



NLPSPA

Newfoundland & Labrador
Public Sector Pensioners' Association

SUBMISSION TO:

MEMBERS COMPENSATION REVIEW COMMITTEE

By

**NEWFOUNDLAND AND LABRADOR
PUBLIC SECTOR PENSIONERS' ASSOCIATION**

October 14, 2012

INTRODUCTION:

This submission is made by the Newfoundland and Labrador Public Sector Pensioners' Association (NLPSPA) and is supported by the other member associations of the Pensioners' Coalition which has representation from the following:

- **NAPE Retirees Local 7002**
- **Retired Teachers' Association of Newfoundland and Labrador**
- **Royal Newfoundland Constabulary Veterans' Association**
- **St. John's Firefighters Retirees Association**
- **Retired Correctional Officers of Newfoundland and Labrador**
- **Silver Lights Retirees (representing retirees from NL Hydro/Nalcor)**

The people on whose behalf this submission is being made are the former employees of Government who made a great contribution to this Province. They staffed our schools and our health care institutions, they maintained our roads and infrastructures, they fought fires to protect lives and property, they brought offenders to justice and kept them secure in our penal facilities, they managed our natural resources and by so doing they laid the foundation for today's offshore oil industry. But they have one additional thing in common; they stayed in this great Province of Newfoundland and Labrador and helped build it during tough, lean years into the have-province that it is today.

This presentation would have been made in person; however our Association was conducting our annual Convention in Gander at the time of the public hearings and without a lot of

public notice of the meetings, we have had to defer to making this written submission.

PURPOSE OF PRESENTATION:

The purpose of our presentation to the Review Committee is not to argue whether the MHAs should or should not receive any compensation adjustment, but rather to draw attention to the discrepancies and gaps that currently exist between the compensation (pension and health insurance benefits) of Public Sector Pensioners and those of MHAs. We also want to remind the Committee that whatever decision Government will take with respect to compensation for MHAs will nevertheless be born on the backs of these pensioners, who have remained stagnant in their pension benefits since Government took the unilateral action in 1989 to terminate any and all future *ad hoc* increases to pension benefits.

The Newfoundland and Labrador Public Sector Pensioners' Association was formed in 1989, some 23 years ago to address the termination of *ad hoc* increases which were awarded to Public Sector Pensioners, usually in relation to wage settlements in the public service. These *ad hoc* increases were a recognition by the Governments of the day that the pension benefits under the Pension Fund were inadequate to meet the income needs of pensioners, just as the Government recognized that current workers were entitled to wage increases in order to keep pace with the cost of living. While Government workers have continued to have the benefit of wage increases over time, such has not been the case of former public sector workers, whose pension income has been stagnated since 1989,

with no address for the continuing impact of inflation. This situation has now reached serious levels for many public sector pensioners, many of whom are slowly slipping into poverty.

While we note for the Review Committee a change made to the Pension Plan in 2002, when partial cost of living indexation was introduced (capped at 1.2% of the CPI for pensioners at aged 65), this has no intrinsic value to the majority of pensioners as it is not extended to Uniformed Services pensioners and is a mere pittance that does not offset the “clawback” of having our provincial pensions integrated with the Canada Pension Plan at age 65. This is akin to giving with one hand and taking back with the other, only the amount taken back usually far exceeds that what is given.

For some unexplained reason public sector pensioners have not succeeded in getting onto Governments’ agenda. Although we have pressed Government to formalize discussions with its former employees on pension and health insurance issues, only marginal success was achieved from 2008 to 2011. When pressed early in 2012, the Minister of Finance responded with “further discussions would not alter government’s position on these issues”. Government’s response has generally been that they cannot do for one group without doing for others and to this end they continually tout all the benefits that have been instituted for seniors.

Our Association is well aware of the initiatives which the present Government has taken across the broad social spectrum in this Province. Many organizations and programs have sought and deservingly received reviews and increases to their funding. We compliment Government on those actions and mention in particular the home heating rebate, decreases in various license fees, the increase in the minimum wage and the recent past generous wage settlement with current

government employees, which is now once again in negotiations. Should MHAs be successful with an increase, the merits of which we will leave for others to judge, the pensioners of the day and the future will be subsidizing their increases as their contribution amounts and time to the Pension Plan are considerably less than the ordinary civil servant and hence MHAs, like Judges, have to be subsidized in their pension benefits on the backs of the general worker and current pensioners. Couple with this, the fact that the Minister of Finance has the sole discretion to grant a “supplementary allowance” from the Consolidated Revenue Fund, fair and equitable treatment of all persons in the Province, especially public sector workers, seems to be nothing short of a myth, than demonstrated by reality.

To say it is incongruent for Government to readily review the compensation benefits for MHAs whose pensions average something like \$55,000.00 annually, as compared with \$14,000.00 for public sector pensioners, is an understatement. Injustice was done to public sector pensioners long before 1989 when government completed the greatest injustice of all and it has been continued to today. Our request is not monumental. All we seek is equality of treatment and we encourage the Review Committee to bring our concerns to the attention of Government.

BACKGROUND:

Members of the House of Assembly from both parties that have formed Governments since the establishment of the provincial pension plans in 1965 have made far-reaching and fundamental decisions on the benefits, or lack of them, that public sector pensioners receive. In fact, the amount of income that is available to those pensioners has been severely restricted because of these decisions.

These matters have been raised extensively at various times. It is not appropriate to delve into them at this time, other than to recognize that the Members of the House of Assembly made decisions, which have a negative impact on pensioners such as:

- Limiting pension increases;**
- Limiting spousal benefits;**
- Refusal to deal with “claw backs” at age 65;**
- Refusal to deal with redress of the years that Government held back on contributions to the pension plans;**
- Refusal to deal with full indexing;**
- Refusal to deal with escalating premium costs;**
- Refusal to deal with a number of additional other issues affecting pensioners.**

The result of these cited instances means that today, pensioners, especially those at the lower levels of the pension scales are certainly not achieving *the primary objective*, identified by the Pensions Administrative Division as being, *to help people prepare for a comfortable retirement*.

It is against this background that the Newfoundland and Labrador Public Sector Pensioners’ Association, as part of the Pensioners’ Coalition, will address the fundamentals of the MHA Pension Plan and the issue of compensation for the members of the House of Assembly.

MHA PENSION PLAN:

Pensions for MHAs in Newfoundland and Labrador were first introduced in 1962 under the Members of the House of Assembly Contributory Pension Plan Act. Under that plan, individual members and Government each contributed an amount equal to 7% of the members' sessional indemnity into a fund established as part of the Consolidated Revenue Fund. While a separate trust fund was said to be established, it remained part of the overall Consolidated Revenue Fund. No assets were accumulated and obligations were paid from the Consolidated Revenue Fund. At the time of introduction the plan was said to be in line with other MHA plans across Canada.

- An annual benefit rate 5% for 10 years, 4% for 5 years, and 2.5% for 2 years.**
- Maximum pension entitlement: 75% of salary at 17 years of service.**
- Pension eligibility: age plus service = 60 (55 for Premier)**
- Pensions based on an average salary for the highest 3 years salary.**
- MHA'S contribution rate of 7%**

While there have been subsequent amendments to the plan over the years, it essentially forms the basis for the current MHA pension plan.

In 1990 the Government of the day established the Cummings Commission to review pensions in the public sector. The Commission made a range of recommendations in respect to the Public Sector Pension Plan (PSPP), the Uniformed Services Pension Plan (USPP), the Teachers Pension Plan (TPP), and the Members of the House of Assembly Plan (MHA Plan).

While not all were accepted, some of the recommendations, which combined with the national trend towards pension reform and changes to the Income Tax Act, formed the basis for fundamental changes in the pension plan structure for the 3 public sector pension plans. It is interesting to note that the MHA plan was not amended to correspond with the changes to the other plans. The holiday which Government took from contributions to the 3 public sector plans in the early 1990's also did not apply to the MHA plan.

Some of the changes made to the 3 plans in 1991 and 1992 included:

- Contribution rates were increased for all employee plans to “meet the cost of benefits as they were earned”.**
- Some of the most generous provisions of the USPP were eliminated (i.e. Pensions based on final salary were replaced by a 3 year average, and higher accrual rates in years 21 - 25 (4%) and year 30 (7%) were eliminated**
- Pension funding targets were established and initiatives were undertaken to provide special payments annually to begin to address the large and ever growing unfunded liability in respect to prior service for the teachers plan and the public service plan.**
- Service accrual rates under the TPP were reduced to 2% from 2.22%**
- The ability to purchase “unworked service” and teachers training was eliminated.**

No similar modifications were made to the MHA plan.

In 1995 a further set of recommendations were drafted by finance officials who proposed the discontinuance of the MHA Plan at the end of the 42nd General Assembly. The analysis of the plan by the Department of Finance suggested that the plan was too generous and difficult to justify in the economics of the 1990's in comparison to other public sector plans. The draft paper and associated recommendations did not find favour and were never submitted to Cabinet.

In 1998 some minor changes were provided for, but were very minor in content.

In 2005, the MHA plan was amended, primarily in response to the requirements for registration under the Income Tax Act.

(1) A registered pension plan component which provided for benefits up to the maximum permitted under the Income tax Act; and,

(2) A supplementary employee retirement plan (Supplementary Employee Retirement Plan-SERP) which provides for the balance of the benefits as stipulated in the MHA plan, in excess of the amounts permitted under a Registered Pension Plan.

This effectively sets up two pension plans for the MHAs. Other changes made at that time were made to the accrual rates to build the maximum entitlement to 75%.

The base salary used to calculate the basic MHA pension benefit entitlement is sessional indemnity plus non taxable allowances and, where applicable, will include other remuneration, such as allowances paid the Deputy Speaker, Chairs of Committees, and other parliamentary officers. These same entitlements are also applied to various MHAs in respect to their role as Ministers, and to the Speaker and the Leader of the Opposition for years served in their respective roles. In the

other three Government plans, benefits over and above annual basic salary are not pensionable.

There is no indexing of benefits for MHAs and persons under the USPP. As mentioned earlier, there have been *ad hoc* increases for all pension plans over the years until this was discontinued in 1989. Since that time persons on pension have seen the value of their pension dollar diminish at a rate over this 23 year period where the pension dollar of today has a value of approximately 54% of its value at the time of retirement.

The MHA plan is the most attractive plan of all the public sector plans in Newfoundland and Labrador.

The key benefits are the rapid accrual rate to a maximum of 75% with 20 years of service as an MHA (with reduction of service years in case of a carryover of other services) and the ability to retire early and draw a pension with NO penalty. An MHA can accumulate a pension entitlement equal to 50% of the salary base in 10 years, whereas it takes a public sector employee a minimum of 25 years to reach that level of accrued benefit.

A comparison of the current service cost and contribution arrangements of the MHA Plan and other plans in the public service indicates the current service cost of the MHA plan is clearly the most expensive and has the lowest funded ratio of all the public sector plans at 14%. This represents a costly venture to the tax payers of the Province including the PSPP pensioners who have seen no increase in income from their pension for the last 23 years.

COMPENSATION:

The mandate of the Hearings on the Compensation for Members of the House of Assembly is to inquire into and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to the Members of the House of Assembly.

If one were to examine the *Members' Handbook*, it does not take a rocket scientist to determine that the benefits available for the Members are certainly quite favourable and exceed those available to the ordinary public sector pensioner. The generous retirement benefits are largely based on the relatively short period that Members pay into their Plan; on their regular increases in remuneration; and, on the inclusion of other credited pensionable service. It is the Members' former employees and the still employed people in the public sector who have to pay for the generous, but under-funded, Members' Pension Plan.

The Newfoundland and Labrador Public Sector Pensioners' Association wishes to raise a number of ethical concerns that must be considered in determining any increase in compensation to the Members of the House of Assembly.

AN ETHICAL CONCERN: EQUITY, EQUAL TREATMENT AND EQUAL DIGNITY

Governments since 1965 have made a number of decisions that affect the *comfortable retirement* promoted in the Pensions Administration Division's Website.

Whether those decisions about public sector pensions were right or wrong is irrelevant for the purposes of this submission to the Members Compensation Review Committee. The reality

is that they were made, and, as a result many ordinary pensioners in three pension plans are paying the price through reduced incomes that make for less than *comfortable retirement*.

The issue that needs to be addressed is whether any improvements in the compensation provided to the Members of the House are justified when balanced against the compensation available to other public sector pensioners. This is obviously crucial if we focus on the compensation provided to Members as part of their pensions.

To properly decide on the justification for compensation, especially as it applies to pensions, the following values must be considered:

1. **Administrative Justice**, the appropriate ethical philosophy on which decisions about reasonable compensation is based, includes a number of values or principles that promote good and humane public administration. Two of those values are equity and equal treatment. Although there may be some modifications to achieve a fair balance between conflicting demands, the basic concepts of equity and equal treatment must be applied in considering the compensation for the Members of the House of Assembly.
2. A second consideration is that our society is based on the rule of law. The rule of law in turn has a foundation that among other things promotes equal dignity. Members of society, and in this case, past and present members of the public sector must feel that they are treated justly so as to ensure that their equality is promoted.

Excessive compensation in pension provisions is an ethical concern that needs to be addressed. It is the Association's position that the Members' pensions are unfair compared to those of their public sector peers. Moreover, Government tends to treat its own legislative members' needs in a manner vastly different compared to those of other pensioners.

This bias offends the concepts of equality and dignity. The Association therefore must voice their concern that the present compensation, let alone its enhancements, violates the ethical standards of equity, equal treatment and equal dignity.

AN ETHICAL CONCERN: CONFLICT OF INTEREST

Our justice system is also based on a number of principles, one of which is that *nobody shall be a judge in his /her own case*. This is the reason that we have impartial judges to deal with court cases.

However, this principle of natural justice also has an implication for the current review. As the Members of the House of Assembly have consistently refused to seriously address the complaints of the public sector pensioners as identified earlier in this presentation, it therefore becomes problematic, if not unethical, when they consider improvements for themselves in those areas of compensation where they have denied them to others.

This means that we have reached a position where the Members decisions to improve their own benefits is in conflict with their denial of equal treatment to pensioners dependent on their considerations.

OUR POSITION:

The present compensation package for the Members of the House of Assembly is more than adequate to obtain a comfortable life style and retirement. It far surpasses the compensation available to public sector pensioners.

- 1. The members of the legislative branch of government should not be provided with further enhancement of their compensation package until they have brought about equity and equal treatment for their former employees by rectifying the inequities that are the result of past Government decisions. It is only through providing redress that pensioners are treated with equal dignity.**
- 2. As former members of the public sector, we must be treated as equals to those who were former members of the Legislative Branch. Both groups served the same public as public sector employees. Thus any unfair differentiation in compensation is a denial of equal treatment.**
- 3. The conflict of interest that characterizes the present dilemma necessitates that the Members of the House of Assembly cannot be allowed to judge their own cause. As long as the public sector pensioners are forced to accept a substantially lower and unfair pension regime, any enhancement of the Members' package would constitute a conflict of interest.**
- 4. Past and present Members of the House of Assembly have, overall, done a commendable job. They have taken this Province through difficult times and brought its citizens to a state of "have". In return, they are well compensated. The same cannot be said for their former employees and partners in providing services to the public.**

The Newfoundland and Labrador Public Sector Pensioners' Association has focused on a number of ethical concerns. It is our belief that if the Members of the House of Assembly provide improvements for themselves in their compensation, allowances, benefits and pensions, it will constitute a breach of ethics that will further contribute to lowering the public respect for an institution that has a long and honourable history.

We, as public sector pensioners are not even remotely suggesting that MHAs should not receive proper remuneration in salaries or pensions that are affordable to the financial abilities of the Province to pay. It is our contention, however, that no increase in benefits to MHAs in either pension or salary should be considered until the issue of the erosion of benefits for public sector pensioners has been dealt with. Public sector pensioners have suffered through years of financial restraint and loss of pension benefits while the MHAs have not seen the same thing happen to their benefits.

Thank you for giving consideration to the comments contained herein on behalf of today's pensioners and those current workers who are the pensioners of the future.