

**Report to
NHS Employers**

**Research into the
impact of pensions tax
in the NHS**



**Report to
NHS Employers**

**Research into the
impact of pensions tax
in the NHS**

Hilary Salt, Dale Walmsley, Sean Docherty

First Actuarial LLP

Published on 14 June 2019

First Actuarial LLP, Trafford House, Chester Road, Manchester, M32 0RS

t: 0161 348 7400 w: www.firstactuarial.co.uk



Regulated in the UK by the Institute and Faculty of Actuaries in respect of a range of investment business activities.

First Actuarial LLP is a limited liability partnership registered in England & Wales. Number OC348086.

Registered address: First Actuarial LLP, Mayesbrook House, Lawnswood Business Park, Leeds, LS16 6QY.

CONTENTS

1. Executive Summary	3
2. Introduction	5
3. The NHS Pension Scheme and Pensions Tax	6
4. NHS Pension Scheme – Case Studies.....	19
5. Online Survey for Employees	27
6. Online Survey for Employers.....	42
7. Conclusion and Next Steps	47
Appendix A – Employee Survey Questions	51
Appendix B – Employer Survey Questions	53
Appendix C – Further Charts from the Employee Survey	54

1. EXECUTIVE SUMMARY

Background

- 1.1 Pensions tax allowances come in two forms: Annual and Lifetime.
- 1.2 The Annual Allowance has been a growing problem because it has reduced substantially over time (including the introduction of tapering to the standard Annual Allowance) but also because employees are exhausting their carry-forward of unused Annual Allowance from prior years.

Case studies

- 1.3 In the 1995/2008 Scheme, increases in pensionable pay are the main cause of Annual Allowance tax charges. In the 2015 Scheme, the relatively higher rate of annual accrual and automatic revaluation may cause Annual Allowance issues. It is important to be aware of the pensions tax 'cliff-edge' which may be faced when annual taxable income goes over £110,000 – as this could result in large increases in Annual Allowance tax bills.

Online survey for employees

- 1.4 Over 2,500 responded to our online survey distributed through employers. The majority of the respondents were consultants. Around a third or more of respondents are at risk of being affected by the tapered annual allowance. Only around a third of respondents have received Annual Allowance tax charges in the past, but more than half of respondents believe they will receive them in the future. This may be due to the introducing of tapering and running out of carry-forward but could also be in part due to an element of 'panic' caused by the popular discussion.
- 1.5 Many of those who expect to be affected by pensions tax issues have or are considering reducing their hours, and avoiding promotions or additional work. Other actions considered include early retirement, retiring and returning, opting out of the NHS Pension Scheme and leaving the NHS altogether.

Online survey for employers

- 1.6 Employers largely mirrored the messages from employees. Pensions tax has had an impact in multiple areas, notably staff retention, as well as staff reducing hours and not taking on additional responsibilities. While this issue primarily affects high earners such as those in the consultant and executive bodies, employers believe this has had a large impact on the NHS's ability to meet its objectives.
- 1.7 As the employers taking part in the research and the employees responding were self-selecting, it should not be assumed that there is a direct read across to the NHS more widely.

Conclusion and next steps

- 1.8 There are two potential categories of solution: reforming the tax system or reforming the NHS Pension Scheme. Government has stated its preference for reforming the Scheme, which would involve introducing flexibilities that would give members greater control over their pension growth, allowing them to manage any pensions tax charges. Any flexibilities introduced would have to be carefully considered. Greater and more timely provision of information could help those affected make more informed decisions.

2. INTRODUCTION

- 2.1 This report has been prepared for NHS Employers and provides the results of an investigation into the impact of pensions tax on the NHS and the NHS Pension Scheme. This research has been carried out independently by First Actuarial.
- 2.2 The pensions tax system offers income tax relief for paying pension contributions. The purpose of doing so is to encourage people to save for their retirement and reduce reliance on the State.
- 2.3 There are limits to how much tax relief can be claimed. For individuals who exceed the limits, tax relief is effectively 'clawed back' by imposing tax charges.
- 2.4 Anecdotal evidence has suggested that some NHS employees have been heavily affected by pensions tax charges, particularly relating to the Annual Allowance. This has led to suggestions that some have reduced their commitments to the NHS in order to try and reduce or avoid these tax charges.
- 2.5 The purpose of the research is to find out:
- How widespread pensions tax charges are in the NHS
 - The size of pensions tax charges faced by affected employees
 - Any impact of these charges on the working behaviour of employees – and how this impacts the objectives of the NHS and on the NHS Pension Scheme
- 2.6 The report is broken down into the following:
- An explanation of the issues around pensions tax with a focus on the NHS through case studies and examples
 - Presentation and analysis of the results of an online survey which gathered the opinions and experiences of over 2,500 NHS employees, as well as their employers
 - Conclusions and possible next steps in light of the findings

3. THE NHS PENSION SCHEME AND PENSIONS TAX

Overview of the NHS Pension Scheme (“NHSPS”)

- 3.1 The NHSPS currently has around:
- 1,600,000 active members building up scheme benefits;
 - 700,000 deferred members, previously active members but not yet in receipt of pension; and
 - 900,000 pensioner members in receipt of their pension.
- 3.2 The scheme is unfunded, so Her Majesty’s Treasury (“HMT”) collects contributions and pays out scheme benefits.
- 3.3 The NHSPS is, in practice, two separately registered pension schemes.
- 3.4 The ‘old’ scheme (the “1995/2008 Scheme”) is split into the 1995 Section and 2008 Section.
- 3.5 When the 2008 Section was introduced members had the choice of staying in the 1995 Section or moving to the 2008 Section – the majority stayed in the 1995 Section.
- 3.6 The ‘new’ scheme (the “2015 Scheme”) was introduced in April 2015 under the Public Service Pensions Act 2013.
- 3.7 When the 2015 Scheme was introduced, most scheme members were automatically moved into it. Some were able to stay in the 1995/2008 Scheme – see the subsection on ‘Protection’ below.
- 3.8 Members who moved to the 2015 Scheme retain a ‘final salary link’ to their accrued benefits in the 1995/2008 Scheme.
- 3.9 The result of this is that many members are accruing benefits in the 2015 Scheme but still have significant salary-linked benefits in the 1995 Section of the 1995/2008 Scheme.

Pension build up for scheme members

3.10 The table below gives a brief summary of benefits provided by the different Sections or Schemes provided by the NHSPS.

BENEFITS	Structure	Benefit accrual	Normal Pension Age	Indexation in active service
1995 Section of 'old' scheme	Final Salary	1/80 th pension + 3/80 th cash	60	Final Salary
2008 Section of 'old' scheme	Final Salary	1/60 th pension	65	Final Salary
2015 Scheme	CARE	1/54 th pension	State Pension Age	CPI + 1.5% pa

Table 1: Summary of member benefits in the NHSPS

3.11 The summary above covers most scheme members (Practice and Approved Employer Staff). It is important to note that practitioners (NHS Medical, Dental and Ophthalmic Practitioners) were in a CARE section of the 'old' scheme before April 2015.

3.12 When the 2015 Scheme was introduced, some members were able to stay and continue accruing benefits in the 1995/2008 Scheme for an extended period or, in many cases, until retirement (or earlier leaving).

3.13 The criteria for being able to do so was based on age, which led to legal challenge by some members of other unfunded public service pension schemes.

Level of contributions paid by members and employers

3.14 As determined by the most recent actuarial valuation, employers pay 20.6% of pensionable payroll to the NHSPS along with an administration charge equal to 0.08% of pensionable payroll. Employers pay a total of 20.68% of pensionable pay for all scheme members, regardless of which Scheme, or Section, they are in.

3.15 Current member contribution rates depend on pensionable pay as shown below:

Whole-Time Equivalent Pensionable Pay	Contribution rate as a % of pensionable pay
Up to £15,431	5.0%
£15,432 - £21,477	5.6%
£21,478 - £26,823	7.1%
£26,824 - £47,845	9.3%
£47,846 - £70,630	12.5%
£70,631 - £111,376	13.5%
£111,377 and over	14.5%

Table 2: Contribution rates paid by members of the NHSPS

3.16 Note that a member pays a single contribution rate on all pensionable pay rather than different rates on different bands on earnings. This is different to the way in which income tax works where higher rates apply on higher bands of earnings. For example, a scheme member earning £40,000 will pay 9.3% of all their pensionable pay.

Pensions tax – The Annual Allowance

3.17 The Annual Allowance is a limit on the amount of tax-relieved pension savings that can be made to registered pension schemes over a year. If an individual breaches the Annual Allowance, they may have to pay a tax charge.

3.18 For Defined Contribution (“DC”) schemes, the amount of pension savings is very clear – it is the sum of gross contributions made by the employer and member.

3.19 In Defined Benefit (“DB”) schemes, like the NHSPS, the amount of pension savings is assessed by the value of benefits accrued over the year – not the contributions paid to the scheme by the employer and the member. (However, member contributions can be important when considering tapering of the standard Annual Allowance.)

3.20 The amount of pensions savings assessed against the Annual Allowance is known as the Pension Input Amount. This can be thought of as the extra real (greater than inflation) pension growth earned over one year. The year assessed is called the Pension Input Period.

3.21 In DB schemes, the **Pension Input Amount** is broadly calculated as:

Pension accrued up to the end of the tax year

Less pension accrued up to the end of the previous tax year, uplifted by inflation

Multiplied by a fixed factor of 16

3.22 The Pension Input Amount can only be calculated at the end of a tax year when all the information is known with certainty – such as, pensionable pay and pensionable service. Calculating pension growth is complicated and depends on each individual’s pension scheme membership.

3.23 If an individual’s Pension Input Amount breaches the Annual Allowance, then a tax charge determined using income tax rates *may* fall on the excess pension savings (i.e. Pension Input Amount less the Annual Allowance).

3.24 Whether there is a tax charge or not will also depend on the Pension Input Amounts and Annual Allowance in force in previous years (see ‘carry-forward’ below). Again, this is complicated and unique to each individual.

3.25 For the 2018/19 tax year, the headline rate for the Annual Allowance is £40,000 (the standard Annual Allowance).

3.26 The Annual Allowance has reduced significantly over time from its highest level of £255,000 in 2010/11 tax year (as shown in the next chart).

3.27 In July 2015, Pension Input Periods (which, until this point, were chosen by individual schemes) were aligned with the tax year for all UK pension schemes. The result of this change meant that the effective Annual Allowance over 2015/16 could have been as high as £80,000.

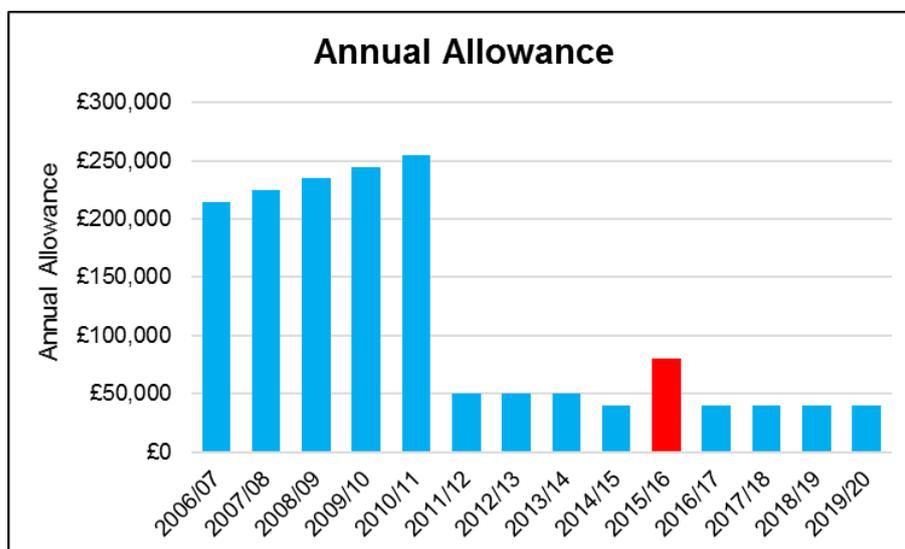


Chart 1: Annual Allowance over time

Carry-forward

3.28 In broad terms, tax rules allow any unused Annual Allowance in the last three Pension Input Periods to be carried-forward and used to counter any breaches in the current year. The 2018/19 tax year is the second tax year in which the previous three tax years had an Annual Allowance of £40,000 (noting the transitional position in the 2015/16 tax year).

3.29 This means that, all else equal, there is less unused Annual Allowance to carry-forward into subsequent years as was previously the case so tax charges are more likely to occur.

Tapering of the Annual Allowance

3.30 Annual Allowance ‘tapering’ was introduced in the 2016/17 tax year. The extent to which the Annual Allowance is tapered depends on both the level of an individual’s taxable income and pension growth within a tax year.

3.31 There are two tests used to measure the extent of Annual Allowance tapering.

3.32 The first test assesses an individual’s “**threshold income**” – this is broadly all income over the tax year which is taxable (gross income less gross member pension contributions). Importantly, this is not just taxable earnings from employment but can include other taxable income such as income from renting property, investments and pensions.

If threshold income is less than £110,000, the full Annual Allowance of £40,000 is retained.
 If threshold income is greater than £110,000, a second test is carried out.

3.33 The second test assesses an individual’s “**adjusted income**” – this is threshold income plus an individual’s Pension Input Amount.

If adjusted income is less than £150,000, the full Annual Allowance of £40,000 is retained.
 If adjusted income is greater than £150,000, the Annual Allowance is tapered below £40,000.

3.34 For every £2 of adjusted income above £150,000, the Annual Allowance is reduced by £1. The tapering ends when adjusted income is at least £210,000 as the minimum tapered Annual Allowance is £10,000.

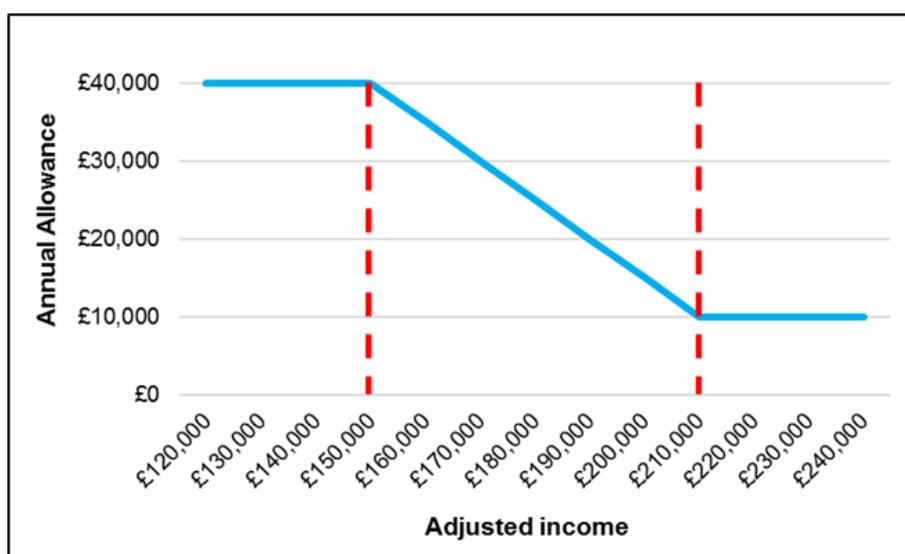


Chart 2: Illustration of Annual Allowance tapering

3.35 The application of tapering is complicated and dependent on both an individual’s taxable income and their pension growth.

3.36 The threshold income test has a cliff-edge effect at £110,000 which may be the difference between having a full £40,000 Annual Allowance or a tapered Annual Allowance as low as £10,000. Using a marginal income tax rate of 45%, this could mean the difference between a tax charge of £13,500 (calculated as £30,000 × 45%), or no tax charge.

Non-pensionable pay

3.37 It is common in the NHS for employees to have elements of their pay which are non-pensionable, such as:

- Recent clinical excellence awards
- Income from outside the NHS e.g. private clinic work

3.38 Non-pensionable pay does not impact pension growth, but can cause or increase an Annual Allowance tax charge in two ways:

- Increasing threshold income (which includes all taxable income, whether pensionable or not) which can reduce the Annual Allowance through tapering
- Increasing the marginal income tax rate at which excess pension savings are taxed (for example, more is charged at the 45% rate rather than the 40% rate)

3.39 As mentioned above, a key ‘trigger’ point occurs when taxable income exceeds £110,000. Even if somebody has pensionable pay of less than £110,000, non-pensionable pay can push them over this threshold and trigger tapering.

Paying Annual Allowance tax charges

3.40 An individual can pay an Annual Allowance tax charge by setting the tax bill directly with HMRC, via Scheme Pays, or a combination of the two methods.

3.41 Scheme Pays allows an individual to elect that their pension scheme pays some or all of their Annual Allowance tax charge on their behalf directly to HMRC and then later recoup this from benefits.

3.42 In basic terms, this is similar to the pension scheme ‘loaning’ the money to pay the tax bill, which is then repaid with interest upon retiring or transferring out. The ‘loan’ is recorded by the scheme as a *negative* pension benefit. Once the individual starts to draw their pension, these negative savings (with interest) are offset against the scheme benefits and the individual receives the balance.

3.43 Within the NHSPS and other public service pension schemes, this interest rate is the Superannuation Contributions Adjusted for Past Experience (“SCAPE”) discount rate plus CPI inflation. The current SCAPE discount rate is 2.4% pa.

3.44 The 2019 public service pensions increase order was 2.4%. (This is based on the annual rate of CPI inflation in September 2018.)

3.45 Assuming a fixed future interest rate of 4.8% pa, over 15 years the value of the Annual Allowance tax charge would more than double in nominal terms.

- 3.46 The higher an Annual Allowance tax charge in any single year, the less likely it may be that the individual incurring the tax charge will have the cash available to meet the charge. In turn, this means it would be more likely they would have to use Scheme Pays which would further increase the size of the charge (albeit incurred at retirement rather than immediately).
- 3.47 As the tax charge increases in real terms by the SCAPE discount rate, it may be better to pay off the tax bill upfront rather than through Scheme Pays at younger ages. However, this is complicated and will depend on an individual's personal circumstances.
- 3.48 A possible benefit of using Scheme Pays is that pension at retirement is measured against the Lifetime Allowance after deducting Scheme Pays charges – and so this can reduce any Lifetime Allowance charges.

Notification of Annual Allowance breaches

- 3.49 If an individual has a Pension Input Amount greater than £40,000, then the pension scheme is required to notify them. As the NHSPS is effectively two separate schemes, each scheme has a separate obligation.
- 3.50 We understand that, in the past, members were informed if they breached the £40,000 Annual Allowance in one of the schemes – either in the 1995/2008 Scheme or in the 2015 Scheme. However, many members have pension growth in both schemes.
- 3.51 If an individual breached the £40,000 Annual Allowance in aggregate across both schemes, but not within either scheme, then the NHSPS was not obliged to notify the individual. For example, if an individual had Pension Input Amounts of £25,000 in each scheme (a Pension Input Amount in aggregate of £50,000), then it is likely that they would not be notified by the scheme administrators unless they specifically requested this information.
- 3.52 We understand this has now been addressed and members will be notified if they breach the £40,000 Annual Allowance in aggregate across both schemes.
- 3.53 However, a continuing problem (not confined to the NHSPS) is that some members will have a tapered Annual Allowance (as low as £10,000) but will only be contacted if they have pension growth greater than £40,000.
- 3.54 Pension scheme administrators only have records of pension scheme information, they cannot know an individual's taxable income other than pensionable pay. These individuals need to identify the issue themselves and request a statement.
- 3.55 As a result, employees may not always know when they have breached their Annual Allowance and are left to find this out through other means or in future years.
- 3.56 Affected employees need to fill out a self-assessment tax return, as shown below (form SA101). Those who do not routinely complete tax returns or take tax advice may not be aware of this requirement.

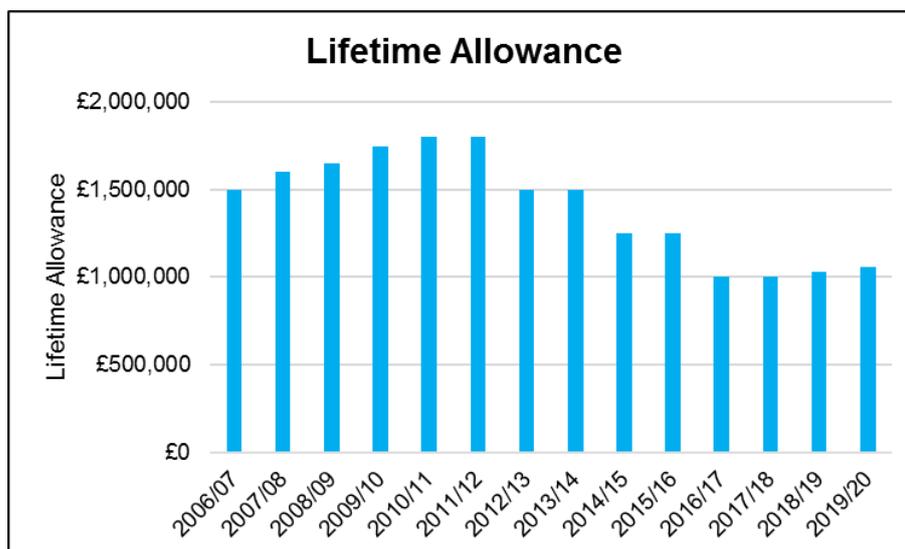


Chart 3: Lifetime Allowance over time

3.60 When the Lifetime Allowance was reduced, some protections were made available so that affected individuals could maintain a personalised Lifetime Allowance higher than the new standard level.

3.61 The **Lifetime Allowance** used is broadly calculated as:

Annual pension taken at retirement multiplied by a fixed factor of 20

Plus cash at retirement

3.62 In order to breach the current Lifetime Allowance of £1.055 million, an individual would, for example, need to draw an annual pension of more than £52,750. Alternatively, an individual would need to draw at least an annual pension of £46,750 plus cash at retirement of £120,000 (or any other combination of 20 times pension plus cash which is greater than £1.055 million).

3.63 Any excess pension savings over the Lifetime Allowance will be charged at either:

- A tax rate of 55% if the excess pension savings are taken as a lump sum; or
- A tax rate of 25% if the excess pension savings are taken as pension.

How widespread could these issues be?

3.64 The graph below shows the distribution of pensionable pay for employees with service in each section of the 1995/2008 Scheme and the 2015 Scheme.

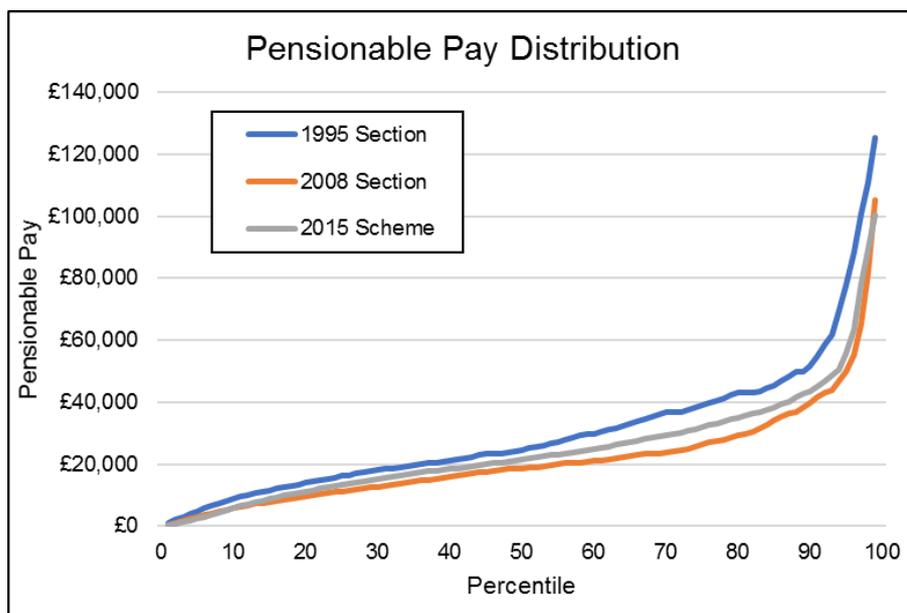


Chart 4: Pensionable pay distribution

- 3.65 As expected, the 1995 Section contains some of the highest earners as they will have longer service than average.
- 3.66 The top 3% of earners in the 1995 Section have pensionable pay over £100,000 pa, whereas the top 1% in the 2008 Section and 2015 Scheme have pensionable pay over £100,000 pa.
- 3.67 There is no key threshold above which people begin to become affected by pensions tax charges. Those earning more are more likely to be affected because they accrue more pension over a year. However, anybody with a lower but rising salary and significant service could very well also be affected.
- 3.68 However, annual earnings of £128,655 (calculation shown below) may be seen as an important milestone. Once this level of income is crossed, then (assuming all of this income is pensionable pay) the Annual Allowance tapering threshold has been crossed and the Annual Allowance may begin to reduce. Note that if income contains non-pensionable elements then the threshold is *lower* as fewer pension contributions will have been paid to bring taxable income below the £110,000 threshold.

Pensionable Pay:	£128,655
Member contributions:	14.5% × £128,655 = £18,655
Pensionable Pay less member contributions:	£128,655 – £18,655 = £110,000

Number of Annual Allowance breaches

3.69 According to a freedom of information request from Quilter¹, the following table shows the number of NHSPS members exceeding the standard Annual Allowance in recent tax years, as well as the number of those electing to use Scheme Pays.

Tax Year	Members exceeding the Annual Allowance	Members using Scheme Pays
2013/14	21,021	1,353
2014/15	21,396	347
2015/16	8,031	768
2016/17	20,945	1,126
2017/18	12,655	3,869

Table 3: Number of Annual Allowance breaches in the NHSPS

Website Statistics

3.70 In addition, website statistics from NHS Employers shows a sharp increase in interest in Annual Allowance resources around September 2018. The monthly visits for the Annual and Lifetime Allowances web page² are shown below.

Month	Webpage visits
July 2018	660
August 2018	734
September 2018	1,286
October 2018	1,638

Table 4: Website statistics from NHS Employers on pages explaining pensions tax

3.71 Each year, 6 October is the deadline by which a pension scheme must send a Pension Savings Statement to scheme members who have breached the £40,000 Annual Allowance. The increase in interest after the summer months is likely to be explained by several members receiving these statements to alert them about possible Annual Allowance charges from the 2017/18 tax year.

¹ <https://www.ftadviser.com/pensions/2019/05/07/scheme-pays-take-up-surges-at-nhs-scheme>

² <https://www.nhsemployers.org/pay-pensions-and-reward/pensions/nhs-pension-scheme/annual-and-lifetime-allowances>

Opt-out data from the scheme administrators

3.72 The table below shows the total number of members opting out in each month from April 2018 to March 2019 due to Annual or Lifetime Allowance issues. This data is taken from ESR (Electronic Staff Record) which covers the vast majority, but not all, of the NHS workforce.

Month	Opt-outs due to AA / LTA issues
Apr 2018	362
May 2018	326
Jun 2018	264
Jul 2018	245
Aug 2018	263
Sep 2018	192
Oct 2018	249
Nov 2018	234
Dec 2018	207
Jan 2019	315
Feb 2019	390
Mar 2019	312
Total	3,359

Table 5: Summary of opt-out data

- 3.73 Members may choose to opt-out of the pension scheme as this means that they do not accrue any more pension and end the salary link to their final salary benefits, so reducing the risk of Annual Allowance tax charges due to increases in pensionable pay. Benefits will instead revalue with CPI inflation.
- 3.74 Depending on the employee's specific circumstances and the length of time they opt-out of the scheme for, they may not be able to reinstate the final salary link to benefits earned before the opt-out if they choose to re-join the scheme in the future.
- 3.75 Some members may choose to opt in and out of the scheme regularly to control the amount of pension they accrue. However, it is difficult to precisely time these moves and how they can impact on the individual pensions tax position. This also increases the administrative workload for scheme administrators.
- 3.76 Many of those that opt-out are concerned about the impact this may have on 'death in service' and ill-health benefits, as these are lost when employees are not in the pension scheme.

Effect of Allowances in NHS

3.77 We do not expect a large percentage of the workforce to be affected by Annual Allowance tax charges. However, in an organisation with well over a million employees even small percentages can mean a large number of people. For example, with nearly 1.6 million active members in the NHSPS, if 2% of the workforce are potentially affected this would mean around 32,000 people.

4. NHS PENSION SCHEME – CASE STUDIES

- 4.1 In this section we will illustrate through case studies how employees in the NHS may be affected by pensions tax.
- 4.2 We have based our case studies on real-life members. This means their pay and service is representative of NHS employees and so the studies paint a realistic picture of what many may be experiencing.
- 4.3 The following sections will focus more on the Annual Allowance due to its more topical and complex nature. The impact of the final salary and CARE schemes will be considered in isolation to understand their underlying mechanisms and impact on the Annual Allowance.
- 4.4 However, it should be noted that many members will have both final salary and CARE service, so issues from both schemes will affect them.
- 4.5 For simplicity, we have assumed that there is no carry forward of unused Annual Allowance from previous tax years and no active pension saving outside of the NHSPS.
- 4.6 It should be noted that pensions tax positions are very personal and individual, so these case studies should not be seen as individual guidance. Individuals should seek independent financial and tax advice to understand their own positions.

1995/2008 Scheme – Final salary

- 4.7 In a final salary scheme, pension growth comes from two sources; accrual and increases in pay (final salary).

Accrual in the 1995/2008 Scheme

- 4.8 The majority NHSPS members with final salary linked benefits have built these up in the 1995 Section of the 1995/2008 Scheme.
- 4.9 Members in the 1995 Section build up pension using an accrual rate of $1/80^{\text{th}}$ of final salary for each year of pensionable service and an additional cash lump sum of $3/80^{\text{th}}$ of final salary (that is, three times pension).
- 4.10 Even for some of the highest earners, accrual alone will rarely cause an Annual Allowance tax charge in the 1995 Section.
- 4.11 Disregarding any non-pensionable pay and past pensionable service, pensionable pay would need to exceed around £147,000 (calculation shown below) to breach the (tapered) Annual Allowance on the basis of accrual only.

Pensionable pay:	£147,000
Member contributions:	14.5% × £147,000 = £21,315
Benefits accrued over 1 year:	£1,838 annual pension and £5,513 lump sum
Pension Input Amount:	£1,838 × 16 + £5,513 = £34,913
Threshold income:	£147,000 – £21,315 = £125,685
Adjusted income:	£125,685 + £34,913 = £160,598
(Tapered) Annual Allowance:	£40,000 – (£160,598 – £150,000) / 2 = £34,701
Pension Input Amount of £34,913 > Tapered Annual Allowance of £34,701	

4.12 In the 2008 Section the accrual rate is 1/60th of final salary (with no additional cash accrual). In this case, pensionable pay would need to exceed around £139,000 (calculation shown below) to breach the (tapered) Annual Allowance on the basis of accrual only.

Pensionable pay:	£139,000
Member contributions:	14.5% × £139,000 = £20,155
Benefits accrued over 1 year:	£2,317 annual pension
Pension Input Amount:	£2,317 × 16 = £37,072
Threshold income:	£139,000 – £20,155 = £118,845
Adjusted income:	£118,845 + £37,072 = £155,917
(Tapered) Annual Allowance:	£40,000 – (£155,917 – £150,000) / 2 = £37,042
Pension Input Amount of £37,072 > Tapered Annual Allowance of £37,042	

Final salary

4.13 It is more likely that Annual Allowance tax charges will be incurred due to an increase in pensionable pay, which in turns means an increase to final salary.

4.14 The table below is based on different levels of pay but let's assume that in all cases the scheme member has:

- 30 years' past pensionable service in the 1995 Section which is representative of older protected members retaining membership in the 1995 Section
- 10% increase in pay (alternatively, a 10% increase in final salary)
- No pay which is non-pensionable

- A 3% inflationary uplift on the pension at the end of the previous tax year as part of the Pension Input Amount calculation

Note that the cash lump sum benefit is equal to three times annual pension, but this is not shown in the table below.

Pay before pay rise	Pension at end of previous tax year	Pension at end of tax year to be assessed	Pension Input Amount	Excess Pension Savings
£80,000	£29,000	£33,000	£59,470	£19,470
£100,000	£36,250	£41,250	£74,338	£34,338
£120,000	£43,500	£49,500	£89,205	£75,237
£140,000	£50,750	£57,750	£104,073	£94,073

Table 6: Annual Allowance breaches for example members of the 1995 Section of the NHSPS

- 4.15 As mentioned earlier, the main factor is growth of the final salary benefits, so the higher salary increases are the more likely (and potentially larger) any tax charges may be.

Timing of pay increases

- 4.16 The timing of increases to pay (perhaps by a promotion) can also have an impact on pension growth and, consequently, Annual Allowance tax charges.
- 4.17 The definition of ‘final salary’ in the 1995 Section is, broadly, the highest annual pensionable pay in the last three years of pensionable service. Where a member’s pensionable pay is increasing, it is likely that their last twelve months’ pay will determine their final salary.
- 4.18 If a pay increase takes place at the start of the tax year (in April), then a full year of higher pay is accounted for in the Annual Allowance calculation at the end of the tax year. If a pay increase takes place in October, say, then the impact of the pay increase on pension growth is spread over two tax years. This illustrates that the timing of a pay increase impacts on pension growth and on the likelihood and size of any Annual Allowance tax charge.

2015 Scheme – Career Average Revalued Earnings (“CARE”)

- 4.19 On 1 April 2015, the 2015 Scheme was introduced. With the exception of those who were able to stay ‘protected’ in the 1995/2008 Scheme, the majority of NHS employees were moved to the 2015 Scheme. The 2015 Scheme is still a Defined Benefit (“DB”) scheme but has a CARE structure rather than final salary.
- 4.20 In a CARE scheme, pension growth comes from two sources; accrual and in-service revaluation.
- 4.21 Compared to the 1995/2008 Scheme, the 2015 Scheme has a faster accrual rate (1/54th) than either section of the 1995/2008 Scheme.

4.22 Disregarding any non-pensionable pay and past pensionable service, pensionable pay would need to exceed around £132,000 (calculation shown below) to breach the (tapered) Annual Allowance on the basis of accrual only.

Pensionable pay:	£132,000
Member contributions:	14.5% × £132,000 = £19,140
Benefits accrued over 1 year:	£2,444 annual pension
Pension Input Amount:	£2,444 × 16 = £39,104
Threshold income:	£132,000 - £19,140 = £112,860
Adjusted income:	£112,860 + £39,104 = £151,964
(Tapered) Annual Allowance:	£40,000 – (£151,964 – £150,000) / 2 = £39,018
Pension Input Amount of £39,104 > Tapered Annual Allowance of £39,018	

In-service revaluation

- 4.23 In the 2015 Scheme, accrued pension is revalued each year in line with CPI inflation plus 1.5% rather than increases to pay. This means that significant pay increases will not cause past service pension growth as is the case with final salary benefits.
- 4.24 However, members are not be able to control pension growth on already accrued pension in a CARE scheme by controlling their level of pay as is the case in the final salary scheme – for example, by refusing promotions or additional work.
- 4.25 Because of the way each year’s Pension Input Amount is calculated, the contribution of accrued CARE pension to pension growth is effectively 1.5% of all accrued pension in the 2015 Scheme. This will not cause large pension growth figures when there is little service as is the case now where the CARE scheme was only introduced four years ago. However, it will have a bigger impact in the future when more service is accrued.
- 4.26 Although very few years of service have been earned in the 2015 scheme, this has already been an issue for practitioners who have always built up CARE benefits – even in the 1995/2008 Scheme.
- 4.27 The table below is based on different levels of pay and pensionable service in the 2015 Scheme but let’s assume that in all cases the scheme member has:
- Pay increases in line with CARE revaluation (so CPI inflation + 1.5% pa)
 - No pay which is non-pensionable
 - No past service final salary benefits

CARE service:	1 year	4 years	10 years	20 years
Pay				
£120,000				£1,407
£130,000			£2,856	£7,861
£140,000	£7,071	£8,688	£11,922	£17,313

Table 7: Annual Allowance breaches for example members of the 2015 Scheme of the NHSPS

- 4.28 Once a member begins to incur an Annual Allowance tax charge, these charges will increase year-on-year and will not end without action – such as reducing pay or ending service in the 2015 Scheme.
- 4.29 The potential magnitude of Annual Allowance tax charges under the CARE scheme is generally lower than that under the final salary sections.

The Annual Allowance tapering ‘cliff-edge’

- 4.30 Annual Allowance tapering can cause a ‘cliff-edge’ in pensions taxation, where small increases in income can result in large tax bills – with a marginal rate of tax often far exceeding 100%.

A 49-year-old consultant with 20 years’ service in the 1995 Section and 4 years’ service in the 2015 Scheme.

Pensionable pay of £90,000 and non-pensionable pay of £20,000 (from private clinic work).

If this member receives a pensionable pay rise of £14,000 (perhaps from taking on a managerial role) they will incur an Annual Allowance tax charge of around £18,342. However, if their pensionable pay rise was £15,000 (a pay rise just £1,000 higher), then the tax charge would increase to around £32,150 – an increase of around £13,808 for an extra £1,000 pensionable pay rise.

Pensionable pay rise:	<u>£14,000</u>	<u>£15,000</u>
Pension at end of previous tax year:	£27,500	£27,500
Cash at end of previous tax year:	£67,500	£67,500
Pension at end of current tax year:	£33,121	£33,389
Cash at end of current tax year:	£78,000	£78,750
Pension Input Amount:	£85,210	£90,256
Threshold income:	£109,960	£110,825
Adjusted income:	£195,170	£201,081
(Tapered) Annual Allowance:	£40,000	£14,460
Annual Allowance tax charge:	£18,342	£32,150

The additional tax charge occurs because the extra £1,000 pay pushes the member's taxable income over the £110,000 threshold. Combined with the large Pension Input Amount due to the pay rise, this wipes out around £25,540 of their Annual Allowance, of which a significant amount is charged at 45%.

This is an extreme example to illustrate what could happen but is not unimaginable. If the member chooses to pay the £32,150 tax bill with Scheme Pays, then assuming:

- Real interest of 2.4% (interest rate is SCAPE discount rate + CPI, so equivalent to SCAPE discount rate only in real terms)
- Retirement at age 65 (16 years to retirement)

The value of the tax charge as deducted from pension benefits at retirement will amount to around £46,987 in today's money. Around £20,180 of this would be due to the extra £1,000 pay increase.

If a lesson is to be drawn from this, it should be that members should be aware of where they are relative to the £110,000 tapering threshold, and how it might affect them.

Lifetime Allowance

4.31 As mentioned earlier in the report, in order to breach the current Lifetime Allowance of £1.055 million, an individual would, for example, need to draw an annual pension of £52,750 at retirement.

4.32 In the following examples, we have assumed the following.

- The Lifetime Allowance is £1,055,000
- Employees join the NHSPS at age 25 and retire at the relevant Scheme's Normal Pension Age
- There are no Lifetime Allowance protections and no other pension savings

4.33 This example directly below is a protected member of the 1995 Section.

35 years' pensionable service in the **1995 Section** (joined at age 25, retires at age 60) and a final salary of £125,000.

Annual pension at retirement:	$35 / 80 \times \text{£}125,000 = \text{£}54,688 \text{ pa}$
Additional cash lump sum:	$\text{£}54,688 \times 3 = \text{£}164,064$
Value of pension savings:	$\text{£}54,688 \times 20 + \text{£}164,064 = \text{£}1,257,824$
Excess pension savings:	$\text{£}1,257,824 - \text{£}1,055,000 = \text{£}202,824$

If the excess pension savings are taken as pension, then the Lifetime Allowance tax charge is 25% of the excess pension savings and the remaining 75% would be paid to the individual.

Tax bill:	$\text{£}202,824 * 25\% = \text{£}50,706$
------------------	---

Pension reduction	$\pounds 50,706 / 12 = \pounds 4,226$
Annual pension to be paid:	$\pounds 54,688 - \pounds 4,226 = \pounds 50,462 \text{ pa}$
Cash lump sum paid:	$\pounds 164,064$

4.34 This next example is a member of the 2015 Scheme.

42 years' pensionable service in the **2015 Scheme** (joined at age 25, retires at State Pension Age of 67) and pensionable pay in the final year of $\pounds 70,000$. Assume that salary increases have been in line with revaluation of CPI + 1.5%.

Annual pension at retirement:	$\pounds 54,444 \text{ pa}$
Value of pension savings:	$\pounds 54,444 \times 20 = \pounds 1,088,880$
Excess pension savings:	$\pounds 1,088,880 - \pounds 1,055,000 = \pounds 33,880$

If the excess pension savings are taken as pension, then the Lifetime Allowance tax charge is 25% of the excess pension savings and the remaining 75% would be paid to the individual.

Tax bill:	$\pounds 33,880 \times 25\% = \pounds 8,470$
Pension reduction	$\pounds 8,470 / 12 = \pounds 706$
Annual pension to be paid:	$\pounds 54,444 - \pounds 706 = \pounds 53,738$

4.35 The 2008 Section has both an accrual rate and normal pension age between those in the 1995 Section and the 2015 Scheme. Unlike the 2015 Scheme, the 2008 Section is a final salary scheme so may produce greater tax charges than the 2015 Scheme if final salary rises faster than CPI + 1.5% throughout a member's career.

Impact of retiring early

4.36 One way of reducing the value of benefits measured against the Lifetime Allowance at retirement is to retire before normal pension age. This approach can be used to mitigate Lifetime Allowance tax charges in a few different ways:

- Less pension will have been accrued compared to working longer
- There is less risk of increases to pay raising the value of accrued pension
- Early retirement reduction factors are applied to benefits taken before normal pension age to reflect the fact that they will be paid for longer
- Despite retiring at an earlier age, the pension is still valued for Lifetime Allowance purposes using a fixed factor of 20

Impact of cash commutation

- 4.37 Employees can exchange pension for cash at retirement. This is another way to reduce the value of benefits measured against the Lifetime Allowance.
- 4.38 Cash commutation factors represent how much tax-free lump sum a member receives for each £1 of pension given up. Because of the way benefits are valued at retirement, giving up pension for cash when the commutation factor is less than 20 reduces the value of pension measured against the Lifetime Allowance.
- 4.39 The NHSPS uses a cash commutation factor of 12:1 – that is, £1 annual pension given up provides £12 cash. This means that giving up pension for cash is effective in the NHSPS to reduce (or possibly remove) a Lifetime Allowance tax charge. This does mean it can be difficult for members who do not take advice to assess the most advantageous mix of pension and cash.

5. ONLINE SURVEY FOR EMPLOYEES

- 5.1 First Actuarial and NHS Employers worked together to issue an online survey for employees at thirty organisations in the NHS – mostly hospitals and trusts.
- 5.2 The survey was refined using face-to-face interviews with NHS employees to ensure that the questions were appropriate.
- 5.3 Each organisation was asked to issue the survey to all employees earning more than £60,000 in order to assess the views of those employees more likely to be impacted by pensions tax issues.
- 5.4 The survey was open between 13 May 2019 and 3 June 2019 with 2,521 completed responses received from employees.
- 5.5 In the time available, we were unable to get a significant number of responses from General Practitioners, who may also be affected by these issues. This is because this market is more fragmented and difficult to approach on a large-scale basis.
- 5.6 For the organisations that provided us with the number of employees issued with the survey we were able to assess the response rates (i.e. the number of employees that responded out of those asked to complete the survey). The average response rate was around 22%.
- 5.7 It should be noted that the results of this section are likely to contain some bias for several reasons:
 - Organisations volunteering to participate in the survey are more likely to be aware of employees with pensions tax issues
 - The survey was sent to employees earning over £60,000 who are more likely to be impacted by pensions tax issues than the whole NHS workforce
 - Employees choosing to respond to the survey are more likely to have pensions tax issues
- 5.8 Consequently, the results will not be representative of all NHS employees. Where we state, for example “25% of respondents” this neither extrapolates to mean “25% of all NHS employees” nor “25% of higher earners”.

Summary of respondent characteristics

- 5.9 Charts summarising the characteristics of respondents can be found in Appendix C.
- 5.10 The majority of respondents were consultants (72%) and senior managers (12%), with other professions or titles accounting for the remaining 16%.
- 5.11 The average age of the respondents was around 49 years old, with almost 90% over the age of 40.

- 5.12 The average date of joining the NHS was around 1997, or 22 years ago. Around 90% of respondents joined between 1980 and 2009.
- 5.13 Although the NHS workforce is predominantly female, 65% of respondents were male.
- 5.14 Broadly 9 out of 10 respondents work full-time in the NHS.
- 5.15 Around 90% of respondents were on the consultant (72%) or Agenda for Change (18%) pay scales.
- 5.16 Of the 464 respondents on the Agenda for Change pay scale, just over half were on paypoints 8b or 8c and around 30% on paypoints 8d or 9.
- 5.17 The chart below shows the different combinations of scheme benefits earned by the respondents. 55% have final salary benefits in the 1995 Section, with 1/3rd of this proportion with benefits only in the 1995 Section (so assumed to have transitional protection) and the other 2/3rd with benefits in both the 1995 Section and the 2015 Scheme (as assumed to have moved to the CARE scheme with salary-linked benefits in the 1995/2008 Scheme). Interestingly, 13% of respondents didn't know which scheme they have benefits in.

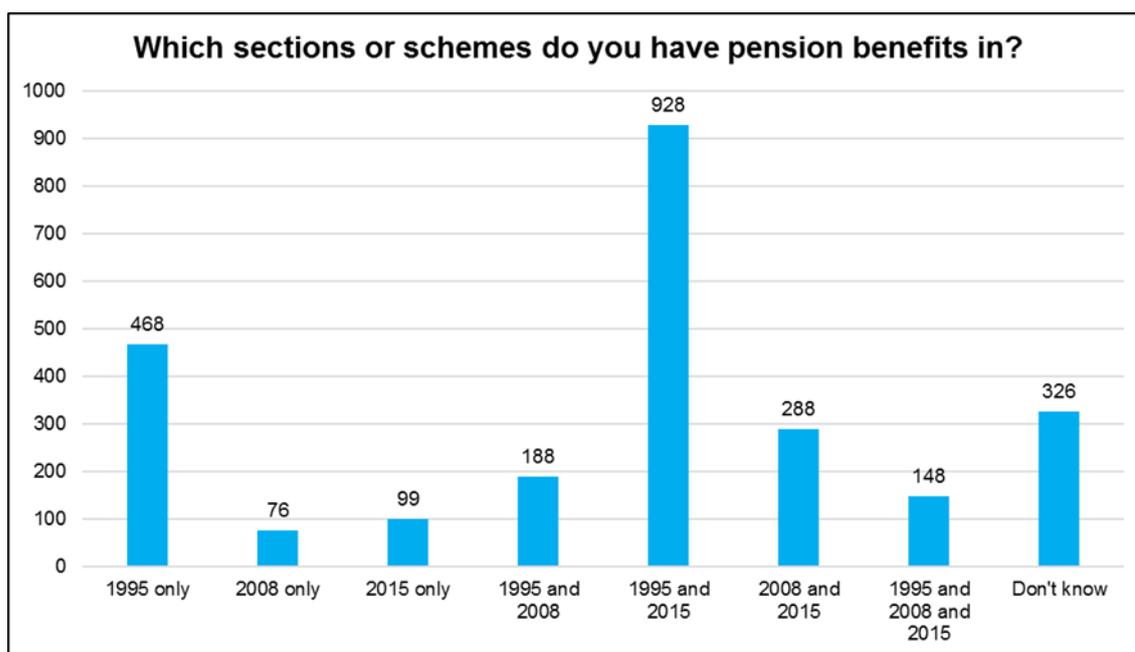


Chart 5: Employee survey – Which sections or schemes benefits have been earned in

Distribution of pay

- 5.18 The number of respondents within certain pay groups is shown below. These pay groups were chosen arbitrarily and are not related to NHS pay scales.
- 5.19 The figures with a green background show the number of respondents with pensionable pay and total pay within the same pay group – these add up to 1,284, or around half of all respondents. This means that the other half of respondents have non-pensionable pay which takes them into a higher pay group.
- 5.20 It could be that some members have non-pensionable pay which does not tip them over into a higher pay group when assessing total pay but that is not identifiable here.
- 5.21 Total pay includes other sources of income, such as private clinical work.

		Total Pay						
		Up to £60,000	£60,001 to £90,000	£90,001 to £110,000	£110,001 to £130,000	£130,001 to £150,000	£150,001 to £200,000	Over £200,000
Pensionable Pay	Up to £60,000	161	41	8	2	0	0	1
	£60,001 to £90,000	-	567	188	83	37	28	6
	£90,001 to £110,000	-	-	321	209	145	105	53
	£110,001 to £130,000	-	-	-	136	88	80	36
	£130,001 to £150,000	-	-	-	-	50	78	31
	£150,001 to £200,000	-	-	-	-	-	45	18
	Over £200,000	-	-	-	-	-	-	4

Table 8: Employee survey – Distribution of pay

- 5.22 Nearly 1/3rd (805) of respondents have total pay exceeding £130,000 – this means their taxable pay (or threshold income) is likely to be greater than £110,000 so they are at a high risk of Annual Allowance tapering.

5.23 Of the 805 members with total pay over £130,000, nearly half of them (375, represented within the black box) have significant non-pensionable pay which lifts their pensionable pay of under £110,000 to total pay of over £130,000 and at risk of Annual Allowance tapering. The employer and scheme administrators will not be able to identify these members.

Knowledge and understanding

5.24 Consultants appear more knowledgeable on pensions than employees working in other areas. Also, as we might expect, members nearer to retirement consider themselves more knowledgeable on pensions. Overall, just 12% of respondents consider their pensions knowledge to be 'high' with the rest reasonably evenly split between 'medium' and 'low'. This means that 2 in every 5 respondents classed their general pensions knowledge as 'low'.

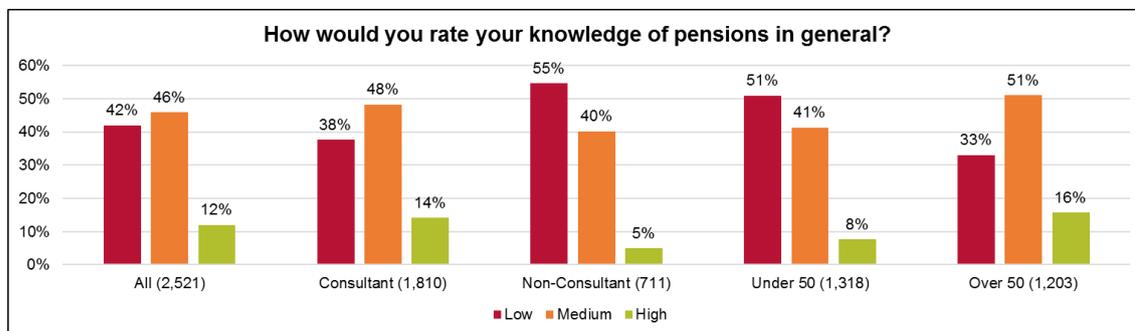


Chart 6: Employee survey – Pensions knowledge

5.25 Around 3 in 4 have accessed their Total Reward Statement (“TRS”) in the last two years to look at their pension benefits – and so are aware of and tracking these benefits. Consultants and those over 50 are more likely to have accessed their TRS to look at these benefits – likely because they form a large part of their overall benefit package and may be closer to planning their retirements.

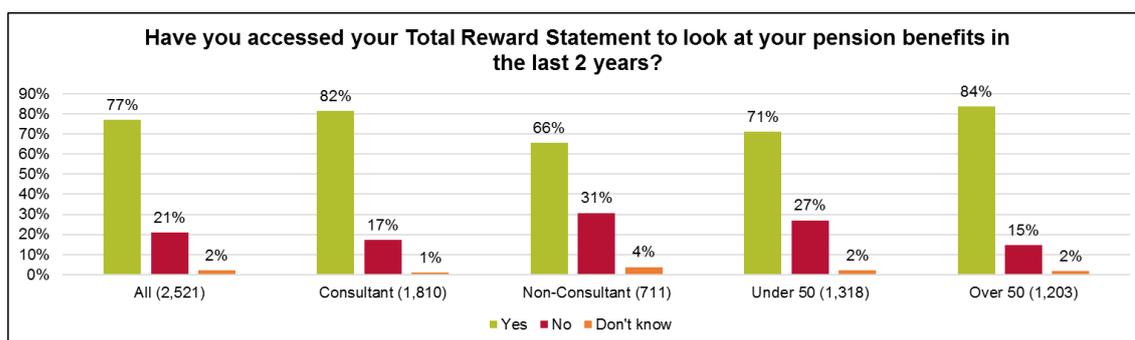


Chart 7: Employee survey – Total Reward Statement

Questions on the Lifetime Allowance

5.26 Just 17% of respondents would rate their understanding of the Lifetime Allowance as 'high', with the remainder broadly 50/50 split between 'low' and 'medium' knowledge. This chart also shows that a higher proportion of both older scheme members and members with longer scheme service have a higher knowledge of the Lifetime Allowance.

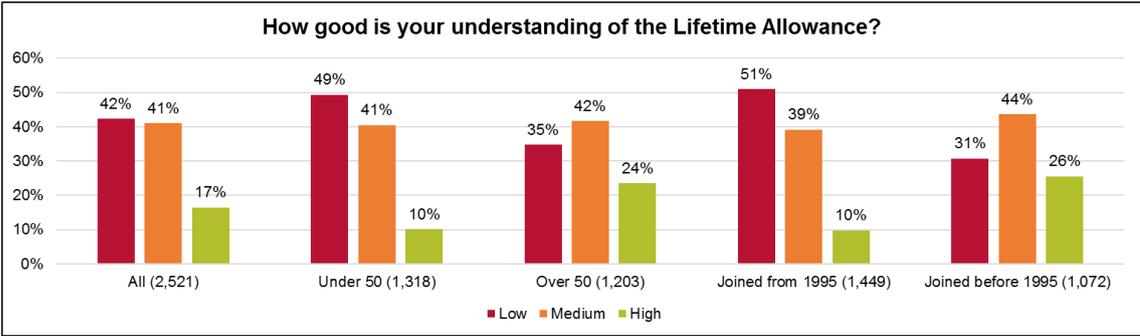


Chart 8: Employee survey – Knowledge of the Lifetime Allowance

5.27 9% of respondents have Lifetime Allowance protections in place which give them access to a personalised Lifetime Allowance higher than the headline figure (currently £1.055m). It is not surprising to see that the majority of those with Lifetime Allowance protections are over 50 and have longer scheme service.

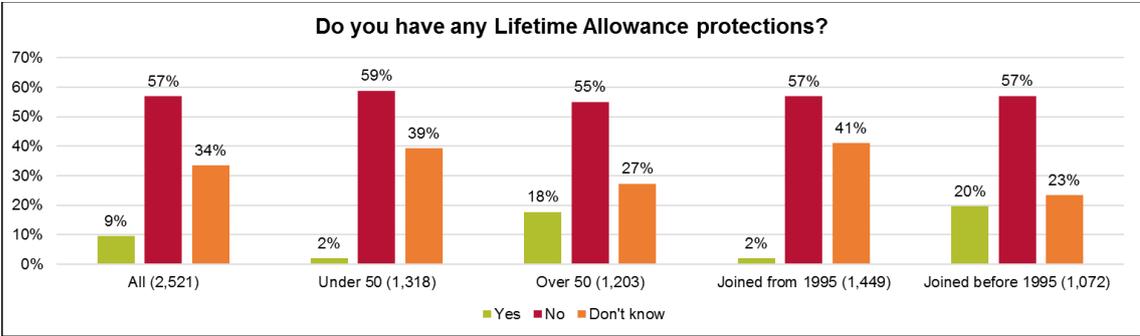


Chart 9: Employee survey – Lifetime Allowance protections

5.28 On Lifetime Allowance breaches, 10% have already breached their Lifetime Allowance, 35% have not yet breached but expect to in the future and 12% believe they will not breach due to action they plan to take to avoid this. In total, this means that nearly 3 in 5 of all respondents consider themselves to either have, or will have, scheme benefits affected by the Lifetime Allowance. As expected, there is some correlation between having a better knowledge of the Lifetime Allowance and understanding the level of benefits earned in the NHS.

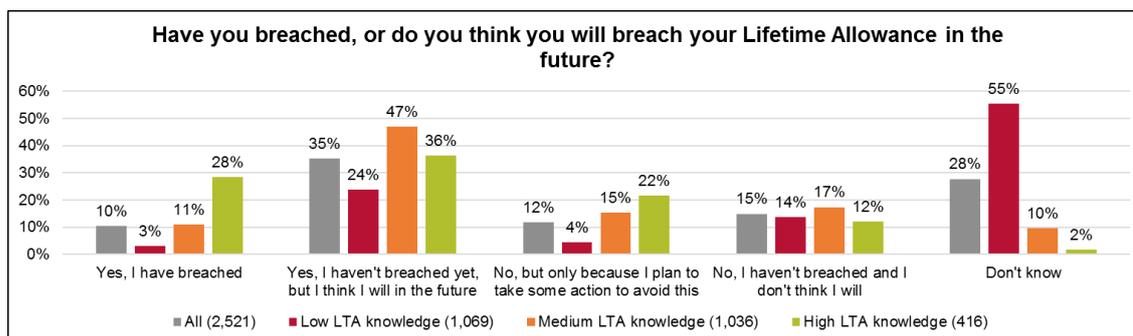


Chart 10: Employee survey – Possible Lifetime Allowance breaches

5.29 45% of respondents, split in the proportion 75/25, either think they will breach in the future or will take some action to avoid this. This action may be impact on the NHS service and delivery or the pension scheme itself.

Questions on the Annual Allowance

5.30 43% of respondents would rate their understanding of the Annual Allowance as 'low', with 40% as 'medium' and 17% as 'high'. However, understanding is strongly related to whether a person has breached the Annual Allowance in the past or not.

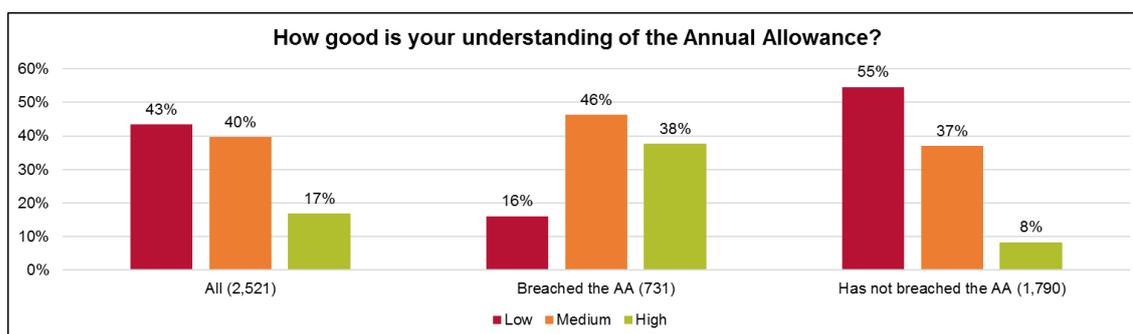


Chart 11: Employee survey – Understanding of the Annual Allowance

5.31 The chart below shows how people became aware of the Annual Allowance. More than half of respondents became aware of Annual Allowance through word of mouth, and around 1 in 4 from the news and/or an Independent Financial Adviser (IFA). It appears that there is no single key source where members are getting this information from – there are many sources and several of these may not be providing reliable information. Note that the sum of percentages add up to more than 100% because respondents were able to select more than one source.

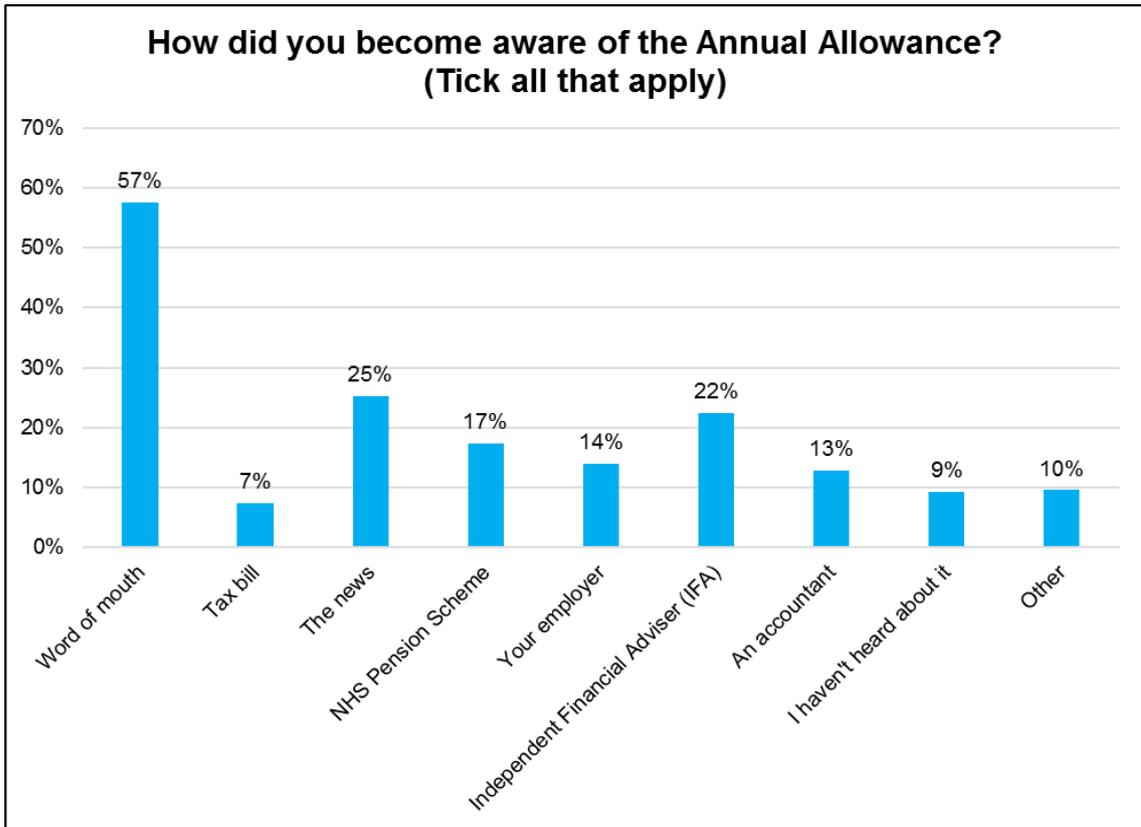


Chart 12: Employee survey – Where awareness of the Annual Allowance came from

5.32 This next chart shows awareness of Annual Allowance tapering. There is a clear relationship between awareness of tapering and income, as those with greater incomes are much more likely to be aware of it. This is because people are more likely to be affected by tapering as their income rises, and some may become aware of tapering by being unknowingly caught-out by it when their taxable income crosses the £110,000 threshold. There are well over 200 respondents with total pay greater than £110,000 but not aware of the Annual Allowance tapering which could affect them.

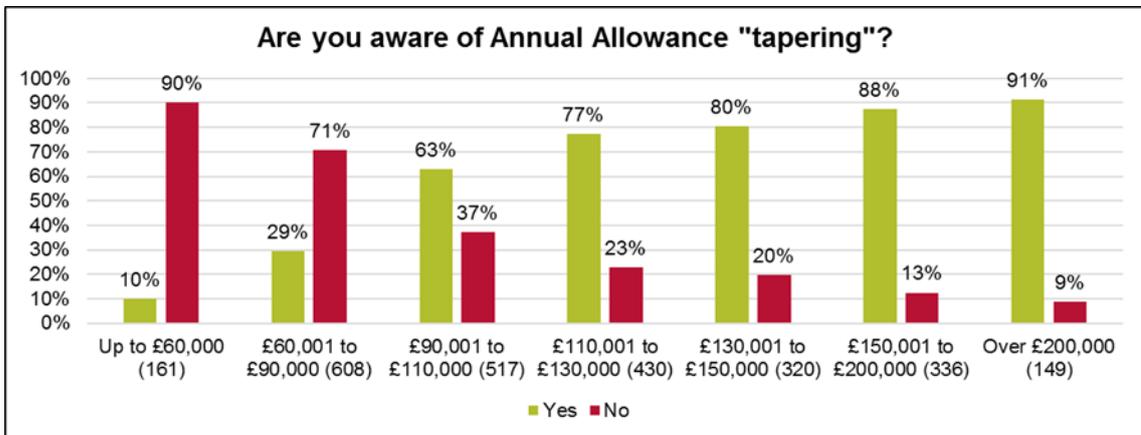


Chart 13: Employee survey – Awareness of Annual Allowance tapering

5.33 Just over 70% of respondents have not had an Annual Allowance breach in the past. Where a breach has occurred, this was mostly likely notified by the NHS Pension Scheme (likely through a Pension Savings Statement showing Pension Input Amounts and next steps to take) or by an Independent Financial Adviser (IFA).

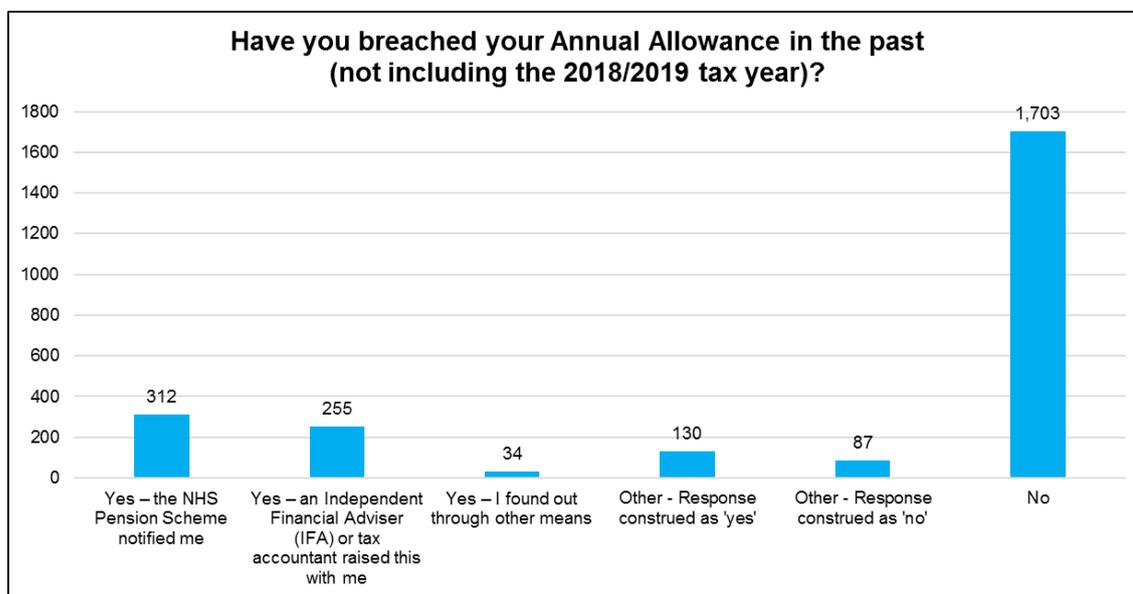


Chart 14: Employee survey – Annual Allowance breaches in the past

5.34 Average Pension Input Amounts (pension growth over a year) does not have a clear relationship with level of pay. This could indicate that while accrual within a year is important, the magnitude of pay increases may have more of an impact on the value of pension growth, and therefore potential Annual Allowance tax charges. Where the value was greater than zero (in 476 completed surveys), the average total Pension Input Amount was around £91,000 across all pay groups. Note that these figures are based on individual memories so may not be completely reliable.

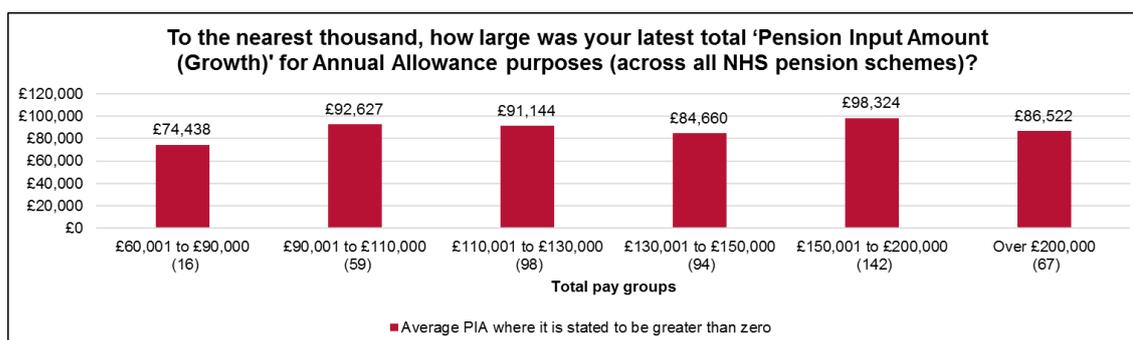


Chart 15: Employee survey – Pension Input Amounts

5.35 The chart below shows that the method individuals paid their Annual Allowance tax bill depended on the size of the tax bill. As you would expect, the larger the tax bill, the more likely it is that Scheme Pays was used rather than settling the tax bill directly. This is because those facing a large tax bill may be unable to find the cash upfront to meet the bill. Overall around 35% used Scheme Pays, 55% settled the tax bill directly with HMRC and 10% used a bit of both. The average tax charge (where this was greater than zero in 375 completed surveys) was £22,000.

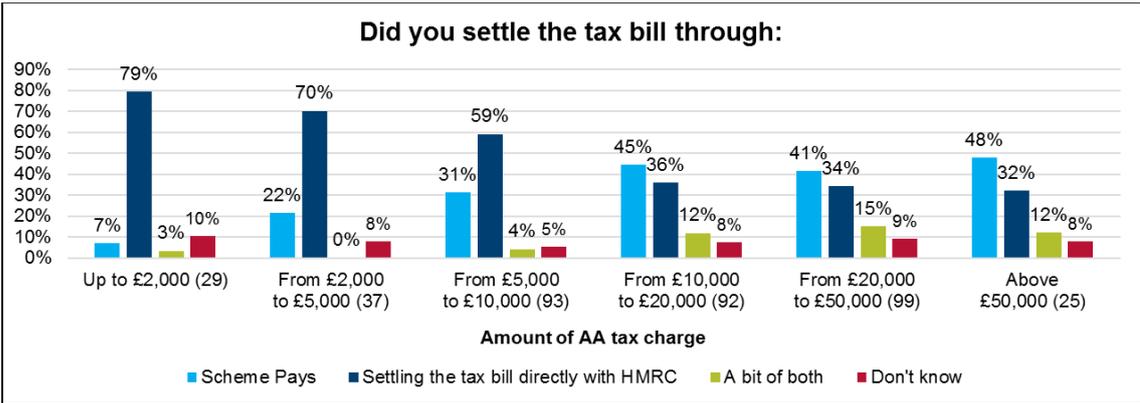


Chart 16: Employee survey – Paying the Annual Allowance tax charge

5.36 The chart below shows how individuals chose to pay their Annual Allowance tax bill (removing those who didn't pay an Annual Allowance tax bill or don't know how they paid it). Across all levels of understanding, people are more likely to try and settle the tax bill directly with HMRC rather than using Scheme Pays.

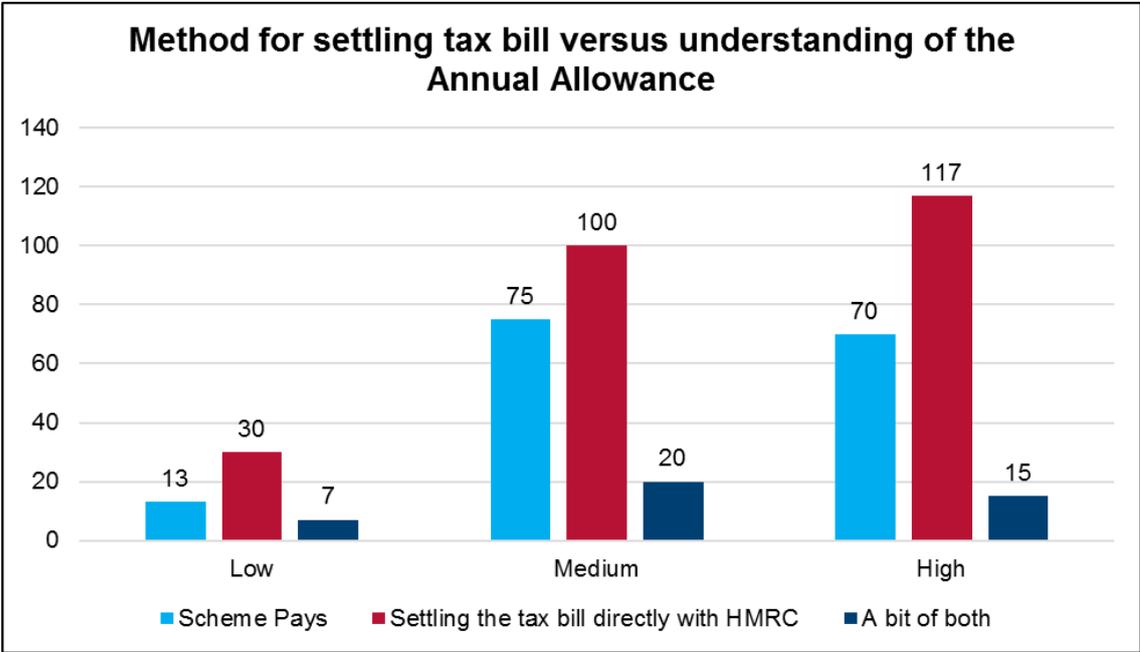


Chart 17: Employee survey – Annual Allowance method of payment versus understanding

5.37 The chart below shows whether people believe they will face an Annual Allowance tax bill in the future or not. Those that faced a tax bill in the past are more likely to think that they will continue to face further Annual Allowance tax bills in the future.

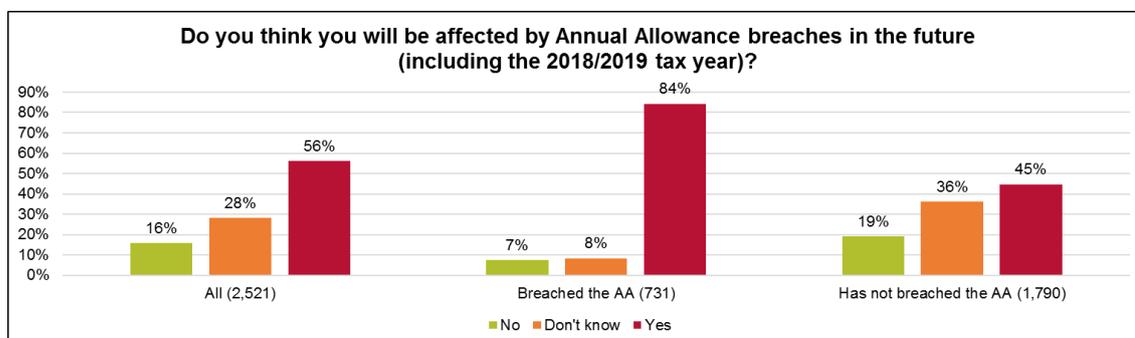


Chart 18: Employee survey – Likelihood of being affected by the Annual Allowance in the future

5.38 The large numbers that believe they might be affected despite not having breached yet could be due to the combination of carry-forward running out and introduction of tapering in 2016.

5.39 However, this could also be due to an element of ‘panic’. Our findings suggest that people often do not have a comprehensive understanding of the issue and do not know where to find the answers they need. In particular, information carried through word of mouth can be distorted (see 5.31).

Seeking help

5.40 The chart below shows whether people feel supported in pensions tax matters by their employer. Those who have already faced an Annual Allowance breach in the past feel less supported by their employer than those who have not.

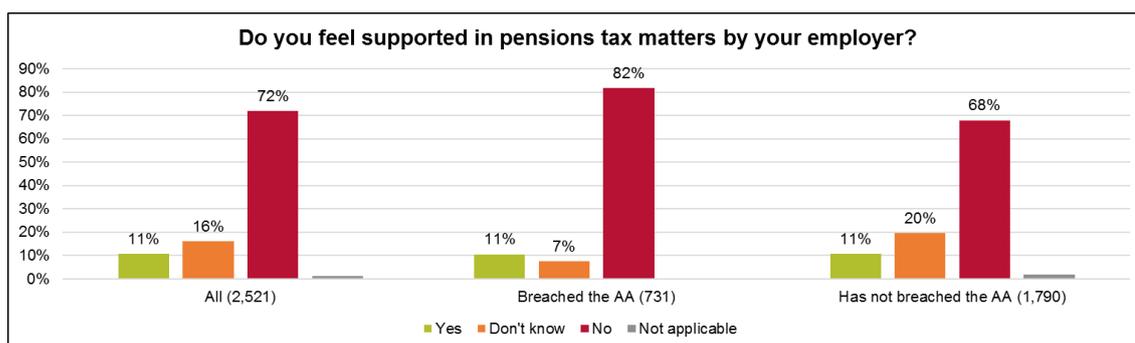


Chart 19: Employee survey – Level of support from employer on pensions tax

5.41 The chart below shows whether people feel supported in pensions tax matters by the NHS Pension Scheme. The results are similar to the above.

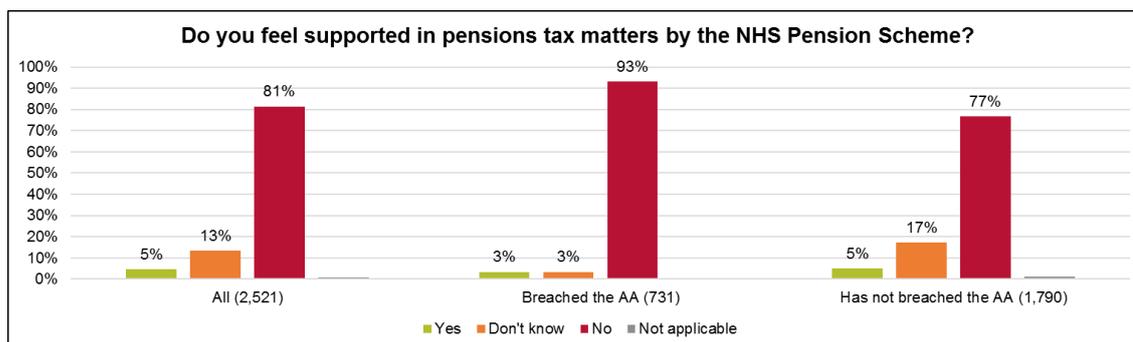


Chart 20: Employee survey – Level of support from the NHS Pension Scheme on pensions tax

5.42 It should be noted that employees may expect different levels of support from their employer and/or the pension scheme. These expectations are not examined here. For example, some may expect:

- To be compensated if they have taken on additional work such as waiting list initiatives in good faith which resulted in Annual Allowance tax charges
- To be offered independent financial advice provided for by their employer, due to the complexity of how the pension scheme interacts with the tax system
- To be offered flexibilities, such as opting out of the pension scheme and receiving a non-pension alternative
- Fast response times to queries – a recurring theme is individuals raising that significant delays take place between asking for and receiving Pension Savings Statements which would allow employees to calculate their Annual Allowance position, which can lead to uncertainty in planning for any tax charges

5.43 The employer pension contribution contains a 0.08% levy for administration expenses. This levy was designed to allow employers to have greater input into how administration resources are allocated within the pension scheme. Employers could therefore engage with and encourage the pension scheme to allocate more resources to managing pensions tax issues, such as faster delivery of Pensions Savings Statements when they are requested.

5.44 A selection of quotes from employees on the topic of information includes:

“There is no reliable, easy to understand advice and even pensions advisors seem confused.”

“Independent advice is very expensive and scarce regarding the NHS [pension] scheme specifically.”

“The total lack of information is unbelievable.”

5.45 The chart below shows that 2 in 3 intend to take or have taken financial advice on their pensions tax position. This rises to 9 in 10 for those who have breached the Annual Allowance in the past and is nearly 60% even for those who have not breached in the past. Some anecdotal evidence has been gathered which suggests difficulties in finding financial advisors willing to engage with members facing pensions tax difficulties in the NHSPS.

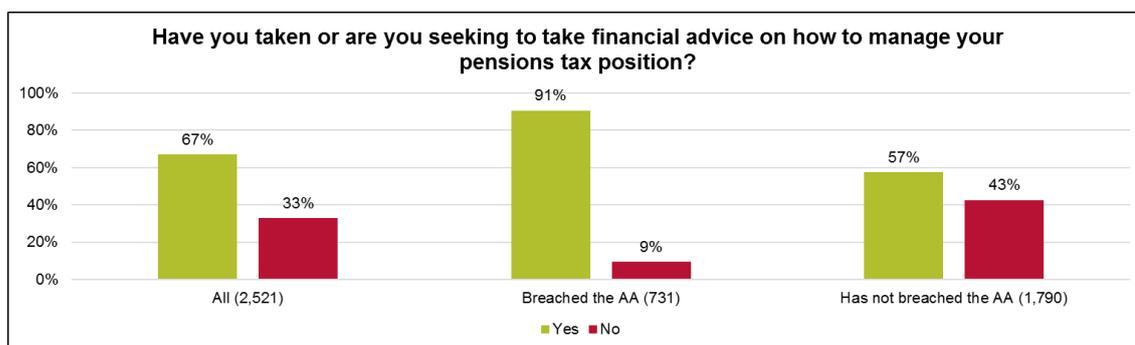


Chart 21: Employee survey – Taking financial advice on pensions tax

5.46 The chart below shows that overall, nearly half of respondents employed a tax accountant to help them fill in their self-assessment tax return. There appears to be a clear relationship with income, as those who earn more are more likely to employ a tax accountant to help them with their tax return. This shows that they may not have the time and prefer to delegate understanding of these issues to their accountants.

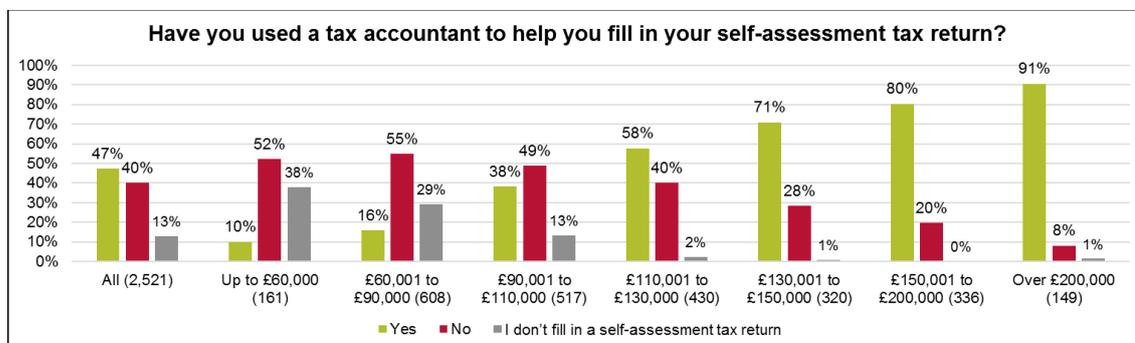


Chart 22: Employee survey – Using an accountant to complete tax returns

Actions taken or considered

5.47 The following table shows actions that the respondents have both already taken, and those actions that they are considering:

	Action taken (%)	Action considered (%)
Early retirement	3	33
Retire and return to work	3	21
Reducing hours	18	44
Reducing additional work	42	40
Avoiding promotions	20	27
Opting out of the NHSPS	9	35
Leaving the NHS altogether	N/A	26
Other	10	5
No action	39	21

Table 9: Employee survey – Actions already taken or being considered

5.48 Note that the percentages may add to more than 100% because respondents were able to select more than one course of action.

5.49 One employee quoted:

“I am not alone in this and I see a huge number of my colleagues bewildered, disillusioned and forced to take steps which will weigh heavy on their conscience as the only way out of this punitive taxation is to reduce our work leading to a disastrous compromise in patient care.”

5.50 We can break the table above into:

- Those that have breached the Annual Allowance in the past, and those that have not
- Those that believe they will breach in the future, those that do not, and those that don't know if they will or not

5.51 The next chart shows us that there is a difference in behaviour depending on whether people have breached the Annual Allowance in the past, in particular:

- Those that have breached in the past are much more likely to have reduced their hours as well as avoided any additional work or promotions
- Half of those who have not breached in the past have already taken some kind of action
- Those that have breached are more likely to consider taking any kind of future action

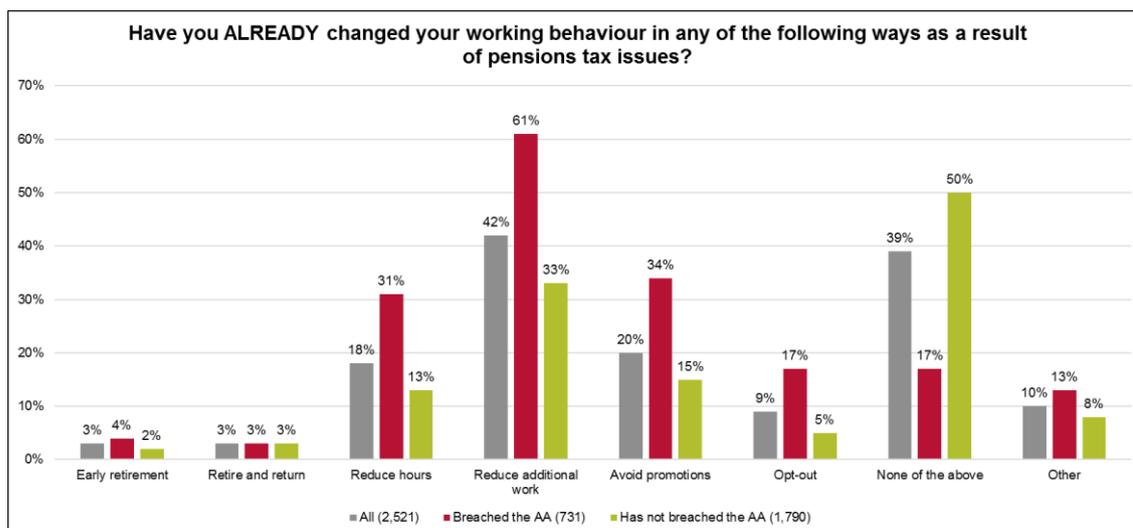


Chart 23: Employee survey – Actions already taken due to pensions tax

5.52 The chart below breaks down actions considered by whether employees believe they will be impacted by Annual Allowance issues in the future. In particular:

- As expected, those that think they will breach are more likely to consider taking action to prevent pensions tax issues
- Those that don't know if they will breach or not are more likely to take action than those that don't think they will breach – the uncertainty may therefore be driving them to action
- When looking at these results, it is worth keeping in mind that those responding to the survey are more likely to be those affected by the issue – which will skew the results upwards
- However, these results do indicate some cause for concern, as there could be a large impact on the objectives of the NHS if employees are considering reducing their commitment to the NHS, especially during a workforce shortage

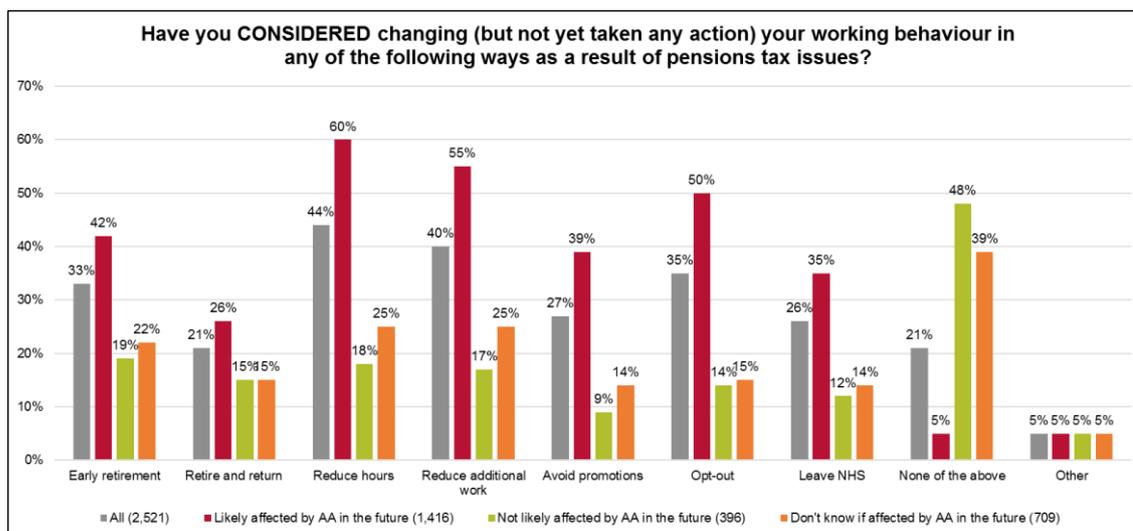


Chart 24: Employee survey – Actions being considered due to pensions tax

6. ONLINE SURVEY FOR EMPLOYERS

- 6.1 In this section we discuss the findings of the survey issued to employers, who may have a better overall view of how widespread the issue is within their organisation, and how the issue impacts their organisation’s ability to meet its objectives.
- 6.2 22 of the 30 NHS employers responded to the survey. Again, note that those responding may have been more affected than those who do not respond.

How widespread is the issue?

- 6.3 The pie chart below tells us that most (17 out of 22) employers believe the issue affects more than just a small group of employees, and around a third (7 in 22) believe the issue affects at least a relatively large group of employees.

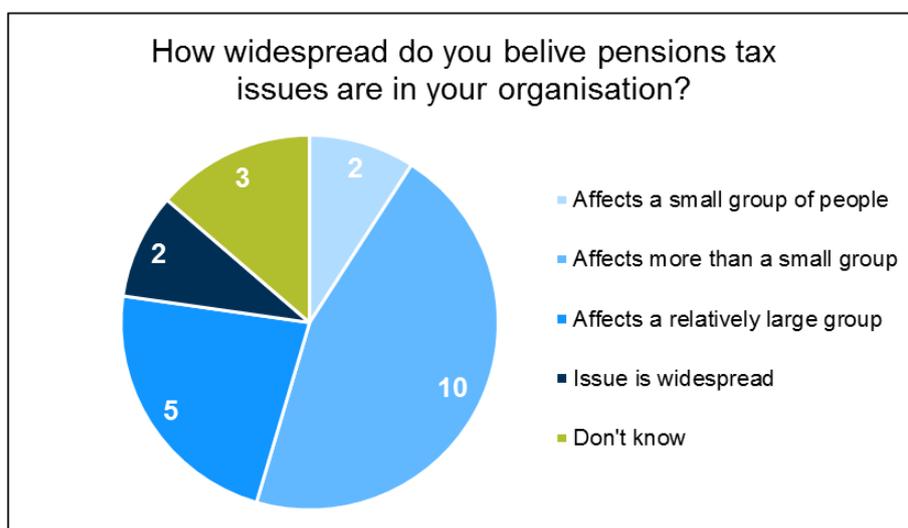


Chart 25: Employer survey – How widespread are pensions tax issues

- 6.4 Quotes from employers on the issue include:

“It affects a small but very vocal and senior group of people - in particular the medical consultants and as such it has had a high profile with senior staff and a lot of air time.”

“The impact is in general on those deemed to be 'high earners' including the Consultant body, a relatively small group of the overall workforce but a group who have significant impact on patient care and influence on other staff.”

“Pension tax issues can affect any grade of staff not just high earners especially as the new pay scales now have bigger incremental increases. Staff on any band could be affected by the Annual Allowance.”

General awareness and support offered

- 6.5 We questioned each employer on the general awareness and support they offer, and found the following:
- 77% of employers offered a little support on pensions generally whereas the rest offered a lot
 - 59% are aware of employees who breach either the Annual or Lifetime Allowance
 - All employers have found that staff have approached them on pensions tax issues, but in most (73%) of cases it was only a few employees
- 6.6 Employers also suggested that employees would be more empowered to make decisions if they were made aware of how their actions could result in tax charges before any year-ends rather than after when they no longer have the ability to make any changes.

Impact

- 6.7 We asked each employer how much of an impact pensions tax issues have had on the factors shown in the table and chart below.

	Don't know	No impact	Low	Medium	High
HR time and resources	0%	0%	32%	50%	18%
Agency costs	31%	14%	23%	27%	5%
Staff attraction	32%	27%	27%	9%	5%
Promotion and recruitment of senior staff	18%	23%	31%	14%	14%
Staff retention	27%	14%	23%	31%	5%
Staff reducing hours	14%	0%	23%	54%	9%
Training for junior staff	45%	23%	27%	5%	0%
Service quality	23%	18%	32%	18%	9%
Additional work taken on	9%	9%	14%	45%	23%

Table 10: Employer survey – Impact of pensions tax on workforce

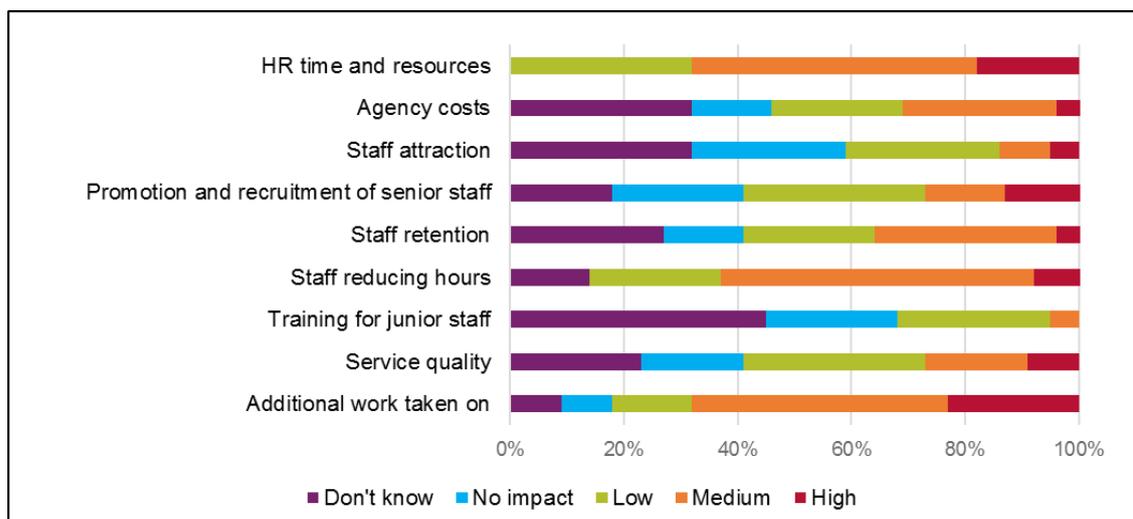


Chart 26: Employer survey – Impact of pensions tax on workforce

HR time and resources

6.8 The majority specified a ‘medium’ impact here. This includes time taken to deal with queries and manage requests from members such as opting in and out of the Scheme.

6.9 One quote which stood out was:

“The main concern I have is the increase in calls we have from upset staff who can sometimes turn aggressive with members of our team. We do our best to help and we can understand the frustrations the tax issues may cause but until better support is offered by the government/NHS pensions I can only see the number of abusive calls we receive increasing.”

Agency costs

6.10 There was a wide distribution of responses here, but few could say they thought there was no impact. Agency costs are incurred when an organisation pays for workers outside their organisation to fill certain roles, particularly when there are workforce shortages. These costs may be higher than directly employing these workers, so raising the cost of providing certain services.

6.11 Some employees may use private limited companies as vehicles through which to work for the NHS. This means that they set themselves up as a company, and the NHS pays that company for their time. Payments made to the company are non-pensionable. The worker could draw all the income from the company or may just draw down a part to control their taxable pay. Alternatively, they may leave the assets in the shell company to be drawn down at a later date when earnings are lower.

- 6.12 The increase in cost will depend on the relative costs of using an agency versus direct employment. For example, employers will pay National Insurance Contributions and pension contributions for directly employed staff and not agency staff, but agency staff or staff working through limited companies are likely to be more expensive to hire.
- 6.13 Note that under the consultant contract, consultants must perform additional hours (above the minimum full-time requirement) to perform private work outside the NHS.

Staff attraction

- 6.14 Organisations generally identified a lower impact on staff attraction than on other factors. This may be because new staff may come from other NHS organisations, which are equally impacted by these issues. Staff coming from abroad may have many years to accrue benefits before they are impacted by pensions tax issues.

Promotion and recruitment of senior staff

- 6.15 There was a wide range of responses here, but some organisations did signal a high impact. Organisations may be struggling to fill senior positions because the attached pensionable pay rise could cause both Annual and Lifetime Allowance problems.

Staff retention

- 6.16 Several identified a 'medium' impact here. Staff may be lost because of pensions tax issues if they retire early or switch to taking more work in the private sector (or abroad), where pay is non-pensionable in terms of the NHS Pension Scheme.

Staff reducing hours

- 6.17 Most identified a 'medium' impact here. Consultants, in particular, may be reducing their hours to the minimum required under a full-time contract (40 hours) and attempting further to switch to part-time.
- 6.18 If consultants wish to reduce their hours below the minimum required by a full-time contract (i.e. becoming part-time employees), this would constitute a change in their terms of employment and would require employer consent.
- 6.19 Employers can therefore refuse to allow employees to switch to part-time in order to maintain staffing levels, but the risk here is that another organisation that needs the employee's skills may offer them a part-time contract and the original organisation could then completely lose the employee.

Training for more junior staff

- 6.20 Almost half could not identify what the impact would be here, but around 1 in 3 said there was at least a 'low' impact. This occurs because the presence of senior staff is needed for training and mentoring junior staff, and if these senior staff are retiring early or reducing hours to undertake core functions only, junior staff may not get the mentoring they need.

Service quality

6.21 There was a wide distribution of responses here, but most said that there was at least some impact. Service quality can be reduced if demand for services is not met by workforce supply, increasing waiting times and reducing the time allocated to each patient.

Additional work taken on

6.22 A strong impact can be identified here. This means that many are not taking on additional work which can include covering for absent colleagues or participating in waiting list initiatives.

Summary

6.23 Particular concerns identified are:

- Staff retention
- Staff reducing hours
- Staff not taking on additional work

These factors in combination suggest a key concern is declining levels of commitment which would put pressure on the staffing levels of affected organisations.

6.24 While the impact of pensions tax issues on employers may not be high in all areas right now, the problem does appear to be growing. Reasons for this have been highlighted earlier in the report, such as reductions in the Annual Allowance, less carry-forward to offset breaches, introduction of Annual Allowance tapering and increased awareness. Combining all these reasons going forward is likely to result in a greater impact for employers in future years if no action is taken and could lead to different conclusions.

7. CONCLUSION AND NEXT STEPS

7.1 The identification of this problem leads to the question of what can be done about it.

7.2 The options available are:

- Reform of the tax system
- Introduce flexibilities into the NHSPS
- Greater provision of information

Reform of the tax system

7.3 Possible options under this option include:

- Removing Annual Allowance tapering
- Raising the Annual Allowance above £40,000
- Changing the way in which Defined Benefit schemes are assessed for Annual Allowance purposes
- More radical reform of the pension tax system

7.4 The Financial Times reported on 21 May 2019³ that the Chancellor of the Exchequer Philip Hammond has dismissed requests to scrap the tapered annual allowance, and that the overall reforms made to pensions taxation (including the introduction of tapering and reduction of Annual and Lifetime Allowances) were “*necessary to deliver a fair system and protect the public finances*”.

7.5 The Chancellor added on the topic of solutions that “*the right way to do it is through increasing flexibilities within the NHS [pension scheme] and potentially in other public sector schemes*”.

7.6 Government has also ruled out making an exemption for doctors⁴.

7.7 In summary, Government has made clear that they would prefer that this issue is resolved through the introduction of scheme flexibilities.

7.8 It may still be reasonable to seek approval from HMT to allow members with benefits in both the NHS Pension Schemes to offset negative Pension Input Amounts in the 1995/2008 scheme against the Pension Input Amount in the 2015 scheme.

³ <https://www.ftadviser.com/pensions/2019/05/21/hammond-dismisses-6bn-pension-tax-reform/>

⁴ <https://www.ftadviser.com/pensions/2019/04/02/govt-rules-out-pension-tax-exemption-for-doctors/>

Introduce flexibilities into the NHSPS

- 7.9 The Financial Times reported on 24 March 2019⁵ that “*rigid pay and pension rules in the NHS mean doctors have few options to mitigate the impact of further tax bills — other than reducing their hours to limit pension contributions, quitting the NHS pension plan, or taking early retirement*”.
- 7.10 Some NHS trusts were exploring local solutions such as offering employees affected a cash boost to salary if they decide they should opt out of the pension scheme. However, such targeted methods raise questions of equality as those at the lower end of the pay scale may not be offered a cash boost if they opted out as they could not afford to stay in the NHSPS.
- 7.11 Introducing flexibilities into the pension scheme could allow employees to better control and manage their pension growth and so mitigate any Annual or Lifetime Allowance tax charges.
- 7.12 One employee quoted:

“It’s right for high earners to pay more tax. This process however is covert and not transparent. I suspect this disproportionately affects public service employees whilst the self-employed or private sector employees are able to use methods to avoid tax.”

- 7.13 An important consideration when suggesting any flexibilities is that the NHSPS is unfunded. This means that current contributions are used to pay for benefits, and that any deficit between contribution inflow and benefit outflow is paid for by HM Treasury. It is therefore important that flexibilities do not overly compromise the contribution yield which is needed to pay for current pensioner benefits.
- 7.14 Some possible scheme flexibilities are outlined below.

50:50 option

- 7.15 This proposal was announced by Government on 3 June 2019. It would allow employees to halve their pension contributions for halving the rate of pension growth. This would help to ‘decelerate’ CARE pension growth, reducing the risk of both Annual and Lifetime Allowance charges.
- 7.16 This proposal is currently only being considered for senior clinicians, but there is evidence to suggest that other employees working in different roles excluded from these proposals are also affected by pensions tax issues, in particular senior managers.
- 7.17 However, this may not protect those with significant past service already accrued from Annual Allowance charges related to salary increases.

⁵ <https://www.ft.com/content/e6d3e03c-4e12-11e9-b401-8d9ef1626294>

7.18 Paying lower member contributions will increase threshold income which can then impact on the amount of Annual Allowance tapering and tax charge.

7.19 However, the option is relatively inflexible and may not allow an adequately sophisticated approach to allow effective tax management.

Pensionable pay caps

7.20 Caps on pensionable pay can take multiple forms:

- Fixed caps on pensionable pay – however this may be seen as penal as it can limit pension value and doesn't prevent large increases below the cap that can trigger Annual Allowance charges.
- Fixed caps on pensionable pay rises – this can help reduce steep pension increases in the final salary scheme in a single year and minimise year-on-year pension growth, but may also limit pension value especially for those close to retirement or leaving before the full increase is reflected by increased benefits.
- Flexible caps on pensionable pay – allowing members to control their pensionable pay each year and therefore their pension growth. This is potentially the ultimate flexibility and the onus will be on members and their advisors to set their pensionable pay at the optimum level.

Death-in-Service and Ill-Health only benefit

7.21 A key concern of those opting out of the NHSPS to minimise their tax liability is that they lose death-in-service and ill-health benefits. If, for example, an individual dies while working for the NHS but has opted out of the scheme (perhaps, temporarily) their dependents will not receive the same level of benefits that they would have received if the member had remained an active member of the NHSPS.

7.22 This issue could be mitigated by allowing employees to access only these protection benefits in return for paying a lower contribution rate.

Defined Contribution (“DC”) scheme

7.23 A DC scheme could be opened alongside the NHSPS. Pension growth is simpler and easier to control in DC schemes as it is measured by the total employee and employer contribution paid over a year.

7.24 This could make it easier for those at risk of large pension charges to continue to contribute to a pension while managing their tax situation.

7.25 However, any DC contributions would be paid to a DC pension provider (like paying Additional Voluntary Contributions) rather than to HMT. These contributions would not be available offset HMT payments to current pensioners.

Provision of Information

- 7.26 A key theme in our research has been that many have found the pensions tax system to be very complex. A lack of understanding as to what actions may cause a tax charge or sharply increase any tax charges (such as crossing the £110,000 tapering threshold) may be leading to an element of 'panic' even when this is not warranted, especially as many have found out about pensions tax charges through word of mouth.
- 7.27 Many have also had trouble finding answers to their questions, and only find out about tax charges after the tax year is complete and they cannot alter their actions to avoid these charges.
- 7.28 A more comprehensive understanding of the pensions tax system among those affected may help avoid rash behaviour to try and avoid these charges.

Conclusion

- 7.29 The likely path forward is to introduce new flexibilities into the NHSPS that can help members have greater control over their pension growth.
- 7.30 However, giving members the power to control elements of their pension does not mean they will know what to do or what is best for them.
- 7.31 It may be counter-productive to create an even more complex system which would require each member to consult an Independent Financial Advisor to make any decision.
- 7.32 Any solution would ideally be simple enough that when coupled with support and education, members could make informed decisions on their own. This could also reduce any element of 'panic' surrounding pensions tax which could be leading some to reduce their commitments to the NHS when they would not have been affected by pensions tax in any case.
- 7.33 The solution will also need to discourage opt-outs and try to maintain the contribution yield required by HM Treasury.

APPENDIX A – EMPLOYEE SURVEY QUESTIONS

Q1. Which organisation do you work for?

Q2. What is your main role at the NHS?

Q3. How old are you?

Q4. When did you join the NHS?

Q5. What is your gender?

Q6. Do you work part-time?

Q7. Which of the following pay scales are you on?

Q8. Which Agenda for Change pay band are you in?

Q9. Which of the following pay bands does your current actual NHS Pensionable Pay fall into?

Q10. Which of the following pay bands does your current total pay (which includes any private clinic work or any other income) fall into?

Q11. Which sections or schemes do you have pension benefits in?

Q12. How would you rate your knowledge of pensions in general?

Q13. Have you accessed your Total Reward Statement to look at your pension benefits in the last 2 years?

Q14. How good is your understanding of the Lifetime Allowance?

Q15. Do you have any Lifetime Allowance protections?

Q16. Have you breached, or do you think you will breach your Lifetime Allowance in the future?

Q17. How good is your understanding of the Annual Allowance?

Q18. How did you become aware of the Annual Allowance?

Q19. How helpful have the online resources provided by the NHS Pension Scheme and NHS Employers been in understanding pension tax issues?

Q20. Are you aware of Annual Allowance "tapering"?

Q21. Have you breached your Annual Allowance in the past (not including the 2018/2019 tax year)?

Q22. To the nearest thousand, how large was your latest total 'Pension Input Amount (Growth)' for Annual Allowance purposes (across all NHS pension schemes)? This number may have been issued to you in a Pension Savings Statement. If you're not sure, please give your best guess. If you really aren't certain at all, please type "don't know" in the comments field below.

Q23. To the nearest thousand, how large was your most recent tax charge in respect only of an Annual Allowance breach? If you're not sure, please give your best guess. If you really aren't certain at all, please type "don't know" in the comments field below.

Q24. How did you settle the tax bill through?

Q25. Do you think you will be affected by Annual Allowance breaches in the future (including the 2018/2019 tax year)?

Q26. Do you feel supported in pensions tax matters by your employer?

Q27. Do you feel supported in pensions tax matters by the NHS Pension Scheme?

Q28. Have you taken or are you seeking to take financial advice on how to manage your pensions tax position?

Q29. Have you used a tax accountant to help you fill in your self-assessment tax return?

Q30. Have you ALREADY changed your working behaviour in any of the following ways as a result of pensions tax issues?

Q31. Have you CONSIDERED changing (but not yet taken any action) your working behaviour in any of the following ways as a result of pensions tax issues?

Q32. Is there anything else you'd like to tell us about pensions tax issues?

APPENDIX B – EMPLOYER SURVEY QUESTIONS

- Q1. Which organisation do you work for? (e.g. full name of Trust)
- Q2. How much support do you as an employer offer on pensions generally?
- Q3. Are you aware of employees who have breached their Annual Allowance?
- Q4. Are you aware of employees who have breached their Lifetime Allowance?
- Q5. Are you aware of any staff who have approached you on pensions tax issues?
- Q6. How much support do you offer to those with pensions tax issues?
- Q7. How much of an impact has pensions tax had on HR time and resources?
- Q8. How much of an impact has pensions tax had on agency costs to compensate for staff reducing their commitments to the NHS?
- Q9. Has pensions tax had any impact on staff attraction, and if so, how strong is the impact?
- Q10. Has pensions tax had any impact on your ability to promote and recruit for senior positions, and if so, how strong is the impact?
- Q11. Has pensions tax had any impact on staff retention, and if so, how strong is the impact?
- Q12. Has pensions tax had any impact on staff reducing their hours or going part-time, and if so, how strong is the impact?
- Q13. Has pensions tax had any impact on mentoring and training for more junior staff (if more senior staff are reducing their commitment), and if so, how strong is the impact?
- Q14. Has pensions tax had any impact on service quality, and if so, how strong is the impact?
- Q15. Has pensions tax had any impact on your ability to ask staff to take on additional or non-core work such as waiting list initiatives, and if so, how strong is the impact?
- Q16. How widespread do you believe pensions tax issues are in relation to your organisation?
- Q17. Are there any other issues that come to mind that we have not discussed?

APPENDIX C – FURTHER CHARTS FROM THE EMPLOYEE SURVEY

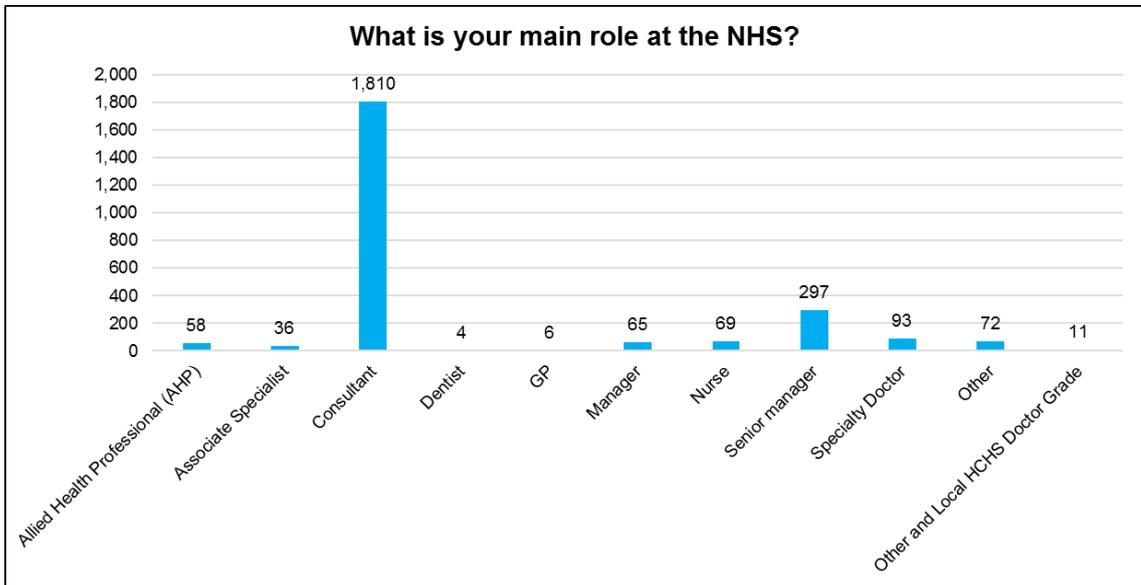


Chart 27: Employee survey – Main role in the NHS

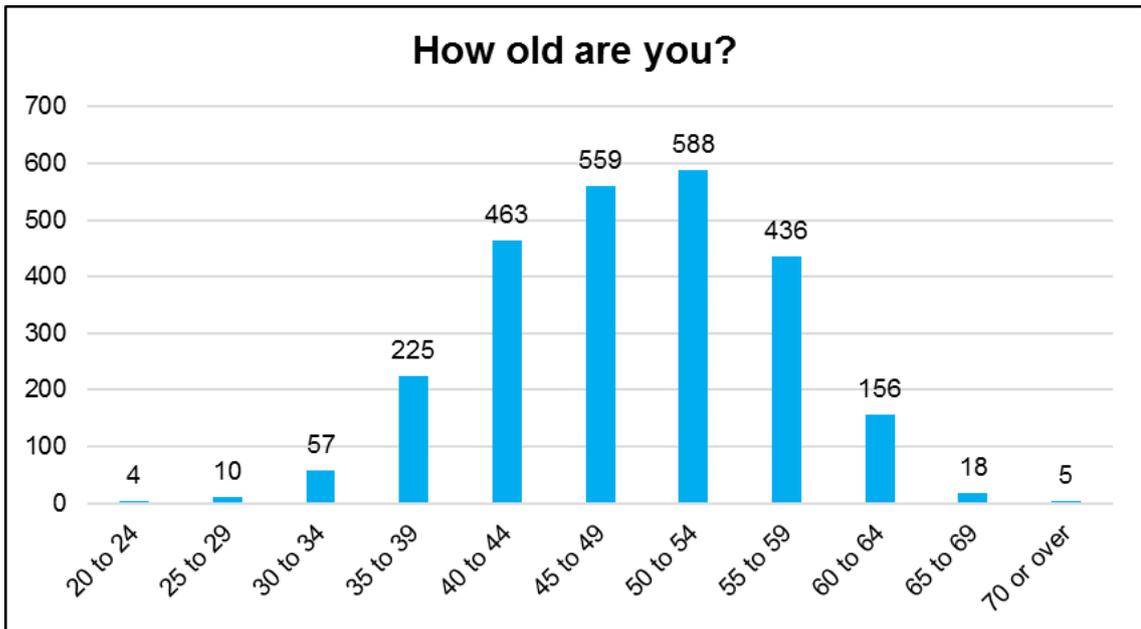


Chart 28: Employee survey – Age distribution

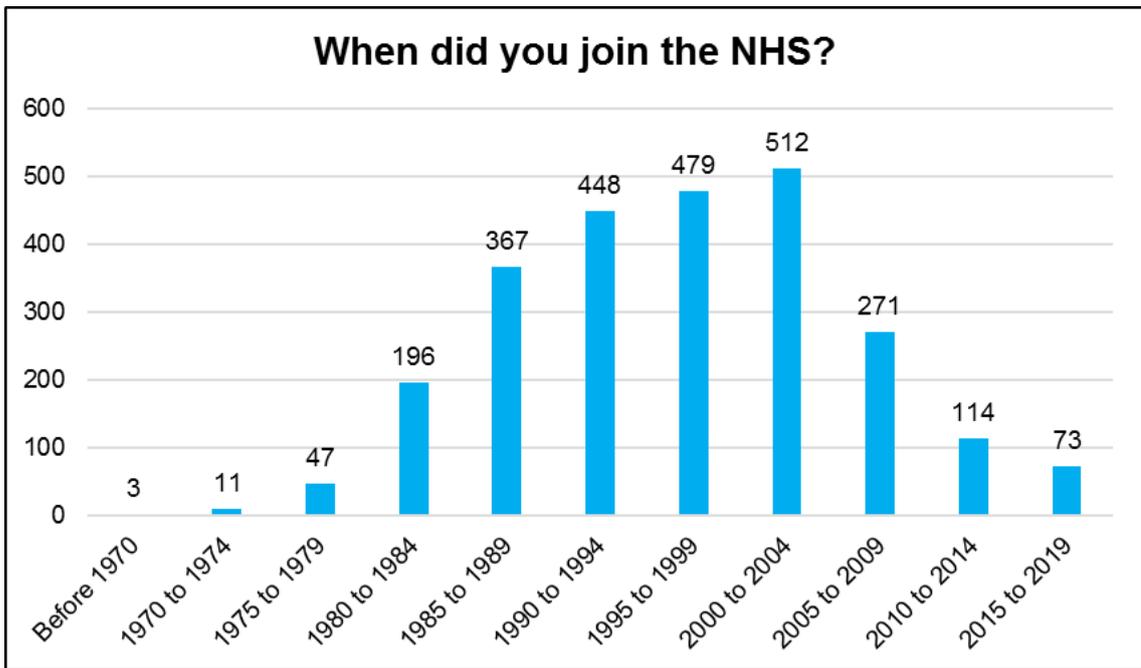


Chart 29: Employee survey – Year joined the NHS

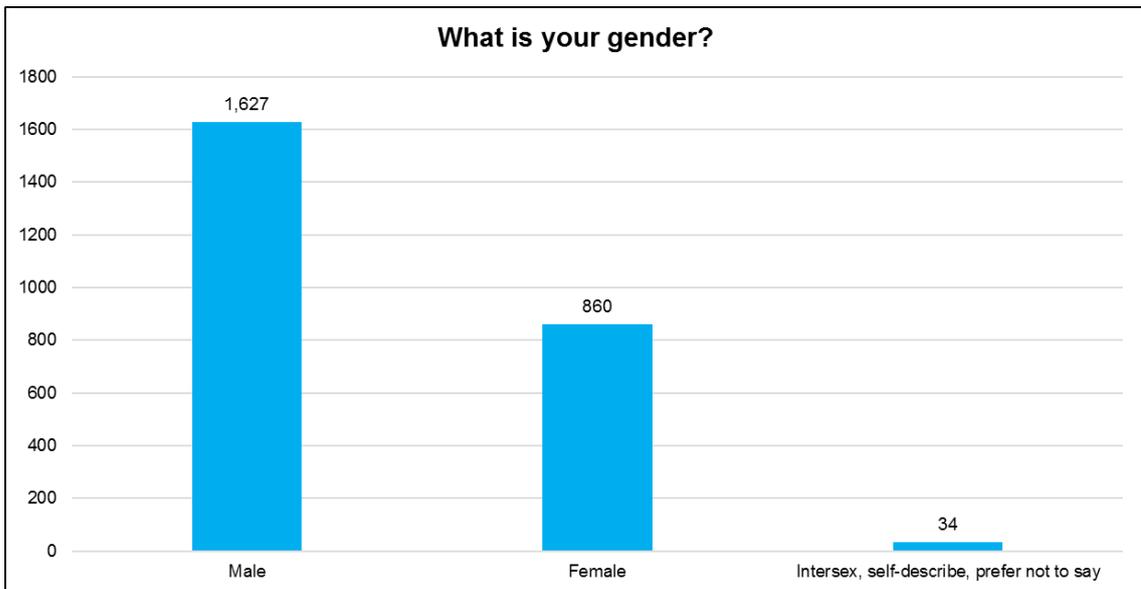


Chart 30: Employee survey – Gender

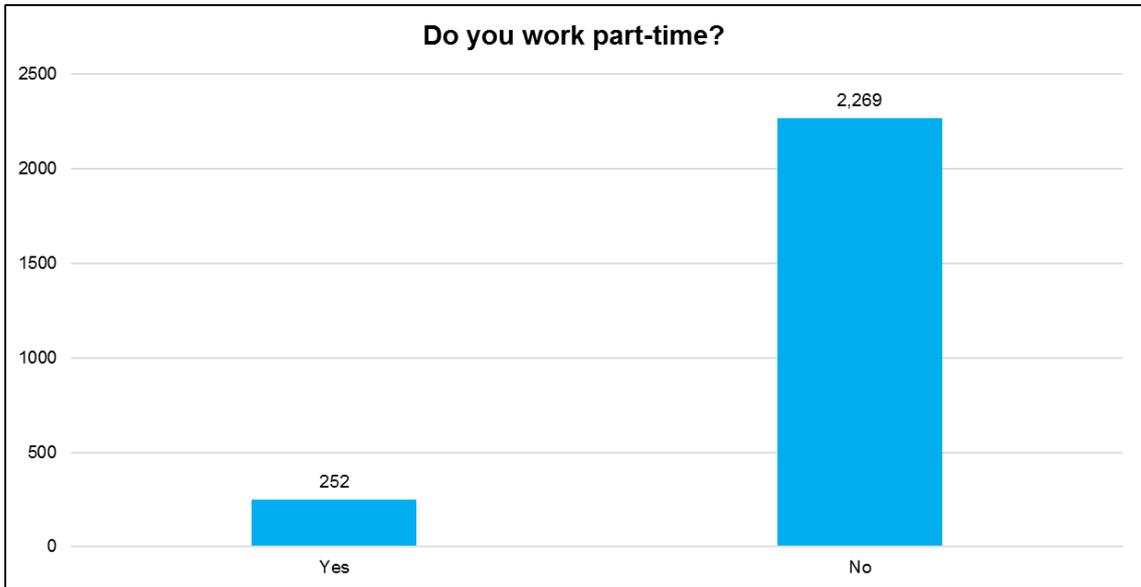


Chart 31: Employee survey – Working pattern

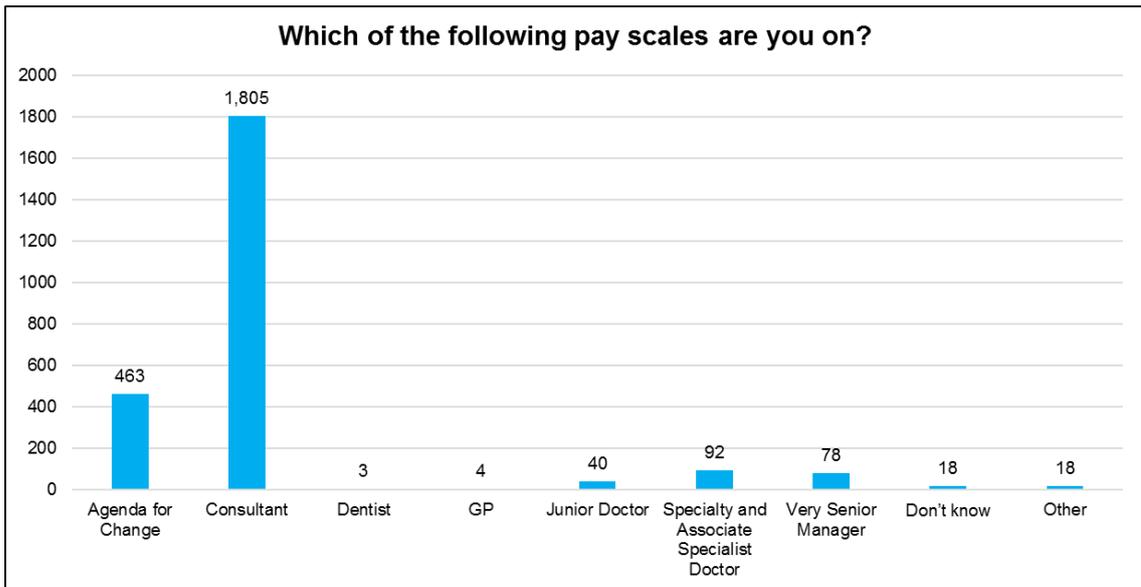


Chart 32: Employee survey – Pay scales

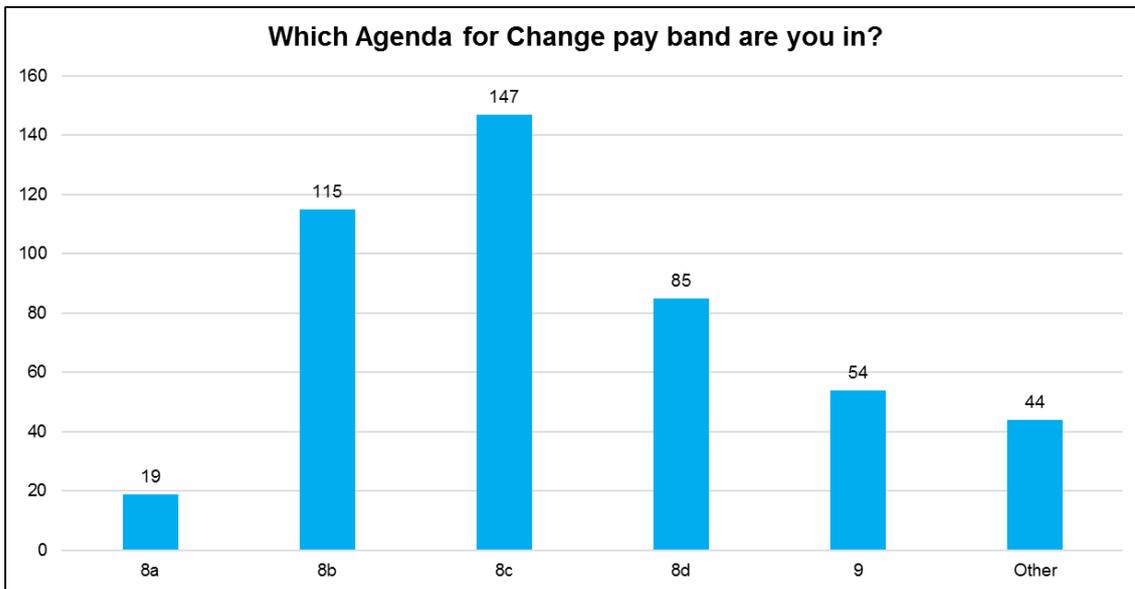


Chart 33: Employee survey – Agenda for Change pay bands

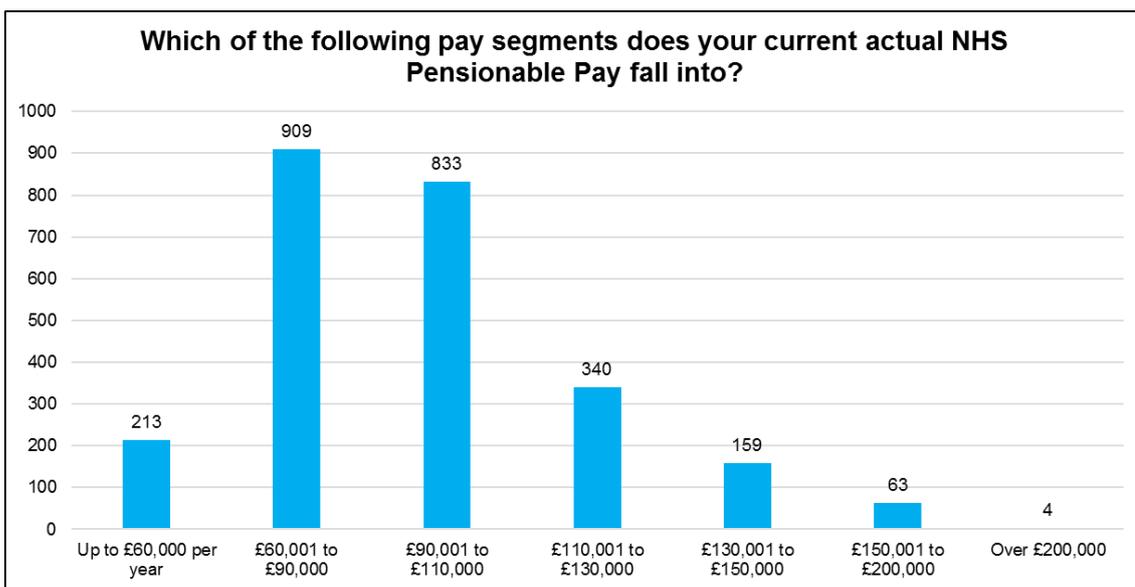


Chart 34: Employee survey – Pensionable pay groups

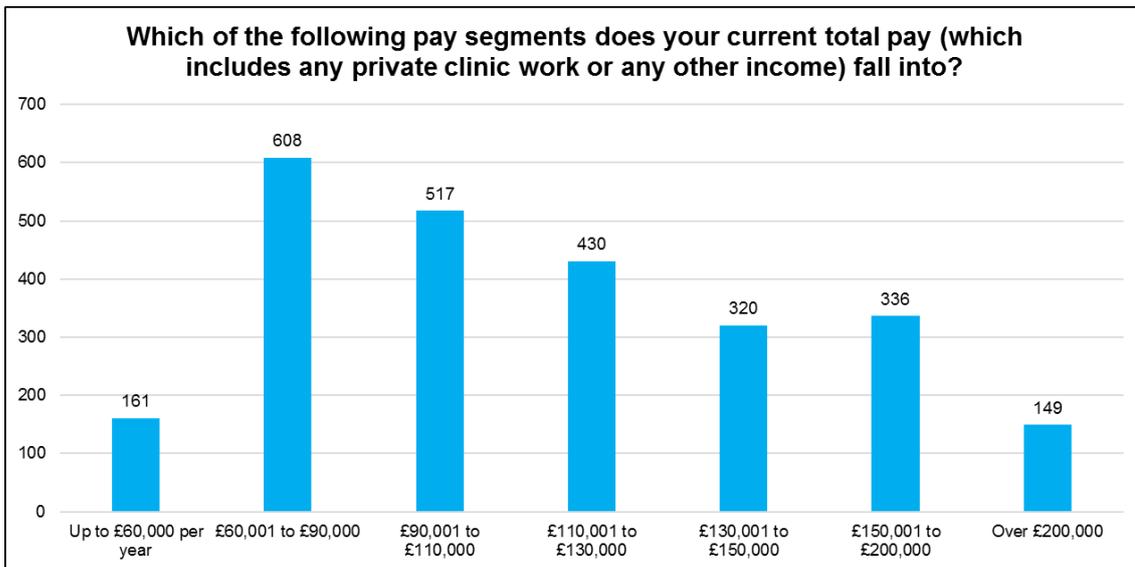


Chart 35: Employee survey – Total NHS pay groups

