



UNISON response to Department of Health and Social Care Consultation - NHS Pension Scheme: proposed changes to member contributions from 1 April 2022

UNISON is the UK's largest trade union, with over 1.3 million members. We represent staff who provide public services in the public and private sector.

However, it is our nearly half a million UNISON members working in health care in the NHS and for organisations providing NHS services across the UK that are primarily impacted by this consultation and the focus of our response.

We're the UK's largest health union. We represent the whole NHS and health care team. Our members include nurses, student nurses, midwives, health visitors, healthcare assistants, paramedics, cleaners, porters, catering staff, medical secretaries, clerical and admin staff and scientific and technical staff.

Our healthcare workers see their pension scheme as a key component of their overall terms and conditions and accordingly we've received numerous comments from our members which have helped to formulate this response.

Background

UNISON believes there are several interacting issues that make responding in isolation to the consultation questions on the proposed contribution structure difficult. These are outlined below:

The McCloud Remedy

The government's decision to re-run the 2016 valuation and to pass the McCloud remedy costs onto scheme members has limited the scope to introduce a new contribution structure that benefits all scheme members.

The previous Cost Cap breach, that showed the scheme was costing less than predicted and should have resulted in an improvement to pension benefits or a reduction in contributions, presented an opportunity to make some much-needed changes to the contribution structure. The decision to treat the McCloud remedy as a "member cost" has not only eliminated the Cost Cap breach but has also meant there is now no ability to use the cost cap rectification measures to adjust the member contribution structure without increasing pension costs for most scheme members.

Looking to introduce a new contribution structure whilst there remains uncertainty over whether the government acted lawfully by treating McCloud as a "member cost" makes this consultation premature. Depending on the outcome

of this litigation it is plausible that the Department of Health and Social Care (DHSC) will have to revisit any changes to the contribution structure made at this stage. This coming at the same time as embedding the McCloud remedy will create an atmosphere of instability and has the potential to undermine NHS staff's confidence in the NHS Pension Scheme.

Government pay policy and rising costs for NHS staff

As outlined in the consultation document the DHSC are planning on introducing the new contribution structure from April 2022. The proposed structure will see an increase in pension costs for the majority of scheme members, with those in the lower tiers most significantly impacted.

Government pay policy from April 2022 remains unclear. However, Government should be mindful of the strong reaction of NHS staff to the 3% pay settlement for 2021/22 where the high level of support for industrial action to challenge the pay outcome (77% of UNISON members responding to consultation stated they would be willing to take sustained industrial action to oppose the outcome), shows that further cuts to take home pay are likely to be strongly resisted by health workers and run the risk of industrial tension and unrest.

This year NHS staff have already seen their 3% pay rise absorbed by inflation. CPI inflation increased from 0.5% to 4.2% between the initial PRB evidence deadline and the time the pay award was paid into salaries. With the cost of living expected to remain high into 2022 and energy prices and National Insurance contributions expected to increase, the introduction of the proposed contribution structure will mean a further decrease in pay for many NHS staff.

The announcement of the 2022-23 pay award looks likely to slip too, with the NHS PRB set to deliver its report to Ministers in May, so back-calculations may necessitate re-working of or a delay to any contribution changes effective from 1 April 2022.

9.8% member contribution yield

As directed by HM Treasury the NHS Pension Scheme is required to deliver a 9.8% member contribution yield.

The NHS Pension Scheme is unique in that it provides pension benefits to a wide range of occupations that have significant differences in pay. UNISON believes that due to the composition of the NHS workforce the contribution yield is too high and should be reviewed. To date there has been no clarification from government on the justification for setting the yield at 9.8%. The high level of yield has a particular impact on lower earners. This has been further highlighted by the proposed contribution structure. As it is less progressive than the current structure lower earners are being expected to pay more to ensure the yield is met.

UNISON is disappointed that the consultation did not seek views on the suitability of the yield as it is fundamental to any proposed contribution structure.

Impact on staff retention

The retention of NHS staff has been an ongoing area of concern for some time. However, the pressure currently on the NHS means that retaining staff is now of critical importance. UNISON members value the NHS Pension Scheme as an important element of their reward package and as a reason for working in the NHS. Strong consideration should be given to any changes to the contribution structure that could see retirements brought forward. In the current circumstances, scheme members who are closest to their Normal Pension Age and who benefit most from the McCloud remedy may see retirement as a more attractive option than continued NHS employment, particularly as pensionable re-employment for 1995 section members is not an option at present.

Question 1

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.

UNISON agrees, in principle, that the member contribution rate should be based on actual pay. The main reason for this is that it removes the clear equalities issues associated with using whole-time equivalent pay. Although, in the absence of the windfall from the Cost Cap floor breach the move to actual pay places a cost pressure on the contribution structure that under the proposals will generally be met by full-time scheme members with annual earnings under £47,846.

Taken in isolation the move to actual pay should deliver greater fairness to part time staff in the form of lower contribution rates. However, it is unclear from the consultation document and the information provided to UNISON through our membership on the NHS Pension Scheme Advisory Board what a move to actual pay will mean in monetary terms for part-time staff.

The move to actual pay combined with the other proposed changes to the contribution structure, such as the removal of the top two tiers and the realigning of the tier boundaries, means the benefit for part-staff of moving to actual pay may be lessened or even removed in some cases. The conflation of these changes mean it will be hard to communicate to part-time scheme members the benefit of moving from whole time equivalent to actual pay.

UNISON would like to reiterate that the move to actual pay would not have been complicated had the McCloud remedy not been classed as a "member cost" and the original floor breach stood.

Question 2

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.

UNISON disagrees with the proposed member contribution structure. We do not believe the DHSC's approach of asking lower paid scheme members to pay for the changes to the contribution structure whilst highest earners will see a reduction in their contribution rates to be justified.

For this reason, UNISON members have found the proposed contribution structure difficult to accept particularly given the future increase to National Insurance contributions and increasing household bills which will add further strain to their take-home pay. UNISON is concerned that the combination of these factors will have a negative impact on the perceived value of the NHS Pension Scheme for those that will see their contributions increase.

UNISON recognises that from April 2022 all NHS Pension Scheme benefits will be accrued in a career average scheme and that a flatter tiering structure may be more appropriate in these circumstances.

However, as long as the scheme is bound by the 9.8% member contribution yield lower paid members of the scheme will be disproportionately impacted by any transition to a flatter tiering structure. And on this basis UNISON believes that one of the agreed principles underlining the contribution structure is not being applied as the failure to protect lower paid staff could lead to significant opt-outs across the current membership as well as future members foregoing joining on pure affordability grounds. This in turn could have a long-term destabilising affect on the Scheme, reducing the number of scheme members and the total yield.

Question 3

Do you agree or disagree that the thresholds for the member contribution tiers should be increased in line with Agenda for Change pay awards? If you disagree or don't know how to answer, please explain why.

UNISON agrees with the principle of indexing the contribution tier boundaries in line with Agenda for Change pay awards.

Indexing generally removes unintended 'cliff edges' by ensuring that general pay awards alone do not push most members into a higher contribution tier.

Question 4

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.

As previously stated, UNISON does not agree with the proposed contribution

structure.

However, if a structure is introduced that increases pension costs for the majority of staff, ways of mitigating the worst effects, such as phasing, should be considered.

UNISON believes further consideration should be given to a longer phasing period as the proposed 2 years still results in significant increases, especially for those in the lower tiers.

Question 5

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.

UNISON can't see any issue with the draft amending regulations.

Question 6

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

The DHSC are asking for responses to this consultation based on an initial equality impact assessment (EQIA). It is UNISON's view, that a full EQIA should be provided alongside the consultation so any equality issues can be properly considered. Carrying out this important duty following the decision seems ineffective.

There are several points raised in the initial EQIA, specifically related to sex, that need further consideration:

- The highest earners in the NHS are more likely to be male and this group will benefit most from the proposed contribution structure.
- On the surface the move from whole-time equivalent to actual pay as the means for allocating contribution tiers should benefit part-time staff the majority of whom are women. There is not enough information to understand the impact on part-time workers from the combined impact of all the proposed changes.
- There is not enough information provided on the composition of full-time scheme members earning under £47,846 which is the group of staff that will generally see an increase in contributions under the proposed structure. As 77% of the NHS workforce is female there is a potential disproportionate impact on female scheme members.

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