

Royal College of Nursing response to DHSC consultation on NHS Pension Scheme: Pension Flexibility

The RCN welcomes the opportunity to respond to the Department of Health and Social care (DHSC) consultation on pension flexibilities in the NHS Pension Scheme in England and Wales.

With a membership of around 435,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nurse cadets, the Royal College of Nursing (RCN) is the voice of nursing across the UK and the largest professional union of nursing staff in the world. RCN members work in a variety of hospital and community settings in the NHS and the independent sector. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European political institutions, trade unions, professional bodies and voluntary organisations.

Executive summary

The RCN recognises there is a pressing need for the government to address the impact of pension tax changes on NHS staff. There is clear evidence that the pension tax rules, including the annual allowance, tapered annual allowance and life time allowance, are creating significant difficulties for workforce deployment and retention. Higher earning NHS staff are considering early retirement, refusing promotion or electing to reduce their working hours or to decline additional work in order to reduce their exposure to pension tax liabilities. [Research](#) commissioned by NHS Employers reveals that this is creating problems for workforce supply, with employers struggling to recruit staff to fill uncovered shifts and needing to increase their reliance on agencies to provide cover.

The RCN's preferred approach to this situation would be changes to the current tax regime that is inappropriate for application to defined contribution schemes such as the NHS Pension scheme. In the absence of such changes the RCN reluctantly welcomes the revised DHSC consultation on pension flexibilities, However, despite verbal assurances the RCN notes that this revised consultation, published in September 2019, still states that the proposed flexibilities will apply to senior clinicians, who demonstrate that they are detrimentally affected by the annual allowance and gives only examples of medical staff. We would welcome early confirmation that, as a minimum, this commitment will apply to all staff affected by the annual allowance including senior nurses.

The RCN also agrees with the NHS Scheme Advisory Board (SAB) that wider scheme flexibilities are needed to ensure that the NHS Pension Scheme remains an attractive and valued part of the reward package for *all* NHS staff. While it is clear that higher earners in the NHS are significantly affected by changes to the annual allowance and lifetime allowances, there is also evidence that many NHS staff, particularly those on lower earnings, are opting out of the scheme for financial reasons. The RCN believes that the UK Government should introduce measures to encourage those who have opted out, or are considering doing so, to remain in the scheme.

Introducing scheme flexibilities for the whole workforce would help to mitigate the pension taxation issues faced by higher earners, with all the associated risks to workforce supply and service delivery. It would also ensure the scheme is attractive, affordable and accessible for staff, including those on lower earnings. This combined approach would be consistent with the Government's commitments in the Interim People Plan to make the NHS the best place to work by making the NHS an employer of excellence – by valuing, developing and investing in NHS staff. It would also reflect the Welsh Government's 'Healthier Wales' quadruple aims)

The SAB has developed a range of proposals for reform designed to meet these twin objectives and address the cost cap breach within the NHS Pension Scheme. These proposals include:

- Flexible accrual - similar to the 50:50 option, but with various levels of accrual. Members could choose to build up pension benefits at a rate, from for example 10%, 20% and up to 80% and 90%.
- Phasing increments in pensionable pay over a set period to avoid spikes in pension growth within a single tax year.
- Calculation of Pension Input Amounts (PIA) - moving to a system where pension growth over the year (i.e. the Pension Input Amount, or PIA) is calculated across both schemes to provide a combined PIA.

The RCN supports these proposals but we recognise that any flexibilities are likely to add to the complexity of the NHS Pension Scheme. It is important NHS staff understand the benefits of the Scheme. However, [research](#) commissioned by NHS Employers shows there is a lack of knowledge and understanding about the NHS Pension Scheme and associated tax issues. It is therefore welcome that the DHSC intends to work with employers and trade unions to ensure staff affected by pension tax issues have access to high quality education and information. We would expect that joint working would be facilitated in Wales.

It is important that Pensions Savings Statement information is made available to all members and that this information is combined across all NHS Pension Schemes. This information should be available electronically, in conjunction with the Pension Benefit Statements/Total Reward Statements.

Finally, to reiterate, the RCN believes that reform of the NHS Pension Scheme in England and Wales is not the best route for resolving taxation anomalies. We welcome the HM Treasury's commitment to conduct a review of the annual allowance taper and how it can support the delivery of public services. The HMT review and subsequent revisions to tax legislation is likely to be a more effective way of ensuring that the annual allowance and the annual allowance taper do not continue to create problems and that NHS staff are not required to choose between taking promotions or working additional hours and receiving reduced occupational pensions. We would urge the HMT to carry out the review as a matter of urgency.

Responses to consultation questions

The case for pension flexibility

Question 1:

Who do you think pension flexibility should be available to?

The RCN believes that the proposed pension flexibility should apply to all NHS staff regardless of their tax position.

We note that the consultation states that the proposed flexibilities will apply to senior clinicians where there is evidence that their pension growth may exceed the annual allowance. We believe that these proposals should extend to all NHS staff affected by the annual allowance but would welcome early confirmation that as a minimum they will extend to all registered professions, including senior nurses.

Much of the recent media attention has focused on the impact of pension taxation rules on NHS consultants and GPs. However, there is also evidence that the annual and lifetime allowances are creating significant difficulties for other clinicians, including senior nurses. NHS staff report opting out of the scheme temporarily, taking early retirement, declining promotion or reducing their working hours in order to reduce their pension accrual and exposure to pension tax rules. Our members tell us that they are discouraged from applying for senior roles and are bringing forward their retirement plans to avoid such charges.

[Research](#) commissioned by NHS Employers confirms that pensions tax rules are creating significant problems for workforce supply, with employers struggling to recruit or retain staff with all the associated risks for service delivery and the quality of patient care. The changes are also creating significant additional administrative burdens for HR and pay role departments.

It is therefore clear that there is a pressing case for the government to introduce measures which mitigate the impact of pensions tax rules on senior clinicians, including senior nurses. However the RCN also believes that the proposed flexibilities should not be limited to higher earners, but should also be made available to all NHS staff. Recent opt out data reveals that lower earning staff are also deciding to leave the NHS Pension Scheme for financial issues.

Extending the pension flexibilities to all NHS staff would assist lower earning staff to adjust their pension contributions in order to balance competing financial commitments, whilst retaining wider benefits such death in service payments. While the tiered contribution structure is designed to make the pension scheme an attractive and accessible option for all staff, it is clear evidence that the scheme remains unaffordable for some. Extending to all staff, including lower earnings is likely to reduce opt outs and incentivise increase participation in the Scheme. It would also be consistent with the ethos of a mutual pension scheme which provides universal benefits for all NHS employees.

Proposed pension flexibility

Questions 2 and 3:

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

The RCN believes that annual allowances are not well-suited to defined benefit pension schemes where accrual rates are not easily or readily controlled by scheme members. Therefore, the RCN believes that the proposed flexibilities can only provide a partial solution to the problems experienced by senior clinicians when seeking to balance their income, pension growth and tax liabilities. In our opinion, reform of the NHS Pension Scheme is not the preferred route for resolving taxation anomalies. We therefore would call on the HMT to commence its review on the annual allowance and annual allowance taper can support the delivery of public services and to introduce subsequent legislative revisions as soon as possible.

The UK government should also work to ensure that measures introduced are not open to abuse employers who may wish to devise new incentives for employees to opt out of the NHS pension scheme.

The RCN has reservations about proposals encouraging employers to recycle employer contributions in the form increased income. We have opposed policies developed by employers to create recruitment incentives for nursing staff by offering to pay increased income, in lieu of pension contributions.

Finally, the RCN also recognises that the proposed changes are likely to create significant new administrative duties for HR and pay roll departments and for the pension providers. It is important that additional resources are provided to fund the increased workload.

Question 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?

The RCN agrees that large pay increases for higher earning staff should only be included in their pensionable income gradually. This would help staff to manage spikes in pay which can result in significant pension tax charges. However, implementing this change would be complex and would be very difficult to communicate clearly to members. If introduced, this change should be accompanied by comprehensive education and support for scheme members.

It is also important that any phasing of large pay increases is optional and employees should be able to decide if they wish it to be phased, depending on their individual circumstances.

Question 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?

The RCN recognises that the proposal to move to debit method approach to operating scheme pays could be more transparent than the current notional contribution system approach and could enable scheme members to see the impact on the value of their pension benefits. However, it not clear that experience of a similar debit method scheme in Scotland has borne this out. A review of the Scottish scheme should be undertaken before any further steps are taken

The RCN also notes that in the worked examples included in the consultation, the debit method approach would be more expensive. We would be concerned by changes will resulted in increased charges for members.

If this change is introduced, it is essential that clear communications are prepared for affected scheme members.

Questions 6 and 7:

What impact, if any, do you think the following will have on people with one or more protected characteristics? Are there any further equality considerations that the Department should be aware of from groups outside the data set?

The RCN believes it is vital that a comprehensive equality impact assessment (EqIA) is prepared to accompany any changes to the NHS Pension Scheme especially if they are only available to certain staff groups. Careful consideration should be given to whether the proposed flexibilities would create any direct and/or indirect sex, race and age discrimination issues - given the NHS workforce is largely female and the staff group (senior clinicians) cited within the consultation are predominantly male and over the age of 45.

If the pension flexibilities are not introduced as universal benefit and outstanding employer contributions are paid to senior clinicians as additional income, this could create equality issues. This change would increase pay disparity between senior clinicians and other NHS staff and could generate equal pay challenges as well as damaging morale and good relations between occupational groups.

About the Royal College of Nursing

The RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world.

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