, they are tending to come at it with different priorities. It is a bit like the prosecution and the defence in a court case. They will come up with different lines of argument. So it tends to work pretty well, but ideally one would want to have two different actuaries. I mean in the old days it used to be just one actuary advising both parties.

Senator S.C. Ferguson:

I suppose it gets actuarial agreement in that case.

Chairman, Committee of Management, P.E.C.R.S.:

Yes, and I think, as they say, dancing on a pinhead. The current arrangement has not caused any difficulty to the Committee of Management.

The Deputy of St. Ouen:

Would you want to see any changes going forward?

Chairman, Committee of Management, P.E.C.R.S.:

I think that is for the S.E.B. to decide. It used to be that the S.E.B. did not have their own actuary and it so happened they chose an actuary from the same firm as the Committee of Management's actuary. That need not have been the case. It was just felt that the particular actuary concerned, a man called Tim Lunn, had great expertise in public service schemes in the U.K. - in fact, he was a leading expert - and so was a suitable candidate. It was not felt that the issues raised by conflicts of interest outweighed the expertise and he was the best person to appoint.

The Deputy of St. Ouen:

Thank you.

Senator S.C. Ferguson:

We shall be sorry to see you go in June. Do you think that the change of chairman will complicate matters with the whole reform process?

Chairman, Committee of Management, P.E.C.R.S.:

I would hope not, Senator Ferguson. I have every confidence. The new chairman is a very experienced Scottish actuary, so he is following in my footsteps. To be frank, I think we have reached a stage where, subject to the States debate and so on and the drafting of Regulations, we really are in the implementation phase now.

Senator S.C. Ferguson:

Yes.

Chairman, Committee of Management, P.E.C.R.S.:

I think all the points of principle have been agreed. Clearly, if the States debate or further events lead to some fundamental changes in what has been proposed then that is a different matter and we are hoping that will not be the case. Certainly there was a very thorough process in selecting my successor, led by the Appointments Commission. We had a wealth of very strong candidates and I think we have chosen an extremely good candidate who will be very capable of dealing with matters going forward.

Deputy R.J. Rondel:

He may be Scottish, but does he have a Jersey surname like yourself?

Chairman, Committee of Management, P.E.C.R.S.:

No, he does not.

The Deputy of St. Ouen:

You mentioned about the draft Regulations and we have just been made aware over the last couple of days that there is a process now that the various union representatives are going to go through which may involve balloting members. What are the next steps for the Committee of Management in this process?

Chairman, Committee of Management, P.E.C.R.S.:

The Committee of Management will not be involved at all in the process of the staff representatives of the associations balloting their members. That is for them to do. The Committee of Management's main concern, as it was with the enabling Law, will be to go through the draft Regulations with a fine-tooth comb to make sure that they are doing what was intended. We will be applying a lot of our effort to the regulations and making sure that they are sound and workable and delivering what was intended by the policy.

The Deputy of St. Ouen:

When do you plan to undertake that particular piece of work?

Chairman, Committee of Management, P.E.C.R.S.:

That will be ongoing through the rest of the year. I would hope that before I go we will have the first batch of Regulations, but we will set up a subcommittee. We dealt with a review of the enabling Law, which raised quite a number of issues, with about two weeks' notice.

Deputy R.J. Rondel:

Do you have to wait for the results of the ballots before...?

Chairman, Committee of Management, P.E.C.R.S.:

To get all this done by January 2015 everybody has to run in parallel. I think quite a lot of the Regulations are at an advanced stage. If the results of the ballots are unexpected and lead to some change then that may require some amendments to the Regulations, but I do not think we can wait. I think a lot of the Regulations will already be at an advanced stage of drafting.

The Deputy of St. Ouen:

When do you see the Committee of Management completing their work on the Regulations so that you can then express a view prior to the States debating those Regulations?

Chairman, Committee of Management, P.E.C.R.S.:

We are very familiar with all of this stuff, so we have the ability to turn round comments very quickly. As we did with the enabling Law, we got the enabling Law and had two weeks to comment and made material comments, including having dialogue, within those two weeks. As long as we do not get 1,000 pages all at once, if we get the Regulations sent to us we can respond pretty quickly. We do not have to wait for quarterly meetings of the Committee of Management. We have the ability to deal with this in between meetings. Clearly everything ends up going to the Committee of Management but we have the ability to turn round things pretty quickly. When you say "complete the work", we will turn round quickly any Regulations that are sent to us.

The Deputy of St. Ouen:

Have you been led to believe that the Regulations will be developed in stages?

Chairman, Committee of Management, P.E.C.R.S.:

My understanding is a lot of the Regulations are already at an advanced stage of drafting. They have to be to meet the timetable. Clearly the priority at the moment is the States debate. We, so far, have not had any Regulations released to us, but I would expect in May and June we will get quite significant tranches of Regulations. "Tranches" is probably not the right term. I think that there will be work on the Regulations right through the summer, from May through to September. It would be my expectation, that that will be the programme of work. Perhaps you have better information on the process.

The Deputy of St. Ouen:

No. Being directly involved in the development of the Law, one would have hoped that the communication between yourselves and the employer, and especially the Treasury Department who is responsible, would be such that everybody would know what periods of time are required and what to expect in the months ahead. Is that not the case?

[17:00]

Chairman, Committee of Management, P.E.C.R.S.:

I am expecting a busy next 5 months looking at the Regulations and I think there has been quite a lot of work already done on Regulations. At this point in time we have not had sets of Regulations

released to the Committee of Management for comment, but if we are realistically going to hit January 2015 that process needs to start pretty soon.

The Deputy of St. Ouen:

Are you, as a Committee, likely to seek independent advice?

Chairman, Committee of Management, P.E.C.R.S.:

No, we do have our own legal advisers, Mr. Paul Matthams at Carey Olsen, and so, in conjunction with a small subcommittee - in fact the subcommittee that worked with the Technical Working Group - we would work with our lawyers to come up with comments on the Regulations.

The Deputy of St. Ouen:

Right.

Chairman, Committee of Management, P.E.C.R.S.:

This is a big batch of regulations, but that is the normal process for dealing with any changes to P.E.C.R.S. Regulations.

The Deputy of St. Ouen:

It would certainly be helpful to us, as the Panel that is overseeing this whole process, as and when you are able to give us a good idea of the timescale that you will be working to with regards the consideration of the Regulations.

Chairman, Committee of Management, P.E.C.R.S.:

Right. I see it as being not so much a single timescale as us getting batches of Regulations - that is a better word than "tranches", batches of Regulations - through the next few months that we comment on in batches.

The Deputy of St. Ouen:

That is fine. We just need to be clear about how you are going to manage that review of the Regulations, I suppose.

Chairman, Committee of Management, P.E.C.R.S.:

Yes, and I think what I am giving you is some reassurance that we have the resources and capabilities to turn round our comments on draft regulations pretty quickly.

The Deputy of St. Ouen:

Thank you.

Senator S.C. Ferguson:

Thank you very much indeed, Mr Amy. It has been, as ever, a pleasure talking to you and we shall obviously be sending you the transcript in due course. Perhaps next time we communicate it can be by Skype.

Chairman, Committee of Management, P.E.C.R.S.:

I would need to have to have shaved. Could I apologise? I would very much have liked to have been there in person. It was just not possible to do that on this occasion, but thank you for indulging me by having this hearing by telephone.

Senator S.C. Ferguson:

Yes. I must say having you here in person would have been preferable. I hate talking to a box, but thank you very much all the same.

Chairman, Committee of Management, P.E.C.R.S.:

Thank you for inviting me to talk to you.

The Deputy of St. Ouen:

Thank you.

Deputy R.J. Rondel:

Thank you, Mr. Amy.

[17:02]