

EQUALITY IMPACT ASSESSMENT – RESULTS

Title of Policy	Reform of NHSScotland Pension Scheme
Summary of aims and desired outcomes of Policy	To put in place a new NHSScotland Pension Scheme which conforms to the Public Services Pensions Act by 1 April 2015
Directorate: Division: team	Health Workforce Directorate: Pay and Terms and Conditions Branch

Executive summary

A new NHSScotland Pension Scheme is due to come into effect on 1 April 2015. This EQIA had been carried out to assess the impact of these new arrangements on affected groups with protected characteristics in NHSScotland.

Background

The UK Government set up the Independent Public Service Pensions Committee, more commonly known as the Hutton Committee, to carry out an independent review of public sector pensions, and look at their long term affordability.

The Report (published in 2011) found that the cost of public sector pensions had increased by around a third because of longer life expectancy over the last 50 years. Given this, the Report outlined the case for public sector pension reform.

Part of the UK Government's response to the Report was to increase public sector pension scheme contributions in the short term between 2012 and 2014. These increases were mirrored in Scotland and EQIAs covering this policy have already been published. This analysis covers the longer term changes being made in response to the Report's recommendations, which are intended to balance concerns from taxpayers around the future

cost of pension commitments, whilst still ensuring a decent level of retirement income for public sector workers.

The Hutton Report led to the Public Service Pensions Act, which became law in 2013. The Act sets out in primary legislation key elements of scheme design and governance which will be common across all public sector pension schemes in the UK, and which will be implemented by 1 April 2015.

The parameters set out in the Act are reflected in the design of the NHSScotland Pension Scheme, which it is proposed will be put in place from 1 April 2015. A “Framework Document” describing this scheme in full can be found on the Scottish Public Pensions Agency (SPPA) website at www.sppa.gov.uk.

As a first step in considering what this change means, it is worth setting out what the current scheme looks like and comparing this with the scheme which is due to be put in place in 2015.

Current Pension Scheme

The current Scheme is divided into two sections named after the point at which they were first put in place, the 1995 and 2008 section. The two sections have different provisions, the parameters of which are set out below:

Benefits

1995 Section benefits include:

- an annual pension and a retirement lump sum, normally equal to three times the pension; and
- survivor pensions and a lump sum payable on death in service equal to twice actual pensionable pay

2008 Section benefits include:

- an annual pension and an option to exchange pension for lump sum within HMRC limits (currently up to 25% of pension fund)
- Benefits also include survivor pensions and a lump sum payable on death in service equal to twice actual pensionable pay

Normal Pension Age

The age at which NHS Staff retire is an employment matter. With the exception of ill health pensions, the Minimum Pension Age (MPA) at which pension can be paid is age 50 or 55 in the 1995 Section and age 55 in the 2008 Section.

Members of the NHSS Pension Scheme have a Normal Pension Age (NPA) of 55 (if defined as being in Special Classes) or 60 (in the 1995 Section) or 65 (in the 2008 Section):

- Scheme members who entered pensionable employment for the first time on or after 1st April 2008 will be members of the 2008 Section and have an NPA of 65.
- Scheme members who entered pensionable employment before 1st April 2008, chose to stay in the 1995 section when the 2008 section was introduced, and have continued in pensionable employment, are members of the 1995 Section and have an NPA of 60 (or 55 if in special classes).
- Deferred members of the 1995 Section returning after a break of more than five years are usually required to join the 2008 Section for future service. Such members have an option to transfer their 1995 Section service across to the 2008 Section on a cash equivalent basis. If this option is not taken, their NPA for service up to the break remains at 60 in the 1995 Section and will be 65 for service accruing in the 2008 Section.

Accrual rates

The accrual rate for the NHSScotland defined benefit scheme is the rate at which members can accumulate retirement benefits, expressed in fractional/percentage terms:

- Pensions in the 2008 Section accrue at the rate of 1/60th of final pay for each year of service or 1.87% of career average earnings for self-employed general medical practitioners, general dental practitioners and ophthalmic medical practitioners;
- Pensions in the 1995 Section accrue at the rate of 1/80th of final pay for each year of service or 1.4% of career average earnings for self-employed general medical practitioners, general dental practitioners and ophthalmic medical practitioners.

Final Pay

Final pay (the pay used to calculate retirement benefits) is:

- a. In the 1995 Section, the best of the last three year's pensionable pay; and
- b. In the 2008 Section, the annual average of the best three years' consecutive pensionable pay in the 10 years before leaving or retirement, revalued by pensions increases.

Options to draw retirement benefits before NPA

In addition to retirement benefits paid on grounds of attaining NPA, the NHSScotland Pension Scheme pays:

- Ill-health retirement benefits: Immediate payment of unreduced retirement benefits if a scheme member becomes permanently unable to continue in their current NHS job because of ill health. If the member is also permanently unable to undertake regular employment because of ill health, their pensionable service is increased by two-thirds of the service they could have completed had they worked until age 60 (in the 1995 Section) and age 65 (in the 2008 Section).
- Actuarially-adjusted benefits: Scheme members can leave pensionable employment up to 10 years before their NPA on a voluntary basis (i.e at either 50 or 55 depending on which section of the scheme they are in. Benefits are reduced on an actuarial adjustment basis to take account of early payment.
- Premature retirement between MPA and NPA: If employment has terminated on grounds of redundancy or in the interest of the efficiency of the service, the member may claim an unreduced pension. The employer pays the cost of paying the pension early. If the pension is paid on the grounds of redundancy, the employer uses any lump sum payment due to the member to defray the cost.
- Phased retirement: A person who takes a reduction in pay of at least 10% can draw down retirement benefits based on up to 80% of their pensionable service whilst remaining in pensionable employment.

Scheme coverage

The Scheme automatically covers persons working for any NHSScotland body.

Access to the Scheme can also be provided to other employees through Direction under section 7(1) and 7 (2) of the Superannuation (Miscellaneous Provisions) Act 1967.

Revised Pension Scheme which is due to be put in place from 1 April 2015

The reformed scheme, as set out in the Framework Document, has the following key characteristics:

- a. Scheme based on career average revalued earnings (CARE);
- b. An accrual rate of 1/54th of pensionable earnings each year with no limit to pensionable service;
- c. Revaluation of active members' benefits in line with CPI plus 1.5% per annum;
- d. A Normal Pension Age (NPA) equal to the State Pension Age (SPA) for both active members and deferred members (new scheme service only) for all post-2015 service. If a member's SPA rises, then NPA will do so too for all post 2015-service. Those within ten years of current NPA are excluded and accrued rights in pre-2015 schemes will also be related to current NPA;
- e. Pensions in payment to increase in line with inflation (currently CPI);
- f. Benefits to increase in any period of deferment in line with inflation (currently CPI);
- g. Member contributions on a tiered basis to produce a total yield of 9.8% of total pensionable pay in the Scheme;
- h. Optional lump sum commutation at a rate of £12 of lump sum for every £1 per annum of pension foregone up to the maximum limit on lump sums permitted by HM Revenue and Customs;
- i. The current flexibilities in the 2008 section: early/late retirement factors on an actuarially neutral basis, draw down of pension on partial retirement and being able to retire and

return to the pension scheme will be included in the 2015 scheme;

- j. Ill-health retirement pensions to be based on the current ill-health retirement arrangements but with enhancement for higher tier awards to be at the rate of 50% of prospective service to normal pension age;
- k. Spouse and partner pensions to continue to be based on an accrual rate of 1/160th. For deaths in retirement, spouse and partner pensions will remain based on pre-commuted pension;
- l. The current arrangements for abatement (for service accrued prior to and post 2015) will be retained;
- m. Lump-sum on death in service will remain at two times actual pensionable pay;
- n. For members who in the new scheme have a NPA higher than 65 there will be an option in the new scheme to pay additional contributions to reduce or, in some cases, remove any early retirement reduction that would apply if they retire before their NPA. Only reductions that would apply in respect of years after age 65 can be bought out and the maximum reduction that can be bought out is for 3 years (that would apply to a member with a NPA of 68 or higher);
- o. Added Years contracts in the 1995 section will continue on compulsory transfer to the 2015 scheme;
- p. Additional pension arrangements will continue;
- q. The Public Sector Transfer Club will continue and further consideration will be given to the best way of operating it in the reformed schemes; and
- r. An employer contribution cap.

Protection of accrued benefits:

- s. All accrued rights are protected and those past benefits will be linked to final salary at the point of retiral, for those who stay in the scheme. For those who leave the scheme before they retire, benefits will be linked to their salary at the point they left the scheme. Existing arrangements with respect to the Uniform Accrual Formula for Medical Health Officers

(MHOs) will continue to apply for staff who move to the new arrangements;

- t. The current rules requiring staff in the 1995 scheme to retire, take all benefits and be prohibited from further pension scheme membership will be retained but with the following changes. Staff on taking their 1995 benefits after the age of 55, will be able to defer their 2015 benefits but without the possibility of further accrual;
- u. All active NHS Pension Scheme members in the 1995 arrangements with a pension age of 60 or 55 who, as of 1 April 2012, have 10 years or less to their current pension age, including MHOs and members of the special classes, will see no change in when they can retire, nor any decrease in the amount of pension they receive at their current NPA. This will be achieved by allowing such members to remain in their current arrangements until they retire;
- v. Members who are within a further 3 years and 5 months of their normal pension age (ie up to 13 years and 5 months from their NPA) will have limited protection, with the point they have to move to the 2015 scheme being deferred according to a formula which extends their current provisions in proportion to how close they were to their NPA on 1 April 2012.

Differences between the old and new schemes

As can be seen from the information above, there are already many differences between the 1995 and the 2008 sections of the current scheme. In fact, some aspects of the 2008 section have been carried over into the 2015 scheme, meaning it is the 1995 section of the current scheme which is the outlier. However, for the purposes of this document, we can identify certain fundamental differences between the current and 2015 schemes.

- The new Scheme is a Career Average Revalued Earnings (CARE), rather than a Final Salary scheme. This means that pensions are based on earnings throughout a member's career, rather than their earnings at or close to retirement, as with a Final Salary scheme.

- An accrual rate of 1/54th. This goes hand in hand with the change to a CARE system and so cannot be directly compared to the 1/80th and 1/60th accrual rates from the 1995 and 2008 sections of the previous scheme.
- A normal retirement age set at state pension age rather than a specific age defined within the scheme. State pension age is due to increase incrementally between now and 2046 when it will reach 68. 2015 Scheme members will therefore have to work for longer to access their full benefits.

Contribution rates

Contribution rates are based on valuation data. Currently, employers in Scotland pay 13.5%, but this will be revised as a result of the most recent valuation and will be 14.9% from 1 April 2015.

Employee contributions were increased between 2012 and 2014 by an average of 3.2%. NHS employee contributions are collected on a tiered basis and, because of a decision to protect the lower paid, the contributions of higher paid staff increased more, although this was offset to a certain degree by the effects of tax relief.

The rates to be applied from 1 April 2015 have been discussed in partnership in Scotland and the proposal is to put the following structure in place.

Tier	Whole time pensionable pay	Contribution (gross) 2015/16
1	£15,828 or below	5.2%
2	£15,829-£21,601	5.8%
3	£21,602- £27,089	7.3%
4	£27,090-£49,967	9.5%
5	£49,968-£71,337	12.7%
6	£71,338-£111,376	13.7%
7	£111,377 or more	14.7%

These rates will cover the 4 year valuation period from 1 April 2015 to 31 March 2019. However, the boundaries between the employee contribution tiers will move in tandem with rises in pay rates.

Implementation

The specifics of implementation of the new Scheme are being discussed in partnership by the Scottish NHS Pensions Group, made up of Staff Side, NHS Employer, SPPA and Scottish Government representatives.

As mentioned above, the Public Services Pension Act also specifies certain governance arrangements designed to increase accountability and oversight in public sector schemes. As part of the implementation process, two new partnership bodies will be put in place – an NHS Pensions Board and an NHS Scheme Advisory Board. These will take over the functions currently performed by the Scottish NHS Pensions Group, as well as taking on new functions specified in the Act.

The Scope of the EQIA

The degree to which any policy can be benchmarked against protected characteristics is always limited by the available data. For the NHS, good information is available in relation to age and gender. Much less complete or reliable data is available on characteristics such as disability, race, religion or belief and sexual orientation or transgender status. This document will therefore focus primarily on age and gender, taking in other protected characteristics on a more limited basis, where possible.

This analysis also makes reference to full or part time working arrangements. Whilst part time working is not a protected characteristic, it may be relevant where there is a larger representation of pension scheme members with a protected characteristic within the part time workforce.

It is worth highlighting that analysis indicates that collecting contributions based on whole time equivalent pay is, broadly, disadvantageous to part time workers. It is acknowledged that this aspect of the Scheme (which is not mandated by the Public Services Pensions Act but is subject to partnership agreement) will need to be kept under review and may be revisited subsequent to future valuations of the Scheme.

One final point to mention is that the contribution structure being put in place seeks to continue the approach to protecting the lower paid which was applied during the short term contribution

increase implemented between 2012 and 2014. The lower paid have experienced the lowest increases and will continue to pay the lowest contributions, going forward. Again, although low pay is not a protected characteristic, if any protected groups are more prevalent in lower pay brackets, then this is a factor.

Key Findings

Age

It is clear from the description in the previous section that the most profound differences in the effect of this policy will be experienced between different age ranges. Those within 10 years of their normal retirement age as at 1 April 2012 will have full protection meaning, essentially, that they can retire at their current normal pension age with full benefits. Those within a further 3 years and 5 months will enjoy “tapered” protection, whilst those further from their current normal pension age will have to work for longer before being able to access full benefits. Although all members will be subject to the same higher contributions structure, younger members will nonetheless be disadvantaged.

The picture is complicated by the fact that the two sections of the current scheme already have different normal pension ages (60 for the 95 section and 65 for the 2008 section) and that the 95 section allows those members with “mental health officer” or “special class” status to retire at 55 with full benefits. How members will be affected, therefore, is not just dependant on age but on current pension provisions. A further complication is that 2008 section members within the protection period will be offered the chance to forgo protection, as analysis suggests that many may be better off moving to the 2015 Scheme immediately. Whether a Scheme member chooses to forgo protection or not will probably depend on how they envisage the remainder of their career going.

The notion that there should be “protection” for certain scheme members was a recommendation in the Hutton Report, with the specifics being decided by the UK Government. Although some may see the different approach applied to different age groups as discriminatory, the decisions taken are based on an

acknowledgment that those close to retirement are likely to have made assumptions and plans about their future, and that it would be unfair at this stage in their careers to fundamentally change the parameters within which these assumptions were made. Those further away from retirement will have more time to adjust their plans and so, in that sense, it is fair they should shoulder a larger proportion of the changes required.

The issues raised by the fact that NHS staff will have to work longer have been examined on a UK basis by the Impact of Working Longer Review Group which made a report covering preliminary findings and recommendations to UK Health Departments in March 2014. Further information on this Group, along with a copy of its Report, can be found at the NHS Employers website – www.nhsemployers.org.

Gender

Membership of the scheme is overwhelmingly female, totalling 76.2% overall between full and part-time members.

Basing pension on final salary means those with higher pay at retirement receive greater benefits, regardless of the overall shape of their career. It is therefore an accepted fact that moving from a Final Salary to a CARE approach will benefit members whose career pay progression is more stable throughout their career over those who experience significant pay growth close to retirement. Based on analysis carried out for the Independent Public Service Pension Commission, the Hutton Report made the observation that it is more common for men to experience this type of pay increase.

Analysis gathered for this exercise showed a marked divergence between the pay of full time men and women from the mid-thirties onwards. Whilst, obviously, there will be both men and women at all points on the pay spectrum, it would appear that it is more common for men to earn higher pay from this point onwards, thus pulling the average upwards. As the long term contributions structure maintains broadly the same architecture as was put in place for the last year of the short term increase in 2014, this means the contributions of higher paid staff have gone up more. This suggests, then, that full time men will,

proportionately, bear more of the increase in costs than any other group.

Analysis also shows spikes in full time pay at the ages of 55, 60 and 65 (the most common ages at which members would retire). These are more pronounced for full-time males than any of the other groups, including full and part time females. This would appear to bear out the observations of the Hutton Report that full time males are benefitting the most from the present Final Salary systems since these spikes will be reflected in the benefits received as a result of the current scheme.

It would appear, therefore, that both contribution changes and the move to a CARE approach will facilitate a re-balancing of contributions and benefits between men and women, and broadly benefit women.

Pregnancy and Maternity

Data on this issue is not collected for NHSScotland staff. However, for the purposes of the calculation of pension benefits, the new scheme retains the approach of the previous scheme in that a period spent earning statutory maternity pay is classed as pensionable employment as long as contributions continue to be paid. A member on unpaid leave can also continue to pay contributions to the scheme for a period of two years (6 months paying employee contributions and a further 18 months if prepared to pay both employee and employer contributions) thus serving to limit the impact on pension accrual.

Disability

Whilst information on the numbers and types of disability present amongst members of the NHSScotland Pension Scheme is very limited, studies of the Scottish workforce more generally have shown that disability is more common amongst lower paid and part-time workers.

If there are indeed more disabled people amongst lower paid NHSScotland Pension Scheme members, then these staff would be subject to the same re-balancing of contributions which woman benefit from above.

The move from Final Salary to CARE, as well as spreading benefits out more evenly between men and women, may also help disabled members by spreading benefits more evenly between men who work full-time and staff who work part-time.

This redistribution in the direction of part time workers would be counteracted in the short term, however, by the continued practice of basing pension contributions on whole time equivalent pay. As set out above, this aspect of the Scheme will be the subject of on-going partnership discussion.

Race, Religion or Belief, Sexual Orientation or Gender Reassignment

Information gathered on any of the other protected characteristics by ISD and SPPA is on a self-reported basis and not complete enough to facilitate meaningful analysis for the purposes of this document. However, given that the new pension scheme will be implemented according to the same parameters across NHSScotland, it is difficult to see how the effect would be anything other than neutral with respect to the protected characteristics listed in this section.

Marriage and Civil partnership

Equal survivor benefits are payable for surviving spouses and civil partners. It is also possible for other surviving partners to receive a survivor's pension for life if they have been nominated by the member and have completed a joint declaration that they fulfil certain conditions including having lived together as a couple for at least two years (this is validated at the time of the member's death.) This is the same as the current 2008 section of the scheme but an improvement in equality terms on the 1995 section of the current scheme.

Recommendations and Conclusion

The changes in public sector pensions are being driven by UK legislation. However, the Scottish Government remains committed to providing pensions which are affordable, sustainable and fair, and to working in partnership with Staff Side representatives to put any changes in place.

As discussed above, these changes do touch on certain protected characteristics. Younger and older pension scheme members will be affected differently, although there is a clear rationale for this in terms of the relative time these groups will have to adjust.

The evidence also suggests that full time male members of the Pension Scheme will, because of their higher pay, see a larger increase in their pension contributions than other groups. In addition, the move to CARE will mean a redistribution of benefits from full time male towards female scheme members. These moves will facilitate greater equality between men and women since, historically, full time male scheme members have benefitted to a greater degree from the Pension Scheme.

The redistribution of benefits between full time male members of the Scheme and Scheme members who work part time, as well as benefitting women, may also benefit disabled Scheme members. Although with the caveat that a pressure in the other direction will continue to be exerted whilst contributions are collected on a whole time equivalent basis.

This document attempts to assess the likely effects of the introduction of the 2015 NHSScotland Pension Scheme on pension scheme members with protected characteristics, based on the best evidence currently available. However, it is important to emphasise that these changes are being taken forward within NHSScotland's well established partnership structure through which terms and conditions issues (including changes to the NHSScotland Pension Scheme) are discussed. These existing arrangements will be developed further with respect to NHS pensions by the new governance arrangements set out in the Public Services Pensions Act. There will therefore be an established mechanism through which equality issues and concerns about members with particular protected characteristics can be examined for the foreseeable future.