Skipton House
80 London Road
London SE1 6LH

**To:** The Rt Hon. Matt Hancock M.P.
Secretary of State for Health and Social Care

By email

18 November 2019

Dear Secretary of State,

As you know, there is sustained concern across the NHS about the operational impact of pensions tax penalties on the availability of clinical staff. Staffing constraints and the nature of clinical contracts mean the NHS is arguably much more exposed to these impacts than other public services.

While the various in-year flexibilities already announced are helpful, they are clearly not sufficient to prevent large numbers of senior clinicians reducing their sessional commitments, including in A&E departments, general practice and undertaking waiting list operations. The Academy of Medical Royal Colleges provided further evidence of this in their letter to you and the Chancellor dated 4 November 2019, which I attach.

Given the deferral of the Budget and the calling of an election, it is now clear that a substantive answer to the tapered annual allowance issue is unlikely to be forthcoming until the new tax year, from April 2020.

In the meantime there is an urgent operational requirement to remediate further the situation, so as to try and remove barriers to needed clinical staffing over the winter period.

To that end, as you know, we have been working with your officials and HMT on an in-year mitigation. This will involve a commitment to make payments to certain clinical staff outside of the NHS pension schemes to restore the value of their pension benefits package, if they have elected to use the “Scheme Pays” facility to settle an annual allowance tax charge arising from of their pension saving in the NHS schemes in 2019/20. This proposal has the agreement of Sir Chris Wormald in his capacity as your Department's Principal Accounting Officer.

However for this policy to be put into effect - and as required by the 'Managing Public Money' guidance - you will need to give a formal written direction to Sir Chris and me to do so, confirming that on an exceptional basis for 2019/20, paragraph 5.6.1 of MPM should not apply.

We look forward to receiving it.

With best wishes,
Yours sincerely,

Simon Stevens
Chief Executive of the National Health Service

**Cc:** Sir Chris Wormald
Comptroller & Auditor General, NAO
Treasury Officer of Accounts

Attachment - AOMRC letter

Academy of Medical Royal Colleges

Rt Hon Sajid Javid MP
Chancellor of the Exchequer
By email to:
chancellor.correspondence@hmtreasury.gov.uk

Rt Hon Matt Hancock MP
Secretary of State for Health and Social Care
By email to: mb-sofs@dhsc.gov.uk

4 November 2019

Academy of Medical Royal Colleges

10 Dallington Street
London, EC1V 0DB

T+ 020 7490 6810
F+ 020 7490 6811

# Impact of NHS pensions taxation on service provision

Dear Mr Javid and Mr Hancock,

As you are aware, the Department of Health and Social Care has been consulting on proposals to reform the NHS Pension Scheme. It has been widely reported that the current taxation arrangements are discouraging doctors from taking on additional work, for fear they will face large tax bills.

As the professional body for medical royal colleges and faculties, representing Britain's 220,000 doctors, our concern is how pensions taxation is negatively affecting workforce capacity and service provision to the detriment of safe patient care. The Academy has liaised with colleges and faculties to find examples of the tangible impact that the issues regarding pension taxation are having on clinical services and patient care. We have included a sample of these in the attached appendix, which paints a stark picture of the negative impact across different specialties and across the UK. It is evident from the findings that, due to severe medical staff shortages, the NHS has become entirely dependent on consultants delivering service provision over and above their existing contracts; this service is being put at risk because of the current pension taxation position.

Furthermore, our findings indicate that pensions taxation is undermining staff morale, which is detrimental to the recruitment and retention of the medical workforce. Staff shortages in the NHS are a significant concern and we must ensure these pressures do not intensify further as a result of the pension arrangements.

The Academy welcomes the UK government's decision to review the current rules for clinicians and is seeking a more flexible approach for doctors to ensure that they are not deterred from taking on the essential additional work needed to support patient care. We are particularly concerned with the taper on the annual allowance and believe that the proposed flexibility around accrual will be insufficient to tackle the long-term problems. We urge the Government to consider how it can reform pension arrangements to best support doctors to deliver high-quality patient care.

Yours sincerely,

Professor Caroline MacEwen, MD, FRCOphth, FRCS, FFSEM, FRCPE, FCOptom,
Chair, Academy of Medical Royal Colleges

# Appendix

## 1. Anaesthesia

A survey led by the Nuffield Department of Anaesthesia in Oxford – which gathered the views of 99 consultants – found that 75% had reduced their workload, with the biggest impact being on NHS work. The majority were reducing extra NHS lists, and some were reducing regular sessions in their job plan or taking early retirement. It is predominantly extra paid sessions which are being cancelled. These sessions are the norm for Trusts generally to manage the ever-rising demand in activity.

The survey found that around 76% of consultants are dropping the equivalent of 1 programmed activity (PA) of work. When translated into extra sessions dropped, this represents a loss of about 40 sessions a month for a department, which can clearly lead to increased waiting lists and waiting times.

## 2. Emergency medicine

The Royal College of Emergency Medicine (RCEM) carried out a pensions survey which received 504 responses. It found that:

- As a result of the taxation rules, nearly 77% of respondents are considering reducing aspects of their direct clinical commitments; nearly 60% their support for professional activities and over 64% their leadership roles
- Over 88% say that this would have an impact in creating additional rota gaps on the senior decision-maker level for emergency department cover in coming months
- Nearly 48% say they are bringing forward their retirement plans as a result of taxation rules
- Almost 98% suggest that this would have a detrimental effect on patient safety due to reductions in senior emergency medicine presence. Over 95% say it would have a detrimental effect through reductions in senior presence in other specialties
- Nearly 74% suggest patient flow is being adversely affected as a result of the taxation issue's impact on the availability of appropriate medical workforce.

The RCEM President, Katherine Henderson, says: *'EM is also affected by loss of services like radiology staff because of the pensions problems.'*

2.1 An EM consultant at a North London hospital shares that they are no longer picking up extra locum shifts due to the taper, causing significant problems in the department. The department's middle-grade rota is severely understaffed and relies heavily on locum cover. It has struggled over the last few years with vacancies, which it has only managed to cover through consultants picking up shifts. This includes 'acting down', with consultants working on the registrar rota. Consultants have also had to cover night shifts with only a few hours' notice when no other alternative could be found. Six regularly did this – but now only one is prepared to do so. This is causing issues and there are significant concerns for the winter.

2.2 An emergency department consultant in Lanarkshire, who also works for Scotland's Emergency Medical Retrieval Service, was undertaking 13 PAs (10 direct clinical care PAs and 3 supporting professional activities). They have dropped a PA because of the pensions issue,

reducing their direct clinical care. If there is no satisfactory resolution to the issue, they will drop to 7 or 8 PAs. They are now turning down extra shifts in a department which is under pressure.

2.3 An EM consultant who works in a Major Trauma Centre in the North West reports that their overnight consultant trauma team leader shifts are done as a waiting list initiative/ locum pay. The consultant and some of their colleagues have severely curtailed the number of shifts they do because of pension problems. There was essentially complete rota coverage until the pension problem. Now the centre is struggling to ensure that patients get consultant-level care. This consultant also works for two air ambulances and is not covering shifts as they would be adversely affected due to their earnings and the taper.

2.4 An emergency physician in Hampshire surveyed their colleagues and gathered 10 responses (including their own). Their department has 15.6 whole time equivalent (WTE) consultants – six have reduced their PAs due to the taper. This equates to 10 PAs dropped in total, which is 40 hours per week for their department. Prior to the taper, there were 158 'extra' shifts worked per year to help out of hours. This equates to 1,106 extra patient-facing hours on the 'shop floor' at a time when the department is greatly in need. They predict that, for the remainder of this tax year, 28 fewer extra shifts will be worked (equating to 196 hours). 50% of respondents said they would never work extra shifts again due to the taper, and these were mainly the respondents who did the greatest number of shifts.

2.5 An EM consultant in the West Midlands says that, as a *'direct result of the pensions issue'*, they have reduced their hours from 11 PAs to 10 and are anticipating reducing further down to 8 PAs within the next 12 months. Their department is already short-staffed and now none of the consultants want to do extra sessions to make up the numbers. This consultant also provided Trauma Team Leader Shifts at a Major Trauma Centre, but has *'drastically reduced'* their availability for these. Many of these overnight shifts which provided consultant-delivered care are now unfilled.

2.6 An EM consultant in Leeds reports that their department currently has around 38 consultants. Overall, they have been covering 156 night shifts per year as a paid locum and a similar number of late shifts. The consultant says that, this year, they have decided not to do additional locum shifts, as they will be hit by a pension charge for 2018/19. They continue to cover colleagues' sick leave. This consultant writes the rosters and is struggling with the reduced pool of consultants available. Two colleagues who were previously doing locums have stopped this year, while others are also worried about breaching the annual allowance. The hospital is finding it increasingly difficult to get staff to provide extra capacity for missing junior doctor shifts out of hours or consultant extra shifts out of hours. They are concerned the problem will be considerably worsened due to changes in the junior doctor contract.

## 3. Intensive care

3.1 The Northern Care Alliance NHS Group's single shared critical care service comprises four critical care units across the Salford Royal Foundation and the Pennine Acute NHS Trusts. All the critical care units currently carry consultant vacancies. Historically, these shortfalls have been mitigated by the consultant workforce undertaking extra activity over the standard 10 PA contract, with the majority of consultants undertaking 2 additional

unpensionable PAs. As a result of the tax changes, colleagues cannot undertake this work without incurring tax bills which may exceed the additional earnings. This has limited the ability to meet service demand and support wider change across Greater Manchester.

The impact of the pension tax changes have been felt most acutely at the Fairfield General Hospital (FGH) site. In September 2018, seven critical care consultant staff drawn from Salford Royal undertook extra work to support the clinical rota at FGH, to mitigate the shortfall in consultant staff and to begin a programme of transformation work. However, many colleagues have dropped clinical activity and essential non-clinical supporting roles back to a 10 PA contract. The FGH consultant rota is becoming increasingly fragile, with only three substantive consultants in a rota which requires a minimum of seven. Without the continued provision of a critical care service, FGH could not support the undifferentiated medical take from the local community via the Emergency Department.

3.2 At the Royal Surrey County Hospital all 12 Consultant Intensivists have reduced taking on additional ICU shifts to fill rota gaps. The hospital can no longer reliably cover the Outreach service with a dedicated Intensivist.

3.3 Guy's and St Thomas' NHS Foundation Trust, seven out of 35 consultants have dropped 12 sessions from their job plans. The impact is worsened by the decrease in 'staff bank work', on which the service relies day-to-day. Like most ICUs in London, Guy's and St Thomas's do not have enough substantive staff to cover all their rotas under normal circumstances. The staff bank previously provided 40 weeks per annum but now it only covers 19 weeks, leaving 21 weeks uncovered and one ICU effectively without a consultant for nearly six months. Guy's and St Thomas's closed an ICU for 18 weeks over the summer and redistributed consultant staff. Possible options include closing a unit and reducing elective work (or transferring patients out) or making consultants stretch to see more patients, which presents risks to patient safety and staff burnout.

3.4 At Mid Essex Hospital Services NHS Trust, one consultant has dropped 2 PAs, meaning that they have given up anaesthesia and a lead education role on the ICU. Three consultants have left the pension scheme and all consultants are refusing extra sessions. Their High Dependency Unit (HDU) is entirely staffed by extra sessions at the weekend – they have now served notice to the Trust that they might not be able to keep the HDU open at weekends. Staff were offered time off in lieu (TOIL) for extra sessions, but on trying to take this were blocked as there would be insufficient staff available.

3.5 In Wales there is a deficit of trained critical care consultants, so most Health Boards have been reliant on existing consultants working over and above a 10 PA job plan. Even with this additional work, some Boards have relied heavily on internal and/or external locums to cover the session shortfall.

Across Wales, many critical care consultants have stopped doing additional job planned sessions and internal locums. In Cardiff, they have found that external locums from England have stopped coming to do locum work. The effect of this in Cardiff has been a large deficit in service provision, to the extent that they have had to stop providing a daily on-site critical care consultant service to the University Hospital of Llandough (UHL). At the Cardiff and Vale University Hospital site, they have had to consolidate the consultant service as far as possible. Even so, the service struggles to provide the necessary consultant staffing, particularly at weekends, with impacts on safe patient care and consultant wellbeing.

These problems have a knock-on effect on those services dependent on critical care. At the UHL site in particular, there is an impact on daily working relationships with medicine, anaesthesia and surgery.

## 4. Physicians

The Royal College of Physicians on behalf of the three Royal Colleges of Physicians (Glasgow, Edinburgh, London) carried out a snapshot survey of almost 2,800 members nearing retirement age. This revealed that almost half (45%) have decided to retire at a younger age than previously planned, with 86% of them citing pension concerns as one of their reasons for this decision. The survey also found that in last two years, 38% of clinicians aged 50 to 65 reported having had an annual pension allowance tax charge due to exceeding their pension threshold.

As a consequence of having to pay an annual pension allowance charge due to exceeding the pension threshold:

- 62% of senior clinicians said that they avoided extra paid work (such as waiting list initiatives or covering for colleagues)
- 25% have reduced the number of PAs they work
- 22% have reported having stepped down from a leadership or other role with extra remuneration.

## 5. Surgery

A YouGov survey of surgeons commissioned by the Royal College of Surgeons of England in October, and completed by 1,890 members, found that:

- 68% of consultant surgeons are considering early retirement because of the pensions tax situation
- 64% of consultant surgeons have been advised to work fewer hours in the NHS following recent changes in pension taxation rules to avoid 'crippling and unpredictable' tax bills
- 69% of consultant surgeons have reduced the amount of time they have spent working in the NHS as a direct result of changes to pension taxation rules.

5.1 One surgeon describes how they have dropped from 11 to 10 PAs to mitigate their annual allowance bill. In their specialty, trauma and orthopaedics, PAs for trauma are set into the rota, so it is elective orthopaedic procedures which are being cut. By dropping 1 elective PA, this surgeon's elective operating lists are reduced by one third. Their waiting list went from 5 months to 9 months *"overnight".*

5.2 Another surgeon working in a busy, predominantly cancer service describes how their consultant colleagues have traditionally regularly committed to additional work to help meet targets and treat patients in need of urgent care. They describe how the tax rules have led to them and their colleagues stopping these extra sessions. Many of their elective lists have also been cancelled due to a lack of anaesthetic cover, again due to the taxation rules.

## 6. Paediatrics and child health

6.1 At Royal Cornwall Hospitals NHS Trust, in the paediatric department, three consultants have reduced their PAs – one by 3.5, one by 1 (but wanting to go down a further 1.5), while the third consultant wants to reduce by 2 sessions. Several others are considering reductions. The loss of up to eight sessions has led to a loss of key roles that benefited the department and the hospital – e.g. appraiser, educational supervisor and medical student teaching. There has also been a drop in clinic capacity with over 60 clinics lost. This equates to up to 720 appointments. It also affects service work where they will have to pay for a locum. The consequences for patients are longer waiting times and greater reliance on locums, and potentially a harm to health.

## 7. Radiology

7.1 At Nottingham University Hospitals NHS Trust, pension changes have had a detrimental impact on consultant capacity in anaesthesia and radiology. Within anaesthesia, at Queen's Medical Centre, 6 PAs have been lost, while at City about 6-7 have been dropped. Within radiology, 11 consultants have reduced their PAs because of the pension changes.

There are further, subtler changes affecting consultant capacity linked to pensions issues. Rather than be paid for additional work such as locum on-call cover, consultants are electing to take TOIL instead. Within radiology, the impact totals 17 PAs per month currently.

A significant number of consultants have been contributing to reporting using workstations at home out of hours. The department has seen a reduction in total CT/MRI reporting from 1,200/month at the start of the year to just over 600 reports in July. At 12 reports per PA that is a reduction of 50 PAs per month from January to July linked to pensions.

They have calculated that the reduction in consultant capacity is 2.6 WTE and that the consequences of this are shown in outsourcing spend.

7.2 At Imperial College Healthcare NHS Trust, the pensions issue has had a significant impact on the neuroimaging team, where 15-20% of examinations are reported via 'insourcing'. A number of consultants have said they will stop this reporting, citing pensions taxation as the reason. Although this income is non-pensionable, it contributes to net income. As this service can no longer be covered through insourcing, it will have to be outsourced, at a substantially higher cost to the NHS.

## 8. Obstetrics and gynaecology

An ongoing survey of obstetricians and gynaecologists shows significant numbers are considering retirement due to pension taxation. Of 1,100 people surveyed so far, 270 identified that they may retire early because of tax and current pension arrangements. Trusts are being affected by both the early retirement of many experienced consultants, and consultants not wishing to work extra shifts for fear of punitive taxation. At Imperial College Healthcare NHS Trust a decision was taken to reduce the number of gynaecologist lists from 123 to 100 per month, lengthening patient waiting times.