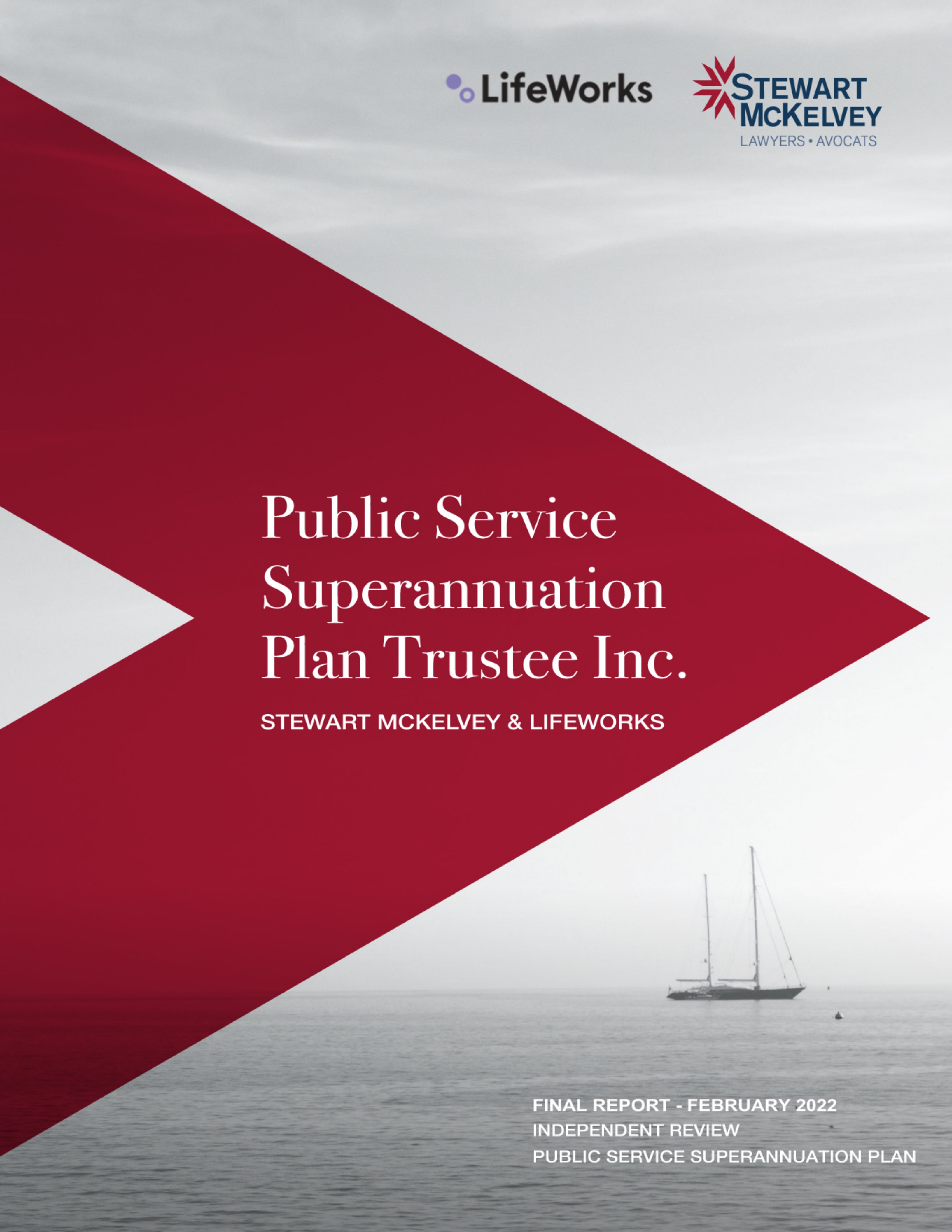

Public Service Superannuation Plan Trustee Inc.

STEWART MCKELVEY & LIFEWORKS

FINAL REPORT - FEBRUARY 2022
INDEPENDENT REVIEW
PUBLIC SERVICE SUPERANNUATION PLAN

February 28, 2022

Mr. Ronald Smith, Chair
Public Service Superannuation Plan Trustee Inc. (PSSPTI)
Purdy's Wharf, Tower Two
Suite 700, 1969 Upper Water Street
PO Box 371, Halifax, NS, B3J 2P8

Dear Mr. Smith,

Re: Final Report – Public Service Superannuation Plan Review

Thank you for providing Stewart McKelvey and LifeWorks with the opportunity to conduct an independent review of the Public Service Superannuation Plan (the "**Plan**"). Throughout our review, we have been guided by the following key principles: 1) a consideration of the best outcomes for Plan members; 2) the advancement of equity across the Plan membership; 3) the encouragement of consistency with other Nova Scotia public sector plans; 4) the promotion of stability and predictability with respect to benefits; and 5) recognition of the importance of principles of good governance.

From our review, we concluded that the Plan is well-governed and generally in accord with the above-noted principles. However, like most public sector pension plans in Canada, we observed that the Plan is facing demographic challenges and economic uncertainty. Navigating these challenges will require the Board to successfully balance competing interests. In our view, this can best be accomplished through an engaged Board with a supportive Plan membership. Our report reflects our recommended approach as to how to best preserve the long-term sustainability of the Plan for generations to come.

We sincerely thank all of the stakeholders who took the time to make submissions during the review process as well as members of the Board and the Nova Scotia Pension Services Corporation staff who met with us and responded to requests for documents and data. We would also like to thank our internal contributors including Eric Ouellette, Actuarial Consultant, LifeWorks, and William Wojcik, Associate; Hannah Brison, Articled Clerk; Kimberly MacLachlan, Practice Innovation and Business Development Lawyer; and Andrew Harvey, Proposal Writer, Stewart McKelvey.

Yours truly,

C. Paul W. Smith, Partner
Stewart McKelvey

Level Y.Y. Chan, Partner
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Stephen Kelloway, Principal
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Key Project Team

Paul Smith, Partner, Co-Team Lead, Stewart McKelvey

Paul's practice is focused primarily in the areas of corporate law, pensions and trusts. His clients include various national businesses, provincial and federal public pension funds, investment funds and financial institutions to which he provides ongoing corporate and governance advice as well as advising on matters relating to investment management. He has been recognized by Best Lawyers, Lexpert, Chambers and Partners, and has a Martindale-Hubbell rating of BV Distinguished, one of the highest peer ratings for excellence in the legal profession.

Level Chan, Partner, Co-Team Lead, Stewart McKelvey

Level advises employers, pension and benefit plan sponsors, and administrators. He assists clients with managing risk and liability in the governance, administration, investment management, and amendment of pension and employee benefit plans. Level has been recognized nationally by Lexpert as a Rising Star, and by Lexpert and Chambers and Partners in pensions and benefits law.

Stephen Kelloway, Principal, Team Lead, LifeWorks

Steve is a pension actuary in the LifeWorks Retirement and Financial Solutions practice. He specializes in the long-term funding strategies of pension plans with a focus on defining and working towards objectives and positive outcomes for retirement programs. Steve currently sits on the LifeWorks Plan Consolidation specialist group which advises clients on key governance elements when considering alternative pension arrangements such as participation in larger plans accepting new employers.

Wes Sheridan, Vice President, Atlantic Region Lead, Project Lead, LifeWorks

Wes provides oversight on all lines of business including the growth and retention of LifeWorks' Canadian provincial, territorial and municipal public sector business across all services offerings of the firm. Wes joined Morneau Shepell (now LifeWorks) in September of 2015 and brings with him many years of experience and broad subject matter expertise in finance, investment, and pension reform.

Dante Manna, Associate, Team Member, Stewart McKelvey

Dante practices various areas of labour and employment and pensions and benefits law. Prior to becoming a lawyer, he was a mathematics professor, and finds this background helpful in understanding the quantitative aspects of law and finding solutions for clients. Dante enjoys discussing and presenting on legal areas of interest relevant to his practice.

TABLE OF CONTENTS

Glossary

60&2	Current eligibility criteria that permit unreduced early retirement at age 60 with at least two years of service.
AB LAPP	The (Alberta) Local Authorities Pension Plan.
AB PSPP	The Alberta Public Service Pension Plan.
Act	The *Public Service Superannuation Act*.
Administrator	Nova Scotia Pension Services Corporation and/or its staff, who provide administration and investment support services to the Trustee in respect of the Plan.
BC MPP	The British Columbia Municipal Pension Plan.
BC PSPP	The British Columbia Public Service Pension Plan.
Board	The 13-person board of directors that forms the Trustee.
CAAT	The College of Applied Arts and Technology Pension Plan.
CAPSA	Canadian Association of Pension Supervisory Authorities, the national association of pension regulators.
CIA	Canadian Institute of Actuaries.
CPI	Consumer price index.
CPP	The *Canada Pension Plan*.
Current Service Cost	The cost of annually accruing service as determined for the Plan from time to time by the Plan's actuary.
CV	Commuted value.
Fed PSPP	The (Federal) Public Service Pension Plan.
Fraser	The Supreme Court of Canada decision in *Fraser v Canada (Attorney General)*, 2020 SCC 28.
Funded Health Review	The funded health review of the Plan the Trustee is required to conduct every five years in accordance with the provisions of the Act, the purpose of which is to determine indexing for the next five-year cycle, as well as to assess the appropriateness of the Plan's benefits and contribution rates in light of the Funded Ratio of the Plan at the time of the review.
Funded Ratio	The ratio of the assets of the Plan to the liabilities of the Plan, expressed as a percentage and as calculated by the Plan's actuary and set out in an actuarial valuation report.
Funding Policy	The Funding Policy of the Plan, designed to provide the Trustee with well-defined levers that ensure the long-term sustainability of the Plan.

Funding Valuation Discount Rate	The percentage by which the Plan’s total liabilities may be discounted in consideration of investment earnings that are expected to accrue over time on the Plan’s assets.
Governance Committee	The Trustee’s Governance, Communications, and Member Services Committee.
HOOPP	The Healthcare of Ontario Pension Plan.
HRM PP	The Halifax Regional Municipality Pension Plan.
Independent Review	See "Plan Review."
Interviewees	All members of the Board and senior staff at Nova Scotia Pension Services Corporation interviewed for the purposes of this 2022 Plan Review.
ITA	*Income Tax Act*.
MB CSSB PP	The Manitoba Civil Service Superannuation Plan.
NB PSPP	The New Brunswick Public Service Pension Plan.
Neighbour Plans	Includes the following Nova Scotia public sector defined benefit plans: NS Teachers; NSHEPP; Fed PSPP; and HRM PP, in which family members or social acquaintances of a Nova Scotian Plan member (i.e., a Plan member’s neighbours) may be enrolled.
NL PSPP	The Newfoundland and Labrador Public Service Pension Plan.
NSHEPP	The Nova Scotia Health Employees’ Pension Plan.
NS PBA or PBA	The Nova Scotia *Pension Benefits Act.*
NS Teachers	The Nova Scotia Teachers’ Pension Plan.
OMERS	The Ontario Municipal Employees’ Retirement System.
ON Teachers	The Ontario Teachers’ Pension Plan.
OPB	The Ontario Public Service Pension Plan.
OP Trust	The Ontario Public Service Employees’ Union Pension Plan.
PEI PSPP	The Prince Edward Island Public Sector Pension Plan.
Pension Overpayment Policy	A policy established by the Trustee that sets out a process for collection and, if necessary, writing off of overpayments.
Plan	The Nova Scotia Public Service Superannuation Plan (see also "PSSP").
Plan Review	The comprehensive review required by the Plan provides that beginning in 2017, and every five years thereafter, to be completed by an independent reviewer.
Plan text	The Plan text for the Plan.

PSSP	The Nova Scotia Public Service Superannuation Plan (see also "Plan").
QC RREGOP	The Régime de retraite des employés du gouvernement et des organismes publics du Québec (public service pension plan for Québec).
Rule of 80	Early retirement criteria for members who commenced employment prior to April 6, 2010, namely: age plus service at least equal to 80, subject to a minimum age of 50.
Rule of 85	Early retirement criteria for members commencing employment on or after April 6, 2010, namely: age plus service at least equal to 85, subject to a minimum age of 55.
SHEPP	Saskatchewan Healthcare Employees' Pension Plan.
Trustee	The Plan Trustee, Public Service Superannuation Plan Trustee Incorporated, consisting of a 13-person board of directors.
US	United States.
YAMPE	Year's additional maximum pensionable earnings, as defined under the CPP.
YMPE	Year's maximum pensionable earnings, as defined under the CPP.

Introduction

Section 47 of the *Public Service Superannuation Act* (the "Act") mandates that the Public Service Superannuation Plan Trustee Incorporated (the "Trustee") commission a comprehensive review of the Public Service Superannuation Plan (the "Plan") every five years:

In 2017, and at least every five years thereafter, the Trustee shall cause a comprehensive review of the Pension Plan to be completed, pursuant to terms of reference set by the Trustee, by an independent reviewer having expertise in Canadian public pension plan structure and administration.

Stewart McKelvey and LifeWorks were engaged to undertake such review and this report presents our findings. This is the second such five-year review and comes at an important time in the evolution of the Plan. Pension plans generally are facing a number of headwinds including:

- *People are Living Longer* – When members collect benefits for longer periods, pension plans' liabilities and costs increase.
- *Proportion of Active Members Declining* – With proportionally fewer contributing members, pension plans become more dependent on investment income, making them more vulnerable to economic downturns.
- *Future Economic Prospects* – The strong investment returns of the past decade are likely going to be difficult to repeat.

At the same time, recent enhancements to the Canada Pension Plan have changed the Canadian retirement landscape, with improved benefits funded by increased overall pension costs to both employers and members.

Finally, societal changes are also impacting the administration of pension plans; peoples' work patterns are changing, and their personal circumstances are becoming more fluid.

Pension plans need to be able to respond to these changes to both remain relevant to their members and to maintain financial stability.

Current Environment

The Plan has operated under a joint governance structure since 2013 with the Trustee consisting of a 13-person board of directors (the "Board") that includes six representatives of members, comprising of three appointed by the Nova Scotia Government and General Employees Union, one by the Canadian Union of Public Employees, one by the Nova

Scotia Government Employees Retiree Association and one to represent non-bargaining employees, as well as six representatives from the Nova Scotia government and other employers, plus an independent chair. The Trustee has the fiduciary responsibility for the Plan and oversees all aspects of its operations. Over the past five years, the Plan's assets have grown from $5.6 billion to $7.2 billion and its membership has grown from 33,905 active and retired members to 39,864. Over the same period:

- The Funding Valuation Discount Rate has decreased from 6.15% to 5.25%.
- The Plan's Funded Ratio has decreased from 100.8% to 97.9%.
- The excess of the Plan's annual contributions over the cost of accruing service has decreased from 5.0% of payroll to 3.0%.

Beyond the confines of the Plan, Canadians generally appear to be more concerned about the recent impact of rising inflation on their savings and retirement plans. These and other factors present challenges for the Board. At the same time, the current governance structure that the Plan operates under is approaching its 10th anniversary and, along with some recent turn-over, there is an expectation that there will be significant changes in the composition of the Board in keeping with the 10-year maximum term for Board members prescribed by the Act. This can create issues from a continuity standpoint especially given the challenges the Plan faces.

Scope of Review

As prescribed by the Act, the review is intended to be comprehensive. For that purpose, we:

- Reviewed input from stakeholders including active members, retirees, employee representatives and employers;
- Interviewed all members of the Board and senior staff at Nova Scotia Pension Services Corporation to obtain their views on the Plan and its operations;
- Reviewed the Plan's governance documents, recent Board minutes and other documents and written materials as we considered relevant;
- Compared aspects of the Plan against a peer group of comparable plans; and
- Assessed the governance of the Plan against best practices as recommended by the Canadian Association of Pension Supervisory Authorities ("CAPSA"), which is the national association of pension regulators. CAPSA's initiatives include guidelines for continuous development and improvement of industry practices. While the Plan is not directly subject to a regulator, other than the Canada Revenue Agency, industry practices recognized by CAPSA are relevant in an assessment of the Plan.

In conducting our review, we were guided by the following principles:

- The overriding consideration for the review must be about what is best for the Plan's members and beneficiaries;
- It is reasonable for members to expect equity across the Plan membership and between generations;
- A degree of consistency with other Nova Scotia public sector plans is also beneficial to Plan members;
- The goal for the Plan should be stable and predictable benefits; and
- Principles of good governance are applicable to all pension plans and support the plans in achieving their goals.

We want to express our sincere appreciation to all stakeholders who took the time to make submissions during the review process as well as the members of the Board and the Nova Scotia Pension Services Corporation staff who took time out of their other activities to meet with us. All feedback was considered in writing this report, including comments to which we have not responded directly. A recommendations summary is provided in **Appendix A**.

We especially wish to thank Nova Scotia Pension Services Corporation staff who responded to our numerous requests for documents and data.

Report Outline

As we analyzed findings from the submissions reviewed, interviews, and our own investigations, we found that topics raised fell into three main areas. The substantive sections of this report are divided into these topics.

- Funding Policy
- Contributions and Benefit Design
- Plan and Board Governance

Our recommendations were guided by four key themes which, in our view, should serve as overall goals or objectives for the Plan. One of the aims of these goals is to better align the Plan with members' interests. We believe that better alignment will increase members' engagement and understanding when difficult issues concerning the Plan need to be addressed. You will see these themes referenced with each of our recommendations in this report:

1. Equity
2. Sustainability
3. Consistency with Neighbours
4. Good Governance

Overview of Jurisdictional Scan

The following comparator pension plans were reviewed with respect to the relevant Plan issues of interest:

i. "Neighbour" Plans

- Nova Scotia Teachers' Pension Plan
- Nova Scotia Health Employees' Pension Plan
- (Federal) Public Service Pension Plan
- Halifax Regional Municipality Pension Plan

ii. Other Public Service Plans

- (Alberta) Local Authorities Pension Plan
- Saskatchewan Healthcare Employees' Pension Plan
- Manitoba Civil Service Superannuation Plan
- Ontario Teachers' Pension Plan
- Ontario Municipal Employees' Retirement System

- College of Applied Arts and Technology Pension Plan
- Healthcare of Ontario Pension Plan
- Ontario Public Service Pension Plan
- Ontario Public Service Employees' Union Pension Plan
- New Brunswick Public Service Pension Plan
- Prince Edward Island Public Sector Pension Plan
- Newfoundland and Labrador Public Service Pension Plan

The purpose of the "Neighbour Plans" was to select for comparison public sector defined benefit plans other than the Plan in which family members or social acquaintances of a Nova Scotian Plan member (i.e., a Plan member's neighbours) may be enrolled. The other plans in the above list were selected for being comparable to the NS PSSP in terms of demographics, structure, or governance (in fact or in aspiration), or were used in previous plan reviews, or were otherwise considered useful for purposes of supporting the Plan Review.

The following additional comparator pension plans were also considered somewhat comparable or useful, but less so than the plans listed above, and as such were reviewed only on an 'as needed' basis (if review of the above-listed plans yielded little information) or as time permitted:

- British Columbia Public Service Pension Plan
- British Columbia Municipal Pension Plan
- Alberta Public Service Pension Plan
- Régime de retraite des employés du gouvernement et des organismes publics du Québec

Funding Policy and Actuarial Elements

The Plan's Funding Policy is provided in sections 66-75 of the Act. These provisions are chiefly operational, focusing on when indexing can be provided, and when changes to contribution rates and other benefit provisions can or must be made (whether positive or negative).

Considering other plans and recent trends, formal documentation of the Trustee's funding and benefit objectives would create a more robust decision-making framework. In the longer term, more prescription in the priority of benefit and contribution changes would improve transparency and appropriately set expectations for Plan members.

Funding Policy Recommendations

Stakeholder feedback from members, Board members, unions, and employers overwhelmingly agreed that the delivery of indexing in retirement should be a focus of the

Plan. The Plan's approach on post-retirement indexing is a key element of the funding policy in addition to the goal of maintaining full funding.

The Plan's funding policy is documented in the Act, and was established in conjunction with the changes in Plan structure introduced in 2010. The provisions in the Act chiefly deal with the manner in which Plan costs (for members and employers) and benefits are determined at different funded levels, as determined by Funded Health reviews every five years. In general terms, these provisions:

- Target indexing in retirement, with explicit parameters detailing when indexing can be provided; and
- Establish when contribution increases must be made to address funding deficits, and recognize the potential that benefit changes may be required in some circumstances.

While the funding policy provides the framework in which these elements are determined, the Trustee retains some latitude in the award of indexing, the timing of contribution changes (positive or negative), and other benefit changes. Notably, discretionary elements are in play when the Plan's funded ratio is in the vicinity of full funding. Examples of this discretion that have been applied are:

- The provision of 0.85% indexing for five years, resulting from the 2015 Funded Health review. In this case, the Plan's funded ratio was between 100% and 110% and the provision of indexing was discretionary. The Trustee opted to provide partial CPI indexing.
- In the 2020 Funded Health review, the Plan's funded ratio was between 96% and 100% whereby increases in contributions are discretionary. In this case, the Trustee opted to leave contributions unchanged. The June 23, 2020 Board minutes note this decision was reached because contribution levels were sufficient to return the Plan to full funding on an expected basis within 10 years.

The funding policy relies on the results of actuarial valuations for funding purposes as the measure of funded position. Importantly, Plan valuations only reflect post-retirement indexing that has been established in the latest funded health review; this means that valuation results do not reflect the costs of long-term post-retirement indexing.

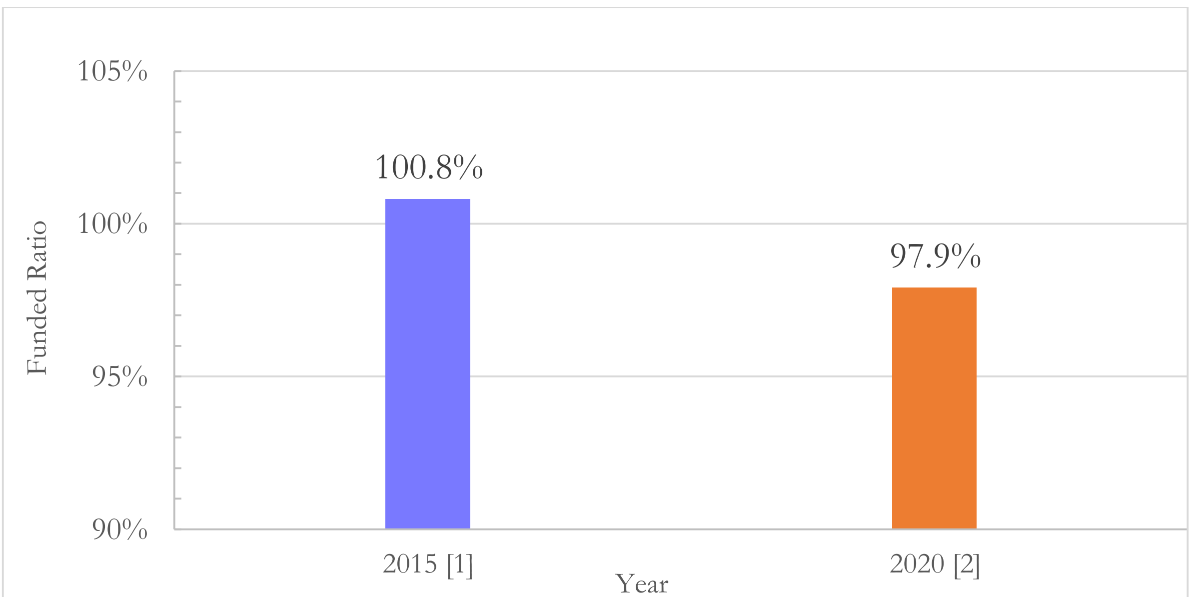
Though not explicitly addressed in the funding policy, another important element of the Plan's funding is the level of on-going contributions relative to the cost of accruing benefits. Member and matching employer contributions exceed the cost of annually accruing service ("current service cost"), though importantly, these costs do not reflect the long-term cost of indexing. These 'excess contributions' are intended to bias the Plan towards full funding over the long-term, ultimately providing indexing.

Since the last Independent Review, the Plan's funded position has deteriorated somewhat. As of December 31, 2020, the Plan is 97.9% funded; notably this measure reflects no future indexing as the 2020 Funded Health review did not allow for any indexing over the next five years. This reduction from 100.8% at 2015 may appear modest but it is important to recognize several additional factors:

- The 2015 results reflected five-year indexing that had been granted, of 0.85% per year;
- The liability increases due to the reduction in the discount rate from 6.15% in 2015 to 5.25% in 2020 were heavily offset by positive investment experience (relative to the discount rate);
- While the net effect of these factors on the Plan's funded position was a moderate reduction, the level of excess contributions was much more heavily reduced. In this case, excess contributions reduced by 40%, from 5.0% of payroll in 2015 to 3.0% of payroll in 2020.

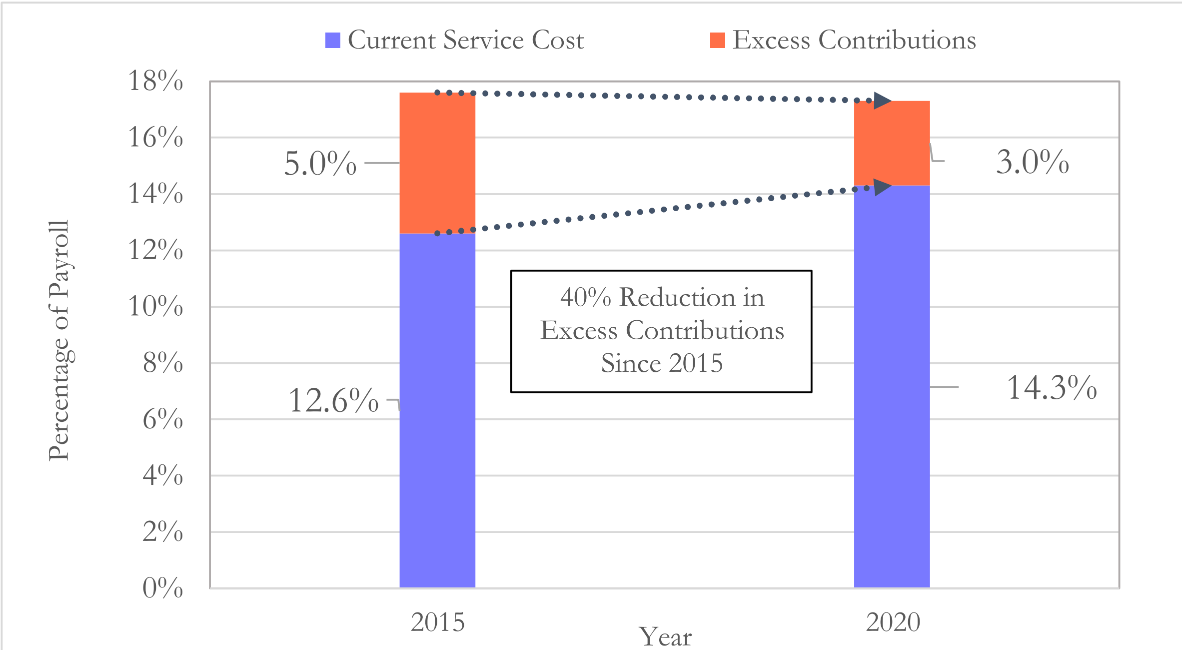
These changes are illustrated in Charts 1 and 2 below:

Chart 1: Change in Funded Position Since 2015



[1] Discount Rate of 6.15%; liabilities include 0.85% indexing for 5 years.
[2] Discount Rate of 5.25%; no indexing in liabilities.

Chart 2: Change in Level of Excess Funding Contributions



Following the 2017 Independent Review, the Trustee embarked on a review of the Plan's key risk factors. This analysis was performed on a stochastic basis, reflecting the broad range of potential outcomes that can materialize over time including adjustments to contributions and benefits (chiefly the award of indexing) required under the funding policy.

In assessing risk, the Trustee tested a market shock, improving longevity, a decline in active membership, and a number of benefit changes (both positive and negative). In addition to the factors tested, we believe the Trustee should assess the implications of a prolonged low-interest rate environment and the resulting impact on return expectations and discount rates.

In recommending consideration of this risk factor, we recognize that while recent inflation levels may lead to short-term increases in interest rates, the timing, level, and duration of any increases are of course unknown. Further, the longer-term economic impacts of the global pandemic present a significant element of uncertainty, and may ultimately be either positive or negative from the perspective of rates and returns.

The general conclusions of the stochastic work were:

- In the baseline scenario, the likelihood of benefit reductions was low and expected indexing capture would amount to roughly 50% of CPI; and
- The Funding Policy would act to restore full funding over time in negative scenarios, albeit with higher required contributions and with lower CPI capture.

In addition, the modeling assumed that when dealing with adverse scenarios requiring corrective actions, member and matching employer contributions would increase to 12.5% of payroll before changes in benefits would be considered.

The stochastic analysis focused on four key measures and the variability of each:

1. The Plan's funded ratio, as measured on a going-concern (i.e., funding valuation) basis;
2. The level of indexing provided to retirees;
3. The level of required contributions; and
4. The likelihood of required benefit reductions.

These factors could be considered as the Trustee's guiding long-term objectives for Plan funding and benefits. Formal documentation of these factors by the Trustee, with consideration of the priority of each, would be beneficial in establishing a framework for the Board to assess decisions they are faced with. This analysis would acknowledge and document the Plan's key risks and the Trustee's risk appetite associated with contribution increases, benefit changes, and provision of indexing.

Recommendation #1 — Sustainability

In alignment with CAPSA Guideline #7, the Board should formally assess and document their funding and benefit objectives. This will consider and prioritize maintaining a fully funded plan, their approach to the delivery of indexing in retirement, the level and stability of required contributions, and the desire to maintain other Plan benefits.

The current low interest rate environment means that investment return prospects for all retirement programs have reduced. The Trustee has clearly recognized this fact in its funding valuations, with the reduction in discount rate over the last five years. The resulting reduction in the level of excess contributions implies that the prospects of providing post-retirement indexing in the future has deteriorated. Further, it can also be assumed that the likelihood of required contribution increases or benefit reductions under the funding policy have increased.

It is important that the Board have a clear picture of these issues, and the potential long-term implications for the Plan. Given the prominence of feedback from stakeholders concerned with the level of indexing that the Plan will provide, the delivery of indexing may be considered a high priority goal by the Trustee. Further, an appreciation of the risk of required benefit reductions, and the level and type of reductions that would be required will be important guides for the Board in their decision making.

Recommendation #2 Sustainability

The Trustee should complete another stochastic modeling exercise which reflects the current economic environment. This will recognize the funding and benefit objectives established by the Board per Recommendation #1. The Trustee should also assess the likelihood of required benefit reductions and the level of benefit reductions that would be required.

Additionally, in considering the Plan's main risks, the Trustee should assess the impact associated with a prolonged period of low interest rates. This may be measured by assuming bond yields remain at current levels, both in the asset and liability modeling of the stochastic exercise.

Several stakeholders noted a concern with the length of the Funded Health review cycle, and the lack of the ability of the Trustee to revisit cases where no indexing has been granted if the Plan's funded position improves at a later date. It was noted that the funding policy does require the Trustee to act in cases where indexing has been granted under a review if the Plan's funded position materially deteriorates.

The requirement to take corrective measures in cases where the Plan's funded position has deteriorated is prudent. This is necessary to ensure the Plan's funded position is not further degraded in severe economic environments. However, these provisions require a significant reduction in funded position before triggering required actions by the Trustee; a funded ratio that is below 100% and has reduced by 15% or more since the last funded health review. They also contain some further discretionary elements if the funded ratio falls below 100% and has reduced by between 10% and 15% since the last funded health review.

In considering this issue, we reviewed the funding policies of several other plans. When comparing the operation of other funding policies, it is important to recognize that the specific circumstances of the environment in which each plan operates, including bargaining history, is a significant factor. For this reason, we do not find it appropriate to draw conclusions from specific parameters relating to timing of potential benefit reviews, but rather consider their broad operation. Two comparators are described below.

Saskatchewan Health Employees' Pension Plan ("SHEPP")

SHEPP is subject to the Saskatchewan *Pension Benefits Act*, *1992* though they are exempt from solvency deficit funding. Their funding policy notes sharing of plan costs (current service and deficits) between members and employers in a 1:1.12 ratio, and that there is no automatic indexation of retirement pensions.

The policy contains explicit benefit security and contribution stability margins, developed in line with their identified funding objectives. In general, contribution levels must be sufficient to fund any going-concern deficit and no benefit enhancements will be considered until margins of 25% have developed (i.e., a funded ratio of 125%).

Newfoundland and Labrador Public Service Pension Plan ("NL PSPP")

The NL PSPP is exempt from the Newfoundland and Labrador *Pension Benefits Act, 1997*. Their funding policy was introduced when joint sponsorship was established between members and the government and provides equal sharing of emerging plan costs (current service and deficits) and surplus between members and employers. Notably, it includes a significant promissory note from the Province which amortized $2.685 billion over 30 years. The accrual of indexed service was suspended as of December 31, 2014, meaning retirees will continue to receive indexing in retirement based on the plan's partial indexing criteria for service earned up to this date.

The policy contains minimum and maximum funding targets which dictate when corrective actions must be taken or when surplus can be used. These targets are reviewed at fixed three-year intervals and vary over time. Currently (2021), the minimum funding target is 80% and the maximum is 125%. In the longer term, this range narrows to a minimum of 100% and maximum of 115%.

Considering the broad operation of the Plan's funding policy and the most recent funding parameters, there is currently little conservatism built into Plan funding. Further, per Recommendation #2, we believe further analysis and assessment of the Plan's risk factors are needed, particularly in ensuring the Board is comfortable with the likelihood and magnitude of required benefit reductions in adverse conditions. For these reasons, we do not believe it is appropriate to change any funding policy parameters relating to the timing of benefit or contribution changes in isolation.

Recommendation #3 — Sustainability

Based on the current terms of the funding policy, no changes should be made to the timing of Funded Health reviews or to the timing of benefit or contribution changes resulting from Funded Health reviews. Any change to the operation of the funding policy considered by the Board should add conservatism.

Actuarial Recommendations

Reviewing the Plan's recent actuarial valuations, we note that the demographic assumptions exhibit some bias. Experience gains and losses over the last five years due to variation in demographic factors are shown in the following table.

Demographic Funding Valuation Gains (Losses) ($ millions)

	Termination	Mortality	Salary	Retirement	Disability
2016	(8.4)	(7.6)	5.5	12.5	n/a
2017	(7.2)	(4.1)	3.8	8.2	1.6
2018	(11.2)	(17.3)	(45.9)	7.3	0.0
2019	(5.7)	(2.2)	(26.9)	12.8	2.7
2020	(13.1)	(10.8)	(10.4)	19.6	2.4
	(45.6)	(42.0)	(73.9)	60.4	6.7

As noted above, Plan funding valuation results drive all funding policy decisions; when indexing can be provided, and when contribution or benefit changes can be made. It is therefore important that the actuarial assumptions used appropriately represent future expectations.

The termination and retirement assumptions are based on experience studies performed using 2009-2013 data. The experience of each suggests a bias; losses in the case of termination and gains in the case of retirement. Updated experience studies to reflect current data is warranted to ensure financial decisions are based on current information. These exercises can also assist the Board in assessing the utility of the Plan's termination and retirement benefits, discussed in the Contributions and Benefit Design section. Statistics and observations revealed in these experience studies can provide significant insights to the Board on how members use the Plan's benefits, as noted throughout the remainder of our report. They will also improve their assessment of long-term Plan objectives and risks under Recommendations #1 and #2.

Experience studies on mortality and the demographic component of the salary assumption (i.e., increases due to merit or promotional elements) are also warranted. Mortality experience has exhibited a bias towards losses and should be reviewed. In the case of salary experience, realized gains and losses will be the product of both economic and demographic factors, and will be driven by short-term contractual increases. Given the size of recent losses, an experience study on the current age-related promotional scale should be performed to ensure it remains appropriate.

Recommendation #4 — Good Governance

The Board should establish an Assumptions Policy. This policy would document the approach on the manner in which actuarial assumptions are set, the frequency of experience studies, the approach to the inclusion of any margin for adverse deviations, and whether assumptions differ for funding valuations and Plan financial reporting purposes. This would also support recommended documentation under CAPSA Guideline #7 relating to Funding Policies.

Recommendation #5 Equity, Sustainability

The Board should consider the benefits of performing experience studies on termination, mortality, the demographic elements of salary, and retirement over the next five years. A review of certain Plan termination and retirement provisions, discussed further below, would be supported by these experience studies and may be considered priorities.

Contributions and Benefit Design

Introduction

Stakeholders remain supportive and committed to the Plan as a defined benefit plan with a prescribed funding policy. With this comes support from key elements of the Plan, which have been maintained – clarity and simplicity of benefit structure and consistency of contributions. In our review of specific Plan benefit and contribution provisions, we have been guided by two general themes of concern identified by stakeholders:

- A focus on the provision of indexing in retirement
- A need to address certain elements of inequity

We find these themes compelling, but stress the need to balance both with the financial realities faced by the Plan.

As discussed more in the next section, considering 'equity' in a defined benefit pension plan will greatly depend on the different lenses being applied, all of which are important to recognize the diversity of plan members and beneficiaries. The principle of equity in defined benefit plans will generally focus on equivalency of benefits, in the form of stable pension income throughout retirement. Differences in provisions applicable to long-service versus short-service or married versus single employees, changing costs over time for cohorts of employees, and differences in utilization of provisions can introduce some elements of inequity.

For the Plan, elements of inequity that have been identified by stakeholders include, differences in benefit provisions for members commencing employment before and after April 6, 2010 (with no offsetting difference in contribution requirements), significantly inferior death benefits for single members (relative to married members), required member contributions rates above and below the YMPE (relative to the cost of providing these benefits) and lesser benefits relative to those of other Nova Scotian members of registered pension plans (i.e., relative to the minimum standards of the Nova Scotia *Pension Benefits Act*).

We have addressed a number of these inequities in our recommendations on Plan benefits and contributions that follow. In some cases, the recommended changes would result in increased Plan costs. Based on the financial position of the Plan, and the universal desire to support the provision of indexing in retirement, we do not believe improvements in Plan benefits can be made without equivalent savings elsewhere; even in the name of improved equity. For this reason, a number of recommendations should be considered and analyzed by the Trustee as a package as follows:

- Improving the pre-retirement death benefit to 100% of the commuted value, in-line with the Nova Scotia *Pension Benefits Act* ("NS PBA") and to improve equity between married and single members;
- Introduction of immediate vesting, in-line with the NS PBA;
- Reduction of the part-time eligibility requirement to 35% of full-time equivalent hours, to improve alignment with the NS PBA;
- The addition of a 15-year guarantee as the normal form of pension for single members at retirement, to improve equity between married and single members;
- A change in the early unreduced retirement criteria at age 60, to at least 10 years of service.

Certain elements of these changes will impact past and future service accruals. Overall, we believe these changes would represent a modest reduction in longer-term Plan obligations. However, they should be reviewed and priced together in the context of Recommendation #1 of the Plan's funding and benefit objectives.
Addressing the CPP enhancements introduced in 2016 and re-integrating the Plan's benefit formula with CPP is another change that we recommend below. Importantly, we suggest that no accompanying reduction in total contributions to the Plan should be made, which will act to materially restore the level of excess contributions over the cost of accruing service. This is intended to direct the Plan towards full funding over the long-term and ultimately support the provision of indexing in retirement.

In this case, the key equity question which must be addressed is the appropriate allocation of Plan costs and benefits across different generations of members. Because the changes to CPP and our related recommended Plan changes are in respect of future service only, their impact, both on individual pension benefits and the prospects of future indexing, will be modest in the short-term. The impact will be greater in the longer-term, when current active members retire. In assessing this aspect, the Trustee will be guided by the recommended stochastic analysis and observations on the differences in indexing capture that can be expected at different points in the future.

Equity Considerations

The Board's fiduciary responsibilities as Trustee include an obligation to be even-handed. The use of "even-handed" instead of other terms such as equally or equitably reflects that all pension plans require balancing of many equitable considerations that intersect, including:

- Age of members and beneficiaries – from the young to the older; from those earlier in their career to those approaching retirement to retirees;
- Protected human rights, including disability, gender, family and marital status, sex and source of income;
- Service – from new and future members to those with longer service under the Plan and with participating employers;
- Active members and inactive members, including former members who continue to have entitlements in the Plan, and retirees;
- Comparator employers and plans – While not necessarily an aspect of fiduciary duty, many stakeholders referred to comparability with benefits provided to other public sector employees in Nova Scotia and the rest of Atlantic Canada.

The concept of "inter-generational equity"[1] has often been used to provide one lens but the Supreme Court of Canada's decision in *Fraser*[2], while applying a *Charter* context that does not apply to all pension plans, still highlights that other equity considerations do apply that might not be apparent on the terms of the pension plan text. In reviewing approaches to contributions and benefits, we have endeavoured to keep all such equity considerations in mind.

Consistency with Pension Benefits Act

Another consideration in our review of Plan benefits was consistency with provincial minimum pension standards. While the historical exemption of the Plan from the NS PBA is appropriate, there are reasons for alignment with those standards. As noted in some stakeholder feedback, it is beneficial for Plan benefits to be comparable with those provided by other registered pension plans with Nova Scotian members. Changes are not recommended on this basis where existing terms under the Plan exceed the PBA minimum standards or the differences are appropriate for a jointly sponsored pension plan or where differences promote greater equity.

There is also the practical consideration that ongoing amalgamation of other Nova Scotia pension plans, which have been subject to the PBA, means that there will be more members of Plan members who benefit from PBA minimum standards. Protection for any such benefits earned prior to transfer to the Plan is required under the applicable transfer legislation. We also heard that the Plan Administrator has also increasingly had to administer NS PBA benefits for such members. Consistency with the PBA would therefore also facilitate the ongoing inclusion of members from other pension plans.

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[1] e.g. *B.C. Nurses' Union v Municipal Pension Board Trustees*, 2006 BCSC 132 at paras. 206-207 and *Bennett v British Columbi*a, 2009 BCSC 1358.

[2] *Fraser v. Canada (Attorney General),* 2020 SCC 28

Contributions, Benefits, and CPP Integration

At 8.7% of payroll, the current *effective* employee contribution rate (i.e., the blended rate above and below the YMPE for the total population) for Plan members is on average lower than its peer comparators. Considering the public sector plans in the jurisdictional review who set employee and employer contribution rates equally, their average estimated effective rate is 8.86%[3].

Contribution levels for the Plan are established above the level of the cost of accruing service; this is meant to provide a bias towards both maintaining a fully funded plan and provision of indexing to retirees.

- Since 2015, the drop in valuation discount rate, which is an estimate of the Plan's return expectations, has materially reduced the level of buffer between actual funding contributions and the cost of accruing service.
- In 2015, the excess contributions represented 5.0% of payroll.
- In 2020, the excess has reduced by 40% to 3.0% of payroll. This represents a reduction in excess contributions of $27 million annually.
- The 2020 report also discloses the cost of providing a 100% CPI indexed benefit for accruing service. The current contribution levels are not sufficient to cover this cost.
- These factors, coupled with the funded position of the Plan means the prospects for the provision of future indexing will be materially reduced.

Recommendation #6 — Sustainability

The Board should endeavour to increase the funding excess. The level of excess would be derived from its long-term goals that we recommend the Board establish as part of the Plan's funding policy. It would also be considered in conjunction with our recommendation on CPP integration, per Recommendation #9.

Many stakeholders pointed to elements of 'inequity' within the Plan's provisions. The intent of any defined benefit plan is to spread individual risk across the covered population; this means that 'equity' will generally be defined from the perspective of creating benefit equity rather than individual cost or value equity.

An element of inequity that was identified are the relative contribution rates above and below the CPP earnings (i.e., the YMPE and/or the newly introduced YAMPE). In its review of CPP enhancement, the Board examined the relative contribution and benefits currently provided, considering integration with CPP. This analysis, which was based on a

[3] The effective rate was estimated for comparator plans by assuming the earnings profile of their membership is similar to the Plan's.

hypothetical re-integration of the Plan with enhanced CPP, suggested that contribution rates above and below the YAMPE should be rebalanced to provide an equitable distribution of costs.

Recommendation #7 Sustainability, Equity

Following any changes in benefit provisions the Board makes based on our recommendations, the CPP-integrated contribution rates should be re-determined. This would recognize the relative value of accruing service, as represented by the current service cost determined in the Plan's funding valuation, on earnings above and below the YAMPE.

Other elements where contribution or benefit adjustments can be made to improve broad equity amongst the membership are discussed throughout the remainder of our report.

Benefit Formula

The benefit formula among the majority of comparator plans integrates CPP and the benefit accrual rate above YMPE (or average YMPE, as the case may be) is 2% per year with an accrual rate below YMPE of between 1.3% and 1.4% for most plans that provided integration. The Plan is consistent with this range with an accrual rate below YMPE of 1.3%. The Plan provides a best five years' average for computing highest average earnings as part of the benefit formula. This is most common among the comparator plans, although they range anywhere between one year and a career average.

One recommendation of the 2017 Independent Review was that the Trustee consider re-integration of the Plan to reflect the 2016 enhancements to the Canada Pension Plan ("CPP"). The 2016 enhancements expanded CPP retirement benefits by improving the targeted income replacement ratio from 25% to 33% and by expanding the earnings coverage by 14% with the introduction of a new CPP earnings threshold, the Year's Additional Maximum Pensionable Earnings ("YAMPE"). The changes will be funded by increased contributions from employees and employers. We are currently in the midst of the phase-in of both the benefit and contribution increases with all matters fully effected in 2025.

The CPP benefit changes are applied on a go-forward basis, meaning that while current workers will gradually accumulate higher CPP benefits, those entering the workforce in 2025 will be the first to recognize the full effect of the changes in their retirement. This approach allows for the full funding of the benefit changes and allows pension plans that wish to reflect CPP in their broad retirement income goals to introduce changes on a prospective basis.

Considering the comparator plans, we could find no evidence that any have further integrated with respect to the CPP enhancements, as the 0.7% bridge benefit is maximal and corresponds to pre-enhancement CPP integration.

The Board reviewed CPP enhancements and what these changes may mean for the Plan in significant detail. Ultimately, no decision was made on whether to re-integrate the Plan's benefits with enhanced CPP.

The Plan's current benefit formula was established around a target income replacement ratio of 70% for an individual working 35 years. In assessing options for re-integration, the Board considered the following three options:

1. No change in Plan benefits or contributions:

    a. Plan members would receive higher total retirement benefits; notably, individuals earning between the YMPE and the YAMPE would build a higher relative replacement ratio in retirement.

    b. Plan members and employers would make higher overall retirement contributions, effectively saving more of their current income for retirement. Again, individuals earning between the YMPE and the YAMPE would contribute the highest proportion of their current income when considering combined PSSP and CPP contributions.

2. Re-integration of both benefits and contributions with enhanced CPP, to reflect neutrality with pre-enhancement levels:

    a. The Plan accrual rate would be set as 1.1% of average earnings up to the YAMPE and 2.0% of average earnings in excess of the YAMPE, and

    b. Plan contribution rates would be set at 7.3% of earnings up to the YAMPE and 11.6% of earnings in excess of the YAMPE (*note: this includes a rebalancing of contributions above and below the CPP earnings threshold to reflect the relative value of benefits being earned. This is discussed further in the 'contribution' section of our recommendations)*.

3. A re-design of the Plan benefits and contributions to remove CPP integration:

    a. This could take several forms and would involve a reconsideration of the overall retirement objectives of the Plan.

The Board reviewed the implications of option 2 on a stochastic basis by extending the risk analysis performed to this scenario. When comparing then current baseline results under option 1 to the re-integrated CPP design of option 2:

- The Plan's funded ratio was generally expected to deteriorate very slightly; and
- Expected cumulative indexing was lower, generally 1% to 2% of CPI (e.g., median CPI capture of 53% in option 1 over 30 years compared to 51% in option 2).

While the stochastic modeling suggested the long-term prospects for Plan funding and CPI capture were similar between the two scenarios, option 2's re-integrated CPP design was less favourable.

The enhancements introduced to CPP represent a monumental shift in the Canadian retirement landscape. Importantly, since the CPP changes were introduced, the general cost of providing retirement income has increased due to continued declines in interest rates and long-term return prospects. These two factors must be considered together and may provide the Trustee with the opportunity to support their benefit objectives when considering both retirement income at retirement (i.e., replacement ratio) and throughout member retirements (i.e., reflecting post-retirement indexing).

As discussed in our recommendations on the funding policy, the reduction in the level of excess contributions being made to the Plan can be expected to materially reduce the prospects of the Plan providing indexing to retirees in the future. Integration with enhanced CPP pension benefits will allow for a total targeted retirement income ratio of 70% for career Plan members, consistent with the Plan's historical philosophy.

Maintaining current contribution rates would represent an appreciable increase in the level of excess contributions due to the reduction in the Plan's current service cost. For the modeling performed by the Plan actuary on CPP enhancement, integration reduced the 2017 funding valuation current service cost by 1.2% of payroll, a 10% decrease. This level of change presents the Trustee with an opportunity to greatly improve the potential for future indexing for its retirees, both current and future.

Recommendation #8 — Good Governance

The Trustee should decide on whether the Plan will be amended to integrate with enhanced CPP or if it will not. The decision should consider the impact on the Trustee's funding and benefit objectives established in accordance with Recommendation #1.

Recommendation #9 | Sustainability, Equity

The Plan should be integrated with enhanced CPP. Benefits will be integrated on a prospective basis for future service with an accrual rate of 1.1% of average earnings up to the YAMPE and 2.0% of average earnings above the YAMPE. This would naturally mean the Plan's bridging benefit payable to age 65 will be increased to 0.9% of average earnings up to the YAMPE for future service. Total contributions to the Plan should be unchanged. This approach should be assessed stochastically and measured against the Trustee's funding and benefit objectives that we have recommended they establish in accordance with Recommendation #1.

The increase in the level of excess contributions can be expected to improve both benefit security and the likelihood of future indexing in the long-term while providing an appropriate overall replacement ratio for future retirees.

With a given fixed level of total contributions, the total assets that will be available to provide Plan benefits is unchanged. Therefore, the Trustee's decision on how the Plan is integrated with CPP is effectively a decision on what they believe to be an appropriate pattern of benefit delivery throughout member retirements. No change to reflect enhanced CPP will mean higher initial pensions at retirement for future retirees but lower indexing on their PSSP pension throughout their retirement. Based on the feedback from virtually all Board members and stakeholders, we do not believe this is a desired outcome.

Eligibility

The criteria for the inclusion of part-time members is currently set at 40% of the full-time equivalent working hours. This is a simplified threshold compared to the PBA minimum standards for part-time eligibility, which includes a test on both hours worked (700 hours per year) and earnings (35% of the YMPE). However, the Plan's threshold (40% of "full-time employment hours" for at least 4 months), being a fixed percentage of full-time hours *over a 4-month period*, is unlike the rest of those plans.

The other comparator plans' thresholds are similarly a fixed percentage (25%, 35%, or 50%) of YMPE earned and/or a fixed number of hours worked (700 and/or 780) over a 12-month period (in many cases, in each of two consecutive calendar years).

Overall, the Plan's part-time eligibility criteria are more generous than the PBA in some aspects and more punitive in others. The PBA allows for application of the earnings and hours criteria over a two-year period of continuous employment before eligibility must be allowed for part-time members. Comparatively, the Plan allows eligible part-timers expected to work a minimum of four months to join. Considering the PBA 700 hours worked criteria, this would equate to 34% to 38% of typical full-time equivalent positions assuming 7- or 7.5-

hour work days. This compares to the Plan's 40% threshold and lack of any form of earnings test.

Strict application of the PBA part-time minimum criteria would result in a more complicated administrative process. This would be magnified due to the expanding number of participating employers, and accommodations under individual employer collective agreements already allowed for under the Plan text. For these reasons, a simplified approach is considered reasonable for the Plan.

Casuals

Application of PBA criteria would also allow eligibility for casual employees who meet those criteria. The Plan does not provide definitions of, or membership eligibility criteria for, casual, seasonal, or other non-full-time employees. Its hourly threshold is restricted to part-time employees as defined in the Plan. By requiring employees to "regularly work" at 40% of full-time employment hours, the Plan, in effect, limits part-time employees to those in more permanent part-time positions and excludes casual and contract employees.

As far as membership eligibility for seasonal or casual (or other non-full-time) employees, there are two categories of approaches to membership eligibility provisions. In one approach, the seasonal and/or casual employee criteria for membership are set out separately from the above-noted earning or hourly part-time thresholds.

In the other approach, the same earning or hourly thresholds are applied to all non-full-time employees (whether, part-time, seasonal, casual, or other). The latter approach is comparable to pension benefits standards in most jurisdictions which apply the earning or hourly thresholds to all employees rather than restricting those thresholds to part-time employment.

Recommendation #10 Consistency

The Board should change the part-time eligibility criteria to 35% of the full-time equivalent working hours. The Board should consider amending the Plan to explicitly include definitions of casual, seasonal, or other non-full-time employees and extending membership eligibility criteria to those classes of employees, subject to the Board's assessment, following a consultation with the Plan Administrator, of the risk of undue administrative burden. For casual and seasonal employees, meeting the thresholds over a two-year period would be consistent with PBA criteria and require some continuity in employment.

The recommended reduction of part-time eligibility to 35% of full-time equivalent working hours is a modest overall change, meant to ensure closer alignment with PBA minimum standards. The addition of more part-time employees can be expected to have a modestly positive impact on Plan financing, by increasing the active contributing base. This will be particularly true if it results in additional younger members.

The Plan, like other comparator plans, also allows for the applicable consideration period to be set by collective agreements[4]. This could also be applied for casual and seasonal employees who are covered by collective agreements and underscores the responsibilities of employers, and unions, as applicable, in the determination of which employees meet the eligibility criteria under the Plan.

Vesting

The Plan currently requires two years' service prior to vesting. This is inconsistent with the general trend across Canada of immediate vesting, which is reflected in the NS PBA, provincial benefits standards legislation in most other jurisdictions as well as comparator plans.

Alignment with the PBA and broad Canadian pension policy would suggest that the Plan should implement immediate vesting. Such a change would mean an increase in administrative work and an increase in Plan liabilities. As evidenced by the Plan's current termination assumption, shorter-service members are expected to terminate at higher rates. Vesting more of these members will likely mean a higher rate of payment of commuted values as many will prefer a lump-sum versus the nominally small pension that can be expected from the corresponding low service periods. These factors, coupled with the funded position of the Plan, means the prospects for the provision of future indexing will be negatively impacted without offsetting changes.

Recommendation #11 Consistency

The Board should assess the financial impact of introducing immediate vesting. This should reflect the recommended termination experience study and the recommended change in retirement criteria (Recommendation #13).

As noted this change could impact the provision of future indexing. Consequently, it should only be implemented if offsetting benefit changes are made to ensure the funded position of the Plan and the potential to provide indexing is not deteriorated. Further, immediate vesting is only appropriate if our recommended change on increasing the age 60 unreduced retirement criteria to 10 years of service is adopted.

[4] Plan text, s. 2.1(n)(iii).

Termination Benefits

There is an emerging trend of restricting eligibility to termination benefits (i.e. transfer of commuted value) and limiting the amount based on the funding of the pension plan.

Eligibility to Receive Commuted Value

The Plan requires that for a member to be entitled to a commuted value transfer upon termination, that they be vested (two years' service), younger than 55, and not eligible for early retirement (entitled to immediate allowance or receiving a superannuation allowance[5]. Aside from the vesting requirement (as noted in a previous section), these requirements are consistent with the large majority of comparator plans as well as the minimum standards under pension legislation.

Calculation of Commuted Value for Transfers

The commuted value ("CV") available for terminating members who elect to transfer their entitlement out of the Plan in lieu of a deferred pension is calculated in accordance with the standards of the *Canadian Institute of Actuaries* ("CIA"). This, too, is consistent with the majority of the comparator plans and the pension benefits standards legislation.

Two provincial public service plans (AB PSPP and MB CSSB PP) have recently been changed to require that the CV for transfer purposes be calculated according to going concern assumptions. Although the CIA standards (s. 3570) only explicitly permit those CV assumptions to apply to target benefit plans, applying the same basis used to fund the program creates alignment between termination lump sums and funding reserves for many jointly sponsored pension plans. In these cases, like the Plan, those opting to apply going concern assumptions are exempt from pension benefits standards legislation, and fund on a going concern basis.

Recommendation #12 — Sustainability, Equity

The Board should assess the actuarial basis used for the determination of commuted values. This would compare amounts available to terminating members, consider tax implications, and the impact on Plan funding.

While this change would be introducing an inconsistency with the PBA, it is important to note that, to our knowledge, this specific issue has not necessarily been considered by

[5] Plan text, s. 8.2(a).

policy makers in Nova Scotia as no plans have formally adopted the jointly sponsored criteria.

Retirement Benefits

Early Reduced Retirement

The Plan offers early reduced retirement at age 55, at a prescribed 0.5% per month (6% per year) reduction, with no service requirement (other than vesting). Several comparator plans offer 3% to 4% per year as the prescribed early retirement reduction and in some cases, this is subject to a service requirement. On the other hand, a few of the comparator plans only offer actuarially reduced retirement unless a service requirement is met, in which case another prescribed reduction (likely less than actuarial reduction) would apply.

This early reduced retirement age is consistent with pension benefits standards which are for the most part very consistent across jurisdictions. The minimum standard in the majority of jurisdictions is to offer an early retirement option within 10 years of the normal retirement date – the pension reduction does not have to be prescribed and actuarial reduction can be applied. Early retirement provisions in excess of the statutory minimums are, in the majority of jurisdictions, stated to be ancillary benefits.

Early Unreduced Retirement

As part of our review, we have analyzed actual retirements from active membership from 2018 to 2020. The Plan currently allows unreduced early retirement for members who meet one the following criteria:

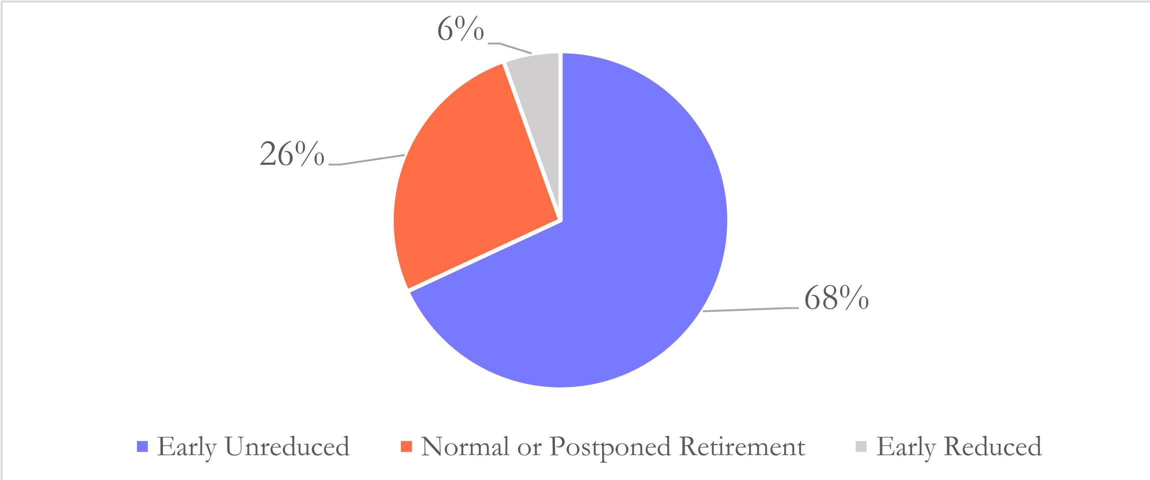
- The Rule of 80 (age plus service at least equal to 80) for members commencing employment prior to April 6, 2010, subject to a minimum age 50;
- The Rule of 85 (age plus service at least equal to 85) for members commencing employment on or after April 6, 2010, subject to a minimum age 55; or
- For all members, age 60 with at least 2 years of service.

In addition:

- Members may retire with a reduction at age 55 provided they have 2 years of service;
- The Plan's normal retirement age is 65;
- Members may postpone retirement until age 71.

Chart 3 shows the distribution of members opting to retire early on an unreduced basis (68%), early with a reduction (6%), and at normal retirement or later (i.e., age 65 and above) 26%.

Chart 3: Distribution of Retirement Usage by Category



Overall, the average retirement age in this period was 61 with average pensionable service of 22 years. Details for these groups are as follows:

- For those retiring early with a reduction, the average retirement age is 57 with 12 years of pensionable service and an average lifetime pension of $10,800;
- For those retiring early on an unreduced basis, the average retirement age is 59 with 25 years of pensionable service and an average lifetime pension of $26,500;
- For those retiring at age 65 or above, the average retirement age is 68 with 18 years of pensionable service and an average lifetime pension of $19,600.

Expanding further on the early unreduced retirement group, we see the following distribution for members availing of these provisions. For the purposes of this chart, anyone retiring at or above age 60 is included in the ‘60&2’ category.

Chart 4: Early Unreduced Retirement

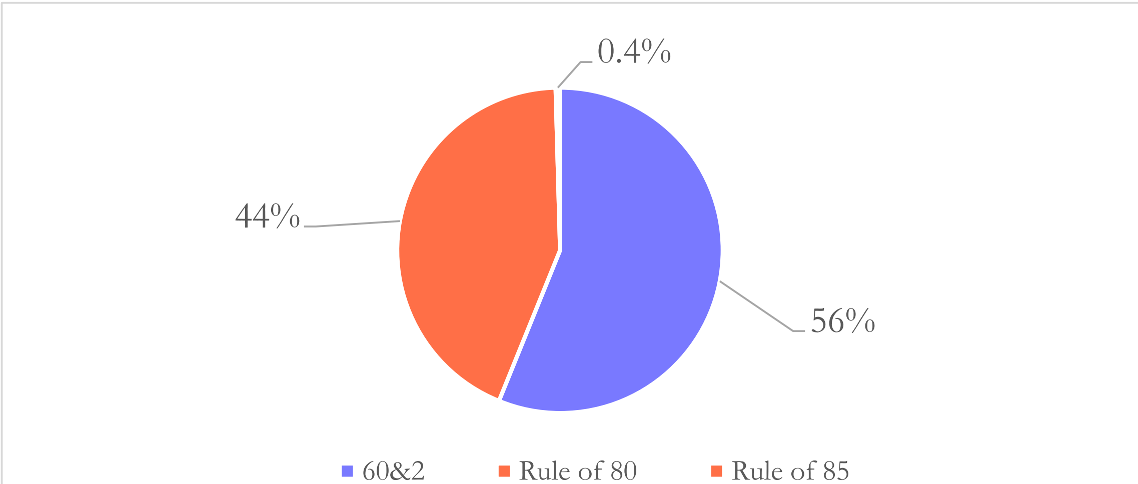
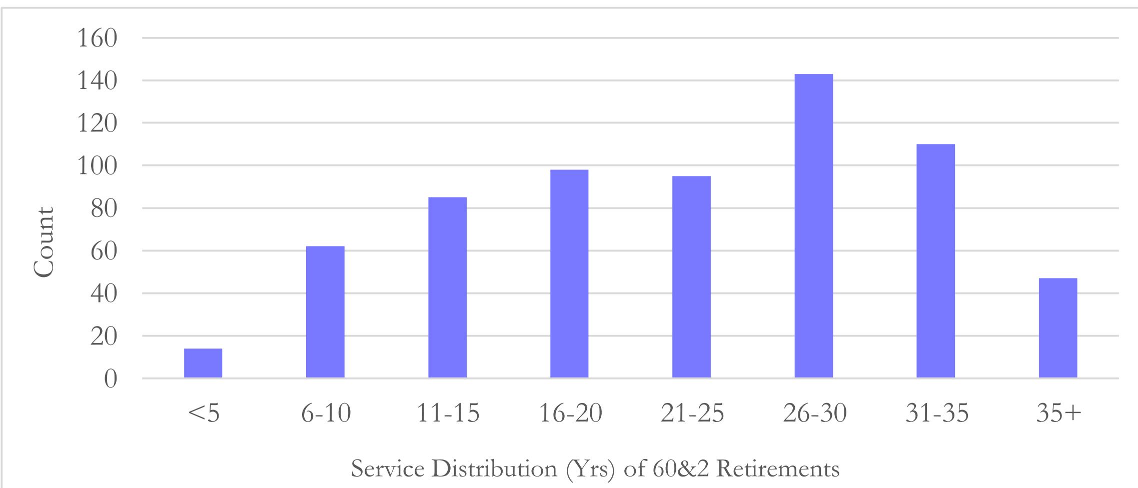


Chart 5 shows the distribution of service for members retiring under the 60&2 category, being between ages 60 and 65.

Chart 5: Service of Members Retiring Under the 60&2 Provision



Of note, only 6% of members have 5 or fewer years of pensionable service. This is not a surprising outcome, as retiring with a small amount of pensionable service will mean the resulting pension is also relatively small. This low usage rate of the 60&2 criteria implies that there is little broad value to your active members in providing this as retirement criteria.

Presumably, the age 60&2 criteria would be heavily utilized by deferred vested Plan members, whereby the decision to retire would be driven more heavily by financial realities (there is no incentive to delay receipt of the pension) rather than actual retirement plans. However, there may be an unintended consequence in the level of lump-sum benefits paid to terminating Plan members.

The commuted value payable to vested (2 years of service) terminating members will be based on their earliest unreduced retirement date; for short-service members this will be age 60. The differential in a commuted value payable at age 60 and the Plan's normal retirement age is likely 25%-30%. As noted earlier, the Plan has experienced average annual experience losses of $9 million over the last five years. We expect that the level of current commuted values, which are high relative to historic levels, would be a significant contributor to these on-going losses.

Recommendation #13 Sustainability, Equity

The Board should increase the service criteria for unreduced retirement at age 60 to, at a minimum, 10 years of service. This change can be made on a prospective basis, such that the reduction applies to future service accruals only. We would also support the Board should they wish to apply this change in respect of prior service, in the context of supporting broader Plan goals and objectives developed under Recommendation #1 and/or based on their further assessment of benefit utilization and consultations under Recommendation #14 below. Each approach would consider appropriate communication and notification of the change to Plan members, as discussed further below.

Considering comparator plans, early unreduced retirement at age 60 with no associated service requirement (other than two-year vesting) is generous. Most of the comparator plans have a service requirement (depending on the plan) between 10 and 30 years in order to retire at age 60 unreduced.

We also reviewed the details of five comparator plans' changes to early retirement criteria, and/or early retirement reductions, and the Plan's own changes in replacing the "Rule of 80" with the "Rule of 85". The plans we considered include the Federal PSPP, OP Trust, NB PSPP, PEI PSPP, and NL PSPP.

While it may be considered difficult to observe 'trends' from just five examples, we did note some similarities in practice with respect to notice and grandparenting which follow.
The changes came into effect with little to no notice in most cases where only applicable to future service, although announcements of the changes were typically made prior to the amendments being passed.

The only extended notice was the five-year transition period in the case of NL PSPP; however, those changes also applied to prior service. Additionally, grandparenting was applied to certain circumstances where members had already qualified for early unreduced retirement or had attained 30 years of service.

In general, many public sector pension plans have been designed with early retirement eligibility tied to certain levels of service. For the Plan, this is seen in the Rule of 80/Rule of

85 provisions, and the 60&2. Several stakeholders noted concern of inequities across Plan members due to certain provisions, notably the difference in early unreduced retirement eligibility applicable to members who commenced employment before and after April 6, 2010. Also notable is the fact that members accruing service under these different retirement criteria contribute at the same rates of pay, further exasperating this inequity.

As the Plan looks to the future, it is important the Board continue to evaluate the appropriateness of its retirement provisions to an evolving working population. This would consider changes in employment patterns, general improvements in mortality (whereby improving life expectancy has meant the cost of providing lifetime pensions increases), equity across your membership, and impacts on new employers and further Plan expansion. It would also consider whether any change would allow a dedication of additional assets to other benefits that are more desirable to its membership.

If a change in retirement criteria were to be considered by the Board, it must reasonably allow for transition for existing Plan members. This may be most appropriately accomplished by:

- Making changes on a prospective service accrual basis only, which would provide an equitable benefit to all Plan members, versus one that differentiates on date of hire;
- Including more generous early reduced retirement provisions, to lower short-term impacts and still provide broad flexibility to Plan members in deciding on their ultimate retirement.

For example:

- Future service for all members will be payable on an unreduced basis at age 60 for members with 30 years of service;
- Members with 30 years of service may retire as early as age 55, subject to an early retirement reduction of 3% per year prior to age 60.

Age plus service requirements are common among the comparator plans; the combined age plus service requirement ranging anywhere from 75 to 90, although most commonly 80 or 85. Thus, the Plan's rules are comparable to most comparator plans in this respect. However, as a key driver of Plan costs, we encourage the Board to assess the continued utility of these provisions. The Board may also find benefit in the improvement to equity amongst members if the retirement criteria applicable to accruing service is the same for all members.

Recommendation #14 Equity

The Board should formally assess the importance and value of the Plan's current early unreduced retirement criteria amongst its membership. This would cover a variety of employee groups, and could include alternative designs to continue to provide flexibility to its members in setting retirement plans.

In evaluating the benefits of such a change, the Board would consider how such a change impacts its goals around other benefits, such as the expected level of future indexing and, from an inter-generational equity perspective, the expected timing and affected service of these changes.

35-Year Maximum

Similar to a few of the comparator plans (particularly the "neighbour" plans), the Plan provides a maximum of 35 years' credited service and contributions to the Plan. However, many other comparator plans have eliminated this maximum, most recently, OMERS. This is consistent with the pension benefits standards legislation in the majority of Canadian jurisdictions, which provide that credited service maximums are optional.

OMERS' plan amendment to remove the 35-year cap went into effect on January 1, 2021. Its effect was limited to plan members with less than 35 years' service in the plan, i.e. the change did not affect plan members who had already reached the cap prior to the effective date. The OMERS FAQ indicated there were no exceptions to this rule and provided the following explanation for the change:

> *"The 35-year cap was removed as a result of the Comprehensive Plan Review conducted by the OMERS Sponsors Corporation throughout 2018. Removing the cap helps to address the needs of long-service members who want to work beyond 35 years. By earning more credited service, members will increase their lifetime pensions."*

Reasons for not applying the change to members who have already reached the maximum include administrative challenges and costs associated with resuming and collecting contributions from members who have ceased contributions.

Recommendation #15 Equity

The Board should eliminate 35-year cap on accrual of pensionable service for members who have not yet reached the cap.

Forms of Pension

The Plan provides for a survivor pension to a spouse of 66 2/3% or 60% of the member's pension, depending on when the member commenced employment. There is no option to choose other amounts.

Most comparator plans offer a choice of survivor pension and/or guarantee options, often in the range of 7 to 10 options. Survivor pension options vary anywhere between 50% and 100%, although the comparator plans' publicly available information does not always indicate options up to 100%. For plans that offer guarantee options, they are commonly up to 15 years. For those plans which did not provide pension options, the survivor pension for a member with a spouse is usually between 60% and 66 2/3% (this closely adheres to the statutory survivor pension which, in all Canadian jurisdictions, is 60%) and there is no guarantee.

There is value from an equity perspective in offering choice to members to tailor to their own circumstances. Members may not have survivors or beneficiaries and prefer some benefit to be payable to their estate. Those with survivors may wish to provide for different benefits based on their financial circumstances. Having some options would also be consistent with "neighbour" plans.

In adding optional forms, it is important that the Board strike an appropriate balance between flexibility by offering multiple options and overloading members with too much choice. As noted in the introduction to our review of benefits, simplicity of benefit structure is also valuable. Additional options also require additional education of members.

Recommendation #16 Equity

The Board should consider introducing optional forms of pension to allow members greater flexibility in tailoring their retirement benefits to their own personal circumstance. Optional forms should be determined on a basis that is neutral to the Plan's funding and provides a manageable number of choices, such as no more than five options.

Locking-In

Section 51 of the Act locks in any pension funds subject to limited exceptions for spousal division and garnishment for "failure to account for public moneys". Some further unlocking options may be considered by the Board. We considered other unlocking criteria in pension benefits legislation and comparator plans.

Small Amount Unlocking

Section 7.5 of the Plan text allows for unlocking of small amounts if the allowance is less than 2% of YMPE.

The NS PBA, like other provincial pension benefits legislation, allows unlocking of small amounts if:

- The annual benefit is not more than 4% of YMPE; or
- The commuted value of a benefit is not more than 20% of YMPE.

Given the small amounts and minimal financial impact to the Plan, this provision could be made consistent with the PBA.

Recommendation #17 Consistency

The Board should amend the small amount unlocking threshold consistent with pension benefits legislation.

Shortened Life Expectancy Unlocking

The Plan currently does not have a provision for shortened life expectancy unlocking. This is unusual relative to the comparator plans, most of which provide eligibility and a process for unlocking their pension entitlements in the case that a member and/or deferred member has a mental or physical disability that is likely to shorten their life expectancy considerably. The following comparator plans explicitly included shortened life expectancy unlocking provisions: NS Teachers, NS HEPP, HRM PP, BC PSPP, AB PSPP, SHEPP, ON Teachers, OMERS, CAAT, HOOPP, OPB, OP Trust, ON UPP, QC RREGOP, PEI PSPP, NL PSPP. Pension benefits standards legislation also addresses shortened life expectancy unlocking in all jurisdictions, although for a few jurisdictions, this provision is optional.

These are provisions allowing members to receive their pension entitlement in a lump sum in circumstances where their life expectancy is shortened considerably due to a medical condition.

The shortened life expectancy unlocking provisions of the comparator plans feature three main categories of criteria for eligibility. First, the majority of plans require that the member not be retired and/or not be eligible for retirement. Second, the mental or physical disability that shortens their life expectancy considerably must be certified by a physician to the plan administrator's satisfaction. Third, most plans explicitly require a spousal waiver to be executed by the member's current eligible spouse if they have one.

Procedurally, most comparator plans and legislation require a member to complete an application in a form that is prescribed by the plan administrator or legislation (as applicable). The form application provides appropriate disclaimers and requires the applicant to attach a medical certificate by the physician (as proof of the second criteria noted above) and a required spousal waiver, where applicable (per the third). The comparator plan criteria and processes noted above are consistent with those prescribed by the pension benefits standards legislation in all jurisdictions.

Non-Resident Unlocking

The Plan also does not have a provision for non-resident unlocking which is available under certain prescribed retirement savings arrangements under the *Pension Benefits Act*. Pension benefits legislation in the majority of other jurisdictions requires pension plans to have such a provision. The most commonly prescribed eligibility criteria, among jurisdictions with such requirement, are that the person is a non-resident of Canada for ITA purposes, and that they provide a spousal waiver, if they have a spouse. Another common criterion is that they have ceased to accrue continuous service.

Recommendation #18 — Consistency

The Board should consider adding unlocking options consistent with pension benefits legislation of those provinces which provide both shortened life-expectancy and non-resident unlocking.

Overpayments

Overpayment of pension amounts can occur in the course of administration including as a result of a member's estate failing to provide notice of death, administrative error or fraud. The Trustee has established a Pension Overpayment Policy (the "Policy") setting out a process for collection and, if necessary, writing off of overpayments. An ongoing issue is collection of overpayments.

In some circumstances, there may be ongoing pension payments being made. One option under the Policy is recovery through "installment payments" which are achieved through a temporary reduction in the pension payment. This could be considered a "garnishment" but this not explicitly addressed in the Act.

Also, while reaching an agreement on payment plan is preferable, there may be circumstances where the member has refused to respond. The option of reduction of payments, after minimum notice and opportunity for the member to respond, would be an effective option as a last resort.

Recommendation #19 Good Governance

The Board should amend the Act to explicitly provide for deductions authorized by members for repayment of overpayments and consider the ability to deduct overpayments after notice and reasonable opportunity for members to respond.

Spousal Status and Benefits

Who Qualifies as a Spouse?

The Plan definition of "spouse" is similar to that in the NS PBA which is different than most other jurisdictions' pension legislation except for the NL PBA. As such, the Plan defines "spouse" differently from the comparator plans in other provinces aside from the NL PSPP.

In particular, this definition is different from most comparator plans and jurisdictions include that it provides a two-stage conjugal cohabitation requirement for common-law spouses (one year, if neither of them is married; three years, if either is married). Where a person asserts their entitlement to a benefit as the spouse of a deceased plan member, the Plan requires an application form including a signed declaration as to their spousal relationship. This is consistent with most comparator plans reviewed.

Other elements included in comparator plan forms are: the date the couple began living separate and apart (if separated), any gaps in the relationship, whether the relationship was exclusive, whether there was another spouse, whether there were/are any children in the spousal relationship, whether the couple files taxes together, and whether a third party can attest to the relationship.

Multiple Spouses

The Plan provides a divided death benefit where a plan member dies with two surviving spouses and the divided benefit is apportioned in accordance with the period of time each cohabited with the plan member in a conjugal relationship while the plan member was earning an allowance. This appears to be unique among comparator plans including those in Nova Scotia or Newfoundland and Labrador and also is not a required provision under any pension benefits standards legislation.

Deemed Spouse

Another difference between the Plan and comparator plans/pension legislation in this respect is that the Plan deems a married spouse to be the sole surviving spouse under the Plan unless the non-married spouse contacts the Plan within 12 months of the member's death. We did not find this aspect in comparator plans, even those in Nova Scotia and Newfoundland and Labrador, and it is not required by pension benefits standards.

Post-Retirement Spouse

One additional difference in respect of survivor benefits is the ability under the Plan for a member to add a surviving spouse post-retirement. The Plan provides that "surviving spouse" includes a person who became the retiree's spouse at least three years before their death (where a period of conjugal cohabitation before they became a spouse counts towards the three-year requirement). This differs from the requirements under most pension benefits standards legislation, which provide the survivor pension solely to the spouse of the plan member at their date of retirement.

Nevertheless, this type of provision is not uncommon among the larger group of comparator plans.

Noteworthy examples include the Federal PSPP and many of the Ontario comparator plans, including ON Teachers, OMERS, HOOPP and OPB, which permit new survivor benefit-eligible spouses to be added after retirement. In most cases the spouse at retirement must have died or separated from the plan member / waived their entitlement for the spouse at death to become eligible. OMERS appears to provide survivor benefits where plan members who were single at retirement but later acquired a spouse.

The Federal PSPP also permits new married spouses post-retirement to acquire entitlement to survivor benefits, however the member must elect to do so within one year of becoming entitled to payment of a deferred annuity or annual allowance and accept a corresponding reduction in their pension, and such election must be made at least one year prior to death. Nevertheless, this type of provision is not common among the larger group of comparator plans.

The value of greater flexibility in optional forms discussed above continues in the ability to reflect changes in spousal relationships after retirement. It would therefore be appropriate for the same reasons to allow death benefits to be paid to a post-retirement spouse.

Recommendation #20 — Equity

The Plan should allow designation of a post-retirement spouse in any optional forms that are available and establish procedures for members to provide direction to the Administrator.

End of Spousal Relationship

The Plan permits pension division only by way of court order. It does not provide for pension division by way of separation agreement. This differs from most comparator plans and pension standards legislation (including the NS PBA), which provide for entitlements to pension division by way of separation agreement.

The Act and the Plan text provisions recognize orders for pension division under the *Matrimonial Property Act* (the provincial legislation that governs the division of matrimonial property generally) and explicitly provides that such orders will apply notwithstanding the Plan provisions for pension division. This is relatively uncommon among the comparator plans, but is more common in Nova Scotia, British Columbia, Newfoundland and Labrador, and Saskatchewan which provinces' pension benefits standards legislation explicitly subordinate themselves to the provincial family property legislation on the matter of pension division.

While requiring a court order to effect a division between spouses provides a level of certainty and protection for the Plan, this requires additional cost and delay for members. The Nova Scotia government has been reviewing its legislation governing matrimonial property, which will include the replacement of the *Matrimonial Property Act*. The new legislation will continue and possibly enhance the use of separation agreements.

Recommendation #21 — Consistency, Equity

The Board should amend the Plan text to allow for division of benefits by separation agreement.

Effect of End of Spousal Relationship

Although the Plan allows for division of an active member's pension, it requires the former spouse to take their entitlement as a lump sum. Although the Plan does honour a pension division at source under the *Matrimonial Property Act* or any other membership-like rights ordered by a court, there is no specific provision of this sort within the Plan. This is comparable to many of the comparator pension plans which are exempt from pension benefits standards legislation.

However, a few other comparator plans specifically provide for a separate pension and 'limited member' status for a former spouse who separates from or divorces the plan member prior to retirement. This is consistent with the NS PBA and other provincial pension benefits standards legislation that provide a process towards limited membership for separated spouses.

The Nova Scotia legislation prevents payment of a commuted value from a defined benefit pension plan until the termination or retirement of the member, which is unique among provincial benefits legislation. Other legislation allows payment immediately after the agreement or court order. While the option of a pension for a former spouse is a significant benefit, there is value in the choice and administrative simplicity of payout of a spouse's share.

Recommendation #22 Consistency, Equity

The Board should consider the option of allowing former spouses to receive a pension in accordance with an agreement or court order while maintaining the option of immediate payout in accordance with such agreement or court order.

Death Benefits and Estate Issues

Pre-Retirement Death Benefits

Currently, the Plan provides for a return of a single member's contributions with interest in the event of death prior to retirement. This compares to an immediate lifetime survivor pension to a member with an eligible spouse. This represents an inequity between married and single Plan members and a significant divergence with the minimum standards of the PBA and comparator plans, which provide a payment of full commuted value of their accrued benefit. Alignment with the PBA is warranted and would improve equity between married and single Plan members.

Recommendation #23 Consistency, Equity

The Board should align pre-retirement death benefits with the PBA, providing a 100% commuted value payment. This would apply where additive to the current provisions to Plan, such as with respect to members who die with no surviving spouse, qualifying children or dependants.

Post-Retirement Death Benefits

Currently, the provision of a survivor benefit in retirement for members with an eligible spouse means that benefits provided to single members are materially less valuable, likely within the range of 7% to 10%. This is an inequity between members raised by stakeholders which we agree should be remediated.

We believe that the provision of survivor benefits as the normal form of benefit payable to married members is good policy for a pension plan. Considering PBA regulations, while they do not mandate that a plan provide survivor benefits at no cost to its members, the provision of survivor benefits is widely encouraged by the requirement that benefits be paid with a minimum of 60% survivor benefit unless explicitly waived by the spouse. We therefore would not be in favour of changing the survivor benefit as the normal form of benefit for a married member.

To promote equity, it would be appropriate to consider a mechanism to improve the death benefits applicable to single members in retirement. This can be accomplished through the addition of a guarantee period as the normal form of pension. The addition of a 15-year guarantee period for single members would appreciably reduce the inequity (to roughly a 4% differential) though value would still be tilted in favour of married members.

The change to the normal form for single members would be consistent with options offered in comparator plans. NS HEPP and AB PSPP provide a 5-year guarantee option, ON UPP offers a 10-year guarantee option, and BC PSPP and SHEPP offer 5, 10 and 15-year guarantee options (these are all for members with spouses). In some cases, there are greater guarantees available for single life options (e.g. AB PSPP provides 5, 10 and 15-year guarantees for single life pensions, but only a 5-year guarantee for the joint option) but not always (e.g. SHEPP provides 5, 10 and 15-year guarantees for both single and joint options).

Recommendation #24 — Equity

The Plan should be amended to provide a 15-year guarantee period for single members retiring in the future.

Children's Benefits

Most comparator plans, like the Plan, permit spouses and children to be eligible for both pre- and post-retirement death benefits in certain circumstances. In some cases, providing an entitlement to a surviving child requires selection of a survivor pension option. Other comparator plans do not provide a child benefit. In those plans, the child may be named as designated beneficiary but would not have access to an allowance.

The Plan generally defines a qualifying child as being under 18 years old, which is universal among the comparator plans providing benefits to surviving children. Some (but not all) of those comparator plans additionally permit qualifying children over 18 and up to a specified maximum age (which for all plans was between 21 and 25) if they are full-time students.

The Plan does this, using age 25 as the maximum, and specifically provides that over-18 qualifying children submit evidence annually to prove they have maintained their full-time student status. Most comparator plans are similar to the Plan in the respect that they provide eligibility for post-retirement death benefit to a child in certain circumstances (although those circumstances may differ by plan and/or require an election of a particular option).

The Plan, like most comparator plans that provide benefits to a surviving child, allows surviving children to receive benefits concurrent with surviving spouses, and caps the benefit for each child at a specified percentage, subject to a capped total for all qualifying children (10% and 33.3% or 40% (depending on the date of enrolment), respectively, in the case of the Plan). The 10% cap on an individual child benefit is typical among the comparator plans, in circumstances where a surviving spouse is also receiving a death benefit.

However, in contrast to the Plan, a minority of comparator plans provide enhanced death benefits in case of the death of the plan member's spouse. For example, NS HEPP increases the individual and aggregate caps on child benefits from 10% and 30%, respectively, to 20% and 60%, respectively, when both parents are deceased.

Nevertheless, the child benefit provisions under the Plan are consistent with the majority of comparator plans. Therefore, no changes are recommended.

Designation of Beneficiaries

The Plan permits a member to name a designated beneficiary(ies). However, unlike surviving spouses or children, such designated beneficiaries are not entitled to a death benefit in the form of an allowance under the Plan; they are only entitled to what the estate would otherwise receive and only if there are no surviving spouses or children (e.g. the remainder of a five-year guaranteed pension if the plan member selected that option). This is similar to the other comparator plans that permit naming designated beneficiaries (some of which also permit the spouses to waive their entitlement to an amount to enable the designated beneficiary to receive same).

The only circumstance in which a beneficiary who is not a spouse or child under the Plan may be entitled to a greater benefit than the estate is if that person is the Plan member's dependant. Dependants are generally eligible for all death benefits under the Plan, provided there are no eligible spouses or children. The term "dependant" is not defined under the Plan but we assume it includes elderly or disabled persons of whom the Plan member is caretaker but who may not meet the definition of "spouse" or "child". This provision is not in most comparator plans.

The regime for individuals without capacity has also evolved. The practice under the Plan has been to require powers of attorney for representatives other than members to receive benefits on the members behalf. The *Adult Capacity and Decision-making Act* enacted in 2017 allows for a court-ordered representative to manage the affairs of an adult who has lost capacity. A public trustee may also be appointed in accordance with the *Public Trustee*

Act. The fact that the legislation is not reflected in the Plan has raised administration issues. It would be helpful for the adoption of this new regime to be reflected in the Plan.

Recommendation #25 Equity

The Plan should allow designation of a court-ordered representative as an alternative to a beneficiary. The Plan should also allow assignment of pension benefits to such representative in the case of incapacity of the member.

Human Rights and Equity

Plan Language

The Plan text and member guide of the Plan are gender neutral. Several of the other comparator plans have also removed their gendered pronouns; however, the majority of the comparator plans have yet to do so.

The Plan does refer to a "survivor" although the beneficiaries of the "survivor pension" may be a spouse and/or children. Reference to a "survivor" may be seen as less inclusive to plan members who are single and do not have any children.

Comparator plans and pension legislation, similar to the Plan, provide that the member's spouse (if there is a spouse who has not waived) has precedence as the principal beneficiary and most use the terminology "spouse" (or "qualifying spouse", "eligible spouse", "surviving spouse", etc.) when referring to the beneficiary of a pre-retirement death benefit. Notable exceptions to the terminology include SHEPP ("Beneficiary"), NL PSPP ("Principal Beneficiary"), and the NL PBA ("surviving principal beneficiary").

Recommendation #26 Equity

Consistent with more inclusive language, we recommend that the Board consider removing references to "survivor" in favour of "beneficiary" with principal/primary beneficiary used for the spouse, as applicable.

Human Rights Impact

Recent human rights cases have challenged long standing practices under pension plans. Human rights legislation and the *Canadian Charter of Rights and Freedoms* prohibit discrimination on the basis of protected grounds including age, gender, gender expression, sex, marital status, family status, and religion. Some legislation also incorporates protections on economic grounds such as source of income[6] and social condition[7].

Some discrimination is inherent in every pension plan. Every pension plan treats members differently on the basis of age such as through the normal retirement age and age-based criteria for reduced and unreduced early retirement. Some requirements are set or permitted by legislation such as the *Income Tax Act* provisions requiring commencement of a pension at age 71 or permitting continued accrual during a period of disability. Pension plans also provide different benefits based on the marital status of a member (e.g. survivor benefits) and family status of a member (e.g. child benefits).

Beyond the terms of plans, discrimination also exists in actuarial and plan practices where calculations of liability and the value of a pension plan are based on certain assumptions of an individual's marital and family status. Some practices may also have an adverse effect on members of equity-deserving communities such as differential treatment of part-time employees or employees who take leaves of absence.

While age discrimination in employee benefit plans has been accepted both in legislation[8] and legal cases[9], recent cases following the Supreme Court of Canada's decision in *Fraser*[10], have shown that long accepted practices can be challenged and found to be unjustifiable. In that case, a practice that disproportionately disadvantaged women, despite the intent to provide a benefit to women, was found to be unconstitutional. While that case pertained to service purchase provisions for periods of job-sharing, the same reasoning has already been relied upon to challenge other pension provisions including limitation of CPP survivor benefits to one benefit for a twice-widowed spouse[11] and for member who did not have a spouse[12].

The cases illustrate the increasing likelihood of legal challenges based on human rights grounds other than age. We therefore recommend that the Board consider an analysis of plan provisions and practices including:

- Past service purchase;
- Termination benefits; and
- Death benefits.

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[6] e.g. Nova Scotia *Human Rights Act*, s. 5(1)(t)
[7] e.g. New Brunswick *Human Rights Act*, s. 2.1(o)
[8] E.g. Nova Scotia *Human Rights Act*, s. 6(g)
[9] E.g. *New Brunswick v Potash Corporation of Saskatchewan Inc.,* 2008 SCC 45
[10] *Supra*, note 2.
[11] *Weatherley v Canada (Attorney General)*, 2021 FCA 158
[12] *Landau v Canada (Attorney General)*, 2022 FCA 12

Recommendation #27 Equity

The Board should collect and analyze data on the utilization of benefits based on gender and family status with an objective of ensuring, within the financial constraints of the Plan, benefits are aligned with members' needs and circumstances and are not discriminatory.

Plan Expansion

As noted earlier in this report, pension plans are facing the combination of reduced returns due to slowing long-term economic growth and the pressure from increased demand on accumulated pension funds as a result of members living longer. One response is to consolidate. For example, the United Kingdom has been undergoing a process aimed at consolidating smaller pension plans. The Netherlands saw the number of pension plans fall by 60% between 2005 and 2015. In Canada, CAAT is the fastest growing pension plan with almost 70,000 members and 100 public funded, not-for-profit, and private employers.

Budgetary pressures on governments limit the growth of the public service, which has the effect of limiting the growth of public service pension plans and causing the overall membership to age due to there being fewer younger employees. Merging plans from sectors that are not subject to the same budget and hiring restraints holds the possibility of increasing the size of the Plan and reducing the average age of its members.

At the same time, we would expect that many private sector employers would welcome the opportunity to provide their employees with a stable, professionally administered pension arrangement and, for those that currently provide employee pensions, they would have the opportunity to pass over their pension administration responsibilities.

Beginning in 2015, the Trustee began a growth initiative aimed at expanding the Plan's membership and improving its aging demographic profile. Since then, Plan membership has grown by 3,386 members and $452 million in assets have been added to the Plan. While 27 new employers have been added to the Plan, to date, growth has been achieved from merging public plans or plans of publicly funded organizations like universities. Achieving further substantial growth necessitates looking beyond Nova Scotia public sector employers.

Through our consultative process and review, we identified a number of considerations with admitting private sector employers into the Plan which include:

- The financial risk to the Plan if an employer was not able to meet its contribution obligations;

- The concern that, once admitted into the Plan, an employer might terminate its participation, thereby negatively impacting the demographic objectives and primary advantage of expanding the Plan;
- The need to ensure adequate transparency and communication with employers and employees who may not be represented on the Board;
- The cost to the Plan in providing administration services to small employers.
- Any new employers/employees should come into the Plan with the existing contribution and benefit structure;
- There are currently inconsistencies between the Plan text and the terms and provisions applicable to members of plans that merge into the Plan creating confusion for members;
- In addition, the Plan is currently treated for US tax purposes as a foreign government but should it begin to provide pensions for non-public sector employees, this status could be impacted. That said, recent US tax changes providing favourable treatment to qualified foreign pension plans might ameliorate the impact of such a change in status;
- Expansion in the number of participating employers may require changes to governance structure to ensure appropriate transparency and engagement with employers outside the public service;
- Size should not be an objective in and of itself but rather the resulting gains from cost savings and more favourable demographics. The Trustee needs to be prepared to say 'no' to requests to merge plans in situations where these objectives are not obviously achievable.

One further consideration is that, presently, the rights of members who were members of pension plans that transferred into the Plan are, in addition to being governed by the Plan text, subject to the provisions of the *Municipal and Local Authorities Pension Plan Transfer Act* and *University Pension Plan Transfer Act*.

Among other things, this legislation provides that the pension payable to a transferred retired member is determined in accordance with the transferred plan and the pension payable transferred non-retired member is determined in accordance with the Plan. Incorporating these provisions into the Plan text so that all members rights are found in the one Plan document would reduce potential confusion among members.

The 2017 Independent Review of the Plan recommended that the Trustee consider expansion to the private sector. We would reiterate this recommendation.

As part of any planned expansion of the Plan, there ought to be thorough consideration of risks and costs in light the objectives to be achieved and how those risks will be mitigated.

Recommendation #28 Sustainability, Good Governance

The Plan should continue to pursue opportunities to merge other public, quasi-public and private sector employer plans with the understanding that any new employers and employees come into the Plan with the existing contribution and benefit structure. At the same time, the Board should develop rules or policies to address identified risks. The Plan text should be amended to explicitly address the terms applicable to members of plans that have or are to be merged into the Plan.

Plan and Board Governance

Board Composition and Skills

As noted earlier in this report, the Board is composed of 13 members consisting of six representatives of employees and six representatives from the Nova Scotia government and other employers, plus an independent chair. The general consensus from Board members and stakeholders is that the Board functions well and is highly engaged. There also appears to be a high degree of satisfaction with the current Board composition although we did receive comments questioning whether the level of retiree representation on the Board was adequate given the portion of retired members in the Plan.

Other comments received during our consultation were to the effect that the Board could be better served by having greater diversity among its members. While not appearing to make a firm recommendation on the matter, the 2017 Independent Review did counsel the sponsors to consider the appointment of some number of professional directors with extensive expertise in investment and administration of Canadian pension plans. While this has not been proceeded with, we would observe that amendments to the Act in 2018 provided for the establishment of an independent chair of the Board.

Governance literature and pension experts emphasize the importance of best-in-class capacity as a critical success in the achievement of pension plan goals. We recognize that the use of professional directors is one approach to ensuring sufficient expertise and that is the approach that is followed by a number of significant Canadian pension plans including the Ontario Teachers' Pension Plan and Canada Pension Plan Investment Board. Others such as HOOPP and OMERS follow a representational model much like that of the Plan.

We are of the view that the current structure of the Board serves the Plan well and should allow the Plan to achieve its objectives. Our review of Board meeting minutes suggest that meetings are well run and that Board decisions have not been compromised in its structure. For all boards, it is important that processes be adopted to ensure that, collectively, members have the appropriate level of skills to allow the board to carry out its responsibilities.

CAPSA Guidelines recommend that all plan administrators identify the relevant skills, qualifications, resources, and experience required to allow the board to meet its responsibilities and that the composition of the board should be carefully considered both to avoid conflicts of interest and to ensure that the board is able to meet its legal standard of care.

This can be a particular challenge for representational boards where particular stakeholders have an unfettered right of appointment. In the case of the Board, while the Board does carry out periodic assessments of the skills and experience of its members, our review did not disclose any evidence that the outcomes of such assessments were communicated to or considered by organizations at the time of making appointments to the Board.

As noted above, OMERS is a large pension plan. Its sponsor corporation operates with a board that is composed of persons appointed from the stakeholders. To address the need for ensuring that its board has the appropriate mix of skills and experience, without ultimately restricting the sponsor organizations authority to appoint, it instituted a formal process that ensures adequate communication between management and the applicable appointing organization at the time of a board vacancy.

This ensures that the appointing organization is at least aware of the board's skills needs or gaps and can take these into account when making the appointment. We believe that, if adopted by the Trustee, a process like this could help ensure the adequacy of skills on the Board.

Recommendation #29 — Good Governance, Equity

The Trustee should adopt a formal process to identify upcoming vacancies and engage in discussions with the relevant appointing organization as to the desired skills of the person to fill such vacancy and any objectives from a board diversity standpoint. Such a process would not be intended to derogate from the appointing organization's discretion in filling the vacancy, however, we believe an appointing organization should have such information and be able to take it into account before filing a vacancy.

Director education and training has been recognized as an essential aspect in ensuring board members have a full understanding of their roles, accountabilities, and responsibilities. This is no less important for pension administrators where board members are charged with the responsibility of managing significant assets to ensure that the pension plan can meet its benefits promise to its members.

We believe that board education takes an even more important role in the case of representational boards where members, when appointed, may not have any prior pension administration experience. For that reason, we are recommending that a structured approach be adopted with respect to Board education. By adopting such an approach, the Board can ensure that individual members are staying up to date on developments and that any skills or experience gaps on the Board are, to the extent possible, being addressed.

Recommendation #30 — Good Governance

The Trustee should amend its education policy to implement a structured approach to Board education to ensure that directors, individually, and the Board, collectively, has sufficient skills and knowledge to carry out their duties. Such an approach would involve each director preparing an individual development plan annually to include their goals and objectives which would be reviewed and approved by the Board chair or the chair of the Governance Committee.

Plan Governance

There was consensus amongst the Interviewees that there was room for improvement in the area of member communication. CAPSA recommends that plan administrators adopt, document and regularly review a member communication process to ensure that plan members have better access to information concerning their plan, including communicating how important decisions are made and the benefits, options and risks associated with membership. In that regard we noted that the Board has adopted a Communications Policy.

We extensively reviewed the Trustee's governance documents and practices. We did not identify any significant deficiencies in governance practices, however, we observed that the practices followed were not necessarily documented. While this does not appear to have affected the proper functioning of the Board to date, as we have observed elsewhere in this report, the Board is facing fairly extensive turnover in its membership in the near future and the concern is that, as a result, practices that have not been documented may be lost.

Furthermore, in cases of representational boards where members often have conflicting roles serving as board member and serving in some capacity with their appointing organization, the importance of documenting the board's mandate and responsibilities of directors cannot be underestimated. CAPSA has published a guideline, Guideline No. 4, on best governance practices for Canadian pension plans.

Recommendation #31 Good Governance

The Trustee should update and document the Board's policies and practices consistent with CAPSA Guideline #4. This would include documenting the mandate and responsibilities of directors, documenting a risk management framework, a policy for communicating with members and other stakeholders and a formal process for periodically reviewing the Plan's governance framework.

Conclusion

Overall, we found the Plan to be well governed and generally in accord with the key principles that guided our review of (1) consideration of the best outcomes for Plan members; (2) the advancement of equity across the Plan membership; (3) the encouragement of consistency with other Nova Scotia public sector plans; (4) the promotion of stability and predictability with respect to benefits; and (5) recognition of the importance of principles of good governance. However, the Plan, like most public sector pension plans in Canada, is facing demographic challenges and economic uncertainty. Navigating these challenges will require the Board to balance the different interests of its members – older and younger, retired and active. It will also require a skilled and engaged Board and, ultimately, the support of the Plan's members.

The principal objective of our recommendations – through such goals as improving equity between members, adjusting benefits so as to better serve members' needs, equipping the Board with the best available information upon which to base decisions and ensuring the Board has the necessary skills to carry out its responsibilities – is to best position the Board to enable it to address these challenges so as to allow it to be able to preserve the long term sustainability of the Plan.

Appendix A – Summary of Recommendations

TABLE OF CONTENTS

Recommendation #1

In alignment with CAPSA Guideline #7, the Board should formally assess and document their funding and benefit objectives. This will consider and prioritize maintaining a fully funded plan, their approach to the delivery of indexing in retirement, the level and stability of required contributions, and the desire to maintain other Plan benefits.

(page 9 of Report)

Recommendation #2

The Trustee should complete another stochastic modeling exercise which reflects the current economic environment. This will recognize the funding and benefit objectives established by the Board per Recommendation #1. The Trustee should also assess the likelihood of required benefit reductions and the level of benefit reductions that would be required.

Additionally, in considering the Plan's main risks, the Trustee should assess the impact associated with a prolonged period of low interest rates. This may be measured by assuming bond yields remain at current levels, both in the asset and liability modeling of the stochastic exercise.

(page 10 of Report)

Recommendation #3

Based on the current terms of the funding policy, no changes should be made to the timing of Funded Health reviews or to the timing of benefit or contribution changes resulting from Funded Health reviews. Any change to the operation of the funding policy considered by the Board should add conservatism.

(page 11 of Report)

Recommendation #4

The Board should establish an Assumptions Policy. This policy would document the approach on the manner in which actuarial assumptions are set, the frequency of experience studies, the approach to the inclusion of any margin for adverse deviations, and whether assumptions differ for funding valuations and Plan financial reporting purposes. This would also support recommended documentation under CAPSA Guideline #7 relating to Funding Policies.

(page 12 of Report)

Recommendation #5

The Board should consider the benefits of performing experience studies on termination, mortality, the demographic elements of salary, and retirement over the next five years. A review of certain Plan termination and retirement provisions would be supported by these experience studies and may be considered priorities.

(page 13 of Report)

Recommendation #6

The Board should endeavour to increase the funding excess. The level of excess would be derived from its long-term goals that we recommend the Board establish as part of the Plan's funding policy. It would also be considered in conjunction with our recommendation on CPP integration, per Recommendation #9.

(page 16 of Report)

Recommendation #7

Following any changes in benefit provisions the Board makes based on our recommendations, the CPP-integrated contribution rates should be re-determined. This would recognize the relative value of accruing service, as represented by the current service cost determined in the Plan's funding valuation, on earnings above and below the YAMPE.

(page 17 of Report)

Recommendation #8

The Trustee should decide on whether the Plan will be amended to integrate with enhanced CPP or if it will not. The decision should consider the impact on the Trustee's funding and benefit objectives established in accordance with Recommendation #1.

(page 19 of Report)

Recommendation #9

The Plan should be integrated with enhanced CPP. Benefits will be integrated on a prospective basis for future service with an accrual rate of 1.1% of average earnings up to the YAMPE and 2.0% of average earnings above the YAMPE. This would naturally mean the Plan's bridging benefit payable to age 65 will be increased to 0.9% of average earnings up to the YAMPE for future service. Total contributions to the Plan should be unchanged. This approach should be assessed stochastically and measured against the Trustee's funding and benefit objectives that we have recommended they establish in accordance with Recommendation #1.

(page 20 of Report)

Recommendation #10

The Board should change the part-time eligibility criteria to 35% of the full-time equivalent working hours. The Board should consider amending the Plan to explicitly include definitions of casual, seasonal, or other non-full-time employees and extending membership eligibility criteria to those classes of employees, subject to the Board's assessment, following a consultation with the Plan Administrator, of the risk of undue administrative burden. For casual and seasonal employees, meeting the thresholds over a two-year period would be consistent with PBA criteria and require some continuity in employment.

(page 21 of Report)

Recommendation #11

The Board should assess the financial impact of introducing immediate vesting. This should reflect the recommended termination experience study and the recommended change in retirement criteria (Recommendation #13).

(page 22 of Report)

Recommendation #12

The Board should assess the actuarial basis used for the determination of commuted values. This would compare amounts available to terminating members, consider tax implications, and the impact on Plan funding.

(page 23 of Report)

Recommendation #13

The Board should increase the service criteria for unreduced retirement at age 60 to, at a minimum, 10 years of service. This change can be made on a prospective basis, such that the reduction applies to future service accruals only.

We would also support the Board should they wish to apply this change in respect of prior service, in the context of supporting broader Plan goals and objectives developed under Recommendation #1 and/or based on their further assessment of benefit utilization and consultations under Recommendation #14. Each approach would consider appropriate communication and notification of the change to Plan members.

(page 27 of Report)

Recommendation #14

The Board should formally assess the importance and value of the Plan's current early unreduced retirement criteria amongst its membership. This would cover a variety of employee groups, and could include alternative designs to continue to provide flexibility to its members in setting retirement plans.

In evaluating the benefits of such a change, the Board would consider how such a change impacts its goals around other benefits, such as the expected level of future indexing and, from an inter-generational equity perspective, the expected timing and affected service of these changes.

(page 29 of Report)

Recommendation #15

The Board should eliminate 35-year cap on accrual of pensionable service for members who have not yet reached the cap.

(page 29 of Report)

Recommendation #16

The Board should consider introducing optional forms of pension to allow members greater flexibility in tailoring their retirement benefits to their own personal circumstance. Optional forms should be determined on a basis that is neutral to the Plan's funding and provides a manageable number of choices, such as no more than five options.

(page 30 of Report)

Recommendation #17

The Board should amend the small amount unlocking threshold consistent with pension benefits legislation.

(page 31 of Report)

Recommendation #18

The Board should consider adding unlocking options consistent with pension benefits legislation of those provinces which provide both shortened life-expectancy and non-resident unlocking.

(page 32 of Report)

Recommendation #19

The Board should amend the Act to explicitly provide for deductions authorized by members for repayment of overpayments and consider the ability to deduct overpayments after notice and reasonable opportunity for members to respond.

(page 33 of Report)

Recommendation #20

The Plan should allow designation of a post-retirement spouse in any optional forms that are available and establish procedures for members to provide direction to the Administrator.

(page 34 of Report)

Recommendation #21

The Board should amend the Plan text to allow for division of benefits by separation agreement.

(page 35 of Report)

Recommendation #22

The Board should consider the option of allowing former spouses to receive a pension in accordance with an agreement or court order while maintaining the option of immediate payout in accordance with such agreement or court order.

(page 36 of Report)

Recommendation #23

The Board should align pre-retirement death benefits with the PBA, providing a 100% commuted value payment. This would apply where additive to the current provisions to Plan, such as with respect to members who die with no surviving spouse, qualifying children or dependants.

(page 36 of Report)

Recommendation #24

The Plan should be amended to provide a 15-year guarantee period for single members retiring in the future.

(page 37 of Report)

Recommendation #25

The Plan should allow designation of a court-ordered representative as an alternative to a beneficiary. The Plan should also allow assignment of pension benefits to such representative in the case of incapacity of the member.

(page 39 of Report)

Recommendation #26

Consistent with more inclusive language, we recommend that the Board consider removing references to "survivor" in favour of "beneficiary" with principal/primary beneficiary used for the spouse, as applicable.

(page 39 of Report)

Recommendation #27

The Board should collect and analyze data on the utilization of benefits based on gender and family status with an objective of ensuring, within the financial constraints of the Plan, benefits are aligned with members' needs and circumstances and are not discriminatory.

(page 41 of Report)

Recommendation #28

The Plan should continue to pursue opportunities to merge other public, quasi-public and private sector employer plans with the understanding that any new employers and employees come into the Plan with the existing contribution and benefit structure. At the same time, the Board should develop rules or policies to address identified risks. The Plan text should be amended to explicitly address the terms applicable to members of plans that have or are to be merged into the Plan.

(page 43 of Report)

Recommendation #29

The Trustee should adopt a formal process to identify upcoming vacancies and engage in discussions with the relevant appointing organization as to the desired skills of the person to fill such vacancy and any objectives from a board diversity standpoint. Such a process would not be intended to derogate from the appointing organization's discretion in filling the vacancy, however, we believe an appointing organization should have such information and be able to take it into account before filing a vacancy.

(page 44 of Report)

Recommendation #30

The Trustee should amend its education policy to implement a structured approach to Board education to ensure that directors, individually, and the Board, collectively, has sufficient skills and knowledge to carry out their duties. Such an approach would involve each director preparing an individual development plan annually to include their goals and objectives which would be reviewed and approved by the Board chair or the chair of the Governance Committee.

(page 45 of Report)

Recommendation #31

The Trustee should update and document the Board's policies and practices consistent with CAPSA Guideline #4. This would include documenting the mandate and responsibilities of directors, documenting a risk management framework, a policy for communicating with members and other stakeholder, and a formal process for periodically reviewing the Plan's governance framework.

(page 46 of Report)

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