

## CONSULTATION RESPONSE FORM

### CONSULTATION on the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022

#### 1. Name/Organisation

Organisation Name

Royal College of Nursing

Title

Ms

Surname

Peter

Forename

Ulrike

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#### 3. Permissions - I am responding as... (please complete either sections (a), (b) and (d) or sections (c) and (d):

**Individual**      or      **Group/Organisation**

**(a)** Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

*Please state yes or no: \_\_\_\_\_*

**(b)** Where confidentiality is not requested, we will make your responses available to the public on the following basis

*Please state yes to one of the following:*

Yes, make my response, name and address all available      .....

*or*

Yes, make my response available, but not my name and address      .....

*or*

Yes, make my response and name available, but not my address      .....

**(c)** The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

*Please state yes or no: .....*

**(d)** We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

*Please state yes or no: .....*

## ABOUT YOU

I am responding ...

- as a scheme member
- on behalf of an Employer Organisation
- on behalf of a Trade Union/Staff Association
- other (please specify)

What is your gender?

- I am female
- I am male

I am employed as...

- an administrator
- a Dentist
- a Doctor
- a General Practitioner
- a junior Doctor
- a manager
- a nurse
- I'm retired
- other (please specify): Policy Advisor

What is your working pattern?

- I work part-time
- I work full- time
- Not applicable

## CONSULTATION COMMENTS

Please use this space to provide any comments on the amendments.

### Introduction

1. The Royal College of Nursing (RCN) is the world's largest professional organisation and trade union for nursing staff, with members in the NHS, independent and third sectors. RCN Scotland promotes patient and nursing interests by campaigning on issues that affect members, shaping national health policies, representing members on practice and employment issues and development opportunities. With around 40,000 members in Scotland, the RCN is the voice of nursing and as such a key stakeholder in shaping the outcomes of this consultation on pensions.
2. The RCN welcomes the opportunity to respond to the Public Pension Agency's (SPPA) consultation on proposed changes to members' contributions to the NHS pension scheme from 1 April 2022. Our submission is based upon the views of RCN members, who expressed these by e-mail and during three dedicated RCN engagement events in February 2022. The engagement events were led by Senior Officers Ros Shaw and supported by Philip Coghill. The RCN is grateful to both for sharing their expertise in order to inform RCN members and members for contributing to the discussion, sharing their views and thereby informing this consultation response.
3. This submission correlates with the views expressed by the RCN in response to the consultations conducted by the Department of Health and Social Care in respect of proposed changes to member contributions in England, Wales and separately in Northern Ireland.
4. Before answering the consultation questions specifically, there are three observations we would like to note so to set out the context within we have answered the questions in the hope that this will inform next steps in the debate and perhaps improve subsequent consultation stages.
  - a. Firstly, we are keen to highlight the tight timeframe. Given the importance and impact the proposed changes will have on our members, the 5-week consultation period as opposed to the usual 12-weeks as provided by the UK Government's Department of Health and Social Care (DHSC) pension consultation, is simply too short for us to sufficiently consult with members across all settings to provide opportunities for engagement to feeding in their views.
  - b. The second observation worth noting here, is the framing of the consultation in relation to meeting the target yield. While the consultation document sets out the reasons and preferences well, we do not condone the way in which the document links funding from Scottish Government (SG) to cover the shortfall directly to a likely decrease in NHS provision. Although this may be a consequence, it is important to remember that it is SG's obligation as required by the HM Treasury (HMT) to cover the difference to meet the yield. Using this argument by unfairly appealing to the moral standing of NHS staff trying to influence their choice to take on the burden of covering the difference with an increase to their contribution instead, is a tactic the RCN finds unhelpful, somewhat confrontational and ultimately unacceptable.
  - c. And thirdly, on 21 February the DHSC published its [consultation outcomes](#) for England and Wales stating to proceed with the proposals in line with some adjustments of which moving the

implementation date from 1 April to 1 October is the most notable one. We would expect the SPPA to align with these changes and as a result extend the period for this consultation.

5. The RCN hopes that the SPPA will find this submission helpful. We would be pleased to supply any further information that may be relevant.

**Question 1 - Do you agree or disagree that the Scottish Government should pursue a yield position of 9.6% to avoid increasing contribution rates by an additional 0.2% to meet the target yield required by HM Treasury? Recognising that maintaining the 9.6% yield will require the Scottish Government to divert £12m of vital health budget spending to pay for the pension contribution shortfall in 2022-23.**

**Comments:**

The outline of potential remedies set out in the consultation document references the expected annual shortfall in the required yield of the scheme of around £12million which equates to the 0.2% of the 9.8% yield which is not being met. It is important to note that the yield of 9.8% set by HMT increased significantly as a result of the Hutton Review and rose from 6.6% to the current 9.8%. There has never been a reasonable explanation as to where this figure was derived from and why it is significantly higher than in some other public sector pension schemes.

While Scottish Ministers have devolved responsibility for the NHSPS(S), occupational pensions are a reserved matter and as such the Scottish Government must comply with HMT's requirement that the yield is met. However, SG repeatedly asserts the point that this would likely mean diverting resources from essential NHS provision, a statement that is a subtle form of moral blackmail. As noted in paragraph 4b, the RCN finds this statement not only unhelpful, but somewhat confrontational and ultimately unacceptable. It is the same tactic that has been deployed by governments across the UK over many years to seek to justify unacceptably low or non-existent pay awards, implying that nursing staff are somehow being unreasonable in pursuing personal gain at the expense of patient care.

**Question 2 - Do you agree or disagree that the member contribution rate should be based on actual annual rates of pay instead of members' notional whole-time equivalent pay? If you disagree or don't know how to answer, please explain why.**

**Comments:**

The RCN neither agrees or disagrees that member contribution rates should be based on actual annual rates of pay rather than notional whole time equivalent pay. No matter the contribution system, in principle it is about fairness enabling members to be part of a pension scheme that treats members fairly across the workforce and is considered to add value or even as a reward for the service they provide to the NHS and the public. As such, we endorse the assertion (page 13) that "This is fairer for members who work less than full-time and accrue pension in a CARE scheme. It will mean that part-time members pay lower contributions from 1 April 2022." Perhaps not surprisingly, RCN members who are employed on a part-time basis appear to be particularly supportive of it.

However, it should also be noted that the beneficial impact of this proposed move could well be

undermined by other proposed changes such as the reduction in the number of tiers and the realignment of the contribution tier boundaries.

**Question 3 - Do you agree or disagree with the proposed member contribution structure set out in this consultation document? If you disagree or don't know how to answer, please explain why.**

**Comments:**

In light of member feedback, the RCN disagrees with the proposed contribution structure.

As a point of principle, the RCN does not support the general approach of expecting lower-paid members of the SPPA(S) pension scheme to pay proportionately more whilst higher earners will see their contribution rates reduce. Some RCN members will see their contributions increase at a time when its affordability becomes a real issue due to the combination of suffering the impact of comparatively high inflation rates, escalating utility costs, increasing cost of living expenses more broadly and the negative consequences of a 2021-2022 pay award that amounts to a real-terms pay cut. Consequently, there is a real danger that any overall beneficial impact of the proposed changes could be undermined by a growing number of members deciding that they can no longer afford to pay into the SPPA(S) pension scheme and will therefore consider or simply be leaving.

Furthermore, the RCN believe that the proposed member contribution structure is likely to affect the recruitment and retention of staff. In line with members' feedback, proposed changes may have a number of adverse consequences by

- a) speeding up the process of staff, already thinking about retiring, to do this sooner than they would otherwise to retain their current benefits,
- b) discouraging staff to take up promotions in order to avoid cliff edges from moving into a different tier,
- c) increasing number of staff reducing their hours to benefit from possibly lower contributions, and
- d) the risk of members leaving the scheme and therefore jeopardising its sustainability in the long-term.

**Question 4 - Do you agree or disagree that the thresholds for the member contribution tiers should continue be increased in line with annual Agenda for Change pay award? And that the increase should be based on the average uplift in AfC pay rather than tracking individual pay points. If you disagree or don't know how to answer, please explain why.**

**Comments:**

Increasing the contribution tier boundaries in line with the annual Agenda for Change pay award should help reduce the possibility of members incurring a reduction in take-home pay as a result of crossing tiers because of the pay award. The RCN notes and concurs with the view that this process

should be conducted in parallel with the annual Agenda for Change pay award.

Question 5 - Do you agree or disagree that the proposed member contribution structure should be phased over 2 years? If you disagree or don't know how to answer, please explain why.

**Comments:**

As the consultation document notes (page 20) "Phasing the new member contribution in slowly would protect scheme affordability for some scheme members and minimise the risks to take home pay of large increases to member contribution rates." Our members have spoken of the additional financial burden of any contribution increases and noted there is some limited help with phasing.

Again, the RCN agrees with this proposal. We also understand the structure will be implemented over 1 and not 2 years between April 2022 and April 2023.

Question 6 - Do you agree or disagree that the proposed draft amending regulations deliver the policy objectives of implementing the first phase of changes to the tiered contribution rate structure and the assessment of a tiered rate using actual annual rate of pensionable pay for part-time members rather than notional whole-time equivalent? If you disagree or don't know how to answer, please explain why.

**Comments:**

The RCN has no comment to make on the proposed draft amending regulations.

Question 7 - Are there any considerations and evidence that you think should take into account when assessing any equality issues arising as a result of the proposed changes?

**Comments:**

The majority of RCN members are remunerated at band 5 to band 8a level. They will experience the largest financial detriment because of the changes proposed from the suggested contribution structure.

From an equality perspective, it should be noted that there is a higher proportion of men in the highest Agenda for Change pay bands who will be advantaged by the proposed changes. The RCN urges that the equality impact of the changes is systematically monitored in the years ahead.

Our members have expressed their discontent on the perceived inequality in respect of those at the top of the structure who will experience a decrease in contributions.

Although many of our members agree those at the bottom of the structure should be subsidized as they are the lowest earners, they don't accept those at the top should experience a reduction.

Please e-mail your response to [SPPAPolicy@gov.scot](mailto:SPPAPolicy@gov.scot) or send via mail to:

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The closing date for receipt of comments is **27 February 2022**.