



NHS Pension Scheme: increased flexibility

Response

Who are we

The Healthcare Financial Management Association (HFMA) is the professional body for finance staff working in healthcare. For 70 years it has provided independent support and guidance to its members and the wider healthcare community.

It is a charitable organisation that promotes the highest professional standards and innovation in financial management and governance across the UK health economy through its local and national networks. The association analyses and responds to national policy and aims to exert influence in shaping the healthcare agenda. It also works with other organisations with shared aims in order to promote financial management and governance approaches that really are 'fit for purpose' and effective.

The HFMA is the biggest provider of healthcare finance and business education and training in the UK. It offers a range of qualifications in healthcare business and finance at undergraduate and postgraduate level and can provide a route to an MBA in healthcare finance. The association is also an accredited provider of continuing professional development, delivered through a range of events, e-learning and training. In 2019 the HFMA was approved as a main training provider on the Register of Apprenticeship Training Providers and will be offering and developing a range of apprenticeships aimed at healthcare staff from 2020.

Our comments

About you

What is your name?

Debbie Paterson

What is your email address?

Debbie.paterson@hfma.org.uk

Would like to receive updates on this policy via the email address you have provided?

Yes

Is it okay for the Department of Health and Social Care to contact you about your response?

Yes

Are you responding as an individual or on behalf of an organisation?

On behalf of a non-NHS organisation

About you: other organisation

What is the name of your organisation?

Healthcare Financial Management Association (HFMA)

What is your role within your organisation

Policy and technical manager

The case for pension flexibility

1. Who do you think pension flexibility should be available to?

- NHS GPs and consultants who may be affected by the annual allowance tax charge
- other NHS clinicians who may be affected by the annual allowance tax charge
- non-clinicians in the NHS who may be affected by the annual allowance tax charge
- **all members of the NHS workforce, regardless of their tax position ✓**
- other group
- none of the above

Please provide evidence to support your views:

Our members are mainly finance staff working in the NHS who therefore fall into the category of non-clinicians. We surveyed our members in order to gather evidence to support our response to the survey. Of the 260 members who responded to our survey, 65 (25%) said that they had taken action as result of the annual and lifetime allowance issue and 138 (53%) indicated that they were planning to take action. These actions include:

- not applying for a promotion
- not taking a pay rise
- reducing working hours
- leaving the NHS Pension Scheme
- taking early retirement
- leaving the NHS to work elsewhere
- using salary sacrifice schemes to reduce taxable income.

Most of those who responded to our survey (226, 88%) were of grades 8 and above. They are concerned that the annual and lifetime allowance issues will affect them, and they do not have the same flexibilities available to clinicians to manage their income. One respondent said:

'I'd love to reduce hours worked. For clinicians, job plan reviews result in every hour worked being recognised. This is not the case for staff working under agenda for change. A 37.5 hour week is a



minimum requirement - the small print on the job description states 'hours as required to do the job'. Thus, many hours worked receive no reward or recognition.'

At a time when dedicated and experienced senior management will be needed to implement the *NHS long term plan*, our members are reporting that they are not seeking or taking promotions. Not extending the pension flexibilities to all staff in the NHS will result in a loss of talent as staff either refuse promotions or leave the NHS completely. According to the report *Leadership in today's NHS* by the King's Fund and NHS Providers in July 2018, finance directors and chief operating officer roles have the levels of highest churn in the NHS – due to concerns around work life balance, perceived risks of taking on a director role and the perceived stress associated with the role. Adding the potential for large tax bills is going to make these problems worse rather than better. Some views from our members are set out below.

'As I have hit the lifetime allowance and tapered into the 2015 NHS Pension Scheme (which accrues at a faster rate and presents annual allowance issues), there is not much point in me seeking further promotion in the NHS or working for it for much longer.'

'I had been considering next steps in my career and either a chief executive officer role or bigger chief financial officer role. The taxation impact has made me question whether this would be a sensible move.'

'I have not applied for executive posts as the tax would be substantial as a long serving deputy. In my current role I accepted £10,000 lower than the salary to avoid a substantial pension tax bill.'

Although, the financial impact is clearly a factor for individuals considering their career progression, many of our respondents feel strongly about the message that even consulting on a solution aimed solely at solving the problem for clinicians sends out. It is not possible to quantify the impact that the loss of goodwill from the non-clinical workforce will have on the NHS.

'It is starting to feel that you are only valued in the NHS if you are a clinician. Equity in treatment is not considered to be important. In particular, senior managers are expected to do more and more for less and less.'

'I think that one chief executive officer has put it better than I can in saying that he felt like a second-class citizen. I have given my whole working life to the NHS (and more) and for there now to be a proposed two-tier system seems inequitable if nothing else.'

While most of our members who responded to our survey are band 8 and above, the proposed flexibilities will also be of benefit to staff on lower grades, albeit for different reasons. One band 3 member reported that they had had to leave the NHS Pension Scheme as the current employee contributions were unaffordable for them as they are a single parent. They would welcome the opportunity to save something for their future by reducing their pension contributions.

Clearly, this would not be an option that many would want to take – as one member said *'I'll never be in a position of wanting to put in less'* but, for some, it would be very welcome.

Offering the flexibility to all staff would also allow them to manage other unintended consequences of the way that the NHS Pension Scheme currently works. There has been a specific issue for staff in band 8a that means a small percentage pay increase pushed staff into a new pension contribution band, resulting in a net decrease in take home pay, despite a pay rise and promotion. As one member put it *'I left the Pension Scheme as my pay award left me worse off by 3.5% in my net pay and felt it wasn't worth the extra contribution. Felt like a disincentive as this 'cliff edge' was not catered for.'* In 2017/18 this affected over 1,500 staff in Northern Ireland where the pension contribution was £1,100 higher than the salary increase. The flexibilities being proposed would allow staff affected by a move between contribution bands to manage their contributions to ensure that pay rises are not completely negated by increases in pension contributions.

Supporting evidence uploaded: HFMA, *NHS Pension Scheme proposed increased flexibility: survey results*, November 2019

2. Do you think the proposal for a more tailored approach to pension accrual is flexible enough for senior clinicians to balance their income, pension growth and tax liability?

- yes, I think the proposal is flexible enough
- no, I don't think the proposal is flexible enough
- I don't know ✓

3. If you answered 'no', in what ways could the proposals be developed further?

If not, in what ways could the proposals be developed further?

The proposals introduce more flexibility to allow those affected to make decisions to mitigate the impact of the annual and lifetime allowances. However, the flexibility introduces more complexity into the pension arrangements. Our members have raised several concerns around the flexibilities:

- if it wasn't for the annual and lifetime allowance then these flexibilities would not be required
- there are still decisions and compromises to be made
- the system is already complicated and difficult to understand, the additional flexibilities will take more resource for individuals taking financial advice and for the NHS providing the modeller and managing the NHS Pension Scheme
- there will be a cost impact on the NHS Pension Scheme which will have to be paid for by future NHS employees.

The only way that the issue can be completely resolved is a change in taxation policy which is not being consulted on. Nonetheless, the impact of the tax allowances on staff who have planned for their future cannot be underestimated. One respondent to our survey commented *'I consider my pension to part of my contract, and both this and the additional year's contribution contract I signed some 15 years ago, were decisions made carefully at the time - unilateral action by the government (my employer) to in effect cap the value of my pension is deeply unfair.'*

It is worth noting that taking these flexibilities will still be seen as a compromise by those affected to best manage their financial affairs now and for their future. Those who decide to reduce their pension contributions will be off-setting future benefits against current tax liabilities. We remain concerned that clinicians will continue to manage the issue by reducing their hours, taking early retirement or refusing additional responsibilities as they are now enjoying a better work/life balance or have found alternative employment outside of the NHS. However, for our members, who do not have the same flexibilities as clinicians, these proposals - if made available to them - would give them some opportunities for managing the taxation issue.

We do have concerns that the proposals are very complicated and will take a disproportionate resource to manage. Implementing these flexibilities will require the investment of additional time and resource by individuals, NHS bodies (as their employer) and the NHS Business Services Authority.

Our members are already concerned about the capacity of the NHS Business Services Authority, particularly at the end of the financial year when they have to provide information for NHS bodies to prepare their staff reports. Feedback to our last two year-end surveys included:

'We received a letter from NHS Business Service Authority, via our pensions manager on 16 April which was supposedly emailed on 13 March which required a provision to be made. The late notice didn't help with trying to close down our position.'

'Some of the pensions information was received with errors and had to be returned and queried, revised figures were received in time for the final submission but was later than previous years. despite submitting the requirements on the first available day.'

While it may be different parts of the NHS Business Service Authority that are affected, it is not clear in the consultation that any additional resource will be made available to manage these new flexibilities. One member commented *'The issue I have is getting an answer out of the pension agency to see if I am affected.'* And another said *'The system is too complicated with reference to calculation of annual allowance. Personal experience of wrong information given by NHS Pensions. You should be able to work it out yourself and not need to employ an accountant to do so. Often you don't know the value until after the end of the tax year when it is too late to influence outcome.'*

The additional flexibilities will mean that individuals will need more information on a timely basis to make the decisions within the appropriate timescales. Our experience is that the development of any modeller (for example, the Her Majesty's Revenue and Customs' off-payroll modeller) takes time to develop and we do not think that it will be possible to develop and test the proposed modeller so that it will be ready from 1 April 2020.

Any modeller developed within the DHSC will only take account of information held by NHS employers and the NHS Business Services Authority in relation to NHS employment. The annual and lifetime allowance tax calculations will be based on all income received by an individual and all pension arrangements that they have made so the modeller will have to be flexible enough to allow employees to add that information otherwise the assessment of the impact on each individual will be understated. This adds even more complexity to the calculations that each employee will have to do in order to manage their financial affairs.

We understand that where the flexibility is taken up, the employer contribution will not be reduced by the same proportion as the employee contribution so that some of the employer contribution can be used to finance the additional costs of managing the new flexibilities. We note that the consultation does not make it clear how much will be withheld, but it needs to be enough to cover the additional costs for all concerned. However, it is expected that some of the employer contributions will be returned to the employer where the flexibility is taken up.

The proposals to allow employers the discretion to pay staff members the unused employer contributions will add an additional layer of complexity and, potentially, discrimination. We are concerned that leaving this decision to individual NHS bodies will introduce local variation and inequality into a national scheme. It will be a barrier to system working if NHS bodies in the same system come to different decisions in relation to the unused employer contributions.

From a finance team's perspective, the proposals as they stand introduce complexities that will make financial management of NHS bodies even more difficult, particularly as these decisions will be made at the end of the financial year. As one member said:

'How on earth do you set a meaningful budget where the clinician can set their own pension contribution level, and then later in the year change that decision and backdate it, requiring the employer to potentially contribute even more.'

If the proposed flexibilities are taken up by NHS employees, this will mean that there is a reduced level of contributions into the NHS Pension Scheme – with a corresponding reduction in pensions being paid when the current employees retire. As the NHS Pension Scheme is an unfunded scheme, the current pensions paid to retired members of the scheme are effectively being paid out of current contributions. In the short term, pensions paid out will not reduce (as they are being paid to staff who retired before these flexibilities were introduced) while contributions into the scheme are reduced as staff take up the flexibilities or take other action to avoid the tax impact of the annual and lifetime allowance. We are concerned that the flexibilities will result in an increase in staff contributions at the next actuarial valuation of the scheme, which will have an impact on all staff not just those impacted by the annual and lifetime allowances.

4. We're proposing that large pay increases for high-earning staff should only be included in their pensionable income gradually. Do you agree or disagree with this proposal?

- I agree with the proposal
- I disagree with the proposal
- **I do not know if I agree or disagree with the proposal ✓**

Please set out the reasons for your answer

The inclusion of large pay increases gradually in pensionable income will help some staff manage their personal taxation without reducing their pension contributions but introduces further complexity into the system. As one member said *'The phasing of pensionable increments will be too hard to explain to members to have any real impact.'*

Having said that, rather than allowing NHS employees flexibility around the level of pension contributions they make, a simpler solution to the whole problem may be to allow employees flexibility to decide how much of their pay should be pensionable.

5. Currently, the NHS Pension Scheme has a notional defined contribution pot (NDC) approach to Scheme Pays deductions. We're proposing to replace this with the debit method. Do you agree or disagree with this?

- I agree with the proposal
- I disagree with the proposal
- **I do not know if I agree or disagree with the proposal ✓**

Please set out the reasons for your answer

We support any proposals that will make it simpler for staff to manage the financial affairs.

Equality impact assessment

6. What impact, if any, do you think the following will have on people with one or more protected characteristics?

[Definition of Protected characteristics

The following characteristics are protected characteristics:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation]

a) The proposal to target the flexibility to clinicians who have a reasonable prospect of an annual allowance tax charge

- positive impact
- **negative impact ✓**
- neither positive or negative impact
- both positive impact and negative impact
- don't know

Please provide details of any impact on people with one or more protected characteristics in the text box below. If you answered 'Don't know' please enter 'n/a'. (Required)

As the proposal affects senior staff, if the flexibility is only made available to senior staff then we are concerned that there will be a negative impact on younger staff members. We therefore think that the proposals, as they stand, would discriminate against staff on the basis of age.

The NHS Pension Scheme is an excellent staff benefit but, for the lowest paid members of staff, it still requires a contribution of 5% of their pensionable pay. As we have indicated above, some of our members have indicated that this simply is not affordable for them, so they have come out of the scheme. Any proposal that makes saving for the future more attractive to all staff members must be considered a good thing.

As we said above, we are also concerned that the proposal to leave the decision about unused employer contributions to local NHS bodies may introduce discrimination at a local level. The consultation sets out the impact on groups of staff with protected characteristics at a national level. Decisions made by local NHS bodies will need to consider whether there is discrimination at the local level – this may be something that NHS bodies are not able to assess. It adds additional resource impact onto local NHS bodies and, potentially, opens them up to expensive legal action.

b) The proposal to provide flexible accrual to clinicians who have a reasonable prospect of an annual allowance tax charge (required)

- positive impact
- **negative impact ✓**
- neither positive or negative impact
- both positive impact and negative impact
- don't know

Please provide details of any impact on people with one or more protected characteristics in the text box below.

See our response to question 6a.

c) Other proposals in the consultation document for example, phasing pensionable pay increases and/or commissioning a modeller to help individuals understand their tax liability and flexibility options (Required)

- positive impact
- **negative impact ✓**
- neither positive or negative impact
- both positive impact and negative impact
- don't know

Please provide details of any impact in the text box below. If you answered 'Don't know' please enter 'n/a'. (Required)

See our response to question 6a.

d) Adopting the debit method for scheme pays

- positive impact
- **negative impact ✓**
- neither positive or negative impact
- both positive impact and negative impact
- don't know

Please provide details of any impact on people with one or more protected characteristics in the text box below. If you answered 'Don't know' please enter 'n/a' (Required)

See our response to question 6a.

7. Are there any further equality considerations that the Department should be aware of from groups outside the data set?

Please set out the reasons for your answer before you submit your response

Other

How did you hear about this consultation?

- social Media
- received an email
- word of mouth (family, friend or colleague)
- direct communication from third sector organisation or regulatory organisation
- broadcast news (TV or radio)
- **GOV.UK or other government website ✓**
- newspaper (online or print)
- website (non-government)
- other

Contact

If you would like to discuss any of our comments in more detail please contact Debbie Paterson, policy and technical manager, debbie.paterson@hfma.org.uk