



## NEWS

# Pension crisis: trusts take matters in their own hands

Frustrated with government inaction, some NHS organisations have taken steps to shore up their workforce for the winter, reports **Gareth Iacobucci**

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Some NHS trusts are already taking action to tackle the NHS pensions crisis ahead of the government's proposed solution, out of concern about the ongoing effects on their workforce, *The BMJ* has learnt.

On 6 August, after months of lobbying by the BMA and employers, the government announced that it would consult on plans to allow doctors in England and Wales to control how much they pay into their pensions from April 2020, to avoid punitive tax charges that apply when the tax free allowance on the value of their pension is exceeded ([box 1](#)).<sup>1</sup>

## Box 1: What we know about the proposed reforms so far

### What are the problems?

Changes to pension tax rules introduced in 2016 meant that as earnings go up the amount of pension that can be saved without incurring tax goes down. Everyone pays tax on any growth of the deemed value of their pension above the tax free annual allowance of £40 000. The "taper" that was introduced meant that, for every £2 of "adjusted income" (all taxable income plus pension growth) above £150 000, the annual allowance is "tapered down" by £1, to a minimum of £10 000. In practice, most doctors with a taxable income of £160 000 to £170 000 face full tapering of their tax free allowance if they remain in the NHS pension. Some have received tax bills of £60 000 and have reduced their working hours or retired early as a result. The current lifetime allowance is £1.055m. Contributions rise with salary and range from 5% to 14.5%. Employers' contributions range from 14.38% to 20.68%.

### What is the government consulting on?

Giving senior clinicians flexibility to set the exact amount they put into their pension pots. For example, they could pay 30% contributions for a 30% accrual rate, or any other percentage in 10% increments, depending on their financial situation. Trusts would then have the option to recycle employees' unused contributions back into their salary. This replaces the 50:50 proposal put forward for consultation in July.

### What effect does it hope this will have?

The government hopes that this added flexibility will enable senior doctors to take on extra work without breaching their annual allowance and facing potentially high tax charges. The 50:50 proposal was seen by the BMA and others as too restrictive.

### When are these changes due to come in?

From April 2020, the start of the next financial year. But the government has also promised to give more immediate guidance to trusts setting out how they can provide flexibility at a local level this financial year, to allow doctors to do extra work without breaching the limits for pension tax relief. The intention is to allow staff to opt out of the NHS pension scheme mid-year and give their employer discretionary flexibility to maintain the value of the clinicians' total reward packages.

### Is this going to solve all the problems?

On its own, no. But the chancellor, Sajid Javid, has also promised to review how the tapered annual allowance supports (or indeed fails to support) the delivery of public services such as the NHS. The BMA has told *The BMJ* that it thinks that only fundamental reform of tax policy will properly resolve the pension problem and is pleased that the Treasury is engaging with it and the NHS on possible solutions. But it remains to be seen how far the chancellor will be willing to shift on the issue.

The new approach, which the government has said it will consult on soon,<sup>2</sup> will add more flexibility than the previous "50:50" proposal announced in June,<sup>3</sup> which suggested that doctors could halve their monthly pension contributions to avoid tax charges.

The pensions crisis has escalated in recent months, with evidence emerging that thousands of consultants and GPs in the UK are retiring early or avoiding taking on additional work because of tax rules.

## “Greatest threat” to patient care

Some NHS trusts have put in place their own schemes, *The BMJ* has found, to tackle what the BMA described as “the greatest immediate threat” to medical workforce capacity and services for patients.

Finn O'Dwyer-Cunliffe is policy adviser on pensions at NHS Providers, the membership organisation for healthcare suppliers. He said that although trusts had “consistently made it clear to us that they would prefer a national solution,” some had put local schemes in place because of the lack of action at national level.

“A lot of the feedback we've received recently highlights how urgent this is from a capacity perspective for trusts and workforce managers when they're looking at planning for the increased demand over the winter,” he said. “There's certainly an urgency that means that it could be difficult to sit and wait for a preferential government scheme in certain cases.”

Earlier this year *The BMJ* reported that a small number of NHS trusts were allowing doctors to opt out of the NHS scheme and receive employers' contributions as salary.<sup>4</sup> More are now following suit.

Before the government's recent announcement, *The BMJ* asked NHS trusts in England what they were doing in response to the pensions crisis. As at July 2019 at least 16 trusts had either set up or were considering some form of salary flexibility scheme.

Other trusts told *The BMJ* that they had organised seminars on pensions taxation and enlisted independent financial advisers to speak to staff (box 2).

### Box 2: Examples of action taken by trusts

#### Northumbria Healthcare NHS Foundation Trust

Staff who have reached the lifetime allowance or the annual allowance threshold can opt out of the NHS pension scheme and get the employer's pension fund contributions paid as salary. Up to 40 senior members of staff have asked to be part of the new arrangements, which the trust said had “partly mitigated” staff shortages.

#### University Hospitals Coventry and Warwickshire NHS Trust

From 1 August 2019 a new scheme allows eligible employees to apply for a “pensions restructure payment,” in which the employer contribution is paid directly to them. This is designed to tackle the potential operational risks arising from consultants reducing their contracted hours, being reluctant to take on additional work, or focusing on private work. The trust says that the scheme is not designed to encourage employees to leave the NHS pension scheme, and those considering applying are strongly advised to seek independent financial advice.

#### North Cumbria University Hospitals NHS Trust

The trust has approved a pension scheme opt out for staff who meet certain criteria. Staff exceeding lifetime allowance or annual allowance thresholds can opt out of the scheme and apply for a payment of 12.6% of their pensionable salary to be paid monthly, subject to tax and national insurance contributions, during the course of their continued employment while they remain opted out of the scheme.

#### Royal Marsden NHS Foundation Trust

The trust is reviewing its existing retire and return policy, arranging awareness raising sessions for staff, and collaborating with other trusts to lobby for national action.

#### University Hospital Southampton NHS Foundation Trust

The trust has run a series of information sessions for consultants and senior managers, involving the accounting consultancy firm KPMG, to help staff understand the effect of the long term allowance, the annual allowance, and tapering.

NHS Providers said that most of the trusts that were taking action were “recycling” contributions: paying the lost employer contribution as salary.

In a briefing document summarising local options for trusts,<sup>5</sup> NHS Providers said that a handful of trusts had also explored

the potential to pay directly for services provided by consultants who have formed a limited liability partnership, to offer more flexibility for those staff to manage their pension savings.

## “We can't wait until next April”

Among the trusts to implement a local scheme is Dorset County Hospital NHS Foundation Trust. From September 2018 it allowed staff to opt out of the NHS pension scheme and receive their employer's contributions directly.

Mark Warner, the trust's director of organisational development and workforce, said it decided to go down this route because of concerns raised by consultants about both the annual allowance and the lifetime allowance.

“We were not trying to do something out of kilter,” he said. “But in the absence of a national solution we felt we had to do something to address the operational concern of people reducing their working capacity.”

“I absolutely welcome that [the government] are continually looking at different options. But I hope some things could be implemented immediately, as I don't think we can wait until next April.”

Warner conceded that Dorset's scheme hasn't had huge take-up by doctors, who have been ambivalent about quitting the NHS scheme, recognising its benefits (box 3). “It's fair to say it hasn't had a big impact as yet. Doctors are still asking to reduce their [work] capacity. They don't want to leave the NHS pension scheme but don't want to be penalised financially [by having extra taxes],” he said. However, Warner added, by offering the option the trust had raised awareness of the issue.

### Box 3: Why doctors don't want to leave the NHS pension scheme

- Doctors' contributions rise with salary and range from 5% to 14.5%
- Employers' contributions range from 14.38% to 20.68%, significantly more than average
- Pensions are larger on retirement than the public sector average, and many members get a lump sum
- Life assurance and family benefits in the event of a member's death
- The ability for some members (2008 scheme) to “draw down” and take partial benefits from age 55

O'Dwyer-Cunliffe said the reluctance to quit the NHS scheme was consistent with what NHS Providers was being told by its members. But he warned that this situation might not continue and highlighted a growing awareness of taxation pitfalls among staff.

“Obviously there will continue to be a very difficult decision for any senior clinician or member of staff to make about opting out of a scheme which provides such great benefits. But I think there's certainly an urgency among our members not to see local arrangements as a long term fix,” he said.

The government's proposal is likely to prove more attractive than local schemes because it will allow staff to reduce contributions and therefore their tax payments while staying within the NHS scheme, which they can't do at present.

York Teaching Hospital NHS Foundation Trust, which had set up a staff retention scheme whereby employees could receive 50% of the employer's pension contribution as salary, told *The BMJ* that it had suspended this offer “pending a national solution” in the wake of the government's announcement.

But Northumbria Healthcare NHS Foundation Trust, which has a similar scheme in place, said it would maintain its scheme

and consult affected staff on “the best way forward” when the national solution comes into force.

## Pressure on workforce

The pensions crisis has increased pressure on an already overstretched workforce. The most recent survey by the BMA earlier this month found that, of 6170 respondents, 42% of GPs and 30% of consultants had reduced their working hours because of pension tax charges.<sup>6</sup> A major stumbling block is the “taper” that was introduced in 2016, which effectively means that as earnings go up the amount of money that can be saved in a pension tax free goes down.

Royal Cornwall Hospitals NHS Trust, another organisation that is considering how to make pay and working arrangements more flexible, said it had been forced to use agency staff to cover gaps because of staff reducing their hours as a result of pension tax charges.

O'Dwyer-Cunliffe said, “The fact is that the NHS relies on quite a considerable amount of overtime work from senior staff, and the operation of the taper has put that at risk. There will always be a risk—where capacity is significantly reduced—that one short term way to plug that gap is by paying high rates for temporary staff.”

He added, “It's not just about money or plugging gaps or filling rotas, it's about the positive that a substantive and experienced staff bring to an entire team.”

Provider trusts are also concerned that the government's scheme will not apply to senior managers as well as to clinicians, which O'Dwyer-Cunliffe called “a real case of inequity.”

Even among the medical profession there remains a belief that while the government's action is welcome, the problems will endure until the Treasury commits to wider pension tax reform.

After the government's announcement, the BMA's chair of council, Chaand Nagpaul, said, “The new proposed flexibilities will provide short term relief for many doctors, but they themselves do not tackle the core and underlying problem. This lies in tax reform. And as we have said before, it is the overhaul of the annual allowance and tapered annual allowance that will make a difference to all doctors, including consultants, GPs, and medics in the armed forces.”

NHS Providers sounded a similar note. “We need to see the detail of the consultation, but this proposed solution may not wipe out the problem completely,” said O'Dwyer-Cunliffe. “A change to the operation of the annual allowance taper would have a much larger impact.”

Patrick Bloomfield, a partner at the pensions consultancy firm Hymans Robertson, said the issue had shown that the UK's “malfunctioning pension tax system” needed to be simplified.

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- 2 Newman M. The fight to end the pension tax trap continues. *BMJ* 2019;366:l5135.
- 3 Rimmer A. NHS pension: doctors' views sought on “50:50” proposal. *BMJ* 2019;366:l4810. 10.1136/bmj.l4810 31331949
- 4 Iacobucci G. NHS trusts pay pension contributions in cash to ease consultants' tax burden. *BMJ* 2019;365:l1846. 10.1136/bmj.l1846 31000632
- 5 NHS Providers. Annual allowance pension tax: summary of trust approaches to “alternative schemes.” Aug 2019. <https://nhsproviders.org/media/688007/nhs-pension-tax-local-schemes-member-information-briefing-final.pdf>.
- 6 Rimmer A. NHS pensions: thousands of doctors have cut their working hours to avoid tax charges, survey finds. *BMJ* 2019;366:l5006. 10.1136/bmj.l5006 31371326

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