

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

PUBLIC ACCOUNTS

Wednesday, October 29, 2014

LEGISLATIVE CHAMBER

Superintendent of Pensions

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Public Accounts Committee

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WITNESSES

Ms. Nancy MacNeill Smith, Superintendent of Pensions



House of Assembly
Nova Scotia

HALIFAX, WEDNESDAY, OCTOBER 29, 2014

STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIRMAN

Mr. Allan MacMaster

VICE-CHAIRMAN

Mr. Iain Rankin

MR. CHAIRMAN: Good morning, everyone. I call this meeting to order. Before we begin, I encourage you to place your phones on silent so we won't have any interruptions. I'd like to begin with introductions, beginning with Mr. Maguire.

[The committee members introduced themselves.]

MR. CHAIRMAN: This morning we have Ms. Nancy MacNeill Smith, the Superintendent of Pensions for the province. Our subject today is the Financial Hardship Unlocking Program. Ms. McNeill Smith, I'd like to give you an opportunity to provide an introduction and opening comments.

MS. NANCY MACNEILL SMITH: Thank you, Mr. Chairman. I'd like to open, I guess, with a bit of history with respect to the pension legislation, and more specifically, with respect to the locked in funds that are transferred out of pension plans. It is those funds that can be unlocked for reasons of financial hardship.

Prior to 1988, all pension funds had to remain in a pension plan. Even if you terminated employment, your pension funds remained in the plan and you received a pension when you attained retirement age.

Because of the loss of income due to inflation, by leaving your money in the plan, the governments across the country introduced the transfer rights, which meant if you terminated your employment, you had the right to transfer your pension funds out into a locked-in RRSP at that time. The intent was that you would invest those funds for retirement, and benefit, then, from the investment earnings from the point of termination to retirement. It did allow for individuals to benefit from those investment earnings.

The concept, however, is that those funds are still pension funds, and as we like to call it, the pension rules follow the money. So even, although it was transferred out of the pension plan, it was still pension money, and the funds were protected and still are protected against seizure in the event of bankruptcy. The federal trustee in bankruptcy can't touch locked-in pension funds. There are also other protections, and the money can't be seized for payment of debts or be used as collateral.

The systems that are in place, both provincially and under the income tax legislation, are to favour the use of pension funds for retirement income in retirement. I read at one point a comment made by a reviewer that the primary reason for the restrictions on the use of the pension fund are to ensure that the money is there for use in retirement when individuals are unable to continue working to contribute to their financial well-being.

The situation went from 1988 on, with requirements for locking in, the only exception for unlocking basically being for people who are dying. That had been in place for quite some time.

In 2007, the legislation was changed to permit unlocking for reasons of financial hardship. The department at the time consulted with other departments, such as Community Services, debtor assistance, the Department of Health, and the Residential Tenancies Act people, because we wanted to ensure that if we were permitting unlocking it wasn't in conflict with other programs that were administered by the province, and that there was no overlap or duplication.

For example, at that time under the Residential Tenancies Act, if you were in arrears for rent, and at that point even if you had unlocked your pension money, your landlord would be able to evict you even if you paid him. There was no protection in that sense. For that reason at that time there was no unlocking for rental arrears because it did not protect the individual against being forced out of their rental property.

At that time too there was no Pharmacare program in place so initially in 2007 and afterwards, there were more applications that were approved with respect to unlocking for drug coverage. Now with the introduction of Pharmacare, there is much less need for any unlocking of pension funds to address any health issues.

I just wanted to leave that with the members here in that when the regulations were developed, with respect to what was unlocked and how it was unlocked, it was done with a lot of consultation within the various departments of government. Thank you.

MR. CHAIRMAN: Thank you Ms. MacNeill Smith. We will begin with the PC caucus and Mr. Houston for 20 minutes.

MR. TIM HOUSTON: Thank you for that useful introduction. I certainly do agree that access to one's pension funds is pretty serious and it is something that should only be done under justified circumstances. But these things all evolve over time because the world does change, situations change, economies change and all that type of stuff so it is good to hear that we do look at these things and modernize the rules as we move along.

You touched briefly on the Pharmacare and the changes that have been made to that and the impact that they may have had on unlocking for medical reasons. We do see in other provinces where additional definitions of what constitutes financial hardship are coming up. For example, in Alberta if an individual requires modifications to be made to their home to accommodate a medical disability, they can access funds under medical hardship provisions, and Ontario has a similar structure.

Is that an unlocking provision that we have considered here in Nova Scotia to get access to your pension, to make modifications to your home to meet medical needs?

MS. MACNEILL SMITH: Yes, in 2007 when we were developing the regulations, we looked at the unlocking provisions that were in place in both Ontario and Alberta. The unlocking for renovations to home repairs to accommodate disabilities at that time was covered under a federal program where there were funds available to address that need. That is why that provision was not included under the financial hardship unlocking criterion in Nova Scotia in that there was another program out there that addressed that financial hardship issue.

MR. HOUSTON: That was at that time in 2007. Does that still exist?

MS. MACNEILL SMITH: I believe at this point it has been incorporated under the program, as moved from the federal government to Community Services so that they have implemented it under the Community Services program.

MR. HOUSTON: If somebody had pension funds and they needed to make renovations to their home - like a wheelchair ramp or bigger doors or stuff like that - is it your understanding that they would be able to access the pension funds but they would. . .

MS. MACNEILL SMITH: No.

MR. HOUSTON: So they would not be able to?

MS. MACNEILL SMITH: No, there were funds other than pension funds, other funds available for administering that program that was downloaded from the federal

government so you don't need to use your pension funds. Any time you use your pension funds, you will have much less retirement income from those funds.

MR. HOUSTON: Obviously, I agree that any time you access your pension funds it is pretty serious. I can tell you that if you need to make renovations to your home for a wheelchair ramp, as an example, and you aren't able to access an existing program through Community Services, which happens a lot, there are lots of programs that - particularly as an MLA, I see people who have a need for things, but they just, for whatever reason, don't qualify for a program that might be out there.

I am just curious as to whether the province - and if you can't get it through these programs that are available, and there could be any number of reasons why you could not, and you have pension funds, well, you still need the wheelchair ramp in my example, and I am just curious if the province has identified that. Well, if they have pension funds there, and they have a serious need that is impacting their daily life today, let them access their pension funds to make those renovations. That is not something that has really been discussed.

MS. MACNEILL SMITH: It hasn't come to my attention that there is an issue there. Generally, if there are problems with another program, you would address them under that program first. So if you are looking to unlock pension funds for building wheelchair ramps, I think you would have to look at it in conjunction with the existing program to see if there are any issues with respect to the operation of that program.

MR. HOUSTON: Okay. And that's not a review that you're aware of that has taken place?

MS. MACNEILL SMITH: Not to my knowledge.

MR. HOUSTON: Okay. Has there been any consideration of allowing access to pension funds in situations where just structural renovations are required for an individual's primary residence?

MS. MACNEILL SMITH: That doesn't exist in any of the other jurisdictions and, to my knowledge, we haven't considered it here. Generally, as one of my employees said once, not everyone lives in a home. What we have seen through applications for financial hardship is that the ability to maintain a property - often couples can maintain properties together but when parties separate and one individual is left with the home, they are unable to maintain it.

So, whether unlocking pension funds actually addresses the issue of long-term is it possible for that individual to maintain their home? It's not just with the current issue. In the long term, is that individual going to be able to make all the repairs that are necessary? Because, as a home owner, it is not just a one-off, I need a roof this time. It is: I need a roof, I will need a new furnace, I will need other repairs down the road.

So in looking at this, you should address that one-time issue with respect to the home ownership, or whether you should be looking at a long-term solution for the individual.

MR. HOUSTON: I agree that it is a complicated issue, but if I think of it in Pictou County right now, I think there are generally - my numbers will be a bit off, but it will give you an idea of quantum - there are generally about 400 homes for sale. Right now there are 1,000.

So if you have somebody who is living in a home, they need to live there. It is not a question of, well, they can just sell that and go live somewhere else. So I do think that there are situations that arise where people - anyone who is coming to access pension funds under the hardship provision is hopefully in a situation unique to them. I would hope that that would be something we would be willing to consider, because, in most situations, a person's home is their greatest asset. So if a person is at risk of losing the home due to structural disrepair, then wouldn't it make sense for them to have access to their pension funds to get past that?

MS. MACNEILL SMITH: I agree, but in looking at whether or not pension funds should be used for that purpose, you would also need to look at what existing programs are out there for general home repairs for individuals, whether they be retirees or low-income earners.

MR. HOUSTON: No question, but I would think, in fairness, it is probably not a person's first stop to try and get access to the pension funds. They would usually try to exhaust - it would be their last, I'm guessing, it would be their last. It's kind of like when you are an MLA, people don't usually come to see you on their best day. You are usually seeing people who need help. They have turned to you for help and when they turn to their MLA, it is generally not the first person they turn to. They usually turn to a network of people that they have so I'm guessing it would be very similar with the situations that you see.

If people are submitting an application to withdraw funds under the hardship provision, they probably tried everywhere else, so that makes your job even more important to them in their life at that moment in time.

MS. MACNEILL SMITH: Yes, but I can only administer the laws that are written. The laws are written by government, right? I can only do what the laws permit me to do. I don't have any discretion in unlocking for a situation which I personally might think are areas of real need, but until the laws are changed, I do not have any ability to assist those people.

MR. HOUSTON: I appreciate that. In my mind, if you are in a situation where your home is falling into disrepair, you really need to do something to it, maybe to get through

the winter; maybe you just can't live in that home through the winter if you don't have a new roof or whatever the situation is. In my mind, I can't distinguish between that person who is facing eviction, let's call it by way of mother nature, as opposed to a person who is facing eviction because they are behind or in arrears on their mortgage or rent. There are a number of ways you could be facing eviction and I actually think that you could be facing eviction from your own home, a home you may own, if it is just not going to be livable. Would you agree with that?

MS. MACNEILL SMITH: Yes, we have seen situations where an individual came forward and they needed repairs to the roof or the foundations, people who have needed new furnaces. Again it's an issue for government to address, if they feel it's an appropriate use.

MR. HOUSTON: So it is a need that you see from time to time?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: Yesterday I introduced a bill in the Legislature here to try and amend the hardship provisions to address that type of issue. Have you seen that bill?

MS. MACNEILL SMITH: No, I haven't seen that bill.

MR. HOUSTON: Okay. Basically, just in what we're talking about here, in cases where an individual's primary residence faces significant deterioration due to lack of repairs like a roof, like a foundation, like windows or whatever, then I do believe that accessing one's locked-in pension fund may be necessary and this is especially true, in my mind, for people where there is no access to credit to fund such an investment, and I would call that an investment when they are making those changes to their home.

As I mentioned, a person's home is often their greatest single asset so allowing an individual to access their locked-in pension funds to maintain this primary residence is, I think, an important thing that we should consider. That was the purpose behind my bill because I'm looking at, basically, transferring assets from an investment account, your pension fund, into another hard asset, so it's going from one asset into another.

The bill that I introduced, which I'm sure you will see, spoke specifically to allowing provisions around home maintenance expense circumstances, home renovation, and for medical purposes, and just other home renovation circumstances. It sounds like that would be something you would be interested in looking at being that you are seeing those types of applications but right now your hands are tied because you don't have the discretion to even look at those for a second.

MS. MACNEILL SMITH: Well, to make changes to the criteria for unlocking doesn't require an act of the Legislature. It's a regulatory matter. That can be done by

Cabinet. Any changes to the regulations would be brought to the Cabinet and it would be the government that would make those changes.

MR. HOUSTON: Indeed it would be. I have to use the mechanisms that I have to shine light on issues that I see and I am not at the Cabinet Table - just yet. I do see it as an issue.

Like you, where you've had applications, I have had cases of people coming into my office who need home repairs, and who just can't - they may be gainfully employed, don't have a bunch of savings, don't have access to credit. It's an older home in some situations. A roof could be \$10,000 or \$15,000, and they just don't have that access - but since they have decent jobs and good employment plans and good pension plans, they do have significant locked-in pension assets out there.

My bill came from seeing real-world examples, just like you've seen them. So maybe we can work together with our colleagues here and we can get the attention to the appropriate place and maybe make some changes to help the people who need it.

I think I have five minutes left, Mr. Chairman. I did go through the superintendent reports back to 2007, when the hardship measures were first introduced, to 2013, so I can probably table my chart here, if we want, for the benefit of the House. In looking through the numbers, it looked like over that time period from 2007 to 2013 there were roughly 3,000 requests for access made through the hardship provisions, and about 63 per cent of those were approved.

I'm just wondering if you could maybe give us a little bit of background. How long does it typically take for an application to be approved?

MS. MACNEILL SMITH: Our standard is to review an application within 10 business days.

MR. HOUSTON: Okay, 10 business days. So how many staff do you have on your team who review them and get them through?

MS. MACNEILL SMITH: I have two pension officers who review the applications, and I have a secretary who is involved in the intake process.

MR. HOUSTON: So it's reviewed in 10 days by one of the pension officers, I guess, and then it will probably find its way to you. How long would it typically take for a person who submits an application that's properly filled out - I'm sure there are some that go back and forth - and goes through the process, makes it to your desk, gets approved? How long would it take for them to actually get the money?

MS. MACNEILL SMITH: We do not actually issue the money. My approval for unlocking pension funds is given in the form of a letter that is given back to the applicant. The applicant can then take it to their financial institution and have them unlock the money. The process from the point the individual receives my letter of approval to the date they actually get the money is basically out of my hands.

MR. HOUSTON: Fair enough. So the 10 days, that's when you submit your approval that they take.

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: Has that 10 days been pretty constant over the last seven years, I guess, that the program has been in effect?

MS. MACNEILL SMITH: Pretty much. There are only two individuals, barring illness and vacation times. Even under those points or any absences, we do try to make sure that applications are turned around within 10 business days.

MR. HOUSTON: Okay. When an application is being reviewed, I know there are a lot of criteria that have to be met for eligibility. Is there any consideration from your side as to how much of the pension plan would remain after the withdrawal?

MS. MACNEILL SMITH: That's not the issue. If an applicant meets the criteria for unlocking, and they've asked - say, for example, that they ask for the maximum payment to be made. The maximum amount that could be approved to be unlocked is what we approve. It's not my concern where the money goes after that.

MR. HOUSTON: Not so much where the money goes, but how much is left in the plan, so for example . . .

MS. MACNEILL SMITH: That's not an issue.

MR. HOUSTON: It's not an issue, or it's not something you consider?

MS. MACNEILL SMITH: The process for unlocking - the regulations are quite specific. They are set out under a formula, very factual, so in some instances the applicant may deplete their entire pension funds for unlocking.

MR. HOUSTON: So the formula doesn't give any consideration to the size of the pension plan that is there to begin with, to be withdrawn from?

MS. MACNEILL SMITH: No.

MR. HOUSTON: Should it?

MS. MACNEILL SMITH: I don't see why it would. If the need is there, and the regulations permit the unlocking to address that need, there is no weighing in of whether or not the individual should actually be saving those funds for retirement. That decision has already been made by allowing the unlocking for financial hardship.

MR. HOUSTON: So if an application is not approved - so it's rejected, in essence, I guess - is there an appeal process, or what happens next?

MS. MACNEILL SMITH: No, there is no appeal process set out. What we do say in any letter of rejection of the application is that should the individual's circumstances change, then they can reapply.

There is no limit to the number of times they can apply within a year. For example, if an individual applied - say they've been working two part-time jobs and then they applied and they were denied because their income was in excess of the level for unlocking, then the next month they lost one of their part-time jobs and their income dropped down to a level which would permit unlocking, then the applicant can reapply. We advise our applicants that they have the right to reapply should their circumstances change.

We have a number that their situation changes within the year. For example, you might have an individual who is on employment insurance, in receipt of those benefits, and at the time they apply their income, even under EI, is in excess of what can be unlocked, but if they reapply six months down the road, then they only have much less expected income coming from EI so they might qualify at that point.

MR. CHAIRMAN: Order, please. I'm sorry, time has expired. We'll now move to the NDP caucus and Ms. MacDonald.

HON. MAUREEN MACDONALD: Thank you very much for being here today. We're trying to understand this program better and how it is administered and look at ways to improve it if we identify that there are any problems with the program. We all have had situations, I guess, as MLAs where we've had to help people navigate through this program.

I certainly have a number of questions and concerns about this. Looking at the statistics that were provided for us today, it looks like in the last year there were 559 applicants. So, on average, that would be about 10 to 11 applications per week . . .

MS. MACNEILL SMITH: No.

MS. MACDONALD: No?

MS. MACNEILL SMITH: I shouldn't say that. There generally runs to be about more like five to ten applications a business day.

MS. MACDONALD: So this isn't reflected in the information we've received, I would say. In your annual report, the number of applications received for the year 2013 says 559.

MS. MACNEILL SMITH: I just know from being at work every day, we generally get between five and ten applications per day.

MS. MACDONALD: Is it applications or inquiries?

MS. MACNEILL SMITH: Applications.

MS. MACDONALD: Applications - so people who actually fill in the forms?

MS. MACNEILL SMITH: Yes.

MS. MACDONALD: So that number would be much higher than that, would it not?

MS. MACNEILL SMITH: When you factor in the number of actual business days that were there, I think it works out.

MS. MACDONALD: In looking at the information, it seems that the vast majority of applicants are applying because their incomes are inadequate to meet their basic needs, I would say, which is one of the reasons that we have a financial hardship program and people get into a crisis. I'm wondering if you could walk us through the application process and why it would take ten business days to do an application process - help us understand that.

MS. MACNEILL SMITH: Ten business days is our standard, so it's a maximum of ten days. Quite often the applications are processed before the ten days are up. Prior to September, we had been processing the applications in the order they were submitted. Because of your concerns with respect to your constituents, we've changed the process now so that there's a triage of applications, so that any one individual who identifies that they have specific needs that need immediate attention, we'll address those applications first - we always addressed applications that are facing eviction under mortgage arrears on a priority basis anyway.

I would like to go back to when we first developed the regulations in 2007. We consulted with Community Services. Community Services at that time, and still, indicate that they are the department to go to for emergency situations. They do, in the event of, for example, individuals who are out of fuel, who are having power cut off, there are other programs out there that will address those needs on an emergency basis. We always worked with the individuals to make sure they contacted those other resources at the same time as we were working on their application.

Generally, people who end up in financial difficulty it's not something that happens overnight, it's as a result of a long, ongoing problem - either underemployment or unemployment, marital breakdown, those concerns. Unemployment and underemployment are the two biggest issues with respect to the applications and the applicants - their situations have changed such that they cannot live on what they are earning anymore.

MS. MACDONALD: I have to say that I find it a little bit of a stretch, and I'm not making an accusation towards you at all, but I do find it a bit of a stretch that the Department of Community Services is necessarily suitable for many of the people who get into this situation. I'm very familiar with that department, its policies and programs, and how it works.

So this is the problem - the Department of Community Services requires that people who are applying for any of their programs liquidate all the assets they have available to them before they will assist them, or in some cases they will assist people who have unliquidated assets but they make them sign an agreement that they will liquidate those assets, including any pensionable assets they can get access to, and then pay back the department when they've done that. Those are the rules, those are the policies of the Department of Community Services. People who get into these situations have a very difficult time getting the Department of Community Services to assist them if they have pensionable assets that they can get access to.

Of course there are two kinds of pension assets that people might have - they might have locked-in pension assets or they might have just money they have put away themselves in RRSPs. The policy of the Department of Community Services is really clear, particularly around the RRSP area - they require that you liquidate all your RRSP savings. I think they allow people, a single person, to keep \$1,500 in case they die so it can be used towards their burial, but outside of that there is a requirement that a person liquidate their assets.

So to me, I know when I've had some cases, the response from your department has been to go to the Department of Community Services, but that's not an option for people who have assets in either one of these forms - and that's something that I would highly recommend get sorted out between your two departments. I don't know if you have any response to that or not.

MS. MACNEILL SMITH: Yes. The pension legislation itself in the Act says that the ability to access pension funds for reasons of financial hardship cannot be used by any other agency of the government as a requirement before they access their other programs. So for Community Services, they cannot require that an individual unlock their pension funds before they're entitled to receive Community Services benefits.

If an individual is of retirement age, early retirement age 55, Community Services can request that they start to receive income from those locked-in pension funds, but if you're 45, Community Services cannot require that you unlock your pension funds before you're entitled to receive Community Services benefits. The requirement is to ensure that those pension funds are used for retirement as much as possible because, as I said, pension funds have quite separate and distinctive protections under legislation that doesn't exist for savings plans or RRSPs.

MS. MACDONALD: I'm wondering - in your opening comments you talked about the health issues not really being as much of an issue anymore for unlocking pension plans, as in the past, given that there are Pharmacare programs and what have you. But, even the Family Pharmacare Program in Nova Scotia requires that people who are on that program have to spend hundreds of dollars on their medication before they get access to the supplement free program that kicks in and starts to cover most of their medication costs.

So somebody who is in financial hardship and is unable to access their locked-in pension, who needs medication, the Family Pharmacare Program is not something they can access unless they have some cash to access it over a period of time. So I think this continues to be an issue.

I want to talk to you about this idea that people have to reapply after circumstances have changed. They've made an application, they've been assessed, their application has been rejected because they haven't met the parameters of the program, but then their income deteriorates even further and they come back to the program - why is it necessary for people to start that whole process all over again? Why is it not possible to bring their previous application forward, particularly if it happened in the last three or six months, providing new financial information rather than to start the whole process over again?

MS. MACNEILL SMITH: The applications are assessed based on the information provided at the time, and the individual certifies that the information that has been provided is true and correct. If you're looking at an applicant who comes again six months later, you would need additional certification that that was required.

We are looking at revising our forms; hopefully we'll have the new pension legislation in effect soon. We're hoping to have a simplified form that will make it easier for individuals to understand the application process and it won't be such a concern for them, as far as resubmitting an application.

MS. MACDONALD: One of the things I learned, supporting people through this program, is that some of the income that is used to calculate eligibility might have even included income from this program in a previous year.

MS. MACNEILL SMITH: No, the applicant has to declare what their expected income will be over the next 12 months. We do look at what their income was in the

previous tax year, more as verification for where they were and where they are now, and then we look at and determine if the reasons for the change make sense.

It is totally a projection forward. If an individual, for example, is over age 55 and their money is in a life income fund - a life income fund is basically you are paying yourself a pension from those funds - we will project what an individual is going to receive from those funds over the next 12 months as well as what other income they might be receiving. We combine those in order to determine what the total expected income will be.

MS. MACDONALD: In other words, Canada Revenue - one of the things that is required is the Canada Revenue assessment from the previous tax year, right?

MS. MACNEILL SMITH: Yes, the notice of assessment.

MS. MACDONALD: The notice of assessment is required, but that's not - so what you are saying is that will not be used to determine the income for the calendar year in which the application is made?

MS. MACNEILL SMITH: No.

MS. MACDONALD: Okay, so you are saying that now your department has changed its process so you do triage; you do an assessment of people who have maybe more extreme hardship situations. What are the kinds of criteria that would characterize a more extreme hardship situation that would allow someone to have their assessment move to the front of the line, if you will? Can you help us understand that now?

MS. MACNEILL SMITH: Yes. Well as I said before, we had always prioritized people who were facing eviction from their home because they hadn't paid their mortgage. Now we have the new criterion for unlocking for rental arrears as well, where they are facing eviction. Those two, by the nature of the application themselves, will be given priority. Individuals who identify that they have no money for food are given priority. Individuals who indicate that their power is going to be cut off, that they have no money for heat, those are also given a priority.

MS. MACDONALD: So the department now is, I would say, making - there are probably three: we have an Act, we have regulations and now there is policy.

MS. MACNEILL SMITH: I would say this is more procedure, not policies but procedures of how to handle it.

MS. MACDONALD: So there are procedures. Is it written down procedure?

MS. MACNEILL SMITH: Yes, it's written down, my staff are aware of it. Priority applicants aren't actually very common. Most of the applications are for low income or no

income. Very few are with respect to no heat, no fuel, no food. What I'm saying is we don't need to set up an elaborate system for assessment. You look at the application, identify, is it a priority, put a note on it as a priority.

MS. MACDONALD: You indicated that you don't make the kind of parameters for the program, that this comes from Cabinet in regulation. Yet I have had the experience where the minister has told me she is powerless to intervene in cases and that the sole discretion for the administration of this program rests with you as superintendent. Would you agree with that characterization?

MS. MACNEILL SMITH: Well, if the minister was to have discretion and be able to make decisions that were contrary to the regulations, it would have to be given to the minister in the regulations, right? If the minister was going to have discretion over these matters, there would have to be authority in the legislation for the minister to do that. I don't have any discretion to operate outside of what the regulations say. So the applications come in, a pretty much definitive process is in place. As far as what the requirements are for eligibility - not really any discretion involved.

MS. MACDONALD: In your opinion, should we build some discretion into the regulations, first of all for the superintendent?

MS. MACNEILL SMITH: No, I don't believe so, because then I would have to be a judge, in a sense, as to determine whether or not someone had a valid claim or not. I don't believe it would be appropriate for anyone in my position to have that kind of discretion. If the government wants the rules changed, the government can make the change, but it should not be left to an individual to have that kind of discretion.

MR. CHAIRMAN: Order. Thank you. We will now move to the Liberal caucus and Mr. Rankin.

MR. IAIN RANKIN: Thank you. I think a lot of the questions were answered in terms of the mechanics of how the process works. I'm just wondering, in terms of the best practices, can you make a comparison of how this type of program works, to your knowledge, in other provinces, and how we compare?

MS. MACNEILL SMITH: Okay. The first province to bring in unlocking for reasons of financial hardship was Ontario, and then it was followed by Alberta, and then the federal government in their program. The federal government regulates pension plans, or those businesses that are captured under federal regulations like the airlines, transportation, communication, shipping, anything like that. So it is really only those four jurisdictions, including Nova Scotia, that have unlocking for financial hardship.

Alberta, when they brought in their unlocking, indicated they had to do so in a very short time frame and they basically just mirrored Ontario's; they copied it completely. They didn't do any analysis of whether or not there's any overlap with any other programs.

When the federal government brought in their unlocking program, they consulted with the other jurisdictions, including Nova Scotia, and their criteria for unlocking is much more limited than Alberta's and Ontario's.

Now, having said that, Ontario has recently changed their criteria and they have reduced them considerably. I did note, in looking at Alberta's and Ontario's criteria for unlocking for renovations to address disability that there had never been any approvals for that criteria for unlocking those jurisdictions, mainly because the individuals were getting access to the money they needed for renovations from other sources, so the unlocking criteria, though they may be much broader in other jurisdictions, are not necessarily highly used.

Now, since Albert and Ontario have brought in their programs, they have made moves to basically privatize the unlocking process. From the start of this year in Ontario, the unlocking process is done by the financial institutions where the money is held. Ontario had been approving pretty much 100 per cent of all applications that had been made. They were not checking to determine whether or not the funds were actually subject to their own legislation. We do get a number of applications where they're not subject to Nova Scotia's funds at all, they are subject to the legislation of another jurisdiction. So if I had approved funds that were for someone who had earned them while in New Brunswick it would be inappropriate because the institution actually couldn't unlock the funds because they were subject to New Brunswick laws.

We weed out those applications that aren't even subject to Nova Scotia laws, and I think perhaps it might help because we're in a smaller province, a smaller jurisdiction, we're more familiar with what businesses actually exist in Nova Scotia so if a company name comes up that we're not familiar with we check and determine where they're located, and the individual as well on the application identifies where they worked when they earned those pension funds.

There have been changes over time with respect to both Ontario and Alberta in how the unlocking provisions work and how they're processed and who does the processing. In the federal government situation they actually never had staff internally unlock the funds, they were the first ones who downloaded the unlocking to the financial institutions.

MR. RANKIN: I just have a question on pensions as a broader topic - and it's interesting you mentioned New Brunswick because I know they've had some challenges over the last few years in terms of the fiscal health of their pensions - I'm just wondering, can you comment on the fiscal health of our pensions in terms of assets to liabilities and if we have any perceived challenges in the near future?

MS. MACNEILL SMITH: Yes, if you look at my last report, the annual report to the minister from March 2013, and it's on Page 11 regarding the solvency of pension plans,

there are a number of plans that I would say need to take some action in order to restore solvency.

Among regulators across the country, our view as regulators, from what we have seen over the years, is that a pension plan that is 90 per cent funded on a solvency basis is probably in fine shape and they don't need to do too much to restore the plan to full funding; plans that are between 80 to 90 per cent we regard as probably still not a major concern, but they need to take some action in determining whether or not the plans are sustainable in the long term; and plans that are funded below 80 per cent and, certainly, below 70 per cent are in what we would consider some urgent need for making changes. You're not going to be able to restore the plan to full funding at 70 per cent just based on investment earnings on the assets of the plan, and the contribution rates would probably be in excess of what would be permitted under the Income Tax Act in order to be restored to full funding. So those plans we would have some concern with.

MR. RANKIN: Can you provide any opinion on what kinds of steps we can take? I understand the contribution part has the legal constraint, but what about the retirement age that sits at 55 to draw a pension?

MS. MACNEILL SMITH: The earliest a person can retire is ten years before normal retirement date under the pension plan. Most pension plans have a normal retirement date of age 65, there are a few plans that have a normal retirement age of age 60, and so under the pension legislation they would be entitled to retire on a reduced pension as early as age 55.

It is entirely up to the plan sponsor to determine what the retirement ages of the plan are, any subsidies that are for early retirement. The plan design itself is determined by the plan sponsor and, in some cases, by the members. So if changes need to be made to the design of the plan that is not something that the province regulates, that's something that the plan sponsor and the members might determine.

MR. CHAIRMAN: Mr. Stroink.

MR. JOACHIM STROINK: Thank you very much for coming today. I guess I'd like to see what we've done in the recent changes to make unlocking these pensions easier for some people.

MS. MACNEILL SMITH: Yes. The government made changes to introduce unlocking for rental arrears. That was done when the government wanted to re-evaluate what our criteria were. When we did that, we determined that there were changes made under the Residential Tenancies Act that no longer permitted a landlord to evict a tenant if they paid the arrears. As I mentioned earlier, under the prior legislation for residential tenancies, a tenant could still be evicted even if they paid arrears once that process had been started, but now the landlord is not permitted to evict if someone pays the arrears. With the

change made, an individual can unlock their pension funds, pay the arrears, and still maintain their tenancy.

That was one change, and the other change was to raise the amount that could be unlocked. Currently it has been raised from \$21,000 to \$26,250 - so that's the maximum that can be withdrawn in a year for each criterion. An applicant could apply to unlock for reasons of low income and on the same application they could actually unlock for reasons of rental arrears, and they can apply to unlock for reasons of medical expenses. The combined total unlock could be in excess of the \$26,250. Each criterion is evaluated on its own.

Also, who can apply for unlocking on the basis of low income has been changed. Previously the criterion was the same amount that could be unlocked. If you earned under \$21,000, you could apply to unlock pension funds and then you could also unlock up to \$21,000. The changes have been made so that if you are earning \$35,000, you can apply to unlock pension funds, and if you are approved you can unlock up to \$26,250. The formula for unlocking has been changed to be the same as exists in Ontario.

MR. STROINK: From there, how many times can someone apply to unlock - can they go every year?

MS. MACNEILL SMITH: Well, you can apply on the basis to unlock for low income once a year, if you are approved. If you are approved for unlocking, then you have to wait 12 months before you can apply again. As I mentioned before, if you're not approved, you can reapply at any time.

If you have been approved for unlocking funds due to mortgage arrears where you're facing foreclosure, you can only unlock pension funds once in a lifetime for that reason. And the same again for unlocking for rental arrears where you are facing eviction, you can only apply and be successful once in a lifetime.

MR. CHAIRMAN: We'll now move to Ms. Miller.

MS. MARGARET MILLER: Thank you again for coming in today. When I first started as an MLA, just over a year ago, I wasn't really familiar with a lot of the processes that were out there until somebody called me and asked me to come see them. It was an elderly - I shouldn't say "elderly," she looked like an elderly lady - and she had a reasonable amount of pension, savings in an account, and she couldn't access them, and she was given four months to live. She was living with no means. Her husband had stopped working to look after her. She had brain cancer; she was in a motorized wheelchair. She had very little ability to get out and really they had no financial resources.

She asked me to look into this for her and I was so happy to be able to help her retrieve those funds so that her quality of life could be better for the short time that she had left. I was just so thankful that this was even out there, that this ability was out there to be

able to help her. So I really want to commend whoever came up with this, because in using it in that way I think is exactly how it should be used - to help people at the worst time of their lives when they do have something available for them. I really want to thank you for that.

I am going to come at this from a little bit of a different angle. A lot of the questions have been answered, and they are very consistent all the way through, but I'm more concerned about the financial viability of the funds and the fund manager. I guess my question is: Is there a fund manager who manages these funds, or is this under government that the funds are managed, and what about the security of the funds - can we run into another 2008 or 2000 when markets drop and all funds all of a sudden are underfunded? Are these secure?

MS. MACNEILL SMITH: The individual, when they terminate their employment, has a choice to make. They can choose to leave their pension in the pension fund and continue to have the plan manage those funds and provide the pension when they reach retirement age, or they can transfer the value of their pension out into a locked-in retirement account. When they do that, they are assuming the risks for the investment. An individual transfers the money out into their own individual retirement account, they manage the money, and they choose who is going to invest the funds for them.

They are at risk, greater risk than where the pension assets are invested by the administrator of the pension plan. There are higher fees for individual products than are applied to the assets when they are managed under a pension plan, higher investment management fees, so the accumulation of the funds is less than it would be if was still held under the pension plan. Many individuals wanted to benefit from managing their own funds, so they do hire investment managers or brokers to invest the assets for them.

There is a requirement that pension assets, when you invest in them, you give consideration for the purpose of the funds. When they are for retirement purposes, the investors should be considering the long-term aspects of the investment and what they are to be used for ultimately. Now, having said that, I did at one point a few years ago get a call from an individual who had invested their pension funds, they transferred them out of the pension plan into an investment in South American Gold stock and basically lost the value of their assets.

In those instances, you have to determine whether or not the individual received proper investment advice - the issue is really one that would be handled by the Securities Commission as far as if the investment manager acted improperly.

MS. MILLER: Yes, but the government invested pension funds are secure - they are fully funded, or are they subject also to the ebbs and tides of the marketplace?

MS. MACNEILL SMITH: The Pension Benefits Act does not apply to the government pension plans - it doesn't apply to the Teachers' Pension Plan, the Public

Service plan, the Sydney Steel plans, the judges or the MLAs. The pension legislation only applies to the private sector, municipal government, and university sectors. The investment of those funds, there are investment requirements for pension plans under the pension legislation in that they must be invested in a prudent manner - and prudence is defined as the requirement to invest the assets to the higher standard than exists when you're investing someone else's money as opposed to your own money.

When you are investing your own money, you can take greater risks. The pension legislation is quite specific as to how the funds can be invested and what they are invested in.

MS. MILLER: One other question. We were talking about the people who can, often whether they reapply or not - are you finding that the same people are reapplying every year or every couple of years? Does it seem to be something that a person gets used to doing, or do you find that it is just a one-off, and that they don't do it again, usually?

MS. MACNEILL SMITH: The biggest problem appears to be unemployment among the applicants, and there are individuals who, for whatever reason, are not able to work. They are unemployable, whether it is in some cases mental health issues, health issues - they were employed, they are unemployed now, and they can't return to the workforce. Those individuals generally deplete their pension funds.

We do have cases of pensioners applying to unlock some additional money. There are a lot of Nova Scotians who aren't earning maximum Canada Pension Plan benefits, so we do see seniors in retirement who are 65 and the amount they are living on is \$15,000 a year.

A big concern is if you are unlocking too much money when people are still employable. Then what they are faced with in retirement is a very, very poor standard of living, because it's very challenging to try and survive on \$15,000 a year.

MR. CHAIRMAN: There are approximately 30 seconds left, so we now move back to the PC caucus for 14 minutes with Mr. Houston.

MR. HOUSTON: So you referred to recent changes in the regulations that allow for potential rental eviction to be considered a condition of unlocking. I actually think my colleague who sits to my right may have had a role in that happening. Did your team do any kind of projections of how many of those types of applications you expect to receive in a year - do you have any sense of how many applications you might get for unlocking as a result of rental eviction?

MS. MACNEILL SMITH: I wasn't directly involved in the development of these regulatory changes, but it is my understanding that there are not a lot of evictions under the Residential Tenancies Act. I can't speak directly to that because I don't administer that program.

In order for there to be applications under the Pension Benefits Act for unlocking for rental arrears, first of all you have to be facing eviction, and I understand those numbers are down. Then, secondly, you have to have had some pension assets during previous employment.

MR. HOUSTON: You say you weren't directly involved with that, so is this something that you just heard from the minister - like the minister proposed it?

MS. MACNEILL SMITH: At that point I was in the Department of Labour and Advanced Education, and generally proposals for policy changes are developed by the Policy Division of the department. Then Policy would look at various options, what were the pro and cons of those various options, and what were their recommendations to government, and then government would make a decision based on that material.

MR. HOUSTON: But that wasn't what happened in this case?

MS. MACNEILL SMITH: That is what happened, but I'm not in the Policy department.

MR. HOUSTON: You're not in the Policy . . .

MS. MACNEILL SMITH: No, I'm not in the Policy Division. I was never in the Policy Division in Labour and Advanced Education.

MR. HOUSTON: Okay, but this was a specific change to the unlocking provisions for access to pension funds?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: So you're not involved in policy discussions about the changes to unlocking - about the access to unlocking of pensions?

MS. MACNEILL SMITH: I was not involved in the decision making, as far as what to recommend, right? I'd say the input as far as the formatting and . . .

MR. HOUSTON: I think I understood your team to be yourself, two pension officers, and a support staff?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: So do policy changes, regulation changes, whatever - do they sometimes bubble up from that team, where they say hey, we're starting to see a lot of this, maybe we should - or that's not the way it works? Do I understand that there's a separate policy team that would . . .

MS. MACNEILL SMITH: Yes, there's a policy team that works for all issues within a department. So they would not look just at pensions in Labour and Advanced Education, they would look at labour issues, they would look at higher education issues so basically policy specialists developed.

Changes made to regulations or legislation can come both ways, it can come from my division or we would make recommendations to the policy department and say we would like the minister to consider making these changes, or it can come the other way in that the minister or other members of government can say we would want you to look at considering these changes. It works both ways.

MR. HOUSTON: Let's call that kind of bottom up from the people on the ground that see things and have ideas or top down. I think I am hearing that on this one it was a top down, it came from the top that this will be the change? Was there a discussion with your team about it or was it - this is the way that things will happen going forward?

MS. MACNEILL SMITH: There was some discussion but recommendations to government were made by the policy division.

MR. HOUSTON: Okay. You did reference that your group used to be under Labour and you are now under Finance. How did that transfer come about?

MS. MACNEILL SMITH: I am not party to that decision-making process.

MR. HOUSTON: Was there any reasoning explained to you as to why they were transferring it out?

MS. MACNEILL SMITH: No. We're back to where we were before. From 1977 until 2000 pension regulation was a part of the Department of Finance. Then with the reorganization that government enacted in 2000, all of the regulatory pieces were moved to the Department of Labour - it was Environment and Labour at the time - and moved a lot of regulatory functions down to that department. Since that time, Environment is now its own department, and other regulatory pieces have since left Labour, so I would assume that government felt it was no longer a good fit. The rationale for moving us from Finance to Labour no longer existed.

MR. HOUSTON: Since September 1st you have now been under a new minister, have you had a chance to sit down with the Minister of Finance and Treasury Board and talk about the hardship provisions, specifically?

MS. MACNEILL SMITH: I don't report directly to the minister, I report to the Assistant Deputy Minister Byron Rafuse. Any concerns I would address through Byron.

MR. HOUSTON: Have you sat down and talked to Byron about the hardship provisions?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: Have you made other suggestions to him about possible changes to the hardship provisions?

MS. MACNEILL SMITH: Not at this point, no.

MR. HOUSTON: Has he talked to you about anything that maybe the minister is contemplating?

MS. MACNEILL SMITH: I'm not aware of the minister contemplating anything else, no.

MR. HOUSTON: The rental one was the most recent change and it's . . .

MS. MACNEILL SMITH: The rental and the raising of the unlocking amount and the unlocking criteria for low income.

MR. HOUSTON: And it's hard to say what type of extra workload that might put on your department or it might not, you are just not sure.

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: I want to go back to the concept of people who have their application rejected and where they go next. There is, I think you referenced - maybe it was Ontario that you said pretty much everyone who applied, applied directly to the financial institution and was given access?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: But here it was 63 per cent were approved and 47 per cent weren't so that's a pretty strenuous process I would say.

MS. MACNEILL SMITH: Yes, we weed out - first of all we have a lot of applicants who file incomplete applications. In many cases there is a significant amount of information missing. In some cases they just have their name on it and nothing else so we request additional information and in many cases they don't get back to us so those we regard as incomplete applications. We also have applicants who don't fall under the pension legislation and as I explained earlier we don't look at those.

MR. HOUSTON: That's helpful, thank you. Does every application carry a fee? The \$113 - or when does that fee come into play?

MS. MACNEILL SMITH: The fee is withdrawn from the account of the individual if they are approved for unlocking. So the individual is not required to pay a fee in order to apply or to pay a fee directly to us if they are successful. The financial institution withdraws the amount of the fee from their locked-in account and submits a cheque payable to the Minister of Finance and Treasury Board.

MR. HOUSTON: So in terms of - there is no appeal process, but everyone is free to reapply as often as they choose. Sometimes I think maybe if - is there just not a need for an appeal process, in your mind? Are the applications that cut and dried, that it is either approved or it is not? What are your thoughts on that?

MS. MACNEILL SMITH: As I indicated earlier, there's very little - I would say almost no discretion in the application of the regulations. The need for an appeal process wasn't seen as necessary when the regulations were established in 2007.

MR. HOUSTON: We had Communications Nova Scotia in before the Public Accounts Committee a few weeks ago, and they mentioned that various departments often conduct media or public awareness campaigns. I wonder if your team has done any kind of media or public awareness campaigns about the Financial Hardship Unlocking Program?

MS. MACNEILL SMITH: We have found that most of the applications are faxed to us through the financial institutions that are holding the funds, and the financial institutions were contacted, advising them of the changes. So the clients of these financial institutions are advised by the financial institution of the changes, and the fact that they can make applications.

We haven't had any concerns raised by anyone that individuals aren't aware of their ability to unlock the pension funds. Generally, if a person is in financial hardship, the bank is quite well aware of the fact that they have pension assets, and they would contact the individuals. Generally the debts are with the financial institution as well, so it's in their interest to have their client unlock their pension funds to pay their debts.

MR. HOUSTON: Yes, I could certainly see that around mortgage arrears.

MS. MACNEILL SMITH: Even for low income, because the institutions are quite well aware of the financial situation of their clients.

MR. HOUSTON: Just looking at the chart I tabled earlier, I kind of see the trends as the amount of applications increases. I know that during 2009-10 there was a real spike in applications. Obviously, that's when the recession was taking hold. I wonder, given the economic situation in the province now, where we are seeing increased job losses, unfortunately, and people are struggling - I can tell you that as I go around my constituency, there are a lot of people struggling. I wonder, do you do any kind of forecasting, as a team, as to what your workload might be at all?

I know you said not really on the rental arrears, that that wasn't something that in isolation you would have looked at and said, is it going to increase the workload? I'm just wondering, with the 10-day turnaround and if you get an increase in applications, what are your thoughts on that? Is there much forecasting like that as to demand?

MS. MACNEILL SMITH: Yes. Generally the applications spike if there has been a major closure of a business in Nova Scotia that had a pension plan. For example, when TrentonWorks closed down, when Maple Leaf Foods in the Valley closed, when Moirs closed in Dartmouth, which was Hershey's - any time there is a significant number of pension plan members who lose their jobs, we will expect a spike in applications once the pension plan is wound up and the money has been transferred out to the individuals' locked-in retirement accounts.

MR. HOUSTON: Okay, fair enough. I think I might have one minute left. I will go back to your report of the Superintendent of Pensions. On Page 10, looking at the graph, it seems like - I think it was 1.7 per cent of the plans are solvent, so essentially none of the plans are solvent.

MS. MACNEILL SMITH: Yes, as I said, the big draw between 2012 and 2013 was because of one massive plan in Nova Scotia whose solvency dropped to 97 per cent, so that dropped it below the 100 per cent funding.

MR. HOUSTON: Okay. But, in general, 20 per cent of the plans are - you referred to them as being in urgent need due to their solvency levels, because they dipped below 80 per cent, so I take it you're pretty concerned about the overall status of the pension funds in the program?

MS. MACNEILL SMITH: Yes.

MR. HOUSTON: Yes. Okay, so am I. Thank you.

MR. CHAIRMAN: Order. Your time is almost complete, and I think you're offering the rest of it to finish now, so we'll move to the NDP caucus and Ms. MacDonald.

MS. MACDONALD: Thank you very much, Mr. Chairman, and thank you for the extra time.

I want to go back to June, when the case that first brought this to the public's attention, the Julie Biron case, was in the news on the 2nd of June in *The Chronicle Herald*. *The Chronicle Herald* published a story: "Halifax woman faces eviction as province keeps retirement plan locked," and on the 5th of June, you sent an email to Barbara Jones-Gordon, in the Department of Labour and Advanced Education. I have a copy of that email that I will table.

I'd like to read it because I'm puzzled by something you told us a little earlier about how this plan works. This is you writing to Barbara Jones-Gordon:

"Hi, I was speaking with Denise MacDonald-Billard of Community Services this morning regarding . . ." Julie Biron's ". . . power being shut off by Nova Scotia Power. Denise indicated that Community Services would likely have provided a loan to . . ." Julie ". . . to keep her power on. . . . would have had to repay the loan, which she could do with any pension funds that are unlocked if her income over the next 12 months is expected to be less than \$21,000. Denise indicated that Maureen MacDonald would have known that, but must have decided that she didn't want her constituent to incur any additional debt."

So, earlier when we talked about the relationship between this program and Community Services' programs you indicated that, under the regulations, other government departments are actually prohibited from requiring that, if they provided assistance, that money be transferred to them. Am I correct that's what you said - and how would this relate to that?

MS. MACNEILL SMITH: When I was talking to Ms. MacDonald-Billard, she had indicated that even though the applicant to Community Services might not qualify for Community Services benefits, like direct benefits, because her income was higher than the criteria on their Community Services programs, they would still actually have provided the loan to the individual, but that that loan would have been paid back, and in keeping with what you had indicated as well, so the - and I had checked with Community Services because that had been my understanding back when we checked in 2000 with the departments in the development of the regulations, so I wanted to see if anything had changed during that period.

So we were looking at, okay, what resources are available for addressing the issue of heat, because if the department is going to consider making changes they needed to know as much information as possible around making that decision.

MS. MACDONALD: I guess my point is that I - earlier today you told us that the regulations prohibit other government departments from doing what is written here - that's my understanding.

MS. MACNEILL SMITH: No, the pension legislation says that an individual cannot be required to withdraw their pension funds in order to obtain benefits from another program. So the Department of Community Services could not require someone to withdraw their pension funds in order to get a loan from the Department of Community Services to pay for their heat.

The individuals can choose to do that, and we make sure they are aware of that protection in that the Department of Community Services can't require them to withdraw their pension funds. This loan that would be provided by the Department of Community

Services is not the same as income support that is available under the Department of Community Services. It's something in addition to that, so that's the distinction.

The Department of Community Services cannot require - so someone who is, for example, unemployed and their EI has expired, they go to the Department of Community Services to apply for income support benefits. They're 45; the Department of Community Services can't require that they unlock their pension funds before they are eligible for receipt of income support.

MS. MACDONALD: To add to that, perhaps their lights have been cut off, they are facing an eviction notice, et cetera. It's a very fine line, sometimes, between what your rights are in terms of saying no, I won't do that, and being in a situation where you don't really have a heck of a lot of choice, if that's what's told to you, in some ways, that you need to do.

I want to continue because I was trying to identify the way the department establishes priorities and what priorities have been put in place to triage. I continue on with this piece of correspondence and I'll table another piece of correspondence.

Denise MacDonald-Billard from the Department of Community Services "has offered to help us review our procedures for establishing priorities. She cautioned about being too explicit about how priorities are established as applicants with incomplete applications will believe they should be approved without provision of additional information. With Denise's help, we will work to develop our procedures."

I have a number of questions from this. First of all, whether or not that review has been conducted and we now have clear priorities, why aren't they explicit or will they be made explicit? To me, you need the transparency so people can, in fact, understand what the explicit priorities are and what information they need to be providing in order to have a complete application. Those are my comments and my question. Has this review been conducted? What are the explicit criteria that have been established or have they been established?

MS. MACNEILL SMITH: Yes, the review is complete. We looked at a number of submissions that have been made, applications that had been made, to determine how the individuals identified their needs. We looked at the frequency, whether or not we needed to establish a very formal process or whether we could simplify it by having the intake person review the application to determine whether or not they met the criteria for being given priority and as I said, it is not like we are a large department with a large number of staff. We have three staff.

The procedures are quite simple. It is my experience that the simpler procedures are the ones that are most likely to be followed and are most likely to work better. As I said, the applicants are reviewed. Under the new rules, are they rental-arrears? Are they

mortgage-arrears where people are facing eviction? Are they individuals who are losing their heat or their power or are they without food? Anything like that is given a priority.

MS. MACDONALD: Thank you. I also have correspondence on the 3rd of June from you to Ms. Barbara Jones-Gordon and the Deputy, Mr. Montgomerie, with regard to the prioritizing of financial hardship applications and - and I'll table this letter as well Mr. Chairman and I'll read a section because indeed it does talk about the intake person, I guess, would be asked to review any application that comes in with attention to the following things: "no food, no heat, eviction from a rental property, no power. Identification of applicants who are facing foreclosures on their home can continue to be identified from the application itself. She will then flag the file for a priority review by the pension analyst assigned to the file."

This letter goes on. It also says, "The file will also be flagged. . . if an MLA has requested that the application be given a priority over other applications." I have a question about why this is a criterion - that an MLA has requested it.

MS. MACNEILL SMITH: That's not a criterion for putting an applicant to the front of the line. It's just a request by the deputy minister that he be advised of any applications that were made with assistance of the MLA.

MS. MACDONALD: This would be so that the minister would have information about a file that is in the department, perhaps?

MS. MACNEILL SMITH: I don't know why the deputy minister wanted that information. It was requested of me that he be advised of any applications that came in with the request of an MLA. That was just my confirmation that I would comply with his request.

MS. MACDONALD: You indicated you are now moved from the Department of Labour and Advanced Education over to Finance and Treasury Board and you now are reporting to a different deputy than at that particular time. You've had some discussions with your new deputy with respect to this file?

MS. MACNEILL SMITH: I have had discussions with the Assistant Deputy Minister of Environment, Byron Rafuse, with respect to financial hardship unlocking.

MS. MACDONALD: Are there additional changes being contemplated to the regulations such as the waiving of the fee - I think it's \$113 and some odd cents - when an applicant is approved, for example? I'm not sure why we have a fee. Can you explain why there is a fee attached to the application for the financial hardship program?

MS. MACNEILL SMITH: Yes, the Pension Benefits Act applies, as I said, not to every Nova Scotian. It applies to pension plans for Nova Scotians who are participating in

employer sponsored pension plans. Since 1977 the fees that are levied for pension plans have been sufficient to pay for the cost of operating the Pension Regulation Division. It was not seen as appropriate for general taxpayers to be paying for a program where not all taxpayers benefited from a pension plan.

So up until 2007 the fees were adjusted basically to keep a balance between the expenditures of the Pension Regulation Division and the fees, so that there was no cost to the taxpayers.

MR. CHAIRMAN: Order. I do apologize, we went over time a little just to get the rest of your answer there, but perhaps you could continue that discussion after our session today.

We now must move to the Liberal caucus, and Ms. Lohnes-Croft.

MS. SUZANNE LOHNES-CROFT: Thank you for coming today. Could you just give me an outline of what pension plans you oversee, your department, because I'm hearing different names of different pensions and I just want clarification?

MS. MACNEILL SMITH: The Pension Benefits Act applies to every Nova Scotian working in Nova Scotia where their employer sponsors a pension plan. There are exceptions and it's stated in the regulations - it doesn't apply to the Teachers' Pension Plan, to the Public Service Superannuation Plan, the judges' plan, the MLAs' plan, or the Sydney Steel pension plan.

If an employee in Nova Scotia is working for an employer that is subject to federal legislation, like interprovincial transportation, communication, airlines, feed mills, nuclear energy, they're subject to the federal legislation and not the provincial legislation.

The Pension Benefits Act, in summary, applies to private sector employers, to the municipalities, to universities - that's about it.

MS. LOHNES-CROFT: So all private sector pensions are . . .

MS. MACNEILL SMITH: All private sector and some we call quasi-public, which is municipalities and the universities.

MS. LOHNES-CROFT: But not private companies?

MS. MACNEILL SMITH: Yes, it does apply to private companies, yes.

MS. LOHNES-CROFT: How often do you review those - like, how well are they watched?

MS. MACNEILL SMITH: The administrators of pension plans are required to submit an annual information return, so that every year they report on the contributions going into the pension plan and the changes in any membership in the pension plan. We review those returns to determine whether or not the money going in matches up with what's required to go in. The requirements for funding a defined benefit pension plan are laid out in the actuarial report done by an independent actuary. We compare what the administrator of the pension plan report says is remitted to the pension plan with what the actuary says is required to be remitted.

Also defined benefit plans must, at minimum, file an evaluation report every three years determining the amount of contributions required to fund the benefits under the plan. So those are reviewed as well. We also respond to any complaints about the operations of the pension plan, we review plan amendments to make sure that they are in compliance with the legislation.

Those are the primary sources, I guess, of information with respect to pension plans.

MS. LOHNES-CROFT: So they're all included in your stats as far as low-income users . . .

MS. MACNEILL SMITH: No, pension plans that are ongoing. So if you're a member of a pension plan your benefits are held under that pension plan. You do not have the right to access pension funds while you're a member of a pension plan, primarily because (a) you're a pensioner and receiving your pension on a pension plan, or (b) you're still employed, and if you're employed, you are actually earning pension, you're not accessing pensions for financial hardship.

MS. LOHNES-CROFT: So you cannot be employed and need to access for any emergency?

MS. MACNEILL SMITH: You cannot access - if you're employed and participating in a pension plan you cannot access funds held in that pension plan.

MS. LOHNES-CROFT: Okay, I see.

MS. MACNEILL SMITH: It only applies to people who have terminated employment with their employer, or the pension plan was wound up and their money was transferred out of the pension plan into their own locked-in retirement account.

MS. LOHNES-CROFT: These low-income people who apply for assistance - are they allowed to use that for secondary education for dependents?

MS. MACNEILL SMITH: No, they can use it for secondary education for themselves. We do have applicants who quit work to go back to university or college, so they're unemployed and they would meet the criteria on the basis of their lack of employment. It's not to be used for secondary education for children.

MS. LOHNES-CROFT: Since the September change in the policy, have you noticed an increased number of applicants?

MS. MACNEILL SMITH: Not a significant increase. My staff is working flat out anyway, so we were quite worried about these changes as far as the impact on our time frame for turning around the applications. I know with respect to the program, when it was brought in in 2007 there was a slow increase and then it peaked and levelled off. It's really too early to say what the impact of those changes is going to be. I'm assuming there will be more applicants because anyone earning \$35,000 can apply.

MS. LOHNES-CROFT: Yes, I would have thought that maybe you'd see an increase once the policy was changed. Do you find there's a time of the year when you get more requests from low-income people?

MS. MACNEILL SMITH: It fluctuates. In my annual report there is a chart respecting the months that come in, on Page 14. There are various spikes, but the spikes are related more to closures of business than anything else. When a business shuts down it has to wind up its pension plan, and generally that takes up to six months to occur, the benefits are transferred out and then those individuals will apply for unlocking. So the spikes really relate more to closures of major businesses than anything else.

MS. LOHNES-CROFT: You don't find when the peak heating season or any times like that, people are accessing?

MS. MACNEILL SMITH: People tend to apply more in December and less in January.

MS. LOHNES-CROFT: Christmas?

MS. MACNEILL SMITH: I would assume so.

MR. CHAIRMAN: If there are no further questions, we will allow Ms. MacNeill Smith to provide some closing comments.

MS. MACNEILL SMITH: I'm really not sure what else there is to say. I've been talking for an hour and 45 minutes about this program.

I guess I did want to say that I do believe it is quite helpful. But I would recommend that caution be used in broadening unlocking too greatly, primarily because we do have a significant number of low-income pensioners. While it may seem appropriate to unlock

money when you're working and earning a low wage, using those pension funds when you're working versus saving them for when you're going to be receiving \$15,000 a year in retirement is something you have to consider.

I would hate to see an increase in the number of pensioners who were in extreme poverty. I think the biggest problem we're facing in this province is unemployment and underemployment. It's not the accumulation of pension assets that's the problem, it is jobs. Thank you.

MR. CHAIRMAN: Thank you very much for being with us this morning.

We don't have much business remaining - there was some information that you would have received from the Public Service Commission from a September 10th meeting. If you have any questions on that, come see myself or the clerk after the meeting.

Our next meeting date is November 5th where we will have the Department of Energy, and the topic for discussion is energy development and opportunities in Nova Scotia.

With that, we stand adjourned.

[The committee adjourned at 10:44 a.m.]