



Department
of Health &
Social Care

Report on changes to member contribution rates calculations for NHS Pension Scheme members in receipt of reduced pay

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Presented to Parliament pursuant to section 22(2)(b) of the Public Service Pensions Act 2013.



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Introduction

This report is laid before Parliament in accordance with section 22(2)(b) of the Public Services Pension Act 2013 (the '2013 Act'). It relates to a proposal to make regulations under the 2013 Act.

The purpose of the regulations is to further amend the National Health Service Pension Scheme Regulations 2015 (the '2015 Regulations').

The proposed regulations will make a number of technical and corrective amendments to the 2015 Scheme, including a proposed amendment to clarify how member contributions should be calculated when members are on reduced, or zero, pay. Reasons why members could be on reduced, or zero, pay include maternity leave, adoption leave, shared parental leave and other types of authorised leave. The proposed amendments are not intended to amend the amount of benefits that members accrue during this period, but rather they only clarify the amount that members should pay for those benefits.

As this proposal includes a change to a protected element of the NHS Pension Scheme (as described in section 22(5)(b) of the 2013 Act), we have consulted persons or representatives of those likely to be affected by the change with a view to reaching agreement with them and now lay this report before Parliament.

The purpose of this report is to set out why the Department of Health and Social Care ('the department') proposes to make these regulations, having regard to the desirability of not making a change to the protected elements of the scheme under section 1 of the 2013 Act within the protected period.

Background

In 2010, the Independent Public Service Pensions Commission was set up and chaired by Lord Hutton. His report in 2011 made a number of recommendations on how to reform public service pensions.

The public service pension reforms legislated for under the 2013 Act are designed to last for at least 25 years. The provisions in this legislation are intended to ensure a high bar is

set for those contemplating changing scheme features. There are enhanced procedural requirements for consultation and a report to Parliament when making changes to 'protected elements' for a period of 25 years as the mechanism to support that aim. Members' contribution rates under the respective scheme are one of the protected elements.

Section 22 of the 2013 Act sets out the procedure to be followed in the event that the responsible authority (the Secretary of State for Health and Social Care in relation to the NHS Pension Scheme), proposes to make changes that impact on elements of the scheme which are subject to enhanced protection. These elements are protected from modification until 31 March 2040 (the protected period), unless the prescribed procedure set out in section 22 is followed. Where a change is proposed to a protected element during the protected period, the responsible authority must:

- consult those who appear likely to be affected, or representatives of those persons, with a view to reaching agreement
- lay a report before Parliament

Policy background

The reforms referred to above led to the making of the 2015 Regulations. When the 2015 Regulations were being developed, the department set out proposed member contribution rates to be fixed until the next valuation of the NHS Pension Scheme.

Further accrual in the final salary legacy schemes closed from 1 April 2022 and all members moved into the 2015 career average scheme for future service. This ended final salary accrual and stopped further career average accrual in the final salary legacy schemes for practitioners. Therefore, the member contribution structure was reviewed in collaboration with stakeholders and a new member contribution structure came into force on 1 October 2022.

As part of the reform to the member contribution structure, it was agreed with stakeholders that members' contribution rates should be based on actual pensionable pay instead of members' notional whole-time equivalent pay. Consequently, the department amended the 2015 Regulations and detailed requirements were sent to payroll providers.

Policy objective

Given that the method for calculating member contribution rates changed in October 2022, it was also appropriate to consider how member contributions are calculated where

members receive less than full pay, for example, due to maternity leave or sickness absence. It's the department's intention that, from October 2022, members who are in receipt of reduced pay have their member contribution rate calculated on their actual annual pay, rather than what they would have been earning had they continued to receive full pay.

When reviewing the regulations, the department believed there was some ambiguity over the way that member contribution rates should be calculated for members receiving reduced pay. The department therefore proposed to clarify the regulations. It was proposed that the amending regulations would have retrospective effect and be backdated to 1 October 2022.

In practice, the department was aware that some payroll providers had applied the regulations in differing ways since 1 October 2022. This meant that some members may have paid a higher number of member contributions than required by the policy intent. If members have paid greater contributions than they should receive a refund in contributions.

Members' benefit accrual will not be affected by the way their contribution rate is calculated. Members will continue to accrue pension benefits as if they are still in receipt of full pay, even where their pay reduces.

Therefore, the policy objective does not negatively impact members; members will retain their pension benefits and some members might be owed refunds on their contributions, depending on their individual circumstances. The impact of not making these regulations would mean that the regulatory position might be unclear and there might be different treatment between members, depending how their payroll providers interpret the regulations. It was proposed that these amendments would be made retrospectively and backdated to 1 October 2022 because that is when member contribution rates started to be based on members' actual pensionable pay, rather than their whole-time equivalent.

Upon reviewing the regulations, the department proposed further amendments in relation to unpaid leave. Unpaid leave does not naturally attract pension contributions and or pension benefits. However, there are a number of limited scenarios where members can continue to contribute and build up pension benefits, even when they are not receiving pay. These scenarios are listed in the regulations and include maternity leave, shared parental leave and other similar types of leave. Unpaid leave due to illness or injury is not eligible for pension accrual.

However, the department noted that the regulations only provided a mechanism to calculate the amount of member contributions if the member was first in receipt of reduced pay, prior to going on unpaid leave. Different types of leave are intentionally flexible and, for example, shared parental leave is specifically designed for parents to be

able to choose how to take their leave and might mean that members will go straight from full pay to unpaid leave. Members might also go straight to unpaid leave where reduced pay is not available or they are ineligible. Consequently, the department proposed that the regulations should be updated to include circumstances where the member goes straight from full to zero pay. This change has retrospective effect from 1 April 2015 to ensure that members who have previously been treated as eligible can continue to be treated as such.

It was proposed that the method of calculating the contributions remains the same as for members who receive reduced pay prior to their pay reducing to zero. This means that in both circumstances the member will continue to pay contributions at the same level as they were paid directly before they went on to zero pay.

Consultation

In accordance with section 22(2)(a) of the 2013 Act, the Secretary of State for Health and Social Care consulted persons or representatives of such persons who appear likely to be affected by the proposed regulations with a view to reaching agreement with them.

The policy to use actual pensionable pay to calculate member contribution rates has been the subject of extensive consultation with a view to reaching agreement with the Scheme Advisory Board ('the SAB'). The SAB is a statutory board comprising trade union and employer representatives, that advises the Secretary of State for Health and Social Care on the merits of making changes to the NHS Pension Scheme. The review considered a number of other design aspects, including the range and number of tiers, and providing for the earnings ranges in each tier to be uplifted to reduce the chance of pay awards placing individuals in higher contribution tiers.

Throughout the discussions on the member contribution structure, there remained a consensus among the SAB that actual annual pensionable pay should be used to calculate members' contribution rates.

In accordance with section 22(2)(a) of the 2013 Act, a [public consultation](#) was issued on 15 October 2021 and closed on 7 January 2022. In total, 1,031 responses were received from individuals, trade unions, employers and other organisations. Seventy two percent of respondents agreed that member contribution rates should be based on actual annual rates of pay, rather than notional whole-time equivalent pay. Seventeen percent disagreed and 11% either didn't know or didn't say whether they agreed or disagreed.

Consequently, it was decided that the member contributions would be based on their annual pensionable pay, rather than their notional whole-time equivalent.

On 10 December 2024, a [further consultation](#) was published, seeking agreement on 2 proposals related to where members' pay either reduces, or they are unpaid. The types of leave that were impacted by the proposal were:

- adoption leave
- carers' leave
- leave due to illness or injury
- maternity leave
- neonatal care leave
- parental bereavement leave
- parental leave
- paternity leave
- shared parental leave

This consultation closed on 4 February 2025 and 22 responses were received from individuals, trade unions, employers and other organisations.

The department asked respondents 2 questions with a view to seeking to reach agreement on the suggested proposals.

First, respondents were asked whether they agreed or disagreed with the proposal to clarify that member contribution rates should be based on actual annual pensionable pay for members who are in receipt of reduced pay. Of the 21 responses received to this question, 57% of respondents agreed that the regulations should be clarified, 19% disagreed and 24% didn't know.

As part of its decision-making process, the department had regard to the desirability of not making this change and concluded that making this change was in members' best interests because it would clarify that members' contribution rates would be calculated based on their actual pensionable pay, rather than how much they would have been paid had they continued to be paid in full. This means that members will pay either the same contributions as they currently do, or they will pay fewer contributions. Members will not pay increased contributions because of this change. Making this change also has a positive impact by clarifying how the rate should be calculated, and this is of benefit to the effective administration of the scheme.

Consequently, the department decided to implement the proposed change to clarify that member contribution rates should be based on actual annual pensionable pay for members who are in receipt of reduced pay.

Second, respondents were asked whether they agreed or disagreed with the proposal that for members on unpaid leave who choose to continue building up pension scheme benefits, their member contributions should be based on their pay period immediately before they went on unpaid leave. Of the 21 responses received to this question, 67% of respondents agreed that the regulations should include members who went straight from full to unpaid leave, 24% disagreed and 10% did not know. Percentages have been rounded to the nearest whole number so might not total 100% when rounded.

As part of its decision-making process, the department had regard to the desirability of not making this change and concluded that making this change would be beneficial for members. This is because it extends the ability to accrue pension benefits when on unpaid leave to members who go straight from full pay to zero pay, rather than reserve this option only for people who receive reduced pay prior to going on unpaid leave. This provides an option for pension saving that may have been previously unavailable.

Consequently, the department decided to implement the proposed change that for members on unpaid leave who choose to continue building up pension scheme benefits, their member contributions should be based on their pay period immediately before they went on unpaid leave.

In addition to the 2 changes set out in the consultation document, the department also decided to amend the 2015 Regulations to take out the gendered reference to women on maternity leave when disregarding days where members return to work for the purpose of keeping in touch when calculating reduced pay.

As part of its decision-making process, the department had regard to the desirability of not making this change and concluded that making this change would be beneficial for members. This is because it will clarify that keeping in touch days for all members who are on adoption leave or shared parental leave will be treated in the same way. This will ensure consistency across the different types of leave when calculating reduced pay for the purposes of member contributions.

Impact

The amending regulations provide clarity for members and explain how their contributions will be calculated when they are in receipt of reduced pay or are on certain types of unpaid leave. If the regulations were not to be made, then there might be some ambiguity over the amount of member contributions that some members should pay and some members

might pay a higher contribution rate than if the amending regulations had not come into force.

There is no, or no significant, impact on business, charities or voluntary sector.

Conclusion

Parliament is invited to note the clarificatory changes and why the department proposes to make these regulations, having regard to the desirability of not making a change to the protected elements of the NHS Pension Scheme within the protected period. The National Health Service Pension Schemes (Amendment) Regulations 2025 will be made and laid in Parliament under the negative resolution procedure.

