These Notes refer to the House of Commons Members' Fund Bill as introduced in the House of Commons on 16 December 2013 [Bill 145]

HOUSE OF COMMONS MEMBERS' FUND BILL

EXPLANATORY NOTES

Introduction

1. These Explanatory Notes relate to the House of Commons Members' Fund Bill as introduced in the House of Commons on 16 December 2013. They have been prepared by Mr Peter Lilley, the Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. Mr Lilley is introducing the Bill on behalf of the Trustees of the House of Commons Members Fund (the Fund) and with Government agreement. These notes explain what the Fund does, why the Bill is needed and what it will achieve. The notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

What the Fund does

3. The Fund was established in 1939 when there was no parliamentary pension, to help former Members and their dependants who had financial difficulties. Only 19 of these beneficiaries remain. In addition the Fund makes payments to top pensions for widows of Members up to five eighths of their spouse's pension for those who left the House when widows received a lower pension entitlement. There are 32 people in this category. The numbers of beneficiaries in these two categories are decreasing rapidly in number. The largest category of former Members and their dependants for whom there is likely to remain an ongoing need are those who left the House more recently and have fallen into need because of sickness, disability or inability to return to work after losing their seat. A small number of such cases occur each year. The Fund is able to award one-off grants or ongoing help on a discretionary basis.

Why the Bill is needed

4. The existing legislation is outdated, incomprehensible and rigid. It imposes unnecessary costs which absorb much of Members' compulsory contributions. Reform will simplify and clarify the legislation, streamline administration and reduce costs. The new legislation will reflect the changed and smaller demands on the Fund given the dwindling number of dependants of Members who left the House before MPs' pensions were introduced. It will also permit Trustees to suspend the compulsory deductions from Members' pay which are no longer needed. It is the Trustees' intention to do this immediately changes to legislation allow them to. The Bill will also reduce or remove the need for an annual contribution from the Exchequer and enable £1 million accumulated in the Fund from past tax-funded contributions to be returned to the Treasury, while leaving sufficient funds to finance help to former Members and their dependants in future years.

Comments, Questions and Suggestions

5. Comments, questions and suggestions about this legislation are very welcome. Please contact Peter Lilley MP, the Chairman of the Trustees, or the secretariat:

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How the changes will affect Members

6. The existing legislation requires all MPs to make a monthly contribution to the Fund of £2, deducted from their pay. Because the Fund is in surplus these payments are no longer necessary. The Trustees intend to suspend Member contributions as soon as legislation allows. The proposed legislation would give the Trustees powers to propose a resumption of contributions in future years should demands on the Fund require it. This would require a resolution of the House specifying the rate of contribution which could not exceed 0.2% of any Member's salary. This upper limit will be built into the new primary legislation of the Fund.

The other benefits of change

7. Grants awarded by the Fund have been financed from three sources:-
   - an annual contribution from the taxpayer (the Treasury) of £215,000;
   - income from the Fund's accumulated capital (which currently amounts to £6 million and is invested in securities via a tracker fund); and

- the £2 per month deducted at source from the pay of all Members.

8. Given the decline in demands upon the Fund and the reductions in unnecessary costs made possible by the Bill it will be possible to forego the annual taxpayer contribution from the Treasury. In addition it will be possible to return excess funds of around £1m to the Treasury while still retaining sufficient investments to finance likely ongoing demands on the Fund.

9. The legislation will remove certain unnecessary or outdated costs, procedures and restrictions on the Fund, thereby streamlining the administration. The archaic existing legislation:
    - prevents the Fund's accumulated assets being used to fund grants unless the House passes an annual resolution to "appropriate" monies it already possesses;
    - restricts the classes of dependants who can be beneficiaries of the Fund in ways that do not reflect the reality of modern families. The Bill will widen the definition of dependant;
    - restricts the Trustee Board to six serving Members. The new legislation will enable the Trustees to appoint a former Member as a Trustee.
    - requires the Fund to appoint a Custodian Trustee at a current annual cost of £6,192.60 for 2013/14. This is unnecessary, costly and administratively cumbersome. The new legislation will remove the statutory requirement for a Custodian Trustee.

The beneficiaries of the Fund

10. There are three types of beneficiary:-
    - <u>"As of Right Grant" recipients</u> There were no pensions for Members or their widow/ers until the Parliamentary Contributory Pension Fund (PCPF) was set up in 1964. Thereafter those who left the House from October 1964 onwards, and had served ten years or more, were entitled to a pension for themselves or their widow/ers. The Fund pays those who left the House earlier or without the necessary ten years service, and their widowers, an 'as of right grant', currently set at approx £5,900 p.a. for ex-Members and approx £3,690 p.a. for their widow/ers.
    - <u>Widows receiving top up pensions</u> In 1991, the PCPF pension to the widow or widower was increased from one half of the Member's pension to five-eighths but this applied only to Members who left after 6 April 1988. The Trustees decided to make good the apparent oversight of widow(er)s of Members who had left before this date by making a discretionary payment from the Fund to top up their PCPF pension already in payment from half to 5/8ths of the Member's pension.
    - <u>Hardship/discretionary grant recipients</u> Recipients receive payments (one-off or periodical), which are paid entirely at the discretion of the Trustees where the Trustees consider that an individual satisfies the requirements of the legislation. Legislation allows the Trustees to make periodical or other payments to the widows, widowers or orphaned children of former Members, as the Trustees think fit, having regard to the

circumstances of the person to or in respect of whom the payments are made. Essentially, these payments are made on the grounds of financial hardship.

The proposed changes to the legislation

11. In summary, the following changes are being proposed:-

- Amalgamation of the various Acts governing the Fund to create one easily comprehensible set of governing Regulations.
- Removal of the requirement for a Custodian Trustee.
- Removal of the requirement for the annual appropriation resolution.
- Extension of the class of beneficiary in order to assist all dependants of former Members who experience severe hardship. The existing legislation allows financial assistance only to former Members, their spouses or orphaned children.
- Removal of the requirement in the existing primary legislation that Members make a monthly contribution of £2. The Trustees will be empowered to cease deducting contributions, and intend to do so immediately since the Fund is in surplus. Subject to approval by the House the Trustees will be able to recommend resumption of contributions if needed, up to a maximum (enshrined in primary legislation of) of 0.2% of pay.
- Provision for some form of Trustee indemnification – this is a normal provision for Trustees, but is lacking from the existing legislation.
- Removal of the requirement for all Trustees to be MPs (potentially allowing for the Association of Former Members to nominate one Trustee).
- Return of £1m surplus to the Treasury. The current legislation is unclear about any power that the Trustees have to return surplus funds to the Treasury. The Trustees would like this discretion to be laid out in legislation as they are in a position where a surplus has derived from the Exchequer contribution and is not required for present or future expected purposes.

Annex

Existing legislation relating to the House of Commons Members' Fund

1. The Fund was established under the House of Commons Members Fund Act 1939, predating the pension scheme for MPs which was established in 1964. Its original purpose was to provide former Members, their widow(er)s and orphan children with a discretionary grant in lieu of a pension. Further Acts were passed, in 1948, 1981 and 1991 to allow former Members and their dependants to apply for assistance, particularly in financial hardship. These amendments also broadened the class of beneficiaries, granted wide powers of discretion to the Trustees and established periodic payments to specific classes of beneficiaries. As a consequence provision was made in 1981 for the Fund to be supplemented by a higher annual Exchequer contribution.

Recent levels of payments from the Fund to beneficiaries

2. As at 30 September 2012, there were 55 annual grants to "as of right" recipients, totalling approximately £150,000 per annum. On average about 5 requests a year are granted for a one-off hardship payment, with an average of £4,500 paid each time, making the approximate total paid per year £22,500. Annual accounts for the Fund are audited and published every year and the most recent accounts are available to view at:-

   http://www.official-documents.gov.uk/document/hc1213/hc11/1101/1101.pdf

3. The number of beneficiaries receiving an "as of right" annual grant are decreasing every year. Since 2007, the number of annual grants paid has fallen from 87 to 51 in June 2013. This number will continue to decrease due to the age range of eligible recipients. Eventually no further grants will be payable to this category of former Members.

Funding of the House of Commons Members' Fund

4. The Fund's assets and income currently comprise:-
   - Legal and General Investments;
   - Monthly individual contributions from Members of Parliament; and
   - An annual contribution from the Exchequer.

Legal & General Investments

5. The fund assets are held with Legal and General Investments. The annual investment income received as at 30 September 2012 was £158,805. The Fund value at 31 March 2012 stood at £6.4m. In the last actuarial valuation as at 30 September 2011, the fund had a surplus of £3m.

Member contributions

6. The legislation governing the Fund states that all MPs should contribute £24 pa from their salary to the Fund. These contributions amount to approximately £15,500 pa. Members' contributions cannot be changed as the amount is fixed by statute, but this will change once the legislation is altered.

The Exchequer contribution

7. The House of Commons Members' Fund Act 1957 allowed for an Exchequer contribution of up to £10,000. In 1981, the class of beneficiaries entitled to an annual grant was extended to include automatically all those former Members and their widows/ers who had served 10 years or more prior to 1964 (prior to the set up of the MPs pension scheme). This increased the statutory demand on the Fund and the Exchequer contribution was increased accordingly. The House of Commons Members' Fund Order 1981 provided for the higher amount to be £215,000, and the Exchequer contribution that year was increased to that level.

8. Since 1981, the "as of rights" grants have reduced due to the death of beneficiaries. From 1 October 2011, as the Fund is in surplus, the Trustees have decided to draw a lower level of approximately £150,000 per annum so as to cover the "as of rights" statutory grants only.

9. As money has been required to pay one-off hardship/discretionary grants and the Exchequer contribution no longer covers these amounts, the Trustees have disinvested from their Legal & General investments when required and have also requested that future investment income be paid directly into the Trustees bank account. These funds will continue to meet costs of the Fund and the one-off grants.

How the Fund is managed

10. The Fund is managed by a board of six Managing Trustees, who are all serving Members appointed by the House. This is a requirement of the legislation. The current Trustees are Peter Lilley MP (Chairman), Clive Betts MP, Brian Donohoe MP, Richard Harrington MP, David Mowat MP and John Thurso MP. In accordance with the legislation, there is also the requirement to have a Custodian Trustee. Capita Trust Company Ltd are the appointed Custodian Trustee. Both the Managing Trustees and the Custodian Trustee have duties imposed on them either by statute or common law.

The 2007 Review of the Fund and its recommendations

11. A report on the Fund was sponsored jointly by the Members Estimate Audit Committee and the Trustees in 2006/07. Both bodies shared a concern about the complexity of the Fund's governing legislation and consequential financial arrangements. A final report was produced

by John Stoker and Lord Burnett in April 2007, outlining their recommendations for the Fund.

12. The main recommendations were that the Fund be divided into two distinct functions:-

    (a) to provide a benevolent function (the payment of one-off hardship grants). This function would be overseen by the Trustees, with assets sufficient to meet likely future hardship payments; and,

    (b) to meet the annual "as of rights" payments. The balance of the Fund not required to finance the benevolent function would be repatriated. In practice, the Treasury, the House or some other body would have to take responsibility for the payment function. In addition, the annual Exchequer grant of £215K would no longer be paid into the Fund.

13. Following the review, the Members Estimate Committee (MEC) considered the recommendations at its meeting in November 2007 and endorsed the report.

14. During discussions that took place after the MEC meeting with the Leader's officials, a number of obstacles were identified. In particular there were problems identifying a suitable Government department to take on the annual regular grants to enable the Fund's two functions to be separated, take no further Treasury contributions and return excess funds to the Treasury. Legislation is required to split the Fund's functions. The Leader of the House and the Trustees have explored the issue of restructuring the Fund through new primary legislation but it has been difficult to find Government time for a standalone Bill. There has not until now been an opportunity to change the legislation.

15. Previous proposals agreed by the Trustees were to return £1m to the Exchequer leaving the Trustees with the remaining assets to meet future claims. These figures were suggested following analysis from the Government Actuary's Department (GAD) on predicted future demand for assistance from the Fund.

The current position

16. Despite general agreement by all parties that the Fund should be restructured, in the absence of new legislation the Trustees have continued to administer the Fund in its existing form. However, the Trustees agreed that they would draw a lower annual Treasury contribution to cover the regular annual grants only. Since 1 October 2011 £148,000 has been drawn rather than the maximum of £215,000. Once the legislation governing the Fund has been reformed, the Trustees intend to return some £1m to the Treasury and stop the annual Exchequer contribution to the Fund. An Exchequer contribution would only be drawn in future years should there be an increase in the demand on the Fund's resources which the Trustees are unable to meet.

The Private Member's Bill

17. Since the review in 2007, the Trustees have explored a number of avenues to change the Fund's governing legislation. This has included attempts to obtain time on the floor of the House for a standalone Bill and using other legislative vehicles to make the changes, such as the Public Sector Pensions Bill and the Finance Bill. The Trustees have decided to pursue a Private Member's Bill, with the Government's support. The changes proposed are largely technical and will simplify the Fund and the associated administrative burden. The changes will make the Fund easier to administer and allow the Trustees to spend time on the main thrust of the Fund, which is to assist former Members and their dependants in financial need.

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