



UNISON response to Department of Health and Social Care Consultation

NHS Pension Scheme: member contributions phase 2 and miscellaneous amendments

January 2024

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. We have 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 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.

Background

Two years ago, UNISON's response to the consultation on the first phase of the changes in employee contributions set out our wider concerns about the direction of travel on employee contributions and the increasing burden being placed on lower paid NHS workers.

The concerns raised included:

- Treating the McCloud remedy as a "member cost" removed the ability to use cost cap rectification measures to adjust the member contribution structure without increasing pension costs for most scheme members.
- The high member contribution yield, set at 9.8%
- The more regressive contribution structure
- The impact on staff retention

The proposals to increase contributions for the lower paid went against the principles in the final agreement in 2012 for the 2015 scheme. In our view it weakened protections for the lower paid and affordability to all members.

If there was an issue to ease the contributions for the higher paid to improve retention and recruitment, then this should in our view have been addressed by changing government policy on Life Time Allowance and Annual Allowance and/or fund outside the 9.8% member contribution yield.

UNISON was very clear in stating that we did not agree with the proposed contribution structure. Two years on, we remain very concerned that the employee contribution burden in the NHS Pension Scheme is too high for all staff, and especially for lower and middle earners.

High pension contributions in the NHSPS threaten retention and recruitment. Where pay rises are swallowed up by on pension contribution increases and inflation it makes NHS employment less attractive for current and potential employees.

High contribution rates also make NHS pension scheme membership less attractive for current staff and could lead to more staff opting out of the scheme. Comparing the membership statistics in the NHS Pension Scheme Annual Report & Accounts for 2021-22 with 2022-2023 (table 3.3 in both reports), it is concerning that the number opting out of the scheme has more than tripled, from nearly 21,000 to nearly 65,000. This is in an overall context of growing total membership and more new entrants, but the scheme must remain alert to evidence that employee contribution rates are becoming unaffordable for some NHS staff.

We have also noted occasions where the NHS pension scheme is now seen as a less attractive scheme for workers who are involved in transfers from the civil service or local government to the NHS. While the benefits remain comparable to other public sector pension schemes, the contribution amounts and structure are such that we are aware of GAD advice being that the NHSPS is not comparable to the Civil Service Pension Scheme (CSPS) such that new employers have been required to compensate transferred staff. The NHSPS is beginning to be regarded as the worst of the public sector schemes, and it is because of the comparably higher contribution rates.

Question 1: Do you agree or disagree with the principle to remove the first tier of the NHS Pension Scheme member contribution structure at a future point?

UNISON disagrees as it is a further regressive change to the structure for the reasons listed above. UNISON shares the significant concern about the practical challenges involved. UNISON supports the government policy to rectify the anomaly in the tax relief between net pay and relief at source. It should not be used as an opportunity to increase member contributions at the lowest level. The increased contribution yield is expected to be minimal at around 0.1%. Although any increase in yield should not simply be lost but go to protecting member contributions. UNISON believes this change which will have so little effect on the overall yield, but a disproportionate impact on lower paid, is unreasonable.

In any event, members affected by the change to remove the tax anomaly should not have to then claim back the relief. There needs to be a mechanism for the scheme to credit affected members automatically.

Question 2: Do you agree or disagree that uplifting thresholds in line with CPI and automating the process is a suitable approach which complies with the principles outlined in this section?

UNISON supports the linking of pension contribution increases to annual NHS pay awards. UNISON has repeatedly called on the government to settle NHS pay awards much earlier in the year to avoid the timing issue of a delayed pay award impacting on pension tier thresholds. This is the issue which needs to be settled rather than looking for an alternative method to uplift thresholds.

We do not support just using CPI. In order for NHS staff to not be disadvantaged by inflation reducing their pay awards, we aspire to and expect above-CPI pay rises. As such CPI would be expected to diverge from NHS pay rates. CPI plus a fixed percentage might be an acceptable way forward. For example, CPI plus 1.5% to mirror the way CARE is revalued.

Question 3: Do you agree or disagree with the proposal to set the contribution threshold for the next 4-year valuation period (2024 to 2025, to 2027 to 2028 scheme years)?

We wish to minimise divergence between contribution tiers and AfC pay bands. Four years might be the outer limit of what could be acceptable. There is a danger of big realignments being required every four years rather than smaller changes every year. UNISON supports reviewing how the formula is matching pay increases during the period and if a mismatch is identified having the flexibility and process to address it within the cycle.

Question 4: Do you agree or disagree with the suggestion to freeze the entry point to the top tier of the member contribution structure?

UNISON would oppose freezing the top tier contribution threshold. If the government wants to reduce the contribution burden for the higher paid it should not be by the rest of the membership subsidising the cost. Either the government can reduce the 9.8% yield or support higher paid members in other ways.

Question 5: Do you agree or disagree that the introduction of real-time re-banding would produce a more accurate outcome for the calculation of member contribution rates?

We support accuracy but are mindful of administrative capacity limits.

Question 6: Are you responding as or on behalf of a non-ESR payroll provider?

Not applicable

Question 7: Do you agree or disagree with the proposal to amend the definition of overtime?

UNISON supports the amended definition of overtime to include additional standard time (i.e., hours above contracted hours but below 37.5 hours). We would support retaining existing arrangements as long as it means that members do not overpay contributions when re-banding results in a lower pay figure. There needs to be a mechanism for picking up any overpayments.

Question 8: If you have any further comments on the proposed increase to the employer contribution rate from 1 April 2024, please outline them.

We have concerns about the calculation of the SCAPE, in particular how the discount rate is changed, and would like greater involvement from SAB before future changes are made.

The key point is that the increase in employer contributions does not mean there is an improvement in member benefits or reduction in employee contributions. It reflects only an accounting change. It is very important that this does not have any material impact on the ability of employers to offer staff the NHSPS and the public perception does not see the NHSPS as increasing in cost as the opposite is true in terms of the cost of the benefits.

We note that assurances have been given by government about the availability of funding to employers to cover the increased costs of contributions. We understand that the funding support commitment is for employers whose employment costs are centrally funded through departmental expenditure. Most employers will receive funding for the full 3.1% increase. The DHSC will distribute this additional funding support via the existing central channels.

We are very keen to ensure that non-NHS employers with staff in the NHSPS have their increased contribution costs covered. We understand that the DHSC is ensuring this happens in services they fund. We are concerned that services funded through other channels, such as local authority commissioned public health services, also receive the funding needed to cover the increased cost.

Question 9: Do you agree or disagree that the proposal to amend NHS Pension Scheme regulations has the intended effect of permanently removing abatement for SCS members, as agreed in the AfC pay deal for 2023 to 2024?

Agree, we would like abatement to be removed in all circumstances.

Question 10: Do you agree or disagree with the proposals to make consequential amendments to NHS Pension Scheme regulations to provide a deemed pay figure to members who take unpaid carer's leave?

UNISON agrees.

Question 11: Do you agree or disagree with the proposal to amend NHS Pension Scheme regulations with the intended effect of removing reference to the lifetime allowance?

This appears to be just following government policy.

Question 12: Do you agree or disagree with the proposal to clarify the partial retirement regulations to expressly exclude access to this option via entering into a salary sacrifice arrangement?

The 10% reduction in pensionable pay requirement is causing difficulties for UNISON members.

There is a widespread belief that there are new rights to partial retirement due to the communications members have received, but many members struggle to get agreement from their employer on acceptable terms. This is particularly the case for members whose employment has been outsourced to a non-NHS organisation. Following the practice on flexible retirement in schemes like the LGPS, there should be more flexibility allowed to employers and members to negotiate the size of any reduction. The 10% should be an upper limit with flexibility to go below this percentage.

Question 13: If you have 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, please outline them.

As detailed in our 2022 response:

- 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 fulltime 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.

Work needs to start on addressing the gender gap.

In addition, UNISON would like to see the government develop and consult on a mechanism for the NHS Pension Scheme that allows members to temporarily reduce their pension contributions during periods of financial hardship. UNISON believes this could help reverse the trend of groups of workers covered by equality legislation from leaving the scheme altogether due to affordability issues.

This response has been completed by the UNISON Pension Unit with input from the Acting Deputy Head of the UNISON Health Group.

If you would like any clarification regarding this response, please contact

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