

Department of Health
Pensions Policy Team
modernisation@health-ni.gov.uk

Consultation on the HSC Pension Scheme – proposed amendments to scheme regulations.

Response from BMA Northern Ireland

17 February 2023

Dear Sir/Madam,

The British Medical Association (BMA) is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

Introduction

BMA Northern Ireland welcomes the opportunity to respond to this consultation. However, at the outset we wish to state our disappointment that the scope of this consultation is limited to amending the pension rules regarding inflation, and updates to member contribution provisions. Consultations related to the NHS pension schemes in Scotland, and England and Wales, were broader, proposing a range of pension flexibilities such as partial retirement from the 1995 scheme and pensionable reemployment.

We would ask that the Department of Health take all available action to bring forward these, and other, measures to ensure parity across the UK. At a point when doctors in Northern Ireland in ever-increasing numbers are telling us of their plans to reduce their HSC commitment or leave the health service altogether, either through retiring early or to take up roles in other UK nations or the Republic of Ireland, these changes do matter.

We of course note that these matters are complicated by a lack of Northern Ireland Executive, and welcome the constructive engagement with DoH officials in progressing these issues. However, given

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the significant wider concerns regarding the HSC pension scheme, not least the impact of a punitive tax regime, it's vital that all possible action is taken to retain our senior doctors who are so desperately needed to help us out of the current crisis.

BMA Northern Ireland would also like to place on record its dissatisfaction at the short timeframe afforded to respond. As a member-led organisation, BMA Northern Ireland requires substantial input from its members when developing responses to consultations such as this, and the ability to undertake the necessary engagement is restricted when such short times are given. This is made more difficult still given the consultation was issued without the draft regulations required to enact the policy initiatives proposed.

Consultation response

1. Do you agree or disagree that the changes to the pension rules regarding inflation should be implemented as proposed in this consultation document? If you disagree, please explain why.

The BMA has regularly highlighted the grossly unfair situation related to the "CPI disconnect" suggesting that, at a UK level, the best way to fix this is to amend the Finance Act to ensure the same value of CPI is used for the "opening value" and the revaluation. This approach is supported by experts including the Association of Independent Specialist Medical Accountants, other financial specialists.

Additionally, we note the Scottish Public Pensions Agency (SPPA) consultation states:

'Scottish Government considers that a fairer approach to delivering the intention would be to amend sections 234 and 235 of the Finance Act 2004, which would have the advantage of simplicity and could also resolve other issues in relation to annual allowance.'

The proposals outlined by the UK Government, and consequently in this consultation, are more complicated and less effective as a solution. However, we recognise that in lieu of the UK Government amending the Finance Act as outlined above, there are limited means by which the Department of Health can mitigate this problem.

BMA Northern Ireland understands that moving the effective date of the revaluation of CARE schemes from the 1st April to the 6th April will in effect "align" the CPI values used to uplift the opening value and revalue CARE pension from the 2023-24 tax year onwards. However, given the suboptimal nature of this fix, we would like to highlight the anomalies that this creates:

- For the 2022-23 tax year, there will be no revaluation applied to the CARE schemes (2015 scheme and both the legacy and reformed schemes for practitioners). The impacts of this need to be assessed for individuals, including any implications for annual allowance tax liabilities and carry forward calculations.
- It is not entirely clear what the impact will be for members retiring this tax year and whether they will receive the appropriate proportion of the revaluation that they are entitled to under the existing arrangements. Indeed, we note the following in the consultation: "Members who leave the 2015 Scheme but who have not yet retired receive a proportion of the in-service revaluation after 31st March and, following this, have their deferred 2015 Scheme pension increased yearly by the pensions increase

rate.” Given that in the 2022-23 no revaluation will be applied, it is essential that members retiring in this financial year are retrospectively given the access to the relevant pro-rata revaluation and pro-rata pension increase that would have applied in the 2022-23 year if they receive their pension in 2022-23.

BMA Northern Ireland is similarly concerned about the issue of negative pension growth. This is a particular issue following the public sector pension reforms that resulted in HSC staff who are contributing to the pension after April 2022, being members of two separate but connected pension schemes. The issue arises due to the fact the new “reformed schemes” are considered separate for tax purposes. This, coupled with an anomaly in S234 of the Finance Act, means that if you have negative growth in one scheme (e.g. the 1995 section of the legacy scheme), this negative growth is rounded up to zero and can neither be offset against positive growth in the 2015 scheme or carried forward or backwards within the same scheme. This is a very significant problem, especially in the context of sub-inflationary pay awards, and unless this is rectified it will result in many doctors looking to take retirement to protect the value of their pension.

We recognise that this is an issue primarily born of deficiencies in the Finance Act that can be remedied only by the UK Government, however, it’s important that the Department of Health recognises that the proposed changes to pension rules regarding inflation is just one of many issues that needs to be addressed. When considered alongside the pension flexibilities omitted from this consultation, and the current lack of local pension tax mitigations, such as employer pension contribution recycling, it’s clear that doctors in Northern Ireland face significant detriment when compared to colleagues in UK and Republic of Ireland. This will inevitably lead doctors to reconsider their HSC commitments, potentially cutting hours, retiring early or leaving altogether at a time when they are critical to the recovery of the health service.

2. Do you agree or disagree that the changes to member contributions provisions should be implemented as proposed in this consultation document? If you disagree, please explain why.

As stated in BMA Northern Ireland’s response to the initial consultation on changes to member contribution rates, we are clear that our preferred approach is one of a flat contribution rate - such a scheme would not require pay thresholds as all members would pay the same rate. Now that all scheme members are accruing pension in a CARE scheme, there is no justification for tiering of rates. This is especially case as the current tiered contribution rate structure removes higher rate tax relief and yet higher earners are still subject to both the annual and lifetime allowance.

However, within a tiered scheme, we acknowledge the need for contribution thresholds to rise incrementally in line with pay. While our members’ pay scales aren’t governed by Agenda for Change, we acknowledge that this is the case for the majority of the HSC workforce, and therefore accept that this mechanism is appropriate whilst a tiered scheme remains.

The impact of introducing contribution rate changes part-way through the tax year on practitioner members is significant and increases complexity in what is already a complex system. It is reasonable to split the year into two to ensure the correct contribution rate is paid for each period and this would broadly mirror the arrangements for those in the officer schemes. However, given the additional complexity this brings, we would urge that every effort must be taken to ensure that the next phase of contribution changes is not delayed and comes into effect

at the start of the 2023-24 pension year, rather than create similar complexity within the next tax year.

3. Do you agree or disagree with the technical corrections proposed? If you disagree, please explain why.

BMA Northern Ireland has no specific comments on the technical corrections. However, it is difficult to comment fully given draft regulations have not been provided.

4. Are there any additional comments you wish to provide with regard to the proposed amendments?

As has been set out, BMA Northern Ireland is disappointed that the Department of Health has not put forward proposals on partial retirement or pensionable reemployment, as is the case in other UK nations. It is recognised in the other UK nations that without action on this, health services risk losing large numbers of the most senior doctors. This is equally true in Northern Ireland, and we are extremely concerned that this omission will only worsen the significant retention challenges currently faced. Of course, Northern Ireland is already considerably disadvantaged compared to other parts of the UK as there have been no mitigations for pension tax implemented – something which is clearly an unsustainable position moving forward. We look forward to forthcoming Department guidance on employer pension contribution recycling which will at least go some way to beginning to address the detriment currently suffered by doctors in Northern Ireland. This must be brought forward as an immediate priority.

5. Are there any 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?

BMA Northern Ireland has no specific comments on equality issues arising as a result of the proposed changes set out in this consultation.

Once again, we would like to thank the Department for the opportunity to respond to this important consultation. Should you have any questions in relation to it, please contact Samuel Stone, senior policy advisor, in the first instance via sstone@bma.org.uk.

Yours sincerely,



Dr Tom Black
Chair, BMA Northern Ireland Council