

NHS pension scheme – consultation to extend rules supporting senior and returning staff

NHS Providers response

Question 1:

Do you agree or disagree that the temporary pension easements currently provided by section 45 of the Coronavirus Act should be continued beyond the planned expiry of the act from 25 March 2022?

Agree

Disagree

I don't know

Please explain your answer:

Mitigating disincentives to continue and return to work

The Coronavirus Act, passed in March 2020, introduced a series of sensible regulatory and legislative changes affecting the NHS workforce which paved the way for trusts and other providers in the service to utilise additional staffing capacity. Many of these changes – including the introduction of temporary registers and associated recruitment drives to ‘bring back’ recently retired staff – were critical to ensuring the NHS was not overwhelmed by the unprecedented increase in demand for emergency care caused by the onset of the pandemic.

NHS Providers fully supported the introduction of these measures, including the suspension of three pension scheme rules via section 45 of the Act. In brief, the Department of Health and Social Care (DHSC) describes these as:

- The 16-hour rule;
- Abatement of Special Class Status (SCS) members, including mental health officers; and
- Abatement of 2008 section and 2015 scheme members.

DHSC is proposing in this consultation to extend suspension of all three rules until 31 October 2022, saying it has “listened to concerns from the NHS” and “considers it appropriate to continue the temporary amendments... for a further period to ensure the NHS can continue to benefit from the capacity boost provided by retired and partially retired staff when responding to the pandemic.”

We welcome this assessment and support the extension of these three rule suspensions. We feel strongly that the NHS pension scheme, and other elements of the total reward package for staff, should not offer routine disincentives for our most senior and experienced staff to continue working, or to return from retirement to support the NHS if they are seeking to do so.

Unfortunately, such disincentives are a feature of the design of the NHS pension scheme (which in and of itself presents a generous package for retired staff). This is certainly the case where rules within the different scheme versions intersect with changes to taxation policy implemented over the past decade, creating a penalty for high pensions earning growth. We have worked with DHSC and other stakeholders on this broader issue and have [consulted extensively with trust leaders](#) in recent years to voice support for reform which can limit the impact of annual and lifetime allowance taxation on senior NHS staff.

We believe that ending the rules suspensions at this stage would cause damage to the NHS workforce, particularly through the potential loss of highly valued senior medical staff who are already at greater risk of early (and permanent) retirement after working through the pandemic. Our [State of the Provider Sector Survey](#) in October 2021 found 94% of trust leaders concerned about the current level of burnout facing their staff, while 84% were worried about their trust having the capacity to meet demand for services. Our [survey on operational pressures last summer](#) found 48% of trust leaders saying they'd seen evidence of staff leaving their organisation due to early retirement, COVID-19 burnout, or other effects from working in the pandemic.

Abatement for Mental Health Officers

One of the rule suspensions proposed for extension is centred around abatement for special class holders, including those with mental health officer (MHO) status. We particularly support this element of the proposal, having received concerning feedback from trust leaders around the potentially very detrimental impact of removing the provision from the Act at this time.

Mental Health trusts are facing tremendous challenges at the moment, with a considerable surge in demand for services influenced by the pandemic and the impact of lockdown restrictions on individuals and communities. While there has been welcome additional funding announced for mental health services in recent months, much more is needed on a long-term basis, as well as urgent capital investment. [Recent media coverage](#) has highlighted both the extent of the [mismatch between demand and capacity](#) in the sector and increasing concern over the [state of the 'high risk' estates backlog](#).

It is abundantly clear that the NHS cannot afford to lose mental health professionals at this time, including senior consultant and SAS grade psychiatrists who will continue to play such a critical role in addressing the backlog while supporting the development of the wider mental health workforce within their organisations and local systems. The [Royal College of Psychiatrists 2021 Census](#) showed there were 726 vacant or unfilled substantive consultant psychiatry posts and 315 vacant specialty doctor posts, representing 24% and 30% of all posts within these grades, respectively. Vacancy rates have risen in the past 4 years by 35% for consultants and 46% for specialty doctors. Furthermore, one in seven consultant posts are now filled by a locum doctor while 300 psychiatrists retired in 2020-21: a 64% increase from 2017.

We are also aware that particular recruitment challenges have been developing within individual organisations. For example, one trust in the South East recently advertised 18 vacant consultant psychiatry posts while a trust in the South West had 23 consultant vacancies earlier this year.

Many retired psychiatrists have returned to the workforce during the past two years, but – without a continuation of this rule suspension – some would be highly likely to leave again or reduce their hours substantially from 24 March. Based on feedback from trust leaders, we believe that this would be the case for 2-3 consultants in each organisation where this has been identified as an issue. It is important to note the likelihood that those most affected will be among the more senior, experienced members of the mental health workforce nationally, and will often play important roles beyond their clinical responsibilities within local systems and regions.

Question 2:

Do you agree or disagree that the continuation of the easements until 31 October 2022 is a reasonable length of time?

Agree

Disagree

I don't know

Please explain your answer:

Longer-term retirement and pension tax reform

Our response to this question is inconclusive, given that the full impact of this proposed continuation period will depend on other policy developments. Principal among these is any reform to partial retirement provisions within the NHS pension scheme.

We are aware that discussions have been ongoing at a national level to potentially widen access to partial retirement for senior staff, most notably doctors who still retain benefits within the 1995 pension scheme. We would fully support such a development, given the need to remove any barriers to senior staff staying on in the service beyond a set retirement age (i.e. 60), or returning to work without pension accrual disincentives if they are seeking this option (as highlighted above).

Pension abatement issues – and the rules in question in this consultation – may become a much smaller factor through the introduction of partial retirement options for those who do not currently have access to this choice, depending on the details of any policy change. If there is no progress in this area over the next six months, we expect the specific workforce capacity concerns raised here to re-emerge in October as the new deadline approaches. While we appreciate the rule suspensions were made via the Coronavirus Act in March 2020 were an ‘emergency’ measure to support the pandemic response, pressure on the NHS workforce will continue to be an issue outside of the context of meeting demand for COVID care, given the scale of the backlog and the huge number of vacancies affecting all parts of the service.

Additionally, it is important to highlight the need for the government to consider broader pension taxation reform, and to closely monitor evidence of senior NHS staff reducing hours or retiring early as a result of pensions issues. While the changes to the annual allowance ‘taper’ announced in March 2020 made an impact and reduced annual tax burdens for most senior staff, it has always been clear that this intervention would not completely solve these challenges for all.

Broader reform via changes to taxation or scheme rules and structures must also ensure fairness across the workforce and a focus on the costs and benefits of membership for lower banded NHS staff and new starters. There could be significant advantages to adding flexibilities for younger, lower-paid staff who may wish to prioritise savings for more immediate financial challenges, including costs of housing and paying off student debts, particularly in the context of relatively high contribution rates and rising costs of living.