

# NHS Pension Scheme: member contributions phase 2 & miscellaneous amendments

NHS Employers  
response to the  
consultation

## **Introduction**

NHS Employers welcomes the opportunity to respond to the above consultation on behalf of employers across the NHS. We have engaged with employers and our response represents the views and feedback gathered from workforce leaders in response to the consultation questions.

## **Executive Summary**

Employers are supportive of proposals to ensure that the NHS Pension Scheme is sustainable, provides fairness for members and is a valuable tool for attraction, motivation and retention of the NHS workforce.

A consistent and considered approach to member communications will be required to ensure that individuals are aware of the rationale for changes to member contributions.

We do consider that the proposed changes to member contributions may have an impact on lower paid members and this should be closely monitored using regular opt out data. Employers are keen to ensure that lower paid members of staff still find the scheme to be a valuable vehicle for retirement savings.

While employers welcome confirmation of central funding for the employer contribution rate increase, they would also welcome clarity on long-term funding.

## Consultation questions

**Q1. Do you agree or disagree with the principle to remove the first tier of the NHS Pension Scheme member contribution structure at a future point? (This tier provides a subsidised contribution rate to members who do not qualify for tax relief. We are seeking views on the principle to remove it at the point that HMRC begins to make top-up payments directly to eligible members to provide the benefit of tax relief directly).**

### Changes to member contributions

Employers agree that members should not benefit twice from tax relief on pension contributions and therefore agree that the tier that currently enables tax relief for members earning up to £13,246 should be removed at the point that these members receive an equivalent tax rebate on their pension contributions.

### Removing the first tier of the member contribution structure

We note that the proposals align the removal of the tier with the commencement of the rebate system by HMRC. Affected members will be amongst the lowest paid in the service and may not have existing knowledge or interaction with HMRC processes. This could lead to members being uncertain or overwhelmed by the process required to receive a rebate. Employers are concerned this may lead to low uptake of the rebates and opt outs from the NHS Pension Scheme due to a detrimental impact on take-home pay. It is estimated that there are at least 100,000 members who would be affected by this change (earning between £9,000-£13,250).

Employers expressed concerns about practical aspects of proposal including:

- The timing of top-up payments which may not be received until the tax year following removal of the tier, leaving members out of pocket for a potentially lengthy period.

- Communicating with members that they will need to proactively request the top-up when they are not familiar with HMRC protocols and procedures.
- Explaining the process will require targeted communications and reminders to affected members.

Employers would like to see a comprehensive and robust communications strategy in place to ensure members are aware of the timings and processes in advance of the changes coming into force and the action they are required to take.

**Q2. Do you agree or disagree that uplifting thresholds in line with CPI and automating the process is a suitable approach which complies with the principles outlined in this section.**

**Q3. Do you agree or disagree with the proposal to set the contribution threshold for the next 4-year valuation period (2024 to 2025, to 2027 to 2028 scheme years)?**

#### **Annually uplifting tier thresholds in line with a set indexation**

Employers agree that uplifting thresholds in line with CPI and automating the process would provide stability and sustainability to the scheme. This meets with the principle of helping to remove cliff edges in the contribution structure.

Employers agree with the proposal to set the contribution threshold for a period of 4-years in line with the scheme valuation cycle.

#### **Using annual pay awards to index tier contribution thresholds**

The NHS Pension Scheme covers employees in England and Wales. In 2023, employees in Wales were awarded a different pay award to those in England. Medical and dental staff have a different pay structure and award to those on NHS Terms and Conditions of Service (agenda for change). Changes to the timetable for the 2023-24 pay

review body processes alongside the disruption of industrial action in 2022 and 2023 has delayed the application of pay awards. The timetable for the 2024-25 pay review body process is unlikely to provide recommendations in time for April 2024 pay award implementation. Given that pay review process timescales are currently unconfirmed and the lengthy legislative processes required, uplifting in line with pay awards does not provide a practical solution to give effect to this proposal in a timely manner.

### **Using CPI to index tier contribution thresholds**

For the reasons outlined by DHSC in the consultation paper, employers recognise the practical advantages of using CPI from the previous September to index an annual uplift to tier thresholds. This method provides certainty to the process and ensures that the interaction of threshold uplift and pay awards does not have a detrimental impact on member take-home pay in the month the pay award is implemented.

Employers did share concerns that using CPI could draw comparisons between the annual CPI figure and pay awards.

### **Setting the contribution thresholds for the 4-year valuation cycle**

Setting the contribution thresholds for a pre-determined period provides clarity for members and employers. The employer contribution rate is set to increase from April 2027 which is a mismatch with the proposals and could be aligned to provide further certainty and clarity.

**Q4. Do you agree or disagree with the suggestion to freeze the entry point to the top tier of the member contribution structure? (This tier is occupied by members who receive the benefit of higher rate tax relief on their pension contributions. We are seeking views on the principle of removing this tier as the default lever to ensure the scheme continues to collect the 9.8% contribution yield).**

**Freezing the entry point to the top tier of the member contribution structure**

Employers agree with the principle of moving towards a flatter member contribution structure due to the way that benefits accrue in a career average revalued earnings scheme, such as the NHS Pension Scheme. This proposal is in line with this principle.

**Achieving a scheme yield of 9.8 per cent**

Employers are conscious that the scheme's long-term sustainability requires an annual yield of 9.8 per cent. While it was appropriate to have a tiered contribution structure in a final salary scheme, such as the legacy NHS Pension Schemes, it is widely acknowledged that this is less appropriate in a career average revalued earnings scheme. Moving towards a flatter structure will ensure fairness for all members of the scheme.

With the introduction of the government tax rebate scheme for those earning up to £13,246, all members would benefit from tax relief on their pension savings. Employers are conscious that tax policy may change in the future and DHSC will need to consider the impact of any changes on scheme members.

**Q5. Do you agree or disagree that the introduction of real-time re-banding would produce a more accurate outcome for the calculation of member contribution rates? (Real-time re-banding will assign an updated pension contribution rate in the pay period where pay changes for members with pensionable pay which fluctuates between pay period).**

**Automating the real-time re-banding process for member contributions**

Employers agree that automating the process of real-time re-banding will ensure that members pay the correct pension contributions each pay period.

**Automating the process of real-time re-banding**

Real-time re-banding has been in place since October 2022. Without automated processes within the electronic staff record (ESR), it has not been possible for employers to implement real-time re-banding to any great extent. Employers welcome proposals to automate the process as it will reduce the administrative burden on employers.

Employers have shared concerns that members may find a fluctuating contribution rate confusing and there may be a reluctance to take on additional work if it leads to a member entering a higher contribution tier.

**Employers without ESR access**

The automation of real-time re-banding will achieve the intended outcome for most employers. Employers without access to ESR as their payroll system will find real-time re-banding a considerable and overwhelming administrative burden.

**Q6. Are you responding as or on behalf of a non-ESR payroll provider?**

**Q7. If you said yes, do you have the capacity to implement real-time re-banding?**

We are not responding on behalf of a non-ESR payroll provider.

Please see comments in response to Q5 regarding capacity to implement real-time re-banding.

We feel this will create an overwhelming administrative burden on employers who do not have access to ESR to implement real-time re-banding, such as GP practices.

**Q8. Do you agree or disagree with the proposal to amend the definition of overtime? (This will allow staff who work part time to pension additional income up to whole time, with limitations where members have partially retired in the previous 12 months).**

**Amending the definition of overtime**

We agree with the proposal to amend the definition of overtime to allow staff who work part-time to pension additional income up to whole time.

We agree with the proposal to amend the definition of overtime in the 2015 NHS Pension Scheme Regulations. We feel this represents the best interests of the member to save for their retirement. This also brings the 2015 Scheme in line with the 1995/2008 Schemes in relation to how overtime is pensionable for members who work part-time.

**Aligning the 2015 Scheme with 1995/2008 Schemes in relation to overtime being pensionable up to whole time hours**

Employers shared that this is what happens in practice as most were unaware of the difference between schemes in relation to the treatment of overtime for part-time members. Employers use the NHS Pensions



Pensionable Pay Factsheet for clarity around this issue. We believe it is already customary practice for overtime for part-time member contributions to be pensionable up to whole-time hours.

### **Flexible accrual**

We would welcome the opportunity to explore flexible accrual for the NHS Pension Scheme. We feel this would help modernise the scheme, making it more attractive and accessible and, lowering opt out rates whilst allowing members to access pension savings in their retirement.

### **Implementation of overtime or additional hours for partial retirees**

Employers have highlighted that there is currently no mechanism in ESR to indicate a partial retiree. This means that each partial retiree wishing to work overtime or additional hours would require a manual intervention from the employer, which represents a considerable administrative burden and risk of incorrect administration locally. Employers are keen to be included in working through a solution to this issue in ESR.

**Q9. If you have any further comments on the proposed increase to the employer contribution rates from 1 April 2024, please outline them.**

### **Employer contribution rate increases from 1 April 2024**

Employers welcome confirmation of central funding to cover the full 3.1 per cent increase in employer contributions due to take effect from 1 April 2024 for most employers.

### **Long-term employer contribution funding**

Employers are conscious that the current funding mechanism has been in place since 1 April 2019 and would welcome clarity on the long-term funding position. While the consultation document confirms government commitment to review the funding mechanism as part of the next spending review, employers are concerned that the outcome

of the review is in no way secure. It is important for the NHS to have certainty around future funding.

**Q10. Do you agree or disagree that the proposal to amend the NHS Pension Scheme regulations has the intended effect of permanently removing abatement for SCS members, as agreed in the pay deal for 2023 to 2024?**

**Proposals to remove abatement**

We agree the proposals will have the intended effect of removing abatement.

**Removal of abatement for SCS members as agreed in the pay deal for 2023 to 2024**

Employers acknowledge that removal of abatement has already been agreed as part of the pay deal for 2023-24. We have not had sight of the proposed changes to NHS Pension Scheme regulations, which we note will follow and will be subject to Parliamentary approval.

**Q11. Do you agree or disagree with the proposals to make consequential amendments to NHS Pension Scheme regulations to provide a deemed pay figure to members who take unpaid carer's leave?**

**Deemed pay figures for members who take unpaid carer's leave**

Employers agree with the proposals to provide a deemed pay figure for members who take unpaid carer's leave.

**Unpaid carer's leave and The Carer's Act 2023**

Employers agree that it is right that the scheme reflects The Carer's Act 2023 and ensures the scheme supports carers to balance their caring and working responsibilities, treating carer's leave consistently with other authorised absences from work.

**Q12. Do you agree or disagree with the proposal to amend the NHS Pension Scheme regulations with the intended effect of removing reference to the lifetime allowance?**

**Amending NHS Pension Scheme Regulations to remove reference to lifetime allowance**

Employers agree that the proposals will have the intended effect of removing reference to lifetime allowance in the NHS Pension Scheme regulations.

**Increasing capacity in the workforce**

Employers have welcomed the removal of lifetime allowance as a mechanism to increase capacity within the workforce and for senior clinicians to take on additional work without financial penalty resulting from pension savings tax. The proposals appear to give effect to the intention of removing reference to lifetime allowance from the NHS Pension Scheme regulations. We note that we have not yet seen the proposed changes to regulations.

**Q13. Do you agree or disagree with the proposal to clarify the partial retirement regulations to expressly exclude access to this option via entering into a salary sacrifice arrangement?**

**Clarity on partial retirement regulations**

We welcome clarification of the partial retirement regulations and therefore agree with the proposal to make these clarifications.

**Partial retirement clarification**

We are aware that employers have been seeking clarity on how to use partial retirement as a tool for retention while not impacting overall workforce capacity. We feel this proposed change gives further clarity.

Employers welcome the addition of eligibility for members who have reached maximum service limits in the 1995 section from 1 April 2024.

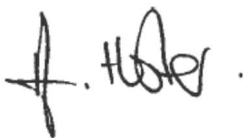
NHS Employers is committed to working with colleagues across DHSC, NHS England and NHS Pensions to clarify the processes required to implement partial retirement as a tool to support retention of senior, experienced members of the NHS workforce.

**Q14. If you have any further considerations and evidence that you think the department should take into account when assessing any equality issues arising as a result of the proposed changes, please outline them.**

We are not aware of any other issues arising because of these proposals.

Please contact us if you have any questions or if you require any further detail on any of the points in our response. We look forward to seeing the government response as soon as practicable.

Yours Sincerely,



Andrea Hester

Deputy Director of Employment Relations and Reward

NHS Employers.