

## **Employer Pension Contributions – Alternative Payment Policy**

### **Introduction and Aim**

This document details the principles of the All Wales Employer Pension Contributions – Alternative Payment Policy.

This policy outlines an option for employees who are current active members of the NHS Pension Scheme (the NHS Scheme) who can demonstrate that they will be affected by [annual allowance \(AA\)](#) in respect of their pension savings, allowing them to continue to work in their present role at their present level of service, and continue to develop in their career journey.

### **Linked Policies, Procedures and Written Control Documents**

- Retirement Procedure
- Retire and Return Scheme
- Pensions Tax Advice Salary Sacrifice Scheme

### **Scope**

This policy outlines an option for employees who are current active members of the NHS Pension Scheme (the NHS Scheme) who can demonstrate that they will be affected by the [annual allowance \(AA\)](#) in respect of their pension savings.

For most employees, it will likely be in their best financial interests to remain in the [NHS Pension Scheme](#). This policy is only intended for those employees affected by the AA tax issue and sets out one option for these individuals.

<b>Equality and Health Impact Assessment</b>	An Equality, Welsh Language and Health Impact Assessment has been completed and can be viewed on the policy webpages.
<b>Approved by</b>	Remuneration and Terms of Service Committee

<b>Approval Date</b>	23 August 2023
<b>Review Date</b>	August 2026
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<b>Accountable Executive Director/Director</b>	Neil Lewis, Director of People and Organisational Development
<b>Author</b>	NHS Wales Employers

### **Disclaimer**

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Corporate Governance](#).

## Summary of reviews/amendments

<b>Version number</b>	<b>Date of Review</b>	<b>Date of Approval</b>	<b>Date published</b>	<b>Summary of Amendments</b>
1	-	28 <sup>th</sup> July 2022	August 2022	
2	June 2023	23 August 2023	August 2026	<p>Updated to reflect changes to the Lifetime Allowance (LTA) and Annual Allowance (AA).</p> <p>The Annual Allowance has been increased from £40,000 to £60,000; and the Lifetime Allowance (LTA) charge for 2023 to 2024 has been removed (and will be abolished from April 2024).</p>

## **Employer Pension Contributions – Alternative Payment Policy**

### **1. Introduction**

1.1. This policy outlines an option for employees who are current active members of the NHS Pension Scheme (the NHS Scheme) who can demonstrate that they will be affected by the [annual allowance \(AA\)](#) in respect of their pension savings. For most employees, it will likely be in their best financial interests to remain in the [NHS Pension Scheme](#). This policy is only intended for those employees affected by the AA tax issue and sets out one option for these individuals. This may not be the best financial option for affected employees and so individuals should consider this policy and any associated information carefully before making a decision. Employees are strongly encouraged to obtain their own financial advice before making any changes.

1.2. This policy has been introduced to address operational risks that have been identified as a result of the pension tax regime. In particular, Health Boards/Trusts/SHAs have experienced a number of requests for reduced contractual hours, a reluctance to take on additional work and a desire to focus on private work as a direct result of the pension tax regime. This policy is an attempt to address these operational issues by setting out an alternative option. Other options for addressing this issue are available and these are set out in the "[Pension tax guidance for employers - Local measures to support staff and service delivery](#)" document published by NHS Wales Employers.

1.3. This policy does not form part of any employee's contract of employment.

1.4. This policy will allow those staff who believe they may be impacted by an in-year AA tax charge an alternative choice, allowing them to continue to work in their present role at their present level of service, and continue to develop in their career journey. Health Boards/Trusts/SHAs operating this policy will need to determine the effective date for any applications and consider whether any retrospective payments will be made for opt-outs already made within the current financial year.

1.5. Employers would like to see flexibilities introduced into the NHS Pension Scheme which support continued membership through providing flexibility on the level of an individual's pension accrual. Such flexibilities do not currently exist and the content of this model policy will kept under

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review and considered in the light of any progress on the introduction of pension flexibilities within the NHS Pension Scheme.

## **2. Purpose**

2.1 To provide an optional alternative to pension contribution for those employees who can demonstrate that they are impacted by the AA pension tax threshold and decide to opt out of the pension scheme thereby choosing to forego pension tax relief.

## **3. The options**

3.1 Where employees are currently active members of the NHS Scheme, and consider that they will be affected by the annual allowance (AA) they can:

- a. Continue in the NHS Scheme and bear any additional tax charges that arise (in the tax year for an AA charge); or
- b. Opt out of the NHS Scheme and apply to be paid an alternative payment as explained in 3.2 below (“alternative payment”).

Individuals who opt out of the NHS Scheme will become deferred members and will not be able to make any further money purchase, added years or additional voluntary contributions into the NHS Scheme.

3.2 The alternative payment that will be paid in the event of an opt out of the NHS Pension Scheme will be the sum equivalent to the Employer’s Contribution (amount that the employer ordinarily pays into the relevant NHS Pension Scheme if the employee were still a member of the 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.

This is circa 12.4% of pensionable pay (14.38% of pensionable pay net of employer’s national insurance contributions at a rate of 13.8%). Although the employer contribution increased by 6.3% from 1 April 2019, the funding for this increase is not available to Health Boards/Trusts.

Pensionable pay for the purpose of calculating the alternative payment will be determined by the Health Board/Trust/SHA but will be based on what the pensionable pay would have been for the purpose of calculating employer contributions paid by the Health Board/Trust/SHA to the NHS Scheme had the individual continued to participate in the NHS Scheme.

3.2 Where individuals opt out of the NHS Pension Scheme it is their responsibility to provide the pension scheme administrator with effective notice of the opt-out. Individuals must provide the Health Board/Trust/SHA with a copy of this notification and evidence that the opt-out is effective, before any alternative payment will be paid.

3.3 Where individuals opt out of the NHS Scheme there may be a significant impact on the level of benefits which may be received from the NHS Scheme. In particular, there is likely to be a notable reduction in ill-health benefits and death benefits from the NHS Scheme, and potentially redundancy benefits. Individuals considering the alternative payment should carefully review and consider the impact of opting out of the NHS Scheme on all of their benefits.

3.4 This is only one option that may be available. Other options may be available and the "[Pension tax guidance for employers - Local measures to support staff and service delivery](#)" document published by NHS Wales Employers outlines a range of other flexibilities. Where individuals are concerned about this issue, it is suggested that the matter is discussed with the Health Board/Trust/SHA to determine the potential options available.

#### **4. Impact of the alternative payment**

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

4.2. 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.

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4.3 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.

4.4. The model policy will reviewed at the start of each financial year and will be considered in the light of any progress on the introduction of pension flexibilities within the NHS Pension Scheme.

## **5. Making a request for the alternative payment**

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.

\* As noted in 1.4, Health Boards/Trusts/SHAs operating this policy 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

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(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 3.2 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 or a Total Reward Statement.

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## **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.

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 People 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 People 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 temporary in the case of Annual Allowance approvals), within five working days of the panel's decision.

## **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 allowance 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 determined that they would be affected by a AA charge 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 rejoin at this point they will remain out with the NHS Pension Scheme until the next date within their organisation for auto enrolment when they will be automatically re-enrolled, providing they meet the necessary auto reenrolment 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. Appeals Process**

Where a Panel decision is in dispute this will be referred to the Deputy Chief Executive and Director of Operations & Finance and Director of People and OD for a final decision. There is no further right of appeal and no right to raise a grievance under the Respect and Resolution policy about the process or outcome.

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**TO APPLY FOR ALTERNATIVE PAYMENT AS PART OF THE  
EMPLOYER PENSION CONTRIBUTIONS – ALTERNATIVE PAYMENT  
POLICY**

APPLICATION TO ACCESS RECYCLING OF NHS PENSION CONTRIBUTIONS  
(ALTERNATIVE PAYMENT) FORM

Please complete the form and attach the required supporting documentation. Then email to **PeopleSupport.PHW@wales.nhs.uk**

Name (in full)	
Position	
Payroll Number	
NI number	
Organisation	ECON Number – E390000M
Pension ID	ESCOM Number – S2730000B
Effective dates:	Start date: ..... (date following opt out) End date: ..... (usually 31 March)

Please note: The alternative payment will start from 1st of the month following confirmation that the opt out from the NHS Pension scheme has been processed.

**CHECKLIST**

Applications can only be considered if the following supporting documentation is provided

Supporting Evidence	Attached (tick)
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Documentation providing confirmation that there is a reasonable expectation of: <ul style="list-style-type: none"> <li>• exceeding the Annual Allowance for pension growth in the current financial year and that this breach is likely to generate a tax charge or;</li> </ul>	
<a href="#">Completed NHS Pensions Opt out Form SD502</a>	

**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 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.

Applicant's Name	
Signature	
Date	

Endorsed on behalf of Public Health Wales	
Head of People and OD Operations	

Deputy Director of Finance	
Assistant Director of People and OD	