

Equality Impact Assessment - Results

Title Of Policy	NHS Pension Scheme (Scotland) (NHSPS[S]): proposed changes to member contributions
Summary of aims and desired outcomes of the policy	To change members' contribution rates so that they would be based on actual pensionable pay instead of members' notional whole-time equivalent pay. To ensure the rebalancing of the contribution structure by narrowing the range of contribution rates. To implement changes to the approach of increasing tier boundaries in line with annual AfC pay awards. To phase in the member contribution structure over 2 years.
Scottish Government Directorate	The Scottish Public Pensions Agency

Executive Summary

1. This assessment measures the impact of policy proposals to implement the NHSPS(S): changes to member contributions.
2. The summary of the aims and desired outcome of the policy is to:
 - (a) Change members' contribution rates so that they would be based on actual pensionable pay instead of members' notional whole-time equivalent pay.
 - (b) Rebalance the contribution structure by narrowing the range of contribution rates.
 - (c) Change to the approach of increasing tier boundaries in line with annual AfC pay awards.
 - (d) Phasing in the member contribution structure over 2 years

3. The assessment finds that the policy changes will not disproportionately benefit or harm the protected groups of scheme members and will maintain the overriding principle of ensuring that the scheme remains a sustainable and valuable part of the reward package for NHS Scotland staff.

The Public Sector Equality Duty

4. The Public Sector Equality Duty ('PSED') was created by the Equality Act 2010 and is supported by the specific duties contained in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, as amended.
5. The PSED requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. Scottish Ministers must have 'due regard' to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people with different protected characteristics when carrying out their activities.
6. There are nine protected characteristics identified in the Equality Act 2010: (1) sex, (2) age, (3) disability, (4) race, (5) religion or belief, (6) gender reassignment, (7) pregnancy and maternity, (8) sexual orientation, (9) marital or civil partnership status.
7. The equality duty is an ongoing duty and we will continue to consider and amend this assessment until the final regulation amendments are laid.

Background

The NHSPS(S) continues to be an integral part of the NHS Scotland remuneration package and offers significant value in retirement to NHS staff.

The current contribution structure is tiered to reflect that higher earners receive proportionally more pension benefits than lower earners from the final salary NHS pension scheme. To ensure the costs of the NHSPS(S) are fairly distributed and affordable for all members, these tiered contribution rates ask higher earners to pay proportionally more than lower earners to access the valuable benefits of the scheme.

The 2015 public service pension scheme reforms introduced a new NHSPS(S) scheme where pension is built up on a Career Average Revalued

Earnings (CARE) basis. The [McCloud \(2015\) remedy](#) closed further final salary accrual in the 1995/2008 scheme from 1 April 2022 and moved all members into the 2015 CARE scheme for future service from that point. In a CARE scheme, all members accrue the same proportional benefit and therefore, there is less justification for the current steeply tiered contribution structure where higher earners pay significantly higher contribution rates.

In the existing contribution structure, contributions are calculated based on whole-time equivalent (WTE) pay which is appropriate for a final salary scheme where pension benefits are based on WTE. The introduction of a CARE Scheme means that all members now accrue pension based on their actual pensionable earnings in each scheme year. Therefore, it is appropriate to amend the contribution structure to ensure members contribution rates for part-time members are based on actual earnings.

In addition, HM Treasury require that contributions collected from scheme members meet an overall yield of 9.8% of pensionable pay. As a result of changes to the salary profile of scheme members, the NHSPS(S) has begun to underperform against the yield. Changes to the contribution structure are required in order for the yield to be achieved.

As such, the SPPA have published this public consultation which seeks views on changes to member contributions, which are aimed to preserve participation in the scheme while protecting its substantial value for members in retirement. The SPPA seek to reach agreement on the proposals through public consultation and consultation with key stakeholders through the Scheme Advisory Board

Key Findings

Age

While the proposed changes will be applied to all members regardless of age, the Scottish Government has considered the potential impact of changes to the member contribution structure on members in different age cohorts.

From 1 April 2022, all active members of the NHSPS(S), regardless of their age, are now members of the 2015 NHS Pension Scheme. The 1995/2008 Scheme closed on 31 March 2022 and all future accruals from 1 April 2022 are now within the 2015 Scheme. The 2015 Scheme will use a CARE approach based on pensionable pay throughout the member's career. As a result of this, the proposal of moving to contribution rates based on actual

pensionable pay is more appropriate for determining contributions for a CARE scheme for members of all ages.

The table below show NHS Pension Scheme membership split by Agenda for Change (AfC) band as at quarter 3 of 2022/23. Table 1 shows that pension scheme participation amongst NHS Scotland staff increases between from bands 1 to 4 before decreasing at bands 5 to 7 and increasing again until the highest Band levels of 8c, 8d and 9. Participation amongst Medical and Dental staff and Senior managers, who will generally be amongst the highest earners, is lower than the average AfC participation. It should be noted that this data does not cover staff working in primary care who may be members of the NHSPS(S).

Table 1: Agenda for Change staff participation by band at Q3 2022/23

Band level	Pension Membership %
Band 1	78.0%
Band 2	89.2%
Band 3	91.8%
Band 4	94.1%
Band 5	92.3%
Band 6	93.0%
Band 7	93.2%
Band 8a	95.2%
Band 8b	95.2%
Band 8c, 8d and 9	95.3%
Medical and Dental	91.9%
Senior Managers	92.2%

For higher earning members, with pensionable earnings of over £92,424 (those staff in band 8D and above), the proposed changes to the contribution tier structure will result in a drop in contributions of between 1 to 2% once the phasing in is complete. Although all members have been moved into the CARE scheme for future accrual from 2022, many members

will have a 'final salary link' applied to their accrued 1995/2008 scheme service. This means that higher earners will continue to derive more value from that service than members who experience steadier pay progression through their career. As set out in the consultation document, it is appropriate to reduce the degree of cross-subsidy within the tiering so that higher earners pay a lower contribution rate, closer to the required 9.8% yield. Conversely, lower earners, earning up to £32,914, will see an increase in their respective contribution rates. However, this group will still pay a lower rate than the 9.8% yield, as their contributions continue to be subsidised by higher earners but to a lesser extent.

Table 2 below outlines the AfC and Medical & Dental membership participation by age as at Q3 2022/23. This data does not cover staff working in primary care who may be members of the NHSPS(S).

Table 2 - Staff participation by age at Q3 2022/23

Age Group	AfC Pension Scheme Membership %	Medical & Dental Pension Scheme Membership %
15 to 19	92.6%	N/A
20 to 24	96.2%	98.3%
25 to 29	95.7%	97.1%
30 to 34	94.7%	96.7%
35 to 39	94.3%	95.5%
40 to 44	94.7%	95.6%
45 to 49	95.2%	92.8%
50 to 54	95.3%	91.9%
55 to 59	89.5%	82.5%
60 to 64	77.6%	41.6%
65 to 69	63.5%	

For AfC staff, the table details an increase in membership participation between age group 15 to 19 and 20-24 before decreasing slightly for each age group until the cohort 40 – 44 were the membership participation marginally increases. This initial increase in participation between the ages

of 15 to 24 could be due to the youngest cohort having fewer financial responsibilities than ages 25 and above. For example, members in the age groups of 25 and above are more likely to have different financial priorities such as student loan repayments, saving for a house deposit or supporting young families.

A [report](#) published by the Department of Work and Pensions (DWP) in June 2019 on trends in workplace pension participation and savings, showed that across the public and private sector, those in age groups 22 to 29 and 30 to 39 were less likely to participate in a pension scheme than those in the 40 to 49 and 50 to State Pension Age groups.

From age group 50 to 54 onwards, membership decreases significantly and at the oldest age group of 65 to 69 membership participation is at 63.5%. This significant decrease in participation membership within the oldest cohort may be explained by pension age members retiring and returning to service, as members of the 1995 section at the time this data was published could not build up any further NHS pension if they return to work following retirement.

For Medical and Dental staff, with the exception of those aged between 40 and 44, the data shows that participation decreases the older the member gets. Participation rates peak with members aged between 20 and 24 at 98.3%, progressively reducing through the age groups to 82.5% for those aged between 55 and 59, and then to 41.6% for those aged over 60.

We have also considered the possibility that the proposed changes could increase the number of members opting out of the scheme on affordability grounds.

Table 3 - Percentage breakdown of reasoning for members opting out of the NHS Pension Scheme (Scotland) in 2022.

Reason Given for Opting Out	Percentage of Opt-Outs
Affordability	50.2%
Contribution Increases	0.96%
Joined Another Scheme	1.03%
Scheme Changes (other than Contribution Increases)	0.51%
Other	47.34%

By phasing in the changes gradually, we anticipate that this will dampen the impact on take home pay for lower earners and mitigate the risk of increasing the number of staff leaving the scheme on grounds of affordability.

For older members, the proposal to calculate the contribution rate based on actual annual pensionable pay rather than WTE pay will benefit those wishing to work more flexibly as they get older by working part time, as they are likely to be placed in a tier with lower contributions. While the move to a CARE scheme flattens out the added benefit from late career pay progression for higher earning members, many older members will have a 'final salary link' applied to their accrued old scheme service, so that they will continue to derive more value from that service than members who experience steadier pay progression through their career.

Sex

The proposed changes to members contribution will apply to all members regardless of sex. However, the potential impact of the new proposals on male and female members has been considered.

Data for NHS Pension Scheme participation is also divided by sex. However, it is important to note that sex and gender are 2 different concepts. A person's gender identity is not always the same as the sex assigned to them at birth, and some people may not identify as having a gender or as non-binary. Under the Equality Act 2010, gender reassignment is also a protected characteristic and the potential impact of these new proposals on this protected cohort has also been considered.

Data from the NHS Pension Scheme (Scotland) on membership participation relating to sex details that 79.1% of scheme members are female and 20.9% are male. It is also the case that 79.1% of the workforce (including those who are not members of the NHS Pension Scheme) are female and 20.9% are male.

Although the NHS is a female dominant workforce, male members of the NHS Pension Scheme typically receive higher pensions than their female counterparts.

Table 3 - Average (mean) annual basic pay in NHS Scotland, by gender and job family, with % pay gap - 2019/20 to 2020/21 (Source: Information Services Division (ISD) pay bill files 2019/20, 2020/21, from Scottish Workforce Information Standard System (SWISS))

	Female		Male		% Pay gap (1)	
Job family	2019/20	2020/21	2019/20	2020/21	2019/20	2020/21
Allied health professions	£33,503	£34,770	£33,274	£34,616	0.7%	0.4%
Administrative services	£26,652	£27,805	£34,907	£35,663	-23.6%	-22.0%
Emergency services	£23,769	£24,462	£24,393	£24,882	-2.6%	-1.7%
Healthcare science	£32,192	£33,435	£33,209	£34,175	-3.1%	-2.2%
Medical and dental support	£26,429	£27,652	£32,228	£33,199	-18.0%	-16.7%
Medical and dental	£58,177	£59,167	£69,274	£69,804	-16.0%	-15.2%
Nursing and midwifery	£27,948	£28,852	£27,338	£28,212	2.2%	2.3%
Other therapeutic services	£38,447	£39,897	£40,205	£41,969	-4.4%	-4.9%
Personal and social care	£28,942	£29,762	£35,051	£35,703	-17.4%	-16.6%
Support services	£19,342	£20,371	£21,730	£22,551	-11.0%	-9.7%
Other	£25,602	£28,272	£26,553	£28,743	-3.6%	-1.6%
Overall total (2)	£29,885	£30,939	£37,021	£37,838	-19.3%	-18.2%

Source: ISD pay bill files 2019/20, 2020/21 (from SWISS)

Table 3 outlines the average (mean) annual basic pay in NHS Scotland, by gender and job family, with % pay gap - 2019/20 to 2020/21. The pay gap percentages use the average (mean) annual basic pay for males as the reference point. Therefore, the average (mean) annual basic pay for males is taken to be 100% and so a negative pay gap figure means that average (mean) annual basic pay for females is less than for their male counterparts, and vice versa.

The table outlines a total gender pay gap % within the NHS Scotland Workforce as -18.2%. In other words, this means that females experience a pay gap of around 18%. As well as receiving higher pay than female employees, generally across the public sector male employees are less likely to work part-time and have gaps in their length of service. This is partly due to female members being proportionally more likely to have career breaks due to maternity and caring responsibilities. However, it is worth noting that not all female members will take parental leave or have caring responsibilities. Therefore, taking into consideration members' salary progression, career breaks and work patterns it is likely that male members of the NHS Pension Scheme (Scotland) typically receive higher pensions than their female counterparts. Given the long medical career ladder that many step off, this detriment is extended and cumulative, resulting in marked career-earnings, pension gaps and disproportion pension values between male and females within NHS Scotland.

A report on public sector pensions published in March 2021 by the National Audit Office (NAO), states that the average pension for male employees in the NHS in England and Wales is £17,541, compared with £6,440 for female staff. The NAO report also states that the difference in average pension payments is 63% for the NHS Pension Scheme, which is far greater than the average of 29% (Teachers' Pension Scheme) and 47% (Civil Service Pension Scheme), both of which also have a more equal spread of male to female members. Although this data relates to NHS England and Wales Pension Scheme and similar data relating to average pensions in the NHS Scotland Pension Scheme is limited, given the similar pay gap % (29% in England and Wales) and female workforce dominance (78% female in England and Wales) it is likely that this average pension disparity between male and female employees within the NHS in Scotland is also apparent.

While the move to a CARE scheme flattens out the added benefit of late career pay progression for higher earners who are more likely to be male, the proposed changes to the tier structure mean that those currently in the highest contribution tiers would benefit from a decrease in contributions. Therefore, it is also possible that women may be more likely to feel the impact of these changes than their male counterparts, as they are more likely to be among lower earning staff at present.

However, we are also aware that a considerable proportion of the NHS workforce are women who work on a part-time basis. Therefore, the move toward calculating contribution rates using actual annual pensionable pay rather than the whole-time equivalent delivers a fairer outcome for members who work less than full-time, with many likely to pay a lower contribution rate under these proposals.

Pregnancy and Maternity

There is no available data on this protected group in relation to the NHS workforce or NHS Pension Scheme membership. However, we have considered the potential impact of the proposals on members who have this protected characteristic as part of our analysis on sex.

Disability

The proposed changes to members contribution will apply to all members regardless of disability. However, the potential impact of the new proposals on members with disabilities has been considered.

There is some evidence to suggest that disabled people are more likely to work part-time. Data from the Office of National Statistics (ONS) on disability and employment shows that working disabled people were more likely to work part time than non-disabled people, with 32% of disabled people working part-time in comparison with 21.3% of non-disabled people. The proposed change to calculating contribution rates based on actual annual pensionable pay is therefore likely to benefit people with disabilities who are working part-time, as their contribution rate will be lower.

Furthermore, according to the Annual Population Survey data, fewer people report disabilities in occupations which are more highly paid, for example doctors (4%). However, the rate is above average in lower paid occupations, for example cleaners and housekeepers (23%) and care workers (19%). This could suggest that the proposed changes to contribution rates are likely to affect those with disabilities more than those without disabilities, as the tier structure is flattened and the gap between the lowest and highest contribution rate narrows.

Race/Ethnicity

The proposed changes to members contribution will apply to all members regardless of their ethnicity. However, the potential impact of the new proposals on members of varying ethnic backgrounds has been considered.

Research has shown there are several reported barriers in the collection of ethnicity data in the UK and available data on the NHS Pension Scheme membership only covers members' age and sex.

However, The Annual Population Survey data shows that the proportion of doctors from minority ethnic backgrounds is 3 times higher than the UK workforce average for all occupations (36% compared with 12% respectively). As doctors, particularly consultants, are typically some of the highest earners in the NHS, it is therefore likely that this group will benefit from the change in contribution rates, as their current contribution rates are likely to decrease.

Ethnic minority staff who work part-time are also likely to benefit from the proposed change to calculate contribution rates using actual annual pensionable pay rather than WTE, as this is likely to result in some members moving into a lower contribution tier.

Religion or belief, sexual orientation, gender reassignment and marital or civil partnership status

The information available is not detailed enough to analyse the characteristics with regards to religion or belief, sexual orientation, gender reassignment and marital or civil partnership status. However, as contributions to the NHS Pension Scheme apply to all members equally and are based on pensionable pay, we do not believe these members are adversely, or otherwise, impacted by these proposals.

Recommendations and Conclusion

Members' contribution rates should change to be based on actual pensionable pay instead of members' notional whole-time equivalent pay.

As a reflection of the increasing number of scheme members with no active final salary link, this proposal would mean that many part-time members will see their contribution amounts reduce. Members who work

part time would benefit from their contributions more accurately reflecting the amount of pension they are building.

The structure of member contributions should change.

The proposed member contribution tiers were set out in this consultation document, this included a reduction in the number of tiers to ‘flatten’ the contribution model. These have been designed to ensure the required yield of 9.8% average member contribution is met while protecting the affordability of the scheme for the whole NHS workforce.

The thresholds for the member contribution tiers would be increased in line with annual AfC pay awards.

This proposal would benefit members under the current structure who find that small salary increases due to centrally agreed annual pay awards can lead to moving up a contribution tier, and a net reduction in take-home pay.

The proposed member contribution structure would be phased over 2 years.

As the proposals mean that some members will see an increase in their pension contributions, the changes are proposed to be introduced over a phasing of 2 years. This approach would minimise the impact on take-home pay while giving members time to adjust to the change.