



Scottish Public
Pensions Agency
Buidheann Peinneanan
Poblach na h-Alba

***NHS Pension Scheme (Scotland):
changes to member contributions
and miscellaneous amendments***

***Scottish Government consultation
2023***

Consultation Response

September 2023

1. Background

- 1.1. The NHS Pension Scheme (Scotland) (NHSPS[S]) continues to be an integral part of the NHS Scotland remuneration package and offers significant value in retirement to NHS Scotland staff.
- 1.2. In 2008, tiered contribution rates were introduced to reflect that higher earners generally receive proportionally more benefits than lower earners in a final salary pension scheme. To ensure the cost of the NHSPS(S) was fairly distributed and affordable for all members, these tiered contribution rates asked higher earners to pay proportionally more than lower earners to access the benefits of the scheme.
- 1.3. However, as part of the [McCloud remedy](#), the ‘final salary’ NHS Pension Scheme closed on 31 March 2022 and all members moved to a career average revalued earnings (CARE) scheme from 1 April 2022. In a CARE scheme, all members receive the same proportional pension for every one pound of pension contributions made to the scheme and, therefore, the justification for retaining the very highest tiers in a CARE scheme is reduced.
- 1.4. SPPA officials have been consulting with the NHS Pension Scheme (Scotland) Advisory Board (“the SAB”) since 2021 on potential changes to the member contribution structure. The SAB is a statutory board comprising of employee (trade union) and employer representatives, that has responsibility to advise Scottish Ministers on prospective changes to the NHSPS(S). The SAB provided formal advice to Ministers on the reform of member contributions in a letter of 13 August 2021.
- 1.5. While the SAB was not able to provide unanimous advice, they were able to outline guiding principles to which all SAB members subscribed, including moving to actual pay as a means of determining contribution rates, maintaining the annual indexation of contribution tiers and seeking to maintain a high level of membership. The SAB also agreed that the review of member contributions should fundamentally deliver a structure which is fair and equitable across the whole of the pension scheme membership.
- 1.6. Following consultation with the SAB, on behalf of Scottish Ministers, SPPA ran an initial public consultation between 24 January and 27 February 2022 which sought views on a number of proposals for reforming the member contribution structure.
- 1.7. The Scottish Government response to the initial consultation confirmed the intention to proceed with proposals which had widespread stakeholder support, including moving to using actual pensionable pay rather than whole-time equivalent to determine members’ contribution rates and to increase contribution thresholds annually in line with a single annual pay award percentage. However, the consultation response committed to consult further on proposals to rebalance the contribution structure and also on whether or not the implementation should be phased.

1.8. As such, the SPPA published a further consultation in May 2023 which sought views on the phased implementation of a revised contribution structure proposal and the rationale for those changes.

1.9. The consultation also sought views on a draft amending instrument which introduces changes to the scheme regulations in order to implement contribution changes and other proposals previously consulted upon.

1.10. Finally, the consultation also sought views on a number of miscellaneous scheme amendments which included changes to the final pay control regulations in the 1995 Section, changes to the opt out rules for Practitioner members, small amendments to the definition of a Practitioner and rules around pensionable pay.

2. Consultation Process

2.1. The proposals and draft regulations were subject to public consultation which ran for twelve weeks from 23 May 2023 and ended on 15 August 2023. A consultation document, [NHS Pension Scheme \(Scotland\): Consultation on proposed changes to member contributions from 1 October 2023 and miscellaneous amendments](#) and response form were published on www.pensions.gov.scot with responses invited by way of a response form returned via email or post to the SPPA.

2.2. NHS Trade Unions, NHS employers and other interested parties were formally notified of the Consultation.

2.3. A total of 1,873 consultation responses were submitted to SPPA, with 1,865 received from scheme members and 8 received from trade unions and staff associations.

2.4. UNISON Scotland provided their members with a template to assist with submitting a consultation response. Approximately 1,536 responses were submitted using the UNISON template, with some of the respondents submitting additional commentary.

2.5. The British Medical Association (BMA) also provided their members with a template for use in responding to the consultation. Approximately 268 responses were submitted using the BMA template, with some of the respondents providing additional commentary.

3. Summary of proposals

3.1. The following is a summary of the key proposals which were outlined in the consultation document.

1. There will be a phased implementation of the proposed changes over a two-year period

3.2. The required changes to the contribution structure mean that some members will see an increase in their pension contributions, the changes were proposed to be phased in over two years starting 1 October 2023, with the final changes being implemented from 1 October 2024.

3.3. Coupled with the initial delay to member contribution reforms from April 2022, this approach was designed to minimise the impact on take-home pay of NHS staff, while giving members time to adjust to the proposed changes.

2. A revised contribution structure will be introduced which aims to rebalance the contribution rates

3.4. The proposed revised member contribution tiers were set out in the consultation document. This revised structure took into account the need to narrow the range of contribution rates, the cost of moving to actual pay for determining contributions and the need to address the existing contribution shortfall, while also protecting the affordability of the scheme for the whole NHS workforce.

3. It is proposed the member contribution tiers thresholds are increased annually in line with average Agenda for Change (AfC) pay award.

3.5. This proposal sought to maintain the existing practice of uprating tiers annually to ensure members are not pushed in to a higher contribution tier as a result of the annual pay award. It also sought to protect the contribution yield by ensuring the annual increase was by a single pay uplift figure and not by aligning the tier boundaries with specific salary points. It was proposed that the average AfC pay uplift figure should be used because it applies to the majority of the workforce.

4. Proposed miscellaneous scheme amendments.

3.6. The consultation document also outlined a number of proposed miscellaneous scheme amendments that would make changes to the following:

- Final pay controls in the 1995 scheme
- Scheme opt out rules for Practitioner members
- Salary sacrifice schemes

5. Proposed draft amending regulations.

3.7. These proposals, coupled with the attached draft amending regulations – The NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2023 - detailed the regulations that will be amended to make provisions for the following:

- Member contribution changes
- Pensionable re-employment for 1995 section members
- Changes to the 2015 Regulations regarding inflation
- Continued suspension of retire and return restrictions

3.8. Furthermore, an updated version of the attached draft Scottish Statutory Instrument (SSI) - Draft NHS Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2023 - was published alongside an addendum on 24 July 2023 which includes provisions designed to introduce the option of partial retirement for members of the 1995 section of the NHSPS(S), with effect from October 2023. The policy behind the introduction of partial retirement was consulted on in an earlier consultation - [NHS Pension Scheme \(Scotland\): Retirement flexibilities and changes to pension rules regarding inflation](#) - which ran from December 2022 to February 2023. These proposals were widely supported by stakeholders and the regulations which were added to the draft instrument give effect to those policy proposals.

4. Phased implementation of new rates

4.1. The consultation document set out a new member contribution structure which was proposed to be phased in over two years, with the first phase being introduced from October 2023 and the second phase from October 2024. This phasing aimed to minimise opt-outs and reduce the impact on take-home pay for members, while ensuring that the required contribution changes are implemented in a timely manner.

4.2. The consultation asked the following question in relation to the proposed phased implementation:

“Q1. Do you agree or disagree that the proposed member contribution structure should be phased over two years? If you disagree or don’t know how to answer, please explain why.”

4.3. Table 1 below provides a brief analysis of responses to the question and shows that the majority of respondents (98%) disagree with the proposal to phase in the introduction of the changes over two years.

Table 1

Responses	Percentage
Agree	1%
Disagree	98%
Do not Know / No Response	1%

4.4. Although the vast majority of respondents (98%) disagreed with the proposal of a two-year phased implementation approach, the reasons for objecting to the proposals were broadly split into two main themes.

4.5. Firstly, a large proportion of respondents did agree with adopting a phased implementation approach. However, they disagreed with the proposed timeframe of two years. Instead, these respondents suggested a three-year implementation should be adopted. These responses were mainly from those who used UNISON Scotland’s template which contained the following opinion:

“I agree that any changes to the contribution structure should be phased in. However, given the impact that the cost-of-living crisis, the phasing should be over 3 years and any change should be implemented in equal annual amounts.”

4.6. UNISON Scotland also echoed this sentiment in their official response:

“We feel that the 2-year changes are not fair and will not be well received by our members – particularly those members in bands which will see significant increases. Further with the cost-of-living crisis continuing to place a significant burden on family incomes – particularly in respect of utilities, food and mortgage costs we feel that any increase should be phased over a longer period of 3 years and be phased in increments of equal value.”

4.7. The Royal College of Midwives (RCM) also provided similar comments:

“The RCM agree the proposed member increase should be phased in but do not believe 2 years is long enough for this change to be phased over.”

4.8. On the other hand, a large number of respondents who disagreed with the phased implementation approach wanted to see a faster pace of change in order to reduce the rates paid by higher earners.

4.9. Respondents who used the BMA’s template response believed the changes were not being introduced quickly enough to flatten the structure:

“A phased introduction only serves to delay this slightly more equitable contribution rate for those who are higher earners, who are currently paying a significantly higher rate compared to other members in the scheme. We are therefore of the view that the flattened rates for phase one and two should be brought in immediately and not phased over any period, or at the very least, phase

two should be implemented by April 2024 at the latest, so it is in line with the rest of the UK.”

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4.10. While the majority of respondents disagreed with the two-year phased approach, a large proportion of respondents are in favour of the phased implementation of the contribution changes. The Scottish Government believes this approach to be an effective way to reduce the impact on take-home pay for members who will be required to pay higher contribution rates under the new structure and to mitigate the risk of staff leaving the scheme on grounds of affordability.

4.11. Furthermore, the Scottish Government remains keenly aware of continued high cost of living and the impact this may have on affordability of pension scheme membership for lower-paid NHS staff. This is why Scottish Ministers delayed the introduction of contribution reforms from April 2022 until October 2023. NHS Pension Schemes in other parts of the UK proceeded with comparable changes from October (England and Wales) and November (Northern Ireland) 2022.

4.12. With regard to the respondents who expressed a preference for phasing over a three-year period and more evenly spreading the increases. The length of the phased introduction period and the extent of contribution increases in year one, from 1 October 2023, were carefully considered prior publishing this revised consultation. However, as a result of the HM Treasury requirement that the contribution yield of 9.8% is met from 1 October 2023, this means the level of contribution increases have to be weighted towards the first year of implementation and could not be evenly spread. Therefore, the disproportionate increases in year one, as compared to subsequent years, would be similar regardless of the length of the phasing period. While also trying to rebalance the contribution rates we have kept contribution increases to a minimum in year one as much as possible.

4.13. While the Scottish Government is mindful of the take-home pay impact of these changes, as set out in the consultation document, there is also a requirement to move to a flatter contribution structure as soon as possible, now that all scheme members have been accruing pension on a CARE scheme basis since 1 April 2022.

4.14. Furthermore, it is acknowledged that there are concerns about the retention of senior doctors both in the workforce and in the pension scheme as a result of Scotland falling behind the rest of the UK in the implementation of these reforms. It is important that these proposals align contribution rates in the NHSPS(S), as much as possible, with those in health service pension schemes in the rest of the UK. The other UK schemes commenced a phased implementation of comparable changes in 2022. Therefore, delaying the reforms any further would mean the NHSPS(S) remains an outlier in terms of the contribution rates paid by the senior doctors.

4.15. Through frequent stakeholder engagement with the SAB throughout this process, there was a clear consensus from the majority of NHS staff representatives that any revised member contribution structure must include protections for the low paid. If these reforms were to be implemented without a phased approach, this would have a significant impact on the take home pay of lower-paid staff and the affordability of the scheme for those members.

4.16. The feedback from the consultation has been helpful and the different options have been carefully considered. The consultation responses drew out that there is obvious tension between those respondents who wish to see swifter progress in flattening the tiers and those who wish to see slower progress or retain current tiers. Given the opposite views expressed in consultation responses, it is clear that there isn't a proposal where all respondents would be able to agree.

4.17. The aim of this proposal is to strike that right balance between moving in a timely manner to a new structure that better reflects a CARE pension accrual method but also minimises the immediate impact these changes may have on take-home pay. Therefore, the Scottish Government believes that these proposals do strike that balance and as a result it has been decided to move forward with the proposed phasing implementation over two years, as originally set out in the consultation document.

5. Proposed Revised Contribution Structure

5.1. The consultation document proposed that the new contribution structure, shown in Table 2 below, would be introduced on a phased basis from 1 October 2023.

Table 2

A	B	C	D
Current tiers	Pensionable earnings	Rate from 1 Oct 2023 (9.8% yield) (Actual pay)	Rate from 1 Oct 2024 (9.8% yield) (Actual pay)
Tier 1	Up to £13,330	5.8%	5.8%
Tier 2	£13,331 to £23,819	6.2%	6.5%
Tier 3	£23,820 to £28,186	6.8%	7.1%
Tier 4	£28,187 to £35,365	8.3%	8.7%
Tier 5	£35,366 to £43,421	10.5%	10.6%
Tier 6	£43,422 to £48,784	11.0%	11.4%
Tier 7	£48,785 to £68,222	11.6%	11.7%
Tier 8	£68,223 and above	13.7%	12.7%

5.2. As agreed in the earlier consultation, the new structure will base contribution rates on actual pay which will mean that most part-time members will pay lower contribution rates, accounting for around 40% of NHS Scotland staff. It is estimated that this will lead to a 0.5% reduction in the contribution yield. Therefore, member contributions are required to increase across the structure in order to accommodate this change.

5.3. The contribution proposal in Table 2 also takes into account recent analysis by the Scheme Actuary which shows that the existing contribution structure is expected only to achieve a yield of around 9.3%. Therefore, the changes to the existing structure must include an increase in contribution rates of around 0.5% across the membership to address the shortfall.

5.4. When taken together, this means that the new contribution structure must include increases of around 1% across the membership to ensure the required yield is met.

5.5. As set out in the consultation document, the existing contribution structure is tiered on the basis that those earning more pay a higher contribution tier than those earning less. This tiering recognises that, in a final salary scheme, high earners tend to derive more value from their ultimate pension benefits relative to the

amount contributed over their career. However, the ‘final salary’ NHS Pension Scheme closed to all members on 31 March 2022 and all members moved to a career average revalued earnings (CARE) scheme from 1 April 2022.

5.6. In a CARE scheme, there is no pay progression benefit. All members receive the same proportional pension for every one pound of pension contributions made to the scheme and, therefore, the justification for retaining the very highest tiers in a CARE scheme is reduced and generally should result in a narrower range of employee contribution rates.

5.7. Currently, when comparing public service pension schemes across the UK, it is apparent that the NHSPS(S) currently has the steepest tiering of member contribution rates and the largest cross-subsidy from high to low earners, with the range of member contributions being 5.2% to 14.7%. The scheme requires an average contribution rate of 9.8% (the contribution yield) and, therefore, the current structure is providing a cross-subsidy from those NHS staff paying above 9.8% to staff paying below 9.8%.

5.8. Therefore, the proposed structure presented in the consultation aimed to reduce the highest contribution tiers, initially from 14.7% to 13.7% from October 2023 and then to 12.7% from 1 October 2024. These reductions to the highest tiers sought to reduce the high level of cross-subsidy and narrow the range of contribution tiers.

5.9. As a result of the requirement to narrow the range of contribution rates, the increases required to address the existing contribution shortfall (mentioned in 5.2 and 5.3 above) cannot be added to the highest member contribution rates. These must instead be spread across the rest of the contribution tiers.

5.10. The consultation sought views on the proposed structure and asked the following question:

Q2. 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.

5.11. Table 3 below outlines that there is little support for the proposed member contribution structure put forward in the consultation.

Table 3

Responses	Percentage
Agree	0.6%
Disagree	99%
Do not Know / No Response	0.4%

5.12. Although 99% of respondents objected to the proposed contribution structure outlined in Table 3 above, they did so for opposing reasons. The reasons for objecting to these proposals were mainly split into responses from those representing lower earners of the membership and those representing higher earners of the membership. However, there was also a significant number of other respondents who raised concerns around those middle earners who will see the sharpest increase in member contribution as a result of the proposed reforms.

5.13. Those using the UNISON Scotland template (approximately 82% of responses) objected to the increases in contribution structure while the cost of living remains high and believe this may have an impact on the affordability of the scheme. These respondents also voiced concerns that lower and middle earners of the scheme will be expected to pay more while higher earning members will pay less. Respondents stated that:

"I do not agree with the structure proposed in the consultation agreement. It is unfair to ask low- and middle-income members of the scheme to pay more when higher paid members will pay less. Higher paid members already benefit from specific tax changes related to pensions."

Increasing the financial burden during a costs of living crisis could mean some members will leave the scheme. This will have a direct impact upon their provisions for retirement and could impact the long-term viability of the scheme."

5.14. The Royal College of Nursing (RCN) echoed this sentiment:

"Some RCN members will see their contributions increase at a time when its affordability becomes a real issue due to the impact of comparatively high inflation rates, escalating utility costs, increasing cost of living expenses more broadly and the negative consequences of a pay award that amounts to real terms pay cut. Consequently, there is a real danger 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".

5.15. UNISON Scotland also provided the following comments and emphasised that the proposals do not protect the low paid, only the lowest paid:

"The proposals do not protect the low paid – only the very lowest paid. Meanwhile those with highest earnings will see a reduction in the level of their contribution."

5.16. On the other hand, those using the BMA response template (approximately 14% of respondents) stated that the proposals to flatten the structure did not go far enough and emphasised that it is inappropriate to have a system of tiered member contribution structure within a CARE scheme. They therefore believe that the members contribution structure should be completely flattened.

5.17. The BMA also shared their views in their response:

“Whilst the SPPA have accepted that the steepness of the contribution rate tiers needs to be reduced, we are extremely disappointed that retaining a tiered contribution structure remains the preferred approach for the NHS Pension Scheme in Scotland. We support the proposal to reduce the highest contribution tiers, from 14.7% to 12.7% over phases one and two.

However, the BMA firmly believes that it is inappropriate to have a system of tiered member contributions within a CARE scheme and that the member contribution rate structure should be completely flattened, so that it is fairer for all.

The current proposed member contribution structure further compounds the unfairness for senior doctors who are, by nature of their roles, in the higher tiers of the scheme. They will continue to be required to contribute significantly more than lower paid members and their comparators in other senior career paths in the public sector in Scotland.”

5.18. A significant number of respondents also alluded to the disproportionality of member contribution increases of middle earners who earn between £43,422 and £68,222 (current Tier 4) but who will be paying contributions in the new Tier 6 and 7.

5.19. One respondent made the following remark:

“I disagree. It’s inequitable that the contribution rate for current tier 4 members should increase by up to 2.1% compared to tier 6,7,8 where it either remains the same or decreases by up to 2%.”

5.20. The British Dental Association (BDA) also emphasised a similar concern:

“We note that the highest (2 year) increase to rates, of 2.2%, falls to those earning in the range of £50k to £60k. This cohort was already paying a rate of 9.5%, close to the average required yield. It feels excessive that this group should see the highest proportionate rise.”

5.21. The BMA provided similar comments:

“We are also concerned by the individual contribution rates for each tier and the changes which are being proposed; it is difficult to see how the disproportionate changes in certain tiers are justified. Members in the new tier 6 (£43,422 to £48,784) will see their contribution rate increase by 1.9% from 9.5% to 11.4% by Oct 2024, and those in the new tier 7 (£48,785 to £68,222) will see their contribution rate increase 2.2%, from 9.5% to 11.7% by October 2024. However, we acknowledge that the amending regulations only relate to changes from Oct 2023, and so will see the highest rates for new tiers 6 and 7 set at 11% and 11.6% respectively.

This is wholly disproportionate to the increases which all other tiers are being subjected to and is particularly unfair as it impacts members, such as junior doctors and SAS doctors, who are already paying a rate broadly in line with the 9.8% target yield."

5.22. Finally, some respondents also alluded to a discrepancy these proposed changes to contribution rates may have on take home pay between the highest pay point of band 5 and the lowest pay point of band 6, as well as between band 6 and 7.

5.23. One member provided the following comments:

"If I have understood Table 3B in the consultation document correctly then there the proposed changes to member contribution rates would introduce a disparity where those at the top of bands 5 and band 6 would take home more pay after pension deductions than those on the bottom of band 6 and band 7 respectively. This would undermine career progression, discourage those applying for promoted posts and un-do work of previous AfC pay awards where overlap in pay bands was eradicated."

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5.24. Having reviewed all consultation responses it is clear that the two groups of respondents, those representing the lower paid and those representing the higher paid, within the NHS workforce are diametrically opposed in their view of the proposed contribution structure.

5.25. Therefore, due to the diverse nature of the NHS Workforce, any revision or changes to the member contribution structure must strike the appropriate balance between maintaining the affordability of the scheme for lower earners, meeting the contribution yield required by HM Treasury and ensuring any revised structure better reflects the nature of accrual in a CARE scheme.

5.26. Following discussions with stakeholders and much analysis, the revised proposals which went forward for consultation presented a compromise position as there was no alternative structure which was agreeable to both staff groups.

5.27. The UNISON Scotland consultation response recognised that the contribution proposals did protect the very lowest paid. This is achieved by providing discounted rate for members earning less than £13,331 per year in order to retain the affordability of the scheme for those working less than full-time hours. These members are unlikely to benefit from net pay tax relief on pension contributions because their earnings are within their tax personal allowance.

5.28. However, HMRC's [policy paper](#) of 15 March 2023 proposed to begin to provide net pay tax relief to pension scheme members with earnings below the personal allowance from 1 April 2024. These changes mean that members earning below the personal allowance will be paid a top up equal to the amount of tax relief they

would have received on their pension contributions if their income was subject to income tax. Therefore, the rationale for retaining the lowest tier will fall away with the introduction of these HMRC changes. However, as the date of implementation for these changes has not been confirmed, we intend to retain the discounted lowest rate in the final structure in year one of the phased implementation. We will review the rate in year two, based on HMRC changes.

5.29. A significant number of respondents made the point that the proposed structure did not go far enough to protect lower and middle earning NHS staff from large contribution increases. This was highlighted as being particularly important at a period of high cost of living.

5.30. We understand the concerns raised by stakeholders about the impact of contribution increases at this time. However, the current rates being paid by scheme members are not enough to meet the contribution yield required by HM Treasury. In addition, the change to using actual pay to determine contribution rates will mean that most part-time staff will pay a reduced level of contributions, further reducing contribution income.

5.31. As mentioned in section four above, the Scottish Government have postponed these reforms for over two years, and a year longer than other schemes in the rest of the UK, during a period where inflation was at its peak. It is also the intention to phase the implementation of these changes over two years which provides some further protection for lower paid members from full contribution increases until October 2024.

5.32. However, we recognise the continued high cost of living and have listened to the feedback from the consultation. We have therefore made adjustments to the final contribution structure, shown in Table 4 below. The revised structure reduces contribution increases in the first year to 0.5% for those in the lowest contribution tier and limits the contribution increases to a maximum of 0.9% for staff up to, and including, salary point one of AfC pay band six. This means all staff earning up to £39,497 will see an increase in contributions of less than 1% from October 2023, based on their earnings in the previous scheme year. The contribution increases over the two-year implementation period are limited to 1.4% for staff up to AfC band six.

5.33. A large number of respondents to the consultation also highlighted the perceived unfairness of requiring lower and middle-income members of the scheme to pay more when higher paid members will pay less under the proposals. However, the existing contribution structure is steeply tiered and has the largest cross-subsidy from high to low earners of any public service pension scheme in the UK.

5.34. As discussed in paragraphs 5.4 and 5.5 above, there is no longer justification for such a steeply tiered structure and therefore there is a legal imperative to narrow the range of tiers. We are committed to moving forward with proposals to

rebalance the contribution structure and to reduce the very highest tier by two percent over the implementation period. This shown in Table 4 with highest tier reducing from 14.7% to 13.7% in year one and then to 12.7% in year two.

5.35. Conversely, those representing higher earners, including the BMA and BDA, made the point that they felt the proposals to flatten the structure do not go far enough and that it is unfair and inappropriate to have a system of tiered member contributions within a CARE scheme. These respondents advocated a single contribution rate structure which they consider fairer for all.

5.36. However, the Scottish Government remain committed to a tiered structure in the NHS Pension Scheme (Scotland) which is a mutual scheme for all NHS staff. A tiered structure provides protection for the lower paid and aims to maximise participation across the membership. It worth also noting that in their [2011 review of public service pensions](#), the Independent Public Service Pensions Commission recommended the introduction of CARE public service pension schemes and also recommended that, in those CARE schemes, the differing characteristics of higher and lower earners should be addressed through tiered contribution rates.

5.37. A number of stakeholders made specific points in response to the consultation about the impact of contribution increases for those staff in the proposed tiers six and seven, and that these increases were disproportionate to other increases. While these members are set to see the largest contribution increases, they are currently paying below the average contribution rate of 9.8% and are, therefore, having their pension contributions subsidised, despite earning more than the average salary in the NHS. The increases are required for this group of staff to correct that anomaly as part of rebalancing the contribution structure.

5.38. We are, however, mindful of the potential take-home pay impact, as highlighted in consultation responses, and have therefore sought to adjust the contribution rates as much as possible in the revised structure shown in Table 4. The rate for the new tier 7 is reduced in year one from 11% to 10.8% reducing the year one increase from 1.5% to 1.3%. For tier 8 the rate is reduced from 11.6% to 11.3% which is an increase in year one of 1.8% as compared to 2.1% in the original proposal. The increases across the two-year implementation period are reduced to 1.7% and 2.1% respectively.

5.39. While the changes to reduce the contribution increases for lower and middle earning staff are marginal, that is because the scope to make changes is severely constrained within the parameters of meeting the contribution yield and the requirement to rebalance the contribution structure.

5.40. We are also aware, through responses to the consultation, of concern about unintended consequences of where the tier boundaries are drawn in the proposed structure and the impact on take-home pay between different AfC pay bands. It was highlighted that where staff earn only their core salary, the effect of contribution increases could see a negative take-home pay impact for staff moving

between AfC band five and six and also between bands six and seven. We have sought to correct this position by creating an additional tier of 9.8% and adjusting the tier thresholds from the original proposal.

5.41. Creating an additional tier of 9.8% and adjusting the tier thresholds also reduces the potential for a reduction in contribution rate for those staff at the top of AfC band 5 who earn only their core salary. These members would have seen a reduction in their contribution rate from 9.5% to 8.3% as part of the original proposals. These members were already paying below the average contribution rate and it was felt to be contrary to the intention to rebalance the contribution structure to potentially introduce a reduction in contributions. These members will instead see a small increase to a rate of 9.8%

5.42. The introduction of a 9.8% tier also addresses an area of criticism for the proposed structure, that no members were paying the average 9.8% contribution rate. While the cohort paying the 9.8% contribution rate in year one is small, that cohort is consolidated in year two of implementation and more members will pay the average yield.

Table 4 - Amended final structure.

A	B	C	D	E	F	G	
Current Structure			Proposed new structure				
					Rates from 1/10/2023	Rates 1/10/2024	
Current tiers	Pensionable earnings in 2022/23	Current rate	Pensionable earnings in 2022/23	9.8% yield	9.8% yield	New tiers	
		WTE pay		Actual pay	Actual pay		
Tr1	Up to £23,819 →	5.2%	Up to £13,330	5.7%	5.7%	Tr1	
		5.2%	£13,331 to £23,819	6.1%	6.4%	Tr2	
Tr2	£23,820 to £25,981 →	5.8%	£23,820 to £28,186	6.7%	7.0%	Tr3	
Tr3	£25,982 to £32,914 →	7.3%	£28,187 to £35,364	8.2%	8.7%	Tr4	
Tr4	£32,915 to £66,017 →	9.5%	£35,365 to £35,521	9.8%	9.8%	Tr5	
		9.5%	£35,522 to £37,086	10.0%			
		9.5%	£37,087 to £45,079	10.5%	10.5%	Tr6	
		9.5%	£45,080 to £48,784	10.8%	11.2%	Tr7	
		9.5%	£48,785 to £68,222	11.3%	11.6%	Tr8	
Tr6	£66,018 to £92,423 →	12.7%	£68,223 and above	13.7%	12.7%	Tr9	
Tr7	£92,424 to £123,147 →	13.7%					
Tr8	£123,148 and above →	14.7%					

5.43. Overall, throughout the consultation process the Scottish Government has sought to strike the right balance between flattening the contribution structure while also taking into account the implications this may have on member's take-home pay. Characteristically, the NHS is made up of a significantly diverse workforce. Therefore, compromise from all sides of this workforce is necessary in order to implement any contribution structure reform.

5.44. The Scottish Government is grateful for the substantial number of responses received in response to this consultation process. Having assessed the feedback, it is believed that the proposed structure detailed in Table 4 presents the most practical way to strike the right balance between flattening the contribution structure and protecting take-home pay and the affordability of the scheme.

6. Tiers to be increased each year in line with average AfC pay award

6.1. The consultation document also set out proposals that contribution tiers should be increased each year in line with the average AfC pay award.

6.2. In recent years, as the number of salary points has been reduced in each AfC pay band, this has caused issues with setting the tiers and led to some tier boundaries increasing well in excess of the headline pay increase. This has subsequently impacted on the contribution yield as the tier boundaries have increased and is part of the reason why the scheme is currently underperforming against the target yield.

6.3. The previous consultation response on these reforms concluded that it was clear that respondents are in favour of continuing to uprate the thresholds annually. And that we intended to do this by increasing the tiers by a single average pay uplift figure. The initial consultation response committed to consider further which pay uplift figure would be most appropriate.

6.4. In order to avoid negatively impacting the yield going forward, it was proposed that all tier boundaries will be increased by the overall average uplift in AfC pay, which for example is 6.5% in 2023/24. Whilst there are different processes for determining the pay award for different parts of the workforce, it was proposed that the earnings ranges in the contribution tiers will be increased each year in line with the average AfC pay award. This means that the contribution tiers would remain consistent across all areas of the workforce.

6.5. The consultation sought views on this proposal structure and asked the following question:

Q3. Do you agree or disagree that the annual increase in contribution tier thresholds should be based on the average uplift in AfC pay. If you disagree or don't know how to answer, please explain why.

6.6. Table 5 below illustrates responses to the question. There is a majority of support for this proposal with

Table 5

Responses	Percentage
Agree	96%
Disagree	2%
Do not Know / No Response	2%

6.7. It is welcomed that the majority of respondents agree with the proposals to increase the tiering threshold by the average AfC pay uplift automatically each year.

6.8. While it has been noted that the vast majority of respondents did agree to these proposals, a small cohort of respondents did not agree to the approach set out in the consultation. They believed that because higher than average pay increases are regularly awarded to lower paid NHS staff this may push individuals into a higher tier while remaining in the same AfC pay band.

6.9. The BDA felt it important that the principle of this proposal is kept under annual review due to different groups of the NHS Workforce being on different pay structures:

“This does seem sensible given that members of AfC represent the largest cohort of members, however given that other groups will be on different pay structures, with the potential for different pay awards, it is important to keep this principle under annual review.”

6.10. It is imperative that we address the negative impact the current approach of aligning tier boundaries with specific pay points is having on the yield. As most staff in the NHS are covered by the AfC pay award it is deemed that using this pay award is the most appropriate way to fix the current arrangement. Therefore, we intend to proceed with increasing the tier thresholds by the average AfC pay uplift automatically each year. As suggested by respondents, we will keep the impact of this change under review.

7. Concurrent part-time employments

7.1. The consultation document outlined that our long-term aim is to ensure that where members have multiple concurrent roles which they build up pension benefits for, their contribution rate should be based on the aggregate of these different employments. It is important that members who have multiple part-time roles will pay the same contribution rate as members earning the same amount through one, single employment and ensures consistency across different types of working arrangements.

7.2. Through discussions with stakeholders, we established that aggregating multiple roles will be administratively difficult where members hold different contracts of employment with more than one employer.

7.3. However, following consultation with employers it was agreed that aggregation of multiple roles with a single employer would be achievable from 1 October 2023. Therefore, it is proposed that the NHSPS(S) will move to aggregation of multiple posts with the same employer from 1 October 2023. Further guidance will be provided to employers but essentially earnings from the multiple posts should be added together and the applicable contribution rate allocated based on total pensionable earnings.

7.4. It should be noted, however, that members who hold multiple posts with different employers will not be aggregated for 1 October 2023. Instead, the intention is to bring forward further proposals for consultation during 2024 on approaches to aggregating posts with different employers with the aim of making further regulatory amendments.

8 Proposed Miscellaneous Scheme Amendments

8.1. The consultation document also outlined proposed miscellaneous scheme amendments for consideration under this consultation process.

8.2. This proposal outlined proposed miscellaneous scheme amendments that would make changes to the following:

- Final pay controls in the 1995 schemes
- Scheme opt out rules for Practitioner members
- Salary sacrifice schemes

8.3. As outlined in the consultation document, following consultation with SAB, amendments to the scheme rules regarding final pay controls in the 1995 scheme sought to align the final pay control rules with those in the England and Wales scheme. The 'allowable amount' for salary increases in the final three years of pensionable employment will be increased and a list of exemptions will be added to the regulations where salary increases are not treated as being excessive.

8.4. The consultation also proposed to amend the 2015 scheme regulations in connection with rule changes for GPs to include a definition of 'Assistant Practitioner'. This amendment will align the 2015 scheme with the legacy schemes.

8.5. At the request of SAB, the consultation also proposes amendments to rules regarding salary sacrifice schemes. The proposals intend to amend regulations to allow the scheme manager (SPPA on behalf of the Scottish Ministers) to determine whether salary sacrifice schemes are pensionable.

8.6. The consultation document asked:

“Q4. Do you agree or disagree with the miscellaneous scheme amendments as proposed in this consultation. If you disagree or don’t know how to answer, please explain why.”

8.7. Table 6 below shows that a vast majority of respondents (83%) did not respond to the question or did not know how to respond. While 15% agreed with the proposed miscellaneous scheme amendments.

Table 6

Responses	Percentage
Agree	15%
Disagree	1%
Do not Know / No Response	84%

8.8. Of the 84% who provided no response, the vast majority was those who used the Unison Scotland template.

8.9. Those who used the BMA template response noted that they agreed with the miscellaneous scheme amendments. While the BDA provided the following response:

“BDA agrees with aligning the final pay controls with those now in place in England and Wales as this is preferable to the current position.

Under paragraph 5.12, we assume that any requirement for OOH working that involves General Dental Practitioners should be similarly treated to what is proposed. SPPA has kindly confirmed the intention that this applies to all “Group D” members and that the omission of sub-paragraphs 1.5 and 1.6 from Schedule 4 is designed to achieve this. We presume that the subsequent sub-paragraphs (currently numbered 1.7 and 1.8) will be amended to include Group D and to refer to “engagements” as well as “employments”.

We welcome the desire to clarify the position of salary sacrifice schemes. We intrinsically believe that members should have a choice on the pensionability of such schemes. However, we assume that the Scheme Manager will consult with BDA when giving consideration to this.”

8.10. The proposed miscellaneous scheme amendments have been included for consideration in this consultation process after careful consideration and analysis with SAB and other key stakeholders.

8.11. As there was no substantial consensus against any of the proposed miscellaneous scheme amendments, the proposals will be taken forward as set out in the consultation document.

9 Draft amending regulations

9.1. To apply the proposed changes, we will need to amend scheme rules. The rules of the NHSPS(S) are set out in regulations, which is a form of secondary legislation. Those rules can be amended or replaced by new regulations drawn up in accordance with the powers and requirements of the Public Service Pensions Act 2013 and the Superannuation Act 1972 as relevant.

9.2. The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2023 are presented for consultation in draft. These regulations would amend the 2011 (1995 Section), 2013 (2008 Section) and 2015 regulations to implement:

- the new tiered contribution rates from 1 October 2023 that correspond to the first year of the proposed phased introduction
- the assessment of a tiered contribution rate for part-time employed members based on their actual annual rate of pay rather than the notional whole-time equivalent
- the assessment of contributions for members with concurrent part-time employments with the same employer will involve aggregation of total pensionable earnings
- a mechanism in regulations that uses two contribution rate tables to allow:
 - members who have their contribution rate based on their previous year's pensionable earnings to use the contribution rates before any increase to tier boundaries is applied
 - members who have their contribution rate based on current pensionable earnings to use contributions rates that have increased in line with the AfC pay award for that scheme year

9.3. An updated draft SSI document along with an SSI addendum was also uploaded to SPPA website during this consultation process to include provisions for partial retirement to be consulted on for the remainder of the consultation period. This included provisions to allow for partial retirement to be implemented for 1995 scheme members from 1 October 2023.

9.4. As show in table 7 below, 84% of respondents provided no response to the proposed question. While 15% agreed with the draft amending regulations.

Table 7

Responses	Percentage
Agree	15%
Disagree	1%
Do not Know / No Response	84%

9.5. Similar to Table 6 responses above, the 84% who provided no response to the proposed draft amending regulations mainly consisted of those who used the Unison Scotland template.

9.6. Meanwhile the BMA provided the following comments, highlighting the complexity of the draft amending regulations:

“The draft regulations highlight the level of complexity involved in a tiered structure which will be increased by moving to contributions based on actual pay. All of these difficulties could be avoided by having a flat contribution structure. However, the draft regulations do seem to deliver the desired policy objectives outlined.

The BMA also welcomes the introduction of retirement flexibilities and the changes to the 2015 Regulations regarding inflation and the change in re-evaluation date”.

9.7. The BDA and BMA also highlighted some technical and grammatical errors with the draft amending regulations document.

9.8. We thank the representatives for this insight and will ensure the draft regulations will be amended accordingly before being laid before parliament in a final draft.

9.9. Overall, respondents did not find that there were any significant issues with the policy objectives of the draft amending regulations, although some disagreed with the intention behind the regulations. While these responses did not directly answer the question asked here, they have been considered as responses to the consultation document as a whole.

9.10. With consideration given to the errors highlighted by the BDA and BMA, the draft amending regulations will be taken forward as proposed in the consultation document.

10 Conclusion

10.1. The SPPA thanks all respondents for providing feedback on the consultation, which has helped test the proposals and provided valuable insight from across the NHSPS(S) membership and interested stakeholders.

10.2. The SPPA has consulted those who appear likely to be affected by the proposed changes to regulations with a view of reaching agreement. Overall, there was no consensus on the proposed revised contribution structures, this was largely due to competing interests of different parts of the diverse workforce. SPPA had sought to adopt an approach which is proportionate to all of these views.

10.3. We believe the revised contribution structure presents the best possible compromise position and, while it includes contribution increases for some, it maintains the NHSPS(S) as a valuable part of the remuneration package for all NHS staff. The scheme provides index-linked retirement benefits which are fully protected against inflation, on some of the most generous terms available from a pension scheme.

10.4. The preferred structure meets our key objectives of achieving the target yield, minimising increases for lower and middle earning staff while also rebalancing the structure. Importantly, the structure also delivers on the fundamental principle set out in the SAB's advice, that it is fair and equitable across the whole of the pension scheme membership.

10.5. Therefore, the SPPA intends to proceed with the proposals to:

- Implement the revised contribution structure with amendments outlined in Table 4
- Phase the new member contribution structure in over two years from 1 October 2023
- Increase the thresholds within the member contribution structure in line with a single annual pay award, using the annual average AfC pay award
- Proceed with the proposed miscellaneous scheme amendments as set out in the consultation document
- Proceed with the draft amending regulations, taking into consideration technical and grammatical errors highlighted by BMA and BDA

10.6. Looking beyond the two-year implementation set out in the proposals, we believe a cautious pace is appropriate for any future changes to contribution rates and it may be prudent to align future adjustments to valuation cycles. The SAB will be asked to keep the contribution rates under review, monitoring membership and participation data to inform the timing and nature of any future adjustment.