HFMA survey report
July 2019

The impact of the pension lifetime and annual allowance on the NHS

Summary survey results

The tax implications of the lifetime and annual allowance on clinicians who are members of the NHS pension scheme has been in the press recently. The HFMA surveyed senior finance staff to understand what that means for the NHS, in particular, workforce and service delivery.

Overall results

74 responses were received from NHS bodies with varying functions:

- 21 specialised/ tertiary providers
- 34 acute providers
- 19 mental health providers
- 22 community services providers
- 1 ambulance provider
- 2 primary care providers
- 14 commissioners
- 1 regulator
- 1 provider of adult social care.

Respondents were able to select more than one service, so the number of responses is greater than 74.

Not all individuals answered every question and the percentages referred to are percentages of respondents answering the specific question. Some tables may not add up to 100% due to rounding.

In summary, our results show:

- over half of respondents to our survey are very concerned about this issue
- senior members of staff are more aware and/ or concerned about the issue
- over 20% of respondents are reporting that actions clinicians are taken as a result of this issue is already having an impact on both patient care and the financial position of the NHS body

- in the comments provided, respondents are clear that this is not simply an issue for clinicians and any proposed solution must be open to all
- other respondents have also raised other issues with the pension scheme which are receiving less attention
- it is not clear that the proposal[1] to amend the NHS pension scheme will resolve the issue – several respondents are clear that it can only be resolved if the annual allowance is revised. This is a personal tax issue that is outside of the influence of the Department of Health and Social Care (DHSC).

Impact of the annual allowance

This is clearly an issue that is of concern to senior finance staff. 38 (54%) reported that they are very concerned and a further 25 (34%) reported that they are quite concerned. Only 6 (8%) respondents are not very concerned, while a further 4 (6%) think it is too early to say.

In terms of how widespread the concern about this issue is in the organisation, as expected, those who are most concerned are senior clinicians and senior non-clinical staff (see **table 1**). Less senior staff are less concerned and less aware.

Table 1: Responses to the question 'how widespread is the concern about this issue in your organisation?'

	most are concerned	some are concerned	a few are concerned	they are unaware of the issue
Senior clinicians	47 (64%)	24 (33%)	3 (3%)	
Senior non-clinical staff	32 (45%)	28 (39%)	11 (16%)	
Other clinicians	10 (16%)	27 (43%)	21 (33%)	5 (8%)
Other non-clinical staff	3 (5%)	25 (40%)	22 (35%)	13 (21%)

We asked whether the NHS body had been affected by the annual allowance and the majority of respondents responded that they had (see **table 2**). However, the way that they had been affected and the impact it had had was varied.

Table 2: Responses to the question 'has your NHS body been affected by the annual allowance?'

	with a consequent effect on patients and the NHS body's financial position	with a consequent effect only on patients	with a consequent effect only on the NHS body's financial position
Staff are taking early retirement	15 (20%)	7 (9%)	9 (12%)
Staff are refusing to work additional hours or take on new responsibilities	20 (27%)	14 (19%)	5 (7%)
Staff are reducing their hours	21 (28%)	8 (11%)	8 (11%)

[1] DHSC, *Senior clinicians' pensions: more flexibility*, 22 July 2019

Staff are leaving the NHS pension scheme	7 (9%)	5 (7%)	5 (7%)

It is worth noting that:

- 18 (24%) NHS bodies reported that they had noted that staff have taken early retirement but had not yet seen an effect on patients (6, 8%) or their financial position (3, 4%) or both (9, 12%)
- another 17 (23%) NHS bodies knew that staff were planning to take early retirement and were expecting it to impact on patient care (4, 5%) or their financial position (7, 9%) or both (6, 8%)
- 17 (23%) NHS bodies had not yet seen an effect of staff refusing additional hours or responsibilities on patients (4, 5%) or their financial position (7, 9%) or both (6, 8%)
- another 15 (20%) NHS bodies knew that staff are planning to reduce their hours and were expecting it to impact on patient care (3, 4%) or their financial position (7, 9%) or both (5, 7%)
- 17 (23%) NHS bodies had not yet seen an effect of staff reducing their hours on patients (4, 5%) or their financial position (8, 11%) or both (5, 7%)
- 30 (41%) NHS bodies had not yet seen an effect of staff leaving the NHS pension scheme on patients (19, 26%) or their financial position (4, 5%) or both (7, 9%)
- only 5 (7%) bodies had seen staff taking early retirement, refusing additional hours or reducing hours but did not expect it to have an impact.

The examples of the impact that the annual allowance has had on organisations include:

- 'We have consultants refusing to undertake waiting list initiatives because of the pension hit. Many senior clinicians are retiring but thankfully many are 'retire and return' so maintain clinical practice excluding on call. Clinicians are very angry about this'
- 'Consultants are no longer willing to provide PAs above that contracted - therefore potential to require use of locums/agency staff.'
- 'Potential impact on GPs taking on commissioning and pathway redesign roles - loss of high value clinical input to these areas.'
- 'Senior colleagues are considering leaving the NHS Pension Scheme. The increase in employer's contribution will mean more reach the annual allowance and life time allowance sooner.'
- 'Clinical directors stepping down, lead clinicians giving up additional responsibilities, managers proposing early retirement.'
- 'Withdrawal of consultant radiologists to undertake additional reporting, leading to both more expensive outsourcing and longer reporting delays on diagnostic tests.'
- 'Senior clinical staff have retired (a significant number have returned part-time). The position with senior medical staff is now starting to become more of an issue given annual allowance consequences with consultants looking to reduce hours/refuse additional PAs. This feels like it will become a big issue if not addressed. A number of staff have faced very large tax bills (largely unexpected) when getting promotions.'
- 'Impact on GPs who will choose to retire early. This compounds the problems arising from a shortage of GPs. Implications including need to merge practices and incoming chain practices.'
- 'Senior staff leaving the scheme which if happens on a huge scale will affect cash into the scheme. Senior managers and clinicians retiring and leaving capacity issues in all sectors of the NHS.'
- 'Two clinical leaders noting no net pay for their role, but they have continued in post.'
- 'We have just lost 18 PAs of radiology time due to this.'
- 'The Trust has a number of specialities that have staffing gaps, this has been traditionally been covered by employed doctors undertaking additional hours. Feedback in some areas is

that they will not continue to do the additional hours due to the annual and lifetime pension allowance.'

Action being taken

We asked whether NHS bodies had taken any action in relation to this issue.

The BMA has published guidance[2] which outlines a possible alternative pension contribution in the form of a separate cash payment. This would allow NHS bodies to pay the amount of the contribution to the NHS Pension Scheme direct to the employee as a cash payment. Only one NHS provider reported that they have adopted this policy with a further 23 organisations reporting that they are actively considering it.

Comments in relation to this proposal include:

- 'Researching what other organisations are doing. Unclear on how this would work for directors and the rule around the need to gain regulatory approval for salaries above the prime minister's.'
- 'Local university also does this which is forcing our hand but the implications of this are huge.'
- 'Not yet but there has been a chat about this option; we are awaiting NHS Employer guidance.'
- 'This would be a significant additional cost from the current position, as some consultants and senior managers have already deferred membership and the additional payments would also apply to these staff - otherwise lots of claims for equal pay for equal work!'
- 'We believe there should be an NHS solution to this issue and not individual trusts taking decisions to encourage staff to leave the pension scheme e.g. by offering additional cash payments.'
- 'We have been running a similar scheme but restricting access to hard to recruit specialties. Legal advice we have is that as the BMA scheme is open to all requesting clinicians with tax liabilities it is likely to fall foul of sex discrimination legislation as it will naturally favour senior male clinicians, increasing the pay differential as pension contributions are not included in equal pay assessments but would be if paid over to the employee.'
- 'This issue affects not only senior staff, who may wish to opt out of the pension scheme but also many low paid staff who also opt out. Therefore, if this offer is extended to all staff, the cost could be more significant than first anticipated.'
- 'Unaffordable for CCGs especially with the 20% reduction in running costs.'

We asked what other action NHS bodies are taking or are planning to take:

- 'We are briefing senior medics on the matter and that we understand there will be new options available soon.'
- 'We have a reference group with clinicians that is considering options available without compromising rules. Considering LLPs; Chambers and 50:50 but believe several options need to be available and not just one.'
- 'I will be personally leaving the scheme in 3 years when I hit the lifetime allowance and there is no action I am aware is possible to take to stop individuals voting with their feet one way or another clinically and managerially.'
- 'We are awaiting central guidance and have started to look at potential effects.'
- 'We have currently informed all impacted staff by running awareness sessions with them supported by financial advisors. We have offered them support in seeking personal financial advice.'
- 'Remind all colleagues of the overall benefits package, and pension benefits.'

[2] BMA, *Pension contribution alternative reward policy*, 2019

- ‘We are trying to ensure staff have access to advice, as one of the key issues is that staff just receive a letter, on a complex issue, that they have a personal responsibility to address. It is causing a lot of anxiety for affected staff.’
- ‘We are waiting to see what happens at a senior level. Consultants considering use of LLPs, but not easy in the light of IR35 and doesn't actually change pension build up calculation as additional sessions are non-pensionable. We are also trying to recruit more doctors in key areas such as anaesthetics and radiology.’
- ‘Have introduced an alternative voluntary local scheme for employees reaching lifetime allowance.’

Wider issues relating to the NHS pension scheme

Our survey related to one single issue that has received a high profile both in the NHS community but also in the press[3]. However, as part of our work on this issue wider concerns have been raised – particularly on lower paid staff and the financial viability of the NHS pension scheme itself. Comments from survey respondents include:

- ‘There are a number of problems with the BMA's proposal, but I'll just pick one to highlight. The BMA's scheme looks to compensate a particular group of members who do not like the costs associated with being in the NHS Pension Scheme and choose to opt out - those facing AA or LTA charges. This is not the only staff group who opt out due to the cost of being in the scheme. Opt out rates amongst the lowest paid staff are much higher than the average across the workforce. Under the BMA's proposal a CEO on £175,000 a year would be paid an additional £36,000 in lost employer contributions as compensation for not being in the scheme. A staff member earning £18,000 a year who opts out on affordability grounds would receive nothing. As a pension manager talking to staff across the whole range of incomes, I would find this policy which only compensates the highest paid staff impossible to defend.’
- ‘The payment would be taxable, and the staff member will pay more tax on their salary as there won't be a pension deduction to reduce it. Further, the pension fund will then not be properly funded. It would not be practical to pay the full amount as the centre is paying part of the employer’s contribution this year, and there would be NI costs attached to it. From an equality perspective, this would need to be offered to a range of staff - and that will need careful consideration.’

In addition, the stepped nature of the employee contribution means that staff promoted, particularly to band 8a, are in effect given a pay cut as their pay rise is less than the additional pension contributions. We have been told that in Northern Ireland, this perverse incentive had an impact on over 1,500 people on band 8a in 2017/18 – the impact throughout the UK is therefore much more widespread.

The HFMA plans to do further work on the wider issues relating to the NHS Pension Scheme.

DHSC consultation

When we launched the survey, the Chancellor had announced on 21 May 2019 that he was in discussion with the Secretary of State for Health and Social Care about providing additional pension flexibility in the NHS, and possibly other public sector schemes. Subsequent to this, the consultation has been launched on adopting the 50:50 option for clinicians.

We asked members to suggest the changes that should be made to the NHS pension scheme to resolve the current issue. Suggestions include:

- ‘Allow individuals to set their own % or value of salary which attracts a pension contribution. This is as in the private sector, so you ensure you don't get hit by the annual allowance punitive charges.’

[3] The Guardian, *NHS operations cancelled as consultants work to rule in pensions standoff*, 8 July 2019

- ‘Flexibility in salary between pensionable and not. Discount impact of non-recurring payments. Revise calculation on allowances.’
- ‘Consider allowing reduced contributions per the Local Government 50/50 arrangement. Amend the arrangements around the cap value such that people don't actually lose more in tax than they gain in additional pay.’
- ‘Flexible pension membership terms e.g. 25% / 50%. And / or offer choice of alternative DC pension scheme.’
- ‘Similar to University schemes.’
- ‘Once lifetime allowances have been reached then the ERS contribution should be paid as salary to staff. Staff benefit from not having to make the EES contribution and also gaining the ERS. This is how the private sector adjusts.’
- ‘50/50 could work but clinicians are adamant it’s a pay cut.’
- ‘The 50:50 idea frankly won’t wash - they need to review the annual pension increase and the maximum pension pot. We are all encouraged to make provision for our retirement and not rely upon the state yet when we do that is penalised. Pensionable income above the personal allowance is taxed anyway so they will get the tax back when we retire.’
- ‘I think an amendment in the scheme does not necessarily resolve the issue as this is effectively a pay cut (offering lower benefits in return for paying less tax). The long term impact this may have on medical recruitment and career aspirations for young doctors is yet to be determined.’
- ‘Reduction in the interest rate charged on "scheme pays" (it is prohibitive), and relaxation of the annual allowance in particular.’
- ‘Provide the option to break the link with the 1995 pension (it is the 1995 scheme that results in the most fluctuations in pension build up and is the most difficult to estimate/calculate). Allow members to have a defined contribution scheme or some other scheme and keep the benefits such as death in service.’
- ‘We have been told for years that the pension needs to be taken in to account when assessing public sector against private sector salaries, especially during the particularly low A4C annual inflationary uplifts. It now seems that offering a 50:50 agreement to reduce your pension is now deemed acceptable and there are no discussions around this reducing the total reward package for NHS employees. Equally there is a risk that it creates a 2-tier work force, with managers leaving if they are not treated fairly and this will just increase agency costs to replace at 3 or 4 times the cost - making this policy of exclusion of managers counterproductive’

Others indicated that it was the annual allowance and lifetime allowance that needs to be reviewed:

- ‘The wider implications of the tax allowances need to be considered for the future of public services.’
- ‘The only real answer is to increase the LTA and annual allowance across the board, certainly to remove the allowance deflator linked to total earnings, anything else would erode the value of pensions.’

Many respondents were clear that any solution should be available to all in the NHS and some said that it should not be restricted to the NHS:

- ‘There should be no specific exemption for public sector workers. The tax law should apply to all taxpayers. Why should young workers with low private sector pensions subsidise highly paid public sector workers. There is a tax liability due to the increase in the pension pot.’
- ‘It MUST include non-medical staff - this is not just an issue for that sector of the NHS workforce.’

- ‘Whatever is decided the unintended consequences for the NHS is profound. Clinical staff will reduce their input and no incentive for people to take up leadership roles in the NHS. Given the workforce crises this is not helping at all.’
- Last week’s announcement focused on senior clinical staff. Similar issues are faced by senior management and finance staff on the LTA, leading to people leaving the scheme.’