

Employer Pension Contributions Model Alternative Payment Policy

Updated April 2024 due to pension regulation and Tax changes

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1. Introduction

The arrangements set out in the All-Wales Flexibilities Policy, Section 7 Flexible Pensions provide mechanisms which can support members of the NHS Pension Scheme to manage their pension growth and which in turn can support individuals to managing their level of [annual allowance \(AA\)](#). However, individuals who are under the Normal Pension Age (NPA) for their NHS Pension Scheme Membership are not able to manage their pension growth in this way and they may seek to reduce their pensionable pay through a reduction in their clinical activity as a way to manage any annual allowance liability/charge.

Maintaining clinical activity is critical for NHS Wales services and a specific facility has been established on within the All-Wales Flexible Pensions Policy to support such individuals with the facility to apply, on an annual basis, to receive their employer pension contributions as an alternative payment whilst they are opted out of the NHS Pension Scheme.

This model policy does not form part of any employee's contract of employment unless formally adopted by the employing organisation.

This provision is open to all staff who can demonstrate that they are/will be impacted by the annual allowance in any financial year and who are:

- unable to manage their pension growth through accessing the partial retirement provisions; or
- unable to reduce their level of pensionable pay without an impact on their clinical activity.

An Alternative Payment will be granted within a financial/tax year in place of the employer pension contributions which ordinarily would have been paid to the employee within that year. At the end of the year individuals will need to reassess their position and if they can still demonstrate that they have a reasonable expectation of being impacted by an annual allowance charge they will need to submit a further application. If individuals determine that there will be no reasonable expectation of an annual allowance liability in the next financial/tax year, then individuals may choose to re-join the NHS Pension Scheme.

Providing an Alternative Payment may be considered appropriate to recognise the fact that clinical staff who have specifically opted out of the NHS Pension Scheme due to a pension tax issue will not get the full value of benefits from their employer's pension contribution in comparison to other colleagues. Accordingly recycling the employer pension contribution as an alternative payment provides a mechanism to restructure an employee's total reward package in order to maintain its value.

2. Opting out of the scheme

Whilst the provision for an alternative payment has been made available across NHS Wales, employers have a specific obligation to ensure that employees are not incentivised to leave the NHS Pension Scheme.

Employers view being a member of the NHS Pension Scheme as being in the best financial interests of most NHS employees and so as a first step employers should explore whether any adjustments can be made to working arrangements/patterns which enable employees to save for their retirement i.e. remain within the NHS Pension Scheme whilst addressing service delivery/retention needs.

Where no adjustments or changes can be made to an employee's working arrangements the facility for employees to apply for an alternative payment has been put in place to specifically support staff, who are or maybe affected by pension taxation issues with an additional choice as to when tax is paid i.e. from their current earnings.

3. Key points for employees to consider

- Independent Financial advice

Employees must take independent financial advice before opting out of the NHS Pension Scheme. Employees will need advice to understand the optimum value of pension they should earn during the year and the precise point they may consider opting out and re-joining the scheme. Employees who opt out of the NHS Pension Scheme should also be aware that they will pay more income tax on their salary due to paying lower or no pension contributions in a financial year. This should be considered in conjunction with the value of pension gained and any benefit from lower annual allowance tax charges. NHS Employers have compiled a list of organisations which are able to give advice and guidance on pension tax issues which can be accessed via this [link](#).

- Family protection benefits

Employers should ensure employees are aware that they will not be covered for death in service and ill-health benefits provided by the NHS Pension Scheme during the part of the

year in which they are not an active member of the scheme. If an employee were to pass away or retire due to ill health during a period where the employee had opted out of the scheme a lower level of benefits would be payable. Further information is available on the NHS Pensions website. Individuals who access this provision may therefore wish to consider setting up separate cover away from the NHS Pension Scheme.

- Reduction in pension growth

For members of the 1995/2008 NHS Pension Scheme, benefits are calculated based on service and whole-time equivalent final pensionable pay. Opting out of the scheme may reduce service, but not necessarily final pensionable pay, meaning pension growth will be restricted but perhaps not entirely/to the full extent the member may be expecting. For members of the 2015 Scheme benefits are calculated based on actual earnings, so the restriction in pension growth would be more pronounced.

4. How the recycling of the employer contributions works

4.1 Employer contribution rate

The employer contribution rate increased in April 2019 to 20.6 per cent and again in April 2024 to 23.7% of pensionable pay from 14.3 per cent, plus a 0.08 per cent scheme administration levy.

The government agreed to provide funding for employers to initially cover this increase in cost. A funding arrangement has been put in place where the additional 9.4 per cent being is paid directly by the UK Government to NHS Pension Scheme.

Neither Welsh Government nor employers have access to this additional 9.4 per cent of contributions. Accordingly employers can only offer the alternative payment based on 14.38 per cent employer contributions level.

The level of alternative payment provided to employees will be kept under review to ensure it takes into account any changes to the employer contribution rate and funding arrangements.

4.2 National insurance contributions

The payment of additional salary in lieu of scheme membership will lead to an increase in the cost of the employer National Insurance contributions (NICs) payable in respect of the individual. This increase is approximately equal to 13.8 per cent of the value of any additional salary payments and should be taken into consideration when calculating the amount to an employee in order to keep this cost-neutral.

4.3 Example of employer pension contribution recycling

The table below illustrates how employers can pay up to 14.38 per cent of an individual's pensionable pay to an employee as additional salary on a roughly cost-neutral basis, taking into account the increase in employer NICs.

	Member of the NHS Pension Scheme	Employee who has opted out receiving Alternative Payment
Pensionable earnings	£100,000	£100,000
Amount paid to NHS Pensions from the employer (14.38%)	£14,380	£0
Additional Employer NICs*	£0	£1,744

Gross amount paid to employee in lieu of pension as Alternative Payment	£0	£12,636
Total employer cost	£114,380	£114,380

**In this simplified example, we have calculated the NI based on the 2023/24 NI regime with an increase in employer NICs based on a flat rate of 13.8 per cent. In reality, employer NICs are only payable in respect of earnings above the secondary threshold and so the correct value of the employer NICs would be slightly lower than shown in the example. Please see the HMRC website for more information.*

4.4 Status of the alternative payment

The alternative payment will not form part of base salary and would not be included in the calculation of any overtime, or other entitlements.

Although not forming part of base salary, the alternative payment will increase the amount paid each month. It will also impact on the following:

- a. The amount of holiday and sick pay. Such calculations will include an element to reflect the alternative payment.
- b. The amount of any redundancy pay calculation, but only in so far as any statutory cap. Where an individual's weekly pay is higher than any statutory cap applicable at the point of redundancy, then the alternative payment will not be included in the calculation.
- c. Income for the purposes of the tapered annual allowance may be higher than before and so the annual allowance may reduce for any pension savings already built up in the tax year. This means individuals may be entitled to a lower amount of tax relief on their pension contributions.

The alternative payment will be paid in equal monthly instalments in arrears. Payments will be subject to deduction for income tax and national insurance contributions. In deciding on the alternative payment, individuals may wish to consider whether it would be financially beneficial to receive the alternative payment (subject to income tax and national insurance contributions) as compared with paying an additional pension tax charge by staying in the NHS Scheme and also consider the effect on pension benefits and growth by staying in the Scheme versus opting out. Employees who are considering opting out of the NHS Pension Scheme are therefore strongly encouraged to obtain their own independent financial advice.

5. Alternative Payment Application Process

5.1. In order to make a request under this policy employees must comply with all of the following:

- be in the employment of an NHS Wales Health Board, NHS Trust, or Special Health Authority.
- be an active member of an NHS Pension Scheme at the point of application*.
- be able to evidence that they have a reasonable expectation of an AA tax charge for the respective financial year

** Health Boards/Trusts/SHAs will need to determine whether to approve any retrospective payments for opt-outs already made within the current financial year based on the criteria within this policy.*

As indicated above individuals must be reasonably expecting a tax charge for the financial year for which they are making an application for the alternative payment. Given that any AA tax charge will not be confirmed until after the end of the tax year (saving statements are issued in the October following the end of the respective tax year) an assessment must be made to provide a best estimate to evidence the likelihood of an AA tax charge arising. The [NHS Employers Annual Allowance Ready Reckoner](#) may be used to provide an indication of the likelihood of an AA charge.

5.2. Individuals are responsible for obtaining whatever advice is necessary for them to make an informed decision, including where appropriate (though not limited to) professional advice from an accountant or independent financial advisor, guidance from the NHS pension scheme ([Member hub | NHSBSA](#)), information from reputable sources such as professional organisations and unions, HM Revenue & Customs.

5.3 As noted in paragraph 4.1 the alternative payment that will be paid will be the sum equivalent to the Employer's Contribution (amount that the Health Board/Trust would pay into the NHS Pension Scheme in the financial year if the applicant were still a member of that NHS Pension Scheme) net of the employer's National Insurance contributions, maintaining cost neutrality to the NHS. This will be paid as a supplement to salary and so will be subject to income tax.

5.4 Meeting the criteria as set out in paragraph 5.1, does not automatically mean that applications for the payment of employer contributions will be approved. The approval process as set out in section 8 will consider all applications as set against the individual submission and the need for each outcome to be clearly recorded as to the reason for its approval or rejection.

6. Application process and evidence requirements

6.1 The section below provides guidance for individuals on the information required to support an application:

a. Retrospective Evidence that you are or would be affected by the AA. This will usually be in the form of acceptable documentary evidence from NHS Business Services Authority confirming the annual increase in your NHS pension benefits and acceptable documentary evidence confirming that you may be subject to an annual allowance tax charge e.g from the [NHS Employers Annual Allowance Ready Reckoner](#) (note that where individuals are subject to the tapered annual allowance this may take the form of proof of earnings from all income sources);

b. Prospective Evidence that you will be affected will typically be in the form of pension/pay modelling data using evidence from sources contained within 5.1 & 5.2 taking into account, for example, incremental pay progression and changes in working patterns and/or proof of projected income from multiple sources in the relevant financial year.

7. Process for applications

7.1 Application for an alternative payment should be made on the application form attached to this policy. All applications should be accompanied by a completed opt out form (SD502) which will be retained with the application pending a decision. The opt out form will only be sent to payroll once an application has been approved.

7.2 The application will be verified by employing organisations to determine whether applicants meet the eligibility criteria.

7.3 If eligible, payroll will calculate the amount of the alternative payment and notify the applicant of this.

8. Approval

8.1 Each Health Board/Trust/SHA will be required to establish a decision-making panel with clear accountability to the Chief Executive and Director of Workforce and OD. The Panel will be under a duty to take into account the eligibility criteria defined in this policy in approving or rejecting applications and must record the justification for each decision.

8.2 The panel will meet regularly so that all applications can be considered, and a decision made within ten working days of receipt of completed application forms, appropriate supporting evidence and completed opt out forms. The Panel will report outcomes to the Chief Executive and Director of Workforce and OD on a regular basis.

8.3 If the application is accepted, the employee will be issued a letter confirming this payment (which will be for the financial year), within five working days of the panel's decision. The Health Board/Trust/SHA will notify payroll that the application has been approved and submit the opt out form (SD502).

9. Implementation

9.1 Where an application has been successful, the applicant's opt out of the NHS Pension Scheme(s) will be activated by the employer. The alternative payment will be paid to the employee on a monthly basis.

9.2 Any changes to terms of employment will continue as agreed by the Health Board/Trust/SHA and the continuance of the alternative payment will be subject to the Health Board/Trust/SHA's over-riding legal duties. The alternative payment will apply to an individual's current role only. In the event that an individual in receipt of the payment changes roles, then the continuation of the alternative payment will be at the absolute discretion of the Health Board/Trust/SHA, although not unreasonably withheld. If individuals subsequently choose to reduce sessions/working hours while in receipt of the alternative payment, this will automatically trigger a review to assess ongoing eligibility.

9.3 For individuals who are in receipt of an alternative payment, this will only be for the duration of the financial year within which the AA charge would have been incurred and will therefore cease at the end of the financial year i.e. 31st March. At this point, the alternative payment will cease and individuals should determine whether they wish to be re-enrolled into the NHS Pension Scheme and make the necessary arrangements. If they choose not to re-join at this point they will remain outside of the NHS Pension Scheme until the next date for auto enrolment at which point they will be automatically re-enrolled, providing they meet the necessary auto re-enrolment requirements. An opt out can then be submitted if desired.

9.4 Where the individual considers that they would be affected by an AA charge in the subsequent financial year a new alternative payment application can be made.

10. Desktop Appeals Process

Where a Panel decision is in dispute this will be referred to the Director of Workforce & OD for a final decision and there is no further right of appeal and no right to raise a grievance under the Respect & Resolution policy about the process or outcome.

APPLICATION FOR AN ALTERNATIVE PAYMENT

Please complete in full and forward to the Director of Workforce & OD

Name:	
Post:	
Payroll Number:	
National Insurance Number:	
SD Number for Pension Scheme:	

The alternative payment will start from 1st of the month in the next available payroll period. Please specify which date (note: this should be the 1st of the month, and should be the same as the date given in the opt out form)

Declaration:

I confirm that I have taken the necessary steps to obtain appropriate advice in respect of my voluntary decision to opt out of the NHS Pension Scheme and understand the consequences of opting out of the NHS Pension Scheme on further and future pension savings and accrual.

I have attached evidence that I have a reasonable expectation of exceeding the Annual Allowance for pension growth in the current financial year and that this breach is likely to generate a tax charge

I confirm that to the best of my knowledge the information I have provided on this form is correct, including information I have provided to HMRC and/or NHSBA

I confirm that I understand that opting out of the NHS Pension Scheme will mean I will not benefit from active members provisions including ill health retirement benefits and death in service benefits.

Name.....

SignatureDate

Authorised byDate.....

(Chair of Panel)

Authorised byDate.....

(Director of Workforce & OD)