Dear colleague

Public Service Pensions

Scotland's Finance Secretary, John Swinney, made a statement to Parliament on public service pension reform on 28 November 2012. I am writing to you to confirm the key messages contained in that statement and my understanding of their implications for current negotiations on reform of the NHSScotland Pension Scheme. I also want to take this opportunity to share with you a copy of Mr Swinney's statement and most recent letter to the Chief Secretary to the Treasury. My officials will provide copies of the rest of the correspondence between Mr Swinney and the Chief Secretary in due course.

Mr Swinney's statement will shortly be published on the Scottish Parliament's website and you will be able to access it here: [www.scottish.parliament.uk](http://www.scottish.parliament.uk). It deals with a number of issues key to concluding negotiations on pension scheme reform. The first is on the legal competence of the UK Public Service Pensions Bill.

The Scottish Government has rejected the UK Government's attempt to bring within the scope of that Bill the limited number of public service pension interests which are devolved to the Scottish Parliament – concerning pension schemes for a small number of Non-Departmental Public Bodies and pensions for certain members of the Scottish judiciary.

However, it is also important that all parties recognise that the overwhelming majority of public service pensions policy remains a reserved matter. This means that all of the other schemes, including those for NHSScotland staff, Teachers, Local Government staff, Fire-Fighters and Police Officers are included within the scope of the UK Government's Public Service Pensions Bill. Once that Bill is enacted, the Scottish Government will have no alternative but to comply with that primary legislation. That understanding - and the need to plan for that eventuality – led us to begin our partnership negotiations in March this year.
The statement also deals with the UK Government’s imposition of a further round of employee contribution increases on Scotland from April 2013. The Scottish Government remains wholly opposed to these increases being applied at this time and in this way. However, faced with the alternative - a £100 million HM Treasury deduction from the Scottish budget for 2013-14 alone - I and my Cabinet colleagues have reluctantly concluded that we have no real alternative other than to apply these increases.

I know that this news will be deeply disappointing to NHSScotland Pension Scheme members, but I believe that it is the only responsible course of action to take. I can also confirm that we are keen to provide lower paid workers as much protection from these increases as possible, and I hope you will work with Scottish Government officials to establish a set of increases which achieves that aim.

The Health Department has begun consulting on proposals for these increases for the NHS Pension Scheme in England and Wales. Because of the time it has taken the Health Department to make these proposals public and the limited time available to us to prepare for implementation of increases in Scotland, I am afraid that this matter has now become urgent. I urge you to work in partnership in the negotiations to deliver the most suitable solution in the circumstances.

Turning now to the long-term reforms. When we began our partnership negotiations in March, the then Cabinet Secretary made it clear that there were only three ‘red lines’ or non-negotiables. The new scheme would have to be ready by April 2015; it would have to be a Career Average Revalued Earnings (CARE) scheme; and it would have to be designed within financial constraints imposed by HM Treasury. At that time, the Cabinet Secretary signalled the Scottish Government’s willingness to consider all other issues. That offer was made in good faith – based on the Scottish Government’s understanding from the UK Government of the flexibilities available to us.

Shortly after that, the Chief Secretary to the Treasury sent the first of a series of letters to Mr Swinney which appeared to introduce a fresh set of constraints on our ability to negotiate the terms of a pension scheme which fits Scotland’s interests. As Mr. Swinney pointed-out in his statement, since then he has been involved in a protracted series of correspondence with the Chief Secretary to establish just what flexibility the UK Government will permit us to have in that regard and I attach copies of the relevant letters, for your information.

As the statement confirms, it is now absolutely clear that the Normal Pension Age for the NHSScotland Pension Scheme must equal the State Pension Age. We have absolutely no scope to deviate from that in statute. Mr Swinney also acknowledges that it would be technically possible for us to augment the financial envelope for the NHSScotland Pension Scheme by taking money from elsewhere in the Scottish budget. However, consistent with the difficult decision we have already had to make on employee contribution increases, I can confirm that we will not do that, unless it is to match a similar flexibility agreed for the NHS Pension Scheme in England and Wales.

However, I can also confirm that I am prepared for negotiations to consider flexibilities in scheme design within the agreed cost envelope and I encourage you to work in partnership to bring forward suitable proposals for discussion. I am clear, however, that any improvements in a particular feature or features of the scheme will have to be paid for by a balancing reduction in value of another feature of the scheme, so that, overall, scheme costs balance.
In conclusion, I want to thank you for your forbearance in these difficult circumstances as we have all waited for confirmation from the UK Government around the scope of Scottish negotiations. Now that we have the necessary degree of certainty, I look forward to receiving proposals for the terms of a new NHSScotland Pension Scheme as soon as proves practical.

ALEX NEIL