

Using flexible retirement to support retention

July 2024

About us

NHS Employers is the employers' organisation for the NHS in England. We support workforce leaders and represent employers to develop a sustainable workforce and be the best employers they can be. We also manage the relationships with NHS trade unions on behalf of the Secretary of State for Health and Social Care.

This guidance aims to:

- Support employers to understand, promote and discuss flexible retirement options with staff to encourage retention.
- Ensure employees approaching the end of their careers feel rewarded and recognised by their employer for their experience, service and commitment.
- Help employers to develop effective flexible retirement policies.

The NHS Pension Scheme offers a number of flexible retirement options with new flexible retirement options being introduced to help employers attract and retain experienced staff.

The contents of our guidance is updated regularly and has been worked on with the Department of Health and Social Care.

How flexible retirement options can benefit employers

- Supporting employees to work flexibly towards the end of their careers can help employees achieve a healthy work-life balance and enable experienced staff to stay in the NHS for longer, and pass their valuable skills and knowledge to colleagues.
- Retaining experienced staff is critical to ensure the delivery of high-quality patient care. Visit our [retention hub](#) to access our dedicated collection of resources and guidance on this topic.
- By enabling employees to retire flexibly, employers can support the health and wellbeing of employees who are approaching the end of their careers. This can help to improve sickness absence rates and productivity, while reducing rates of stress, fatigue and burnout.
- Offering retired staff the option to re-join the NHS Pension Scheme after full or partial retirement is a way of supporting the financial wellbeing of employees, as it allows staff to build up further pension for a comfortable retirement and may help to bridge any gap between taking their NHS Pension and State Pension benefits.

- Partial retirement can be used by employers as a tool to support staff affected by annual allowance, as the ability to take all or part of their pension and continue working may help some staff to control their pension growth.

Partial retirement (sometimes referred to as draw down)

- Since 1 October 2023, staff who have pension benefits in the 1995 Section, the 2008 Section or the 2015 Scheme can access partial retirement.
- Partial retirement enables members who have reached minimum pension age to take all or part of their pension while continuing to work.
- Members may take from 20 per cent up to 100 per cent of their pension using partial retirement on one or two occasions without having to leave employment.
- Members must reduce their pensionable pay by at least 10 per cent for 12 months starting from their partial retirement date.
- After taking partial retirement, members may choose to build up further pension in the 2015 Scheme. The retire and re-join chapter provides further detail on the ability to re-join the 2015 scheme after full retirement.
- Partial retirement is similar to retire and return, in that it enables employers to retain experienced colleagues. However, with partial retirement, there is no need for the employee to end their contract of employment in order to take their pension benefits. Although no new employment contract is needed for partial retirement, terms and conditions of employment should be amended to reflect the required 10 per cent reduction in pensionable pay.

- Unlike retire and return, members who partially retire have more flexibility to choose to take some or all of their benefits. The retire and return chapter provides further detail on retire and return.

Partial retirement eligibility

To be eligible for partial retirement a member must:

- have reached their minimum pension age
- be an active member of the scheme
- reduce their actual pensionable pay by at least 10 per cent for 12 months starting from their chosen partial retirement date
- have a contractual change in their terms and conditions of employment to reflect their reduction in pensionable pay, the rest of their terms and conditions remain the same
- not have already claimed partial retirement on two occasions.

More information on the eligibility criteria can be found on the [NHS Pensions employer factsheet](#).

Can members of the 1995 Section who have reached the maximum service limit of 45 years partially retire?

Yes. As of 1 April 2024, members who have reached the maximum service limits of the 1995 Section can apply to take partial retirement, providing they are active members of the 2015 Scheme.

Why do employees need to be an active member of the NHS Pension Scheme to access partial retirement?

The required 10 per cent reduction in pensionable pay, as a result of a change in terms of employment, can only be assessed where there is active membership. This is consistent with partial retirement policies across other public sector pension schemes.

NHS employees who have chosen to opt-out of the NHS Pension Scheme and do not wish to resume active membership can instead access all their pension benefits via retire and return. Since 1 April 2023, employees who retire and return are able to re-join the NHS Pension Scheme to build up further benefits if they wish to do so.

How long do employees have to be an active member before they can access partial retirement?

An employee must be an active member of the scheme for at least one month before taking partial retirement. This is because they need some pensionable pay in order to calculate the required 10 per cent reduction. If a person has been an active member for less than 12 months before taking partial retirement, their pensionable pay will be pro-rated, or grossed up, to work out what their 10 per cent reduction will need to be for the 12 months following their partial retirement date.

Why are staff required to reduce their pensionable pay for partial retirement?

For staff to partially retire, some reduction in pensionable workload is required, and as the NHS Pension Scheme records members' pensionable pay, this is a reasonable way of assessing if members are taking steps towards retirement. This is also how partial retirement operates for members of the 2008 Section and 2015 Scheme in the NHS, and similarly for members of other public sector pension schemes.

The requirement to reduce pensionable pay by a minimum of 10 per cent and maintain it at the lower level only applies in the first 12 months after partial retirement. After this, members can increase their pensionable pay again if they wish.

Do employees need to have a break in service to take partial retirement?

No. Members may take all or part of their pension while continuing to work for the NHS. There is no need for the employee to leave employment or have a break in service to take their pension through partial retirement.

Will employees retain their existing terms and conditions of employment after taking partial retirement?

Yes. Members may take all or part of their pension while continuing to work for the NHS. As there is no break in service, their terms and conditions of employment will remain mostly unchanged. This includes annual leave entitlements. A change or amendment to the existing terms and conditions of employment is required in order to reflect the 10 per cent reduction in their pensionable pay.

Employers may wish to discuss and agree new flexible working arrangements alongside partial retirement, such as part time working. Working flexibly in the lead up to final retirement may enable employees to achieve healthy working lives and to stay in the NHS for longer.

Further detail is available in the chapter on flexible working for staff in the later stages of their career.

Can employees of direction employers apply for partial retirement?

Yes. The NHS Scheme regulations apply to all scheme members, including employees of direction employers. A direction employer is an organisation that is not an NHS employing authority but has legal access to the NHS pension scheme for some of its employees.

Are Clinical Excellence Awards affected by partial retirement?

When a member takes partial retirement, their local and national clinical excellence awards will continue. In partial retirement there is no break in service and the contract of employment continues. Further information on CEAs is provided in Schedule 30 of the consultant contract.

Pensionable National Clinical Excellence Awards (NCEA) and National Clinical Impact Awards (NCIA) in transition will be paid pro-rata where staff reduce their hours as a way of accessing partial retirement, so for these individuals the reduction in award payments will go towards the 10 per cent reduction required. The new NCIA's, granted from 1 April 2022, are paid at the full rate regardless.

Also, as with any job change, award holders and employers should discuss their partial retirement plans with the Advisory Committee on Clinical Impact Awards (ACCIA) secretariat as soon as possible to avoid losing their award or being required to re-apply early.

Achieving a contractual change and the 10 per cent reduction in pensionable pay

Employees who are considering partial retirement will need to have a conversation with a member of their HR team to agree a

change to their terms and conditions of employment, in order to achieve the required 10 per cent reduction in pensionable pay. The employer and the employee must come to an agreement on how to reduce the member's pensionable pay before the member's application for partial retirement can proceed. The 10 per cent reduction should be calculated based on their total pensionable pay over the 12 months prior to their chosen partial retirement date, ending on the day they take partial retirement.

The reduction should stay in place for at least 12 months following the date partial retirement is taken. The employee will no longer be eligible if the reduction is breached and their pension payments will be stopped until their pensionable pay reduces again.

Annual pay awards and pay increases members receive as they move through their pay band or pay scales do not count towards this. Overtime payments do not count towards breaches in the reduction to pensionable pay as these are non-pensionable for members who have taken partial retirement in the last 12 months, as of 1 April 2024. Pay increases resulting from a contractual change will count, such as a promotion, an increase to their hours or working commitments.

Open conversations between the employee and the HR team will be key to understanding the employee's circumstances, needs and preferences. The needs of the employee should be considered and balanced alongside the aims and priorities of the employing organisation, in order to agree a solution which suits both parties.

How does the 10 per cent reduction in pensionable pay apply to staff with more than one employment?

Where a member has more than one employment, they must reduce their combined pay across all pensionable employments by at least 10 per cent. Pensionable pay is up to the maximum of whole time only. For example:

- Employment one = £50k
- Employment two = £30k
- Total pensionable pay = £80k.

A reduction is required so that the overall pensionable pay is no more than £72,000. This can be achieved by varying one employment or both.

Employers may not be aware of all the employments their staff hold. During partial retirement discussions, employers should make members aware of the need to reduce their combined pensionable pay by 10 per cent, and of the abatement consequences should their pensionable pay exceed 90 per cent in the 12 months following partial retirement.

If an employee chose to leave one of their employments to achieve the 10 per cent reduction, this action would fulfil the contractual change to their employment terms required to access partial retirement.

How should the 10 per cent reduction in pensionable pay be calculated for staff who work sporadically as a locum or bank worker?

The 10 per cent reduction in pensionable pay should be calculated in the same way for all employees. The reduction will be calculated based on the member's previous level of pensionable pay for the 12 months before they take partial retirement, ending on the day they take partial retirement. Where a member has more than one employment, they must reduce their combined pay across all pensionable employments by at least 10 per cent.

Given the sporadic nature of their work and the likelihood of having multiple employments, staff who work exclusively as locum and bank should be made aware of the consequences of

breaching the 10 per cent reduction across all their pensionable work. The employee will no longer be eligible if the reduction is breached, and their pension payments will be stopped until their pensionable pay reduces again.

Further information is available in the chapter on monitoring the 10 per cent reduction in pensionable pay.

How can employers calculate the 10 per cent reduction in pensionable pay for staff who have been with their organisation for less than 12 months?

The same calculation principle applies, an individual's pensionable pay over the 12 months before taking partial retirement will determine what their 10 per cent reduction needs to be. The employer may not be aware of the employee's pensionable pay from previous employments, within the 12-month period, in order to make the correct calculation. In these circumstances the employer should contact NHS Pensions. Employers will need to provide the intended date the member wishes to take partial retirement from.

Should employers encourage staff to opt out of the NHS Pension Scheme as a way of achieving the 10 per cent reduction at the point of applying for partial retirement?

No. It is not possible to achieve the 10 per cent reduction by opting out of the pension scheme. Employees must be active members of the NHS Pension Scheme to be eligible to apply for partial retirement, and the 10 per cent reduction must be agreed when the partial retirement application is submitted.

The reduction must be achieved through a contractual change before the partial retirement application is submitted. The application form requires employers to confirm that the individual's pensionable pay has reduced by 10 per cent, their terms of

employment have been changed and the new level of pay will be in place for 12 months.

Employers should not actively encourage staff to opt out of the NHS Pension Scheme. The scheme is a valuable part of the NHS total reward package and offers benefits to members, such as life assurance and ill-health retirement, that will be lost if they opt out. More information on the benefits is included in our value of the [NHS Pension Scheme poster](#).

After partial retirement has been taken, employees may choose to opt out of the pension scheme for additional work undertaken, separate to their newly reduced substantive work commitment. Choosing to opt out for additional work is an acceptable way to manage pensionable pay and avoid breaching the 10 per cent reduction. This is explained in the chapter on processing the 10 per cent reduction through the ESR payroll system. The employee will remain a member of the NHS Pension Scheme for their substantive contract, therefore retaining its valuable benefits, but will opt out of the scheme for any additional work assignments.

From 1 April 2024, all overtime will be non-pensionable for those who have partially retired in the last 12 months. This change will make it easier for partial retirees to take on additional hours and while manage their pensionable pay to avoid breaching the 10 per cent reduction. It should remove the need to process additional work under a separate assignment where the employee has chosen to opt out of the NHS Pension Scheme.

Employers should not encourage staff to opt out of the NHS Pension Scheme as a way of achieving the 10 per cent reduction when applying for partial retirement in any local partial retirement policies or communications.

Can employees use salary sacrifice arrangements to achieve the 10 per cent reduction in

pensionable pay?

No. Salary sacrifice arrangements are not an eligible means of achieving the 10 per cent reduction in pensionable pay for partial retirement. This was included in scheme changes introduced from 1 April 2024.

Can employees choose to give up High Cost Area Supplement (HCAS) payments to achieve the 10 per cent reduction in pensionable pay?

No. An employee's HCAS payments will only stop if they no longer work (or live in the case of home workers), in a HCAS zone.

Can employees choose to give up Clinical Excellence Award payments to achieve the 10 per cent reduction in pensionable pay?

Yes, employees can choose to relinquish their award to achieve the 10 per cent reduction.

Relinquished national and local awards will not automatically be reinstated in the future and individuals would need to re-apply following the usual process. Awards cannot be paused or temporarily withdrawn for a year to fulfil the 12-month requirement for the 10 per cent reduction following partial retirement.

A pensionable and consolidated pre-2018 award cannot be changed to become non-pensionable and non-consolidated. An individual may choose to relinquish their pre-2018 award and re-apply for a post-2018 award which would be non-pensionable and non-consolidated if granted, but their application would be subject to the usual assessment process. There would be no guarantee that their application would be successful.

Local clinical excellence awards (LCEA) granted from 1 April 2022, and national clinical impact (NCIA) awards granted under the NCIA scheme from 1 April 2022 are non-pensionable and non-

consolidated. Choosing to relinquish these awards would have no impact on an individual's pensionable pay.

LCEAs granted prior to 1 April 2018 under LCEA schemes in place as of 31 March 2018, and national clinical excellence awards (NCEA) granted under the NCEA scheme in place until 31 March 2022 are pensionable and consolidated.

Reducing pensionable pay by reducing the level of working commitment

There are many ways of reducing pensionable pay and the most effective method will depend on the individual circumstances of the employee and the employer. There is no one size fits all solution to reducing pensionable pay and, in some cases, bespoke arrangements will need to be agreed.

To support your conversations with staff, we have included a list of options below for you to consider together during your discussions:

- stepping down to a lower paid role and reducing the employee's level of responsibility
- reducing the employee's contractual working hours or commitments
- agreeing temporary agreements to change the employee's terms and conditions of employment, so that pensionable pay is reduced only for a 12-month period. A temporary change may give both parties reassurance that at the end of that period, the original working arrangements will return.

- offering retire and return as an alternative way to access pension benefits. More information is available in the chapter on retire and return.

Reducing pensionable pay while maintaining the same level of working commitment

In cases where the employer and employee agree that the individual should continue to work in the same role, with no reduction in working hours, commitments or responsibilities, employers may review the structure of the employee's remuneration to reduce their level of pensionable pay, while maintaining their level of overall pay.

To access partial retirement, a contractual change must be made to the employee's substantive contract of employment that achieves the required 10 per cent reduction. Additional work may then be undertaken separately to supplement their newly reduced substantive work commitment.

The scheme regulations require the member's pensionable pay to reduce on partial retirement, but in some cases, it may be possible to replace pensionable payments with non-pensionable payments to maintain the employee's total remuneration.

Overtime

Scheme changes introduced by DHSC from 1 April 2024 mean that all overtime payments are not pensionable for members who have taken partial retirement in the last 12 months. This includes additional hours worked above the member's core contract. Overtime payments, up to whole time, will become pensionable again 12 months after the member's chosen partial retirement date,

The change enables partial retirees to support service delivery in their organisation by having the option to agree to do overtime if needed, and work overtime to replenish their take home pay without breaching the 10 per cent reduction in pensionable pay. ESR has produced guidance to support employers with processing overtime for partial retirees.

Determining certain elements of the employee's pay as non-pensionable.

Employers must comply with the NHS Pension Scheme regulations which define pensionable earnings as follows:

- Pensionable earnings are broadly all salary, wages, fees and other regular payments.
- Non-pensionable payments include bonuses, non-regular payments, payments made to cover expenses or overtime and pay awards or increases which are expressed by the Secretary of State to be non-consolidated.

Employers may be able to use the flexibility in the scheme regulations to determine some payments as non-pensionable so that the member's pensionable pay is reduced, without reducing

their overall working commitments and take-home pay. For example:

Temporary payments

Most temporary payments are non-pensionable. Exceptions include temporary pay increases and shift allowances.

One off payments

One off or non-regular payments are usually non-pensionable. Employers may wish to explore options to establish non-pensionable one-off payments in recognition of the completion of additional activity.

Overtime

From 1 April 2024, all overtime payments are not pensionable for members who have taken partial retirement in the last 12 months. Overtime payments, up to whole time, will become pensionable again 12 months after the member's chosen partial retirement date. ESR has produced [guidance](#) to support employers with processing overtime for partial retirees.

Additional programmed activities (APAs)

Under Schedule 17 of the [terms and conditions for consultants](#), programmed activities (PAs) which exceed the standard contractual limit of 10 are non-pensionable. Employers should ensure job planning processes and any supporting documentation clearly sets out that APAs are over and above the standard contract and are subject to regular review.

Members wishing to reduce their PAs to meet the requirement for partial retirement while taking on APAs to maintain the same level of commitment will need to come to a mutual agreement with their employer. Employers should seek legal advice to ensure such arrangements are appropriate. More information is available in the chapter on processing the 10 per cent reduction in pensionable pay through the ESR payroll system.

Allowances for undertaking management responsibilities

Allowances will be non-pensionable if they are temporary and subject to review, or if they are linked to a non-pensionable PA that exceeds the standard contractual limit of 10 or more.

Waiting list initiative (WLI) payments

WLI payments should be non-pensionable if the activity exceeds whole-time or if the payment is made as a one off bonus.

Weekend and on-call payments

Availability allowance for on-call work is only pensionable if there is a specific rota commitment that an individual is paid for on a regular basis.

Local payments

Further information is available on the NHS Pensions [website](#).

Reducing hours in a substantive contract and using bank contracts to work additional capacity

Employees who are employed on bank contracts may choose to opt out of the NHS Pension Scheme in respect of their bank employment, while continuing to be a member of the NHS Pension Scheme in respect of their substantive contract of employment. This flexibility may allow the individual to reduce their hours and pensionable pay under their substantive contract of employment, while working additional capacity and maintaining their income on a non-pensionable basis under the terms of their bank contract. Implementation information is covered in the chapter on processing the 10 per cent reduction in pensionable pay through the ESR payroll system.

Determining programmed activities (PAs) and additional programmed activities (APAs) as non pensionable

Following a discussion between the employer and the member, pensionable PAs can be reduced to achieve the required contractual change and the 10 per cent reduction. It may be possible for non-pensionable APAs to be added to supplement the substantive PAs, providing work undertaken through APAs is considered separate and distinct from PAs, and the arrangement is temporary and subject to regular review. Employers should seek legal advice to ensure such arrangements are appropriate.

An example of how this can be achieved via ESR is available in the chapter on processing the 10 per cent reduction in pensionable pay through the ESR payroll system.

Processing the 10 per cent reduction in pensionable pay through the ESR payroll system

Some employers have reported challenges in processing agreed changes to working arrangements and pensionable pay on the ESR payroll system. In some cases, ESR may treat some payments as pensionable, where the payments made are intended to be ad-hoc or temporary and should therefore, be non-pensionable.

Below are some examples of local manual solutions employers are using on ESR to resolve this:

1. Creating a non-pensionable assignment for employees wishing to take partial retirement.

The first assignment is created as if the employee is a member of the NHS Pension Scheme and contains all the hours and elements of pay which should be counted towards pensionable pay. The second additional assignment is created as if the employee has opted out of the pension scheme. Any payments made under this assignment will not attract pension contributions or count towards pensionable pay. Therefore, if ESR is incorrectly treating a payment as pensionable, this payment could be moved to the second assignment to correct the situation.

This local solution may be effective when used for a small number of staff. However, extra work is required to create additional assignments on ESR, which could be time consuming if large volumes of applications for partial retirement are received. Staff may also raise additional queries in relation to their tax and national insurance contributions and may need help understanding how the information is displayed across their two pay slips.

Please note, this solution does not involve creating two contracts of employment to achieve the reduction in pensionable pay. This solution involves creating two assignments if an employer is not able to process an agreed change to pensionable pay on ESR.

2. Creating an additional non-pensionable bank assignment for those wishing to take partial retirement.

This is created using a method similar to that detailed above.

3. Using non-pensionable elements on an existing assignment.

This method can be used to redesignate programmed activities (PAs) and additional programmed activities (APAs). An employee's substantive and pensionable PAs can be reduced to achieve the required contractual change and the 10 per cent reduction. Non-pensionable APAs can then be added to supplement the substantive PAs, providing work undertaken through APAs is considered separate and distinct from PAs, and the arrangement is temporary and subject to regular review. Employers should seek legal advice to ensure such arrangements are appropriate before implementing on ESR.

This method may also be used for other non-pensionable elements and allows organisations to create local elements to help achieve the 10 per cent reduction.

4. Setting up the member's record with their basic pay adjusted with some of the payment made on a non-pensionable pay element.

The downside to this approach is that the adjusted payment on the non-pensionable pay elements may need to be manually maintained in respect of any pay changes, such as the pay award, and could impact other payments that rely on basic pay for the calculation, including duty or HCAS payments.

DHSC is exploring more efficient and automated solutions, however this will require system development and will take time.

More information on how to input some of these methods into the ESR system is available in the [ESR guidance for managing partial retirement](#).

Monitoring the 10 per cent reduction in pensionable pay

Employers should be confident that the agreed contractual change to working arrangements will lead to a reduction in pensionable pay of at least 10 per cent, which can be maintained for the 12-month period following the chosen partial retirement date. During this time, if the member's pensionable pay increases to more than 90 per cent of their pensionable pay before they took partial retirement, abatement will apply in full and the member's pension benefits in payment will be stopped. If a member's pay does increase to more than is allowed and abatement occurs, their pension will only start to be paid again, once their pensionable pay is reduced by a minimum of 10 per cent of the pay that their original decision to take partial retirement was based on. At the end of the 12-month period, the employee and employer may wish to revert back to the original working arrangement, if appropriate.

HR teams should give clear instructions to their pension and payroll colleagues to ensure that the agreed changes to working arrangements or pensionable pay are accurately processed and updated on the employee's pension and payroll records.

The member and employer should not agree any further changes to the employee's contract of employment which would increase pensionable pay to more than 90 per cent of the member's pensionable pay before their partial retirement during the 12-month period. Annual pay awards and pay increases members receive as they move through their pay band or pay scales do not count towards this, but any pay increase resulting from a

contractual change to their terms and conditions will. For example, if a member decides to apply for a different job with a higher salary, increase their hours or increase their commitments.

Employers should make members aware of the changes that could lead to abatement and overpayments that members would need to pay back when their pension record is updated at year end.

Employers should inform NHS Pensions if contractual changes increase a member's pay to more than 90 per cent of their pensionable pay in the 12 months after taking partial retirement. Members should inform NHS Pensions of any increases to their level of pay or changes to their conditions of employment.

Further information about abatement and partial retirement is available below.

Will abatement apply to members taking partial retirement?

Yes. Members taking partial retirement must reduce their pensionable pay by at least 10 per cent for 12 months starting from the date their partial retirement begins. Employers should make staff aware that their pension payments may be stopped if the 10 per cent reduction in pensionable pay is not maintained during the first 12 months after taking partial retirement.

Can the 10 per cent reduction in pensionable pay be averaged out over the 12 months following partial retirement?

No, the 10 per cent reduction must be met each month. If a member breaches the pensionable pay limit of 90 per cent at any point, it should be reported to NHS Pensions by either the employer or the employee. Any breach would result in pension payments stopping until pensionable pay reduces below 90 per cent again.

Does the reduction in pensionable pay apply to those who choose to leave NHS employment less than 12 months after they take partial retirement?

To assess whether the member's pay has reduced by at least 10 per cent for the first 12 months the pay received from NHS employment will be grossed up to the full year. This is achieved by the following calculation: $\text{Pay in period working for NHS} \times 365 \div \text{number of days} = \text{Pay for 12 months}$.

When a person leaves NHS employment, they are no longer an active member of the scheme. Any pay made after leaving will not be classed as pensionable in the NHS Pension Scheme. Providing a person has not breached the 10 per cent reduction rule using the calculation above, any pensionable pay they earn outside of the NHS, in the 12 months following their partial retirement date will not count.

Some staff may remain a member of the NHS Pension Scheme after leaving NHS employment. For example, those who TUPE transfer to a new employer on their NHS terms and conditions, and those who move to direction employers that provide access to the NHS Pension Scheme. In these cases, the 10 per cent reduction in pensionable pay will remain in place for the 12 months following their partial retirement date.

Will abatement apply to members who reduce their pensionable pay and then work overtime?

No. From 1 April 2024, all overtime payments are not pensionable for members who have taken partial retirement in the last 12 months. Members who have reduced their working commitment by 10 per cent when taking partial retirement can work overtime without breaching their commitment to maintain the 10 per cent reduction in pensionable pay.

Will the 16 hour rule apply to members taking partial retirement?

No. The 16-hour rule was permanently removed from 1 April 2023.

Previously, pension payments would be suspended under the 16-hour rule if a member of the 1995 Section worked more than 16 hours per week in the first month after taking retirement benefits. The permanent removal of the 16-hour rule will make it easier for retired staff to continue to work in the NHS.

Application process for partial retirement

Employers will need to ensure that all flexible retirement requests are treated with due consideration, including any equality implications, and with an emphasis on exploring and mutually agreeing solutions.

Flexible retirement is a form of flexible working and requests should be handled in line with the national principles set out in section 33 of the NHS Terms and Conditions of Service Handbook. The NHS Staff Council has also produced flexible retirement guidance, covering the application and appeals process.

Step 1

Employees wishing to take partial retirement should first speak with their line manager and raise a flexible working request, in line with their organisation's local request policy.

Step 2

Employees should speak with a member of their HR team to agree how to reduce their pensionable pay by 10 per cent for 12 months, starting from their chosen partial retirement date. Once mutual agreement is reached, contractual changes will be made to their employment terms and conditions to reflect the reduction.

Step 3

The member will need to decide and inform their employer on what percentage of their pension, between 20 per cent and up to 100 per cent, they wish to take. NHS Pensions has developed a [partial retirement calculator](#) and a [McCloud percentage tool](#) to help members decide how much of their pension they wish to take.

The member and employer must then complete the NHS Pensions retirement benefits claim form (AW8) and [partial retirement supplementary form](#).

Step 4

Both forms should be sent to NHS Pensions for processing.

Step 5

Employers should not close down the member's record on Pensions Online as the member is continuing in that employment.

The application process for partial retirement is similar to the application process for any other retirement, but an additional form, the [partial retirement supplementary form](#), is required. We recommend employers read the [partial retirement employer factsheet](#) on the NHS Pensions website before completing the form. The following additional information is required to complete the supplementary form:

- Confirmation that the member's terms and conditions of employment have been changed to achieve a reduction in pensionable pay of at least 10 per cent, and that the reduction in pensionable pay is expected to be in place for 12 months starting from their chosen partial retirement date.
- Confirmation that the member has been made aware that they have an option to take their benefits from the 1995/2008 Section based on membership up to 31 March 2015 only. This option relates to the McCloud remedy and further information is available below.
- The percentage of benefits the member wishes to take.

Any questions regarding the application forms and process should be directed to NHS Pensions.

What should scheme members consider when deciding how much of their pension to take?

Members who are applying for partial retirement should consider a number of factors when deciding how much of their pension they wish to take. Employers may wish to signpost the individual to the following points for consideration:

- Taking a pension income in addition to income from employment may alter the employee's personal tax position.
- If a member takes their benefits before the normal pension age (NPA), their benefits will be reduced. Different NPAs apply in the 1995 Section, 2008 Section and 2015 Scheme. This may affect the member's preferences around how much pension they wish to take and when.
- Members are not able to choose which scheme they take their benefits from. When a member chooses to take partial retirement, their chosen percentage is applied sequentially

across all their benefits in the NHS Pension Scheme. This means they effectively take or use up their 1995/2008 scheme benefits first, followed by their 2015 Scheme benefits. Therefore, if the member wishes to take their 1995/2008 Scheme benefits but not their 2015 Scheme benefits (perhaps to avoid an early retirement reduction being applied to their 2015 Scheme benefits) employers will need to indicate this on the partial retirement supplementary form.

- Members are not able to take their lump sum separately from their pension. Taking partial retirement involves claiming a proportion of their pension and any lump sum associated with that pension.
- **Members who are eligible for the McCloud remedy may wish to consider that if they take all of their pension benefits, they may be required to pay back any overpayments following their McCloud choice later on.** Further information about partial retirement and the McCloud remedy is available below.
- Two modelling tools are available on the NHS Pensions website to support members to decide how much pension they wish to take. Further information about modelling tools is available below.

How might partial retirement interact with the McCloud remedy?

The McCloud remedy is the process of removing the age discrimination that was judged to have arisen in public service pension schemes, including the NHS Pension Scheme. Employees who joined the NHS Pension Scheme on or before 31 March 2012 and who were still members of the scheme on 1 April 2015 are eligible for the McCloud remedy.

The regulations for the McCloud remedy came into effect on 1 October 2023, and NHS Pensions are working to offer eligible

active members their choice at the point they retire from April 2024.

If a member who is eligible for the McCloud remedy chooses to retire before April 2024, they will be contacted within 12 months of their partial retirement date and asked to choose between keeping their benefits in respect of the remedy period (that is, 1 April 2015 – 31 March 2022) in the 1995/2008 Scheme or the 2015 Scheme.

Their upcoming McCloud choice means there are other factors for them to take into account when deciding how much of their pension they wish to take. Their McCloud choice could affect their personal tax position, or their final salary link, if they have one. If the member chooses to move their benefits for the remedy period into the 2015 Scheme, they may have effectively been overpaid and may be required to pay this back to the scheme. NHS Pensions has developed the [McCloud percentage tool](#) to allow members to see what percentage pension they can take to help avoid any later impacts from their McCloud choice. Further information about the McCloud percentage tool is available on the [NHS Pensions website](#).

Are any modelling tools available to scheme members to support their application?

NHS Pensions has developed two calculators to help members decide how much of their pension they wish to take.

1. The [partial retirement pension calculator](#) is a comprehensive tool giving members the information they need to make a fully informed choice on the level of pension they wish to take on partial retirement. Members should be encouraged to use the tool before submitting their application for partial retirement.
2. The [McCloud percentage tool](#) was developed as an interim tool for members who had a strong preference for taking partial retirement before the partial retirement pension calculator was

launched in December 2023. This tool does not give as much information as the partial retirement pension calculator, but it will help members to see what percentage of pension they could take to avoid having overpayments to repay when they make their McCloud choice later on.

Can employers turn down an application for partial retirement?

The employer and the employee must come to an agreement on how to reduce the member's pensionable pay before the member's application for partial retirement can proceed. How to do this will differ depending on the individual's situation and the organisation's service needs. We recommend that the appropriate representatives from the organisation be involved in conversations to agree on bespoke arrangements.

Employers should support applications in the majority of cases, given that partial retirement has benefits for employers as well as staff. However, there may be situations where employers feel they are unable to accommodate the application. If the employee and the employer are unable to identify and agree on a way of reducing pensionable pay by 10 percent and maintaining that position for 12 months, the member will not be able to take partial retirement at that time. In these circumstances, the member may consider other [flexible retirement options](#) or choose to appeal the decision.

Employers and trade unions should work in partnership to agree arrangements for a standard appeal process which is accessible to all staff. It is vital that employers ensure that they are using fair, consistent and objective approaches when deciding whether requests can be agreed. Data monitoring and reporting are also essential in providing employers assurance that equity and fairness are being maintained, for all flexible retirement requests.

All flexible retirement requests should be handled in line with the national principles set out in section 33 of the [NHS Terms and](#)

Conditions of Service Handbook. The NHS Staff Council has also produced flexible retirement guidance, covering the application and appeals process.

Do employers have to offer partial retirement as a flexible retirement option?

Yes. Partial retirement is one of the flexible retirement benefits offered by the NHS Pension Scheme and is available to all members who meet the eligibility criteria.

Employers may decline a partial retirement request if, after discussion, a mutual agreement between the individual and the organisation cannot be reached. Employers cannot refuse to offer partial retirement to eligible staff in the first instance, without exploring it as a mutually viable option first.

Supporting members who are unable to take partial retirement

An employee may be unable to take partial retirement because a mutual agreement cannot be reached with their employer, on how to achieve the 10 per cent reduction in pensionable pay.

Employers should discuss alternative flexible retirement options and be prepared to follow their local appeals process (based on the principles set out in Section 33 of the NHS Terms and Conditions of Service Handbook) if necessary.

Employers may offer retire and return to these members as an alternative way for employees to access their pension benefits and continue to work in the NHS. It is good practice for employers to offer the same terms and conditions of employment after retiring and returning including pay, annual leave and sick pay entitlements. More information is available in the retire and return chapter.

Retire and return

Retire and return is a way of retiring flexibly which works alongside the NHS Pension Scheme Regulations. Members who have reached the minimum pension age may leave NHS employment, claim their pension benefits and later decide to return to NHS employment. Staff have the option to join the 2015 Scheme on returning to work in the NHS, to continue building more pension if they wish.

The NHS Pension Scheme regulations require members of the 1995 section to leave employment and have a break in service of at least 24 hours in order to take their benefits from the scheme.

Differences between retire and return and partial retirement

The key distinction between retire and return and partial retirement is that with retire and return, the member must leave NHS employment, take their pension and be re-employed on a new contract of employment at a later date. With partial retirement, the member can take their pension without leaving their job or taking a break in service and so their existing contract of employment continues to be in place.

Another important difference is that members who retire and return must take all their benefits from the 1995 Section at once, whereas partial retirement provides additional flexibility for members to take some or all of their pension in one or two payments before they fully retire.

As partial retirement provides a more seamless approach, it is expected that going forward, partial retirement may be more

attractive for staff who already know they plan to continue working after taking their pension.

After the introduction of partial retirement, retire and return may still be used where a member retires and then decides sometime later that they wish to return to work in the NHS. It will also provide an alternative option for members to access their pension benefits if they do not wish to reduce their pensionable pay by 10 per cent, required as part of partial retirement. Retire and return will continue to be a useful tool for employers to attract and welcome back retired staff to the NHS workforce to fill gaps in capacity and help deliver high-quality patient care.

Do employees need to take a break in service to retire and return?

Yes. Under the NHS Pension Scheme regulations, members must take a 24-hour break before returning to employment to take their pension from the 1995 Section.

Are employers required to ensure the employee takes a longer break in service on retire and return to achieve a break in continuous service?

No. There is no requirement to ensure an employee takes a longer break in service to achieve a break in continuous service. Where employers are using retire and return as a tool to retain valuable and experienced staff and boost capacity, insisting on a longer break in service may be unnecessary and could deter the individual from returning to work in the NHS.

Continuous service determines an individual's entitlement to certain statutory employment rights, including:

- statutory redundancy payments
- the right to claim for unfair dismissal

- statutory maternity pay and other family friendly entitlements.

Breaking this period of continuous service will restart the clock for securing these employment rights, and to limit any liability by preventing claims for unfair dismissal and/or statutory redundancy payments for a further two-year period. However, in the context of workforce pressures and the need to retain experienced staff, an employer may feel that a redundancy or dismissal situation is unlikely where a request to retire and return has been agreed.

If an employer does feel there is a need to ensure a break in the employee's continuity of service, there must be a break between employments of at least one week. However, this break will only be effective where it runs from Sunday to Saturday. Therefore, employers in this situation will need to enforce a two-week break between employments to ensure that a week ending on a Saturday is included within the period.

Will employees retain their existing terms and conditions of employment after retiring and returning?

When members retire and return, they must leave employment, their existing contract of employment ends, and they must enter a new contract of employment with their employer.

We believe it is good practice for employers aiming to retain valuable and experienced staff to offer the same terms and conditions of employment after retiring and returning. Offering the same terms and conditions, including pay, annual leave and sick pay, may encourage experienced staff to continue working if they want to claim their pension, and it could help to attract staff who have recently retired back to work.

This is an effective way of making sure experienced employees feel rewarded, recognised and valued for their hard work, service and dedication over many years.

When members take partial retirement, a break in employment is not required and members will automatically retain the same contract of employment.

Will employees on closed contracts retain their existing terms and conditions of employment after retiring and returning?

This decision can be made locally by employers. The organisation's decision should be applied consistently across all closed contract staff who wish to retire and return, to avoid inequality and ensure fairness.

Are Clinical Excellence Awards affected by retire and return?

National award holders, who begin receiving their pension after 1 April 2023, will retain their award. This is subject to the standard scheme rules around job changes where any changes to working arrangements are made as a consequence of retire and return.

Any breaks in service are assessed on a case-by-case basis. Significant breaks in service may result in loss of the award. We would expect the longer the break, the greater the chances of losing the award.

As with any job change, award holders and employers should discuss job change plans with the Advisory Committee on Clinical Impact Awards (ACCIA) secretariat before the job change has

been implemented to avoid losing the award or being required to re-apply early.

Terms and conditions for local award holders are set out in Schedule 30 (last updated January 2023). With effect from 1 April 2023, a consultant with a pre-2018 LCEA who retires and returns to the same employer will retain their pre-2018 LCEA.

Prior to 1 April 2023 existing LCEAs cease on retirement, meaning consultants who had already retired prior to 1 April 2023 have lost their pre-2018 LCEAs and will not maintain these on returning.

Further information on CEAs is provided in Schedule 30 of the consultant contract.

Will abatement apply on retire and return?

For the vast majority of scheme staff, retiring and returning to work in the NHS will not affect the pension payments they receive from the scheme. However, in a small number of cases, abatement may apply. Abatement is where a member's NHS pension is reduced if their earnings on returning to work, plus their pension benefits, exceed the amount the individual earned shortly before they retired.

Abatement **will not apply** if the member retires:

- on or after their normal pension age (this is age 60 for members of the 1995 Section, age 65 for members of the 2008 Section and in line with the member's state pension age or age 65 (whichever is later) for the 2015 Scheme)
- before their normal pension age and their pension is reduced to reflect the early payment
- with enhanced benefits due to redundancy.

Abatement **may apply** where a member returns to work before their normal pension age, after retiring:

- with special class status* or mental health officer status
- due to ill health
- in the interests of the efficiency of the service.

*Important note – DHSC has suspended abatement for members with special class status until 31 March 2025 as part of a series of temporary measures to help retired staff to return to the NHS to boost workforce capacity during the pandemic and subsequent recovery of elective care. DHSC are consulting on [proposals](#) to permanently remove special class status abatement from 1 April 2024.

Where abatement applies, retired staff can still return to work, but they may need to work fewer hours to ensure their pension payments are not reduced. Members can contact NHS Pensions for clarification of how much they can earn without affecting their pension.

Where abatement does apply, it will cease when the member reaches normal pension age. At that point, the pension payments will return to their pre-abatement value.

Abatement may also apply where a 10 per cent reduction in pensionable pay is not achieved for the first 12 months following partial retirement.

Further information is available in the partial retirement chapter.

Will the 16-hour rule apply to members who retire and return?

No. The 16-hour rule was permanently removed from 1 April 2023.

Previously, pension payments would be suspended under the 16-hour rule if a member of the 1995 section worked more than 16 hours per week in the first month after returning to work from

retirement. The permanent removal of the 16-hour rule will make it easier for retired staff to return to work in the NHS.

Retire and re-join

From 1 April 2023, employees who have taken their pension from the 1995 Section of the NHS Pension Scheme and return to work in the NHS will be able to join the 2015 Scheme and build up further pension if they wish.

This will enable employers to provide a more valuable reward offer to attract and retain their most experienced staff.

Prior to these changes being introduced, employees who had taken their pension from the 1995 Section were not eligible to re-join the NHS Pension Scheme on returning to work in the NHS. Many employed pensioners may be members of an alternative pension arrangement, for example, the National Employment Savings Trust (NEST), or may not contribute to a pension scheme.

From 1 April 2023, employers must notify all staff who have taken their pension benefits from the 1995 Section and returned to work that they are eligible to join the 2015 Scheme if they wish.

Employers are not required to automatically enrol these employees into the NHS Pension Scheme. However, employers must set up membership for any employees who take up the option to join the 2015 Scheme and may need to end their membership to any alternative pension arrangement.

Employees who retire and return on or after 1 April 2023 should be contractually enrolled into the 2015 Scheme on the first day of their employment, in the same way as any other new starter.

Where an employee chooses to end their membership to an alternative pension arrangement and join the 2015 Scheme, they may ask if it is possible to transfer their benefits from the alternative pension arrangement into the 2015 Scheme. Employers should signpost employees to guidance on transferring benefits available on the [NHS Pensions website](#).

Employers should continue to use the NHS Pension Scheme as the default scheme for contractual enrolment and automatic enrolment.

Impact of flexible retirement on redundancy

NHS Employers have engaged with Capsticks to provide legal clarification for employers on the interaction of partial retirement with redundancy.

The guidance below aligns with the current DHSC position.

Section 16.6 of the Agenda for Change (AfC) Terms and Conditions of Service (TCS) Handbook states that the following will not count as reckonable service:

- *employment that has been taken into account for the purposes of a previous redundancy, or loss of office payment by an NHS employer.*
- *where the employee has previously been given NHS pension benefits, any employment that has been taken into account for the purposes of those pension benefits.*

This means that any service relating to partial retirement benefits cannot be taken into account in calculating a contractual redundancy payment.

This means that using a proportionate approach is not in accordance with current contractual terms and conditions. Any payment made using the proportionate approach is likely to be a non-contractual severance payment, requiring NHS England/HM Treasury approval and could be challenged by auditors.

(Proportionate approach is where service is discounted by a certain percentage, for example 20 per cent when calculating contractual redundancy payment for a staff member who has

taken 20 per cent of their pension benefits through partial retirement).

Employers need to be aware of statutory redundancy payment requirements, as with partial retirement there is no break in service. It is important ensure that any local provision does not create a discriminatory detriment to any group of staff.

The relationship between contractual and statutory redundancy payments is set out in Section 16.1 of the AfC TCS Handbook:

“...NHS contractual redundancy is an enhancement to an employee’s statutory redundancy entitlement, the statutory payment being offset against any contractual payment.”

We recommend that employers calculate the statutory redundancy payment and then calculate the contractual redundancy payment.

- If the contractual payment is more than the statutory payment, the contractual payment should be paid, and it incorporates the statutory entitlement.
- If the statutory payment is more than the contractual payment, only the statutory payment is made.

The NHS Staff Council may choose to seek a mandate from DHSC to make amendments to the NHS TCS Handbook relating to redundancy, however, we have no indication of whether staff council will pursue this or any related timescales. We recommend employers move ahead with the guidance provided above.

The importance of flexible working for staff in the later stages of their career

The definition of retirement is changing and broadening. Many employees are considering how they can gradually adjust their working patterns to achieve a healthy work-life balance and a smoother transition from their working life into retirement. This shift towards retiring flexibly leaves behind the expectation that retirement means permanently leaving the workplace and employment, or that full time work should immediately be replaced with full time retirement.

Flexible retirement is a form of flexible working and all requests should be handled in line with the national principles set out in section 33 of the [NHS Terms and Conditions of Service Handbook](#).

Flexible working is just as valuable for staff approaching the end of their careers, and for retired staff who are returning to the NHS, as it is for those joining the NHS for the first time or returning from parental leave.

Flexibility enhancements were introduced to champion and facilitate a cultural shift, ensuring that flexible working options are accessible to all NHS staff. Improving flexible working options aligns with commitments previously outlined in the [NHS People Plan](#), [People Promise](#) and in the more recently published [Long Term Workforce Plan](#). One of the core commitments in the NHS People Promise is 'we work flexibly', emphasising that individuals should not have to compromise their family, friendships, or personal interests for the sake of work.

Flexible working is key to retention, employee engagement and supporting staff to live healthy working lives. NHS employers should be committed to offering more flexible, varied roles and opportunities to their employees.

Employers should consider flexible working patterns for employees in the lead up to full retirement. The arrangements agreed should reflect the employee's experience, skills and preferences as well as the needs of the service. Employers should support applications in the majority of cases, given that flexible retirement has benefits for employers as well as staff.

Options for flexible working:

- part-time work – including job shares, term time only work, annualised hours
- fixed working patterns – to give certainty around days, times and location of work
- compressed or elongated working hours
- fixed-term contracts.

Fixed-term contracts

If a retired employee is returning to a post that is related to a specific time-limited project or funding stream, or to cover a period of temporary absence for example, maternity leave, then in those circumstances, a fixed-term contract may be appropriate for the employee and employer.

Employers should carefully consider their reasons and objectives for offering a fixed-term contracts, if the fixed-term contract is necessary, and if there are any alternative ways to achieving their aims.

Employers should consider how a fixed-term contract may be perceived and valued by the employee. Some staff may find a fixed-term contract attractive if it fits with their personal circumstances and plans. For others, the uncertainty of fixed-term may discourage the employee from returning.

Bank / locum work

Bank or casual work (zero hours contract) is seen by many employees and employers to offer the greatest level of flexibility.

However, some employees may feel their status in the organisation would be lessened by moving from a substantive post to a bank post. There may be other implications of moving to a bank contract, for example loss of voting rights or loss of control over certain processes, that may make an employee feel undervalued or unable to contribute to their full potential. Again, it is important for employers to consider how offering a bank or locum contract of employment would be perceived and valued by the employee and how this may impact their decision to return.

Flexible retirement resources

We have published resources to help you promote, explain and implement retirement flexibilities to support retention in your organisation.

- Our [flexible retirement web page](#) provides an overview of the different retirement flexibilities, with ‘real life’ examples showing how the flexibilities benefit both the organisation and the individual
- Use our [retirement flexibilities poster](#) to support your conversations with NHS staff about the flexible retirement options available in the NHS Pension Scheme.
- Read [NHS Staff Council guidance](#) on the process for considering flexible retirement requests.
- Read our [case study](#) to learn how one trust promotes flexible retirement options to staff.
- NHS Pensions have [operational guidance](#) for employers on partial retirement processes for 1995 Section members.

Flexible retirement helps employers to retain valuable staff. Visit our [retention hub](#) to access our dedicated collection of resources and guidance.

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