



Scottish Public
Pensions Agency
Buidheann Peinnseanan
Poblach na h-Alba

***NHS Pension Scheme (Scotland):
proposed changes to member
contributions from 1 April 2022***

***Scottish Government consultation
2022***

Consultation Response

1. Background

- 1.1. The NHS Pension Scheme (Scotland) (NHSPS(S)) continues to be an integral part of the NHS Scotland remuneration package and offers significant value in retirement to NHS staff.
- 1.2. Currently, contribution rates are tiered to reflect that higher earners are likely to receive proportionally more pension benefits than lower earners from the pension scheme. To ensure the costs of the NHSPS(S) are fairly distributed and affordable for all members, these tiered contribution rates ask higher earners to pay proportionally more than lower earners to access the valuable benefits of the scheme.
- 1.3. As part of the [McCloud remedy](#), from 1 April 2022 all members moved from the NHS final salary schemes to the NHS Pension Scheme 2015 which is a career average revalued earnings (CARE) scheme. In a CARE scheme members earn a percentage of their salary for each year they work. While a high percentage of members will retain a final salary link for their final salary scheme benefits, the move to a CARE scheme means that the costs and benefits of the scheme should begin to be more evenly shared.
- 1.4. As such, the SPPA published a public consultation which sought views on changes to member contributions, which aimed to preserve participation in the scheme while protecting its substantial value for members in retirement. The SPPA has sought to reach agreement on the proposals through public consultation and consultation with key stakeholders through the Scheme Advisory Board (SAB).

2. Consultation Process

- 2.1. The proposals and draft regulations were subject to public consultation which began on 24 January 2022 and ended on 27 February 2022. A consultation document, [NHS Pension Scheme \(Scotland\): proposed changes to member contributions from 1 April 2022](#) and response form were published on www.pensions.gov.scot with responses invited by way of a response form returned via email or post to the SPPA.
- 2.2. The larger NHS Trade Unions, a number of NHS employers and other interested parties were formally notified of the Consultation.
- 2.3. Prior to publication of the consultation document, the SPPA worked with the SAB to review the member contribution structure. The SAB is a statutory board comprising trade union and employer representatives, that advises Scottish Ministers on the merits of making changes to the NHS Pension Scheme (Scotland).
- 2.4. A total of 117 consultation responses were submitted to SPPA, with 108 received from scheme members and 9 received from trade unions and staff associations.

2.5. The British Medical Association (BMA) provided their members with a template response to assist them in writing their consultation response. Approximately 31 responses were submitted using the BMA's template as a basis, with some of the respondents submitting additional commentary.

3. Contribution yield

3.1. The consultation document set out, that as a result of recommendations made by the Independent Public Service Pensions Commission in 2010 the UK government announced a 3.2% increase in employee contributions across the public service pension schemes. This increase meant that members in the NHSPS(S) are required collectively to contribute 9.8% across the whole scheme membership. This is known as the member contribution 'yield'.

3.2. The tiered contribution structure implemented in the NHSPS(S) from 1 April 2015 was designed so that the 9.8% yield was achieved. However, as a result of changes in workforce distribution, the NHSPS(S) has begun to underperform against the target yield and over the last three years has achieved a yield of around 9.6%.

3.3. HM Treasury require that the revised member contribution structure for the year 2022-23 must achieve the original target yield of 9.8%. As a result, before any structural changes to member contributions can be considered, the contribution rates for all members need to increase by 0.2%, as compared to the current rates, to ensure the target 9.8% contribution yield is met.

3.4. Given the extremely challenging circumstances for our valued health workforce, with high inflation and National Insurance contribution increases from April 2022 set to impact on pay; the Scottish Government were reluctant to increase contribution rates for NHS staff further from 1 April 2022 and set out their preference to continue with a structure which delivered the current yield of 9.6% for 2022-23.

3.5. However, if the Scottish Government continued with the yield position of 9.6% for 2022-23 this would have resulted in a shortfall in the yield of around £12m per annum. HM Treasury confirmed they would have required this shortfall to be met from within the Scottish Government budgets.

3.6. The consultation document posed the following question in relation to the member contribution yield:

“Q1. Do you agree or disagree that the Scottish Government should pursue a yield position of 9.6% to avoid increasing contribution rates by an additional 0.2% to meet the target yield required by HM Treasury? Recognising that maintaining the 9.6% yield will require the Scottish Government to divert £12m of vital health budget spending to pay for the pension contribution shortfall in 2022-23.”

3.7. Table 1 below, provides a brief analysis of responses to the question and shows that the majority of the respondents (75%) agree that the Scottish Government should pursue a 9.6% yield position to avoid increasing contribution rates further to deliver the additional 0.2% yield.

Table 1

Responses	Percentage
Agree	75%
Disagree	21%
Do not Know / No Response	4%

3.8. Of those respondents who agreed that a 9.6% yield position should be pursued, a number also made the point that shortfall funding should be found from Scottish Government budgets. Unison Scotland made this point their response:

“We are supportive of pursuing a yield position of 9.6%. The use of £12m from a £17bn (~0.07% of spending) to achieve this should be seen as a justified investment in the vital staff who deliver Scotland’s health care.”

3.9. A number of respondents have objected to the wording of this question and the comment on diverting health budget spending. The British Dental Association (BDA) made the following point in their response:

“Regarding the stated requirement to divert money from elsewhere, dentists have particularly voiced consternation over the implicit threat therein. BDA does not believe that any such position (if agreed by HM Treasury) should be unilaterally introduced without a full understanding and discussion of where the equivalent shortfall in the health budget would fall.”

3.10. The SPPA regret the framing of this question and the consternation this has caused. The question was framed in this way in order to demonstrate the case that had been made to HM Treasury around the yield and simply to highlight that the Scottish Government would be required to budget for additional funding if a 9.6% yield position was pursued.

3.11. Some respondents used their response to this question to make a point about the yield level in the NHSPS(S), set by HM Treasury, being too high in relation to other public service pension schemes. This point was made by the Royal College of Nursing in the comment below:

“It is our firm view that the proposed yields of 9.6% and 9.8% are both excessive and seemingly far too high, which will lead to unfair treatment for all members. This is particularly so when comparing this yield with other public sector pension schemes. The Scottish Local Government Pension Scheme, for example, has an average member contribution yield of 6.3%.”

3.12 Finally, some respondents also queried what changes in workforce distribution have caused the NHSPS(S) to underperform against the target yield. This was raised by the BMA in the following comments:

“There is insufficient information provided to enable a clear determination as to why the shortfall in yield exists in Scotland. Without this information, it is not possible to make a judgement on how this can be fairly addressed.”

3.13. The SPPA sought guidance from the Government Actuaries Department (GAD) on why the 9.8% target member contribution yield was not achieved. GAD have advised that there several possible reasons as to why the yield has not been met in recent years:

- All members do not receive the average pay increase awarded to Agenda for Change (AfC) staff. For members who receive more than this average pay increase, they may end up paying a higher contribution rate than they did the previous year, and conversely, for those who receive less than the average pay increase, they may end of paying a lower contribution rate than they did the previous year. In turn, the overall monetary contribution received may not always increase in line with overall increase in pensionable pay.
- Changes to the salary profile of the scheme’s membership (e.g. members who leave are not replaced by members with similar salary, more members move between part-time status and full time status), will alter the overall contribution yield achieved.
- The adjustments to the earnings bands that have been applied by SPPA to better align these with actual AfC pay bands in the relevant year, have resulted in more members paying a lower contribution rate than might have otherwise been the case. In turn, this too will have contributed to the yield not being achieved.

3.14. As a result of the delay in the implementation of contribution reforms described in paragraph 4.10 below, the SPPA intend to have a further consultation on member contribution proposals to be implemented from October 2022.

4. Summary of proposals

4.1. As set out in the consultation document, the 2015 reforms introduced a new scheme where pension is built up on a CARE basis. The McCloud remedy closed further final salary accrual in the 1995/2008 scheme from 1 April 2022 and moved all members into the 2015 CARE scheme for future service. Accordingly, it is now appropriate to review the current member contributions.

4.2. In a CARE scheme, members accrue the same proportional benefit and there is an argument that everyone should pay the same rate - that is the 9.8% yield. However, it is proposed that a tiered contribution approach is retained, recognising the mutual intention of the scheme and the continuing desirability of facilitating

participation across the whole NHS Scotland workforce, having regard to potential affordability concerns for lower earners. In addition, many members will have a 'final salary link' applied to their accrued 1995/2008 scheme service, meaning that higher earners will continue to derive more value from that service than members who experience steadier pay progression through their career.

4.3. It was proposed that the earnings ranges for each tier would be increased annually, in line with general uplift applied to AfC pay bands. This will continue to mitigate the cliff edge issue that sees some members charged a higher contribution rate because a pay uplift has put them into a different tier.

4.4. It was also proposed that April 2022 presented an appropriate point to start assessing contributions based on a member's actual pensionable pay rather than their notional whole-time equivalent. This is fairer for members who work less than full-time and accrue pension in a CARE scheme. It will mean that most part-time members will pay lower contributions from 1 April 2022.

4.5. Whilst retaining tiering remains the preferred approach, it is accept there is a need to reduce the steepness of the tiers over time and move towards more members paying closer to the 9.8% yield. This is more appropriate in view of the CARE scheme accrual method and means that high earners would pay lower contribution rates. Rebalancing the rates will mean that lower earners will be asked to contribute more than they currently do. It is therefore proposed that adjustments to contribution tiers are done gradually to reduce the impact on take home pay for staff and mitigate the risk of staff leaving the scheme on grounds of affordability.

4.6. The structure set out in table 1 below aims to strike the right balance and will be phased in over 2 years. For the purpose of determining a member's contribution tier, their pensionable earnings are rounded down to the nearest whole pound. In practice, the tier thresholds will be increased annually in line with AfC pay awards and therefore the figures will be slightly different for future scheme years.

4.7. The proposed contribution structures are shown in table 1 below. The table shows the 9.6% yield option for 2022-23 in column D and the 9.8% option for 2022-23 which achieves the target yield shown in column E. The proposal is that the 9.8% yield will be met in 2023-24, shown in column F.

Table 1 – Proposed contribution structure

A	B	C	D	E	F	G
Current tiers	Pensionable earnings (rounded down to nearest pound)	Current rate	Rate from 1 Apr 2022 (9.6% yield)	Rate from 1 Apr 2022 (9.8% yield)	Rate from 1 April 2023 (9.8% yield)	New tiers
		(WTE pay)	(Actual pay)	(Actual pay)	(Actual pay)	
Tier 1	Up to £13,330	5.2%	5.5%	5.7%	5.9%	Tier 1
Tier 1	£13,331 to £21,614	5.2%	5.9%	6.2%	6.5%	Tier 2
Tier 2	£21,615 to £25,981	5.8%	6.5%	6.7%	6.9%	Tier 3
Tier 3	£25,982 to £32,915	7.3%	7.9%	8.4%	8.8%	Tier 4
Tier 4	£32,916 to £48,784	9.5%	10.3%	10.5%	10.8%	Tier 5
Tier 4	£48,785 to £65,376	9.5%	10.9%	11.0%	11.4%	Tier 6
Tier 5	£65,377 to £89,731	12.7%	13.7%	13.7%	12.7%	Tier 7
Tier 6	£89,732 to £119,560	13.7%	13.7%	13.7%	12.7%	Tier 7
Tier 7	£119,561 and above	14.7%	13.7%	13.7%	12.7%	Tier 7

It was proposed the SAB would keep the contribution rates under review, monitoring membership and participation data to inform the timing and nature of any future adjustments.

Changes to the timing of the Reforms

4.8. As highlighted in the consultation document, the Scottish Government have made a strong case to HM Treasury that an increase in the contribution yield from 9.6% to 9.8% for 2022-23 is not required because the current employer contribution rate was set to account for any member contribution shortfall.

4.9. Engagement with HM Treasury continued during the consultation period around the yield requirements and the Scottish Ministers wrote to the Chief Secretary to the Treasury (CST) seeking flexibility for contribution rates to be set to continue to yield 9.6% of pensionable pay for 2022-23. This was on the basis that flexibility was required to allow the Scottish Government to implement a contribution structure from 1 April 2022 which recognised the current strains on the health workforce.

4.10. In response to the letter from the Scottish Ministers, the CST has agreed that reform of the pension contribution structure could be delayed until October 2022,

which would avoid increasing pension contributions at the same time as increases to National Insurance contributions. The Scottish Ministers decided that this delay would be appropriate and would avoid immediate pressures on the take-home pay of NHS staff. This is consistent with the approach being taken for the scheme in England & Wales.

4.11. The current member contribution rates will therefore continue until October 2022. The contribution tier thresholds, however, were increased from 1 April 2022 in line with AfC pay increases, as has been the policy since 2015.

4.12. As a result of the delay in the implementation of the contribution reforms until October 2022, we intend to have further consultation during the summer which will be based on responses received to this consultation and will allow for an extended consultation period.

Change 1: move to assessing contribution rates on actual pensionable pay

4.13. The NHS Pension Scheme (Scotland) currently calculates contribution rates for employed members based on their notional whole-time equivalent (WTE) pensionable earnings. Notional WTE is currently applied to members who work less than full time, where the member is assigned a contribution rate based on the full-time earnings for the role but pays a percentage of their actual earnings. The consultation document proposed that members’ contribution rates would be based on their actual annual rates of pensionable pay, instead of their notional WTE. Calculating rates based on actual annual rates of pensionable pay is common in other public sector pension schemes.

4.14. Respondents to the consultation were broadly supportive of the proposal to use actual annual rates of pensionable pay to determine a member’s contribution tier. Table 2 below shows a summary of response to the following consultation question:

“Q2. Do you agree or disagree that the member contribution rate should be based on actual annual rates of pay instead of members' notional whole-time equivalent pay?”

Table 2

Responses	Percentage
Agree	91%
Disagree	4%
Do not Know / No Response	5%

4.15. 91% of respondents agreed with this proposal, with commentary indicating the belief that a move to actual pay would benefit part-time staff, with many respondents highlighting that many more women than men worked part time. The proposed change to actual pay was also considered fairer and more appropriate moving

forward, with all staff accruing benefits in a Career Average Revalued Earnings (CARE) scheme. UNISON Scotland in their response stated:

"In our view the shift to actual earnings from WTE is the fairest way to manage contributions in a CARE scheme,"

4.16. The BDA commented:

"Notwithstanding our view that member contributions should be flat rate; we agree that, in the context of a tiered system, basing contributions on actual annual pay is preferable to the whole-time equivalent rate."

4.17. A small percentage (4%) of respondents disagreed with the proposal. Of those who disagreed, some felt it might encourage staff to reduce to part-time working in order to pay lower contribution rates. However, these members would also receive a reduction in their pension benefits and salary. It is considered that contribution rates are only small factor in members' considerations around their working patterns and this is unlikely to have a significant impact on an individual's decision.

4.18. Others who disagreed expressed concern that it would impact on the 9.8% member contribution yield and require full-time members to pay more. This is part of the nature of tiered contribution rates; that members who earn more are asked to pay proportionately more for their pension benefits in order to provide a discount to help those who earn less to participate in the scheme.

4.19. Overall, respondents welcomed moving away from notional WTE and instead basing members' contribution rates on their actual annual rates of pensionable pay and 91% of respondents agreed with the proposal.

4.20. Following consultation, SPPA believes that using actual annual rates of pensionable pay is the right mechanism to determine a member's contribution rate, therefore, we will not consult further on this proposal and it will be implemented with the contribution reforms.

Change 2: Rebalancing contribution rates

4.21. The consultation document recognised that the existing contribution structure is tiered on the basis that those earning more pay a higher contribution tier than those earning less. This tiering recognises that, in a final salary scheme, high earners tend to derive more value from their ultimate pension benefits relative to the amount contributed over their career. However, in a CARE scheme, there is no pay progression benefit; pension is calculated based on earnings in each year of membership and therefore this reduces the justification for retaining the very highest tiers in a CARE scheme and generally should result in a narrower range of employee contribution rates.

4.22. However, as mentioned above, members who have transferred to the 2015 CARE scheme from the old scheme will still benefit from the final salary link. This is a valuable benefit to those members who were in the old scheme and will increase the value of a member’s final salary benefits even though no further rights are accrued under the old scheme.

4.23. The consultation proposed that changes to the member contribution structure would come into effect on 1 April 2022. The new structure would use annual rates of pay and would require a rebalancing of the contribution rates because most part-time members would pay lower contribution rates. It was estimated that this would lead to a 0.5% reduction in the contribution yield. Therefore, the member contribution structure would need to be adjusted to accommodate this change.

4.24. The consultation sought views on the member contribution structure shown in Table 1 above. The proposal contained two contribution structures, one which delivered 9.6% in the 2022-23 and one which delivered 9.8%. The structure was planned to be phased in over two years beginning on 1 April 2022. The proposed structure aimed to reduce the highest contribution tiers, initially from 14.7% to 13.7% from April 2022 and then to 12.7% from 1 April 2023.

4.25. As a result of the need to narrow the range of contribution rates, the consultation proposed that the cost of moving to actual pay (0.5%) was not added to the highest member contribution rate but is instead spread across the other contribution tiers.

4.26. The consultation sought views on the proposed structure and asked the following question

“Q3. Do you agree or disagree with the proposed member contribution structure set out in this consultation document?”

4.27. Responses to the question are shown in table 3 below. There is very little support for the proposed structure put forward in the consultation and only 13% were in agreement with the proposal.

Table 3

Responses	Percentage
Agree	13%
Disagree	85%
Do not Know / No Response	3%

4.28. The reasons for objecting to the proposals were broadly split into two main themes. A large group of members objected to the principle of a tiered structure, commenting that all members should pay 9.6% or 9.8% depending on yield requirements. Where it was suggested that a tiered structure might be acceptable, respondents claimed that the structure should be much flatter and higher earners should not be asked to pay contribution rates considerably higher than the average yield. Respondents who used the BMA's template response provide the following comments:

"Under the CARE system, all members should in effect pay the same amount per £1 of pension. There is therefore no need for any tiering, and I would therefore suggest a totally flat contribution rate based on a fair yield percentage that did not create surpluses within the scheme, as has already been the case."

"If the required yield remains 9.8% (or 9.6% in 2022-23), a fairer approach would be for all members, or at least the majority, to be contributing that amount. This doesn't seem to be the case in the proposals outlined."

4.29. The BMA's response made the following point:

"The proposed member contribution structure does not go anywhere near far enough to address the overall high costs borne by doctors in comparison to other NHS staff for continued membership of the scheme. If an overall flat rate is not accepted, a flatter contribution structure than that being proposed would be the only way to address this unfairness and it would appear that the Scottish Government are missing a crucial opportunity to address this imbalance and the ongoing detriment to doctors. "

4.30. One respondent also made the following comment:

"I do not agree with the proposed member contribution structure. Members choose to be part of the scheme and it should be a set percentage for all. If a yield of 9.6% is required then that is what we should pay. I should not be paying 10.8% or above and ultimately what I perceive as subsidising someone else's pension."

4.31. In the consultation response, it was set out that the rationale for tiering is strongest in final salary schemes. As part of stakeholder consultation with the Scheme Advisory Board, a flat structure of 9.8% was considered. However, there remains justifications to keep tiering as a design feature of the member contribution structure, notably to maintain the mutuality of the scheme and to protect affordability for lower earning members of the scheme. Additionally, members who have transferred to the 2015 CARE scheme from the old scheme will still have final salary scheme benefits that are calculated using pensionable pay at retirement (that is, a final salary link). This is a valuable benefit to those members who were in the old scheme and will increase the value of a member's final salary benefits even though no further rights are accrued under the old scheme.

4.32. The other main theme of the responses amongst those who rejected the proposals was that they did not do enough to protect lower paid staff in the NHS and that contribution rates of lower earners should not be increasing while higher earners see a reduction in their contribution rates. The Royal College of Nursing made the following points:

“In light of member feedback, the RCN disagrees with the proposed contribution structure. As a point of principle, the RCN does not support the general approach of expecting lower-paid members of the SPPA(S) pension scheme to pay proportionately more whilst higher earners will see their contribution rates reduce. Some RCN members will see their contributions increase at a time when its affordability becomes a real issue due to the combination of suffering the impact of comparatively high inflation rates, escalating utility costs, increasing cost of living expenses more broadly and the negative consequences of a 2021-2022 pay award that amounts to a real-terms pay cut. Consequently, there is a real danger that any overall beneficial impact of the proposed changes could be undermined by a growing number of members deciding that they can no longer afford to pay into the SPPA(S) pension scheme and will therefore consider or simply be leaving.”

4.33. Unison Scotland also echoed this sentiment in their response:

“We fundamentally disagree with the proposed structure. A system which greater contributions from those on low or modest wages are increased while those on the highest wages are reduced is unacceptable. This would be unfair at any point – when our members are facing a cost of living crisis it would be unwise as well as unfair. The scheme depends on high membership rates. The proposals would encourage lower paid staff to leave the scheme.

We would repeat our support for the majority staff side position shown here.

Majority staff-side proposal

Actual Earnings	Current Rates	Majority staff-side Proposal	Proportion of members in each tier
Up to and <u>inc</u> £20,605	5.20%	6.00%	38%
£20,606 to £24,972	5.80%	6.60%	12%
£24,973 to £31,648	7.30%	8.10%	15%
£31,649 to £64,094	9.50%	10.30%	28%
£64,095 to £89,731	12.70%	13.50%	3%
£89,732 to £119,560	13.70%	14.50%	3%
£119,561 and above	14.70%	15.50%	2%
<i>Yield</i>	9.80%	9.80%	

4.34. In addition to the two main objections to the proposed structure, a number of respondents raised specific issues with the proposed increases for those members in AfC pay band 5 and for members in the new contribution tiers 5, 6 and 7.

4.35. For members in band 5, respondents felt that they would be facing a particularly large increase in their contribution rate, which is proposed to increase by 1.5% (1.1% from April 2022 and a further 0.4% in April 2023) under the 9.8% yield proposals. Respondents also raised concern that the net of tax contribution rates were not progressive. This was highlighted in relation the new tier 5 (£32,916 to £48,784) net rate for 2022/23 which is 8.14% whereas the tier 6 (£48,785 to £65,376) net rate would be 6.43%.

NHS Ayrshire and Arran highlighted in their response:

“The net of tax relief contribution of people in the new tier 5 is higher than for tier 6 which does not seem progressive therefore an increased contribution for tier 6 and reduction for tier 5 may be appropriate.”

4.36. A number of responses highlighted a perceived unfairness from increasing contributions for those members in the new tier 7 (£65,377 to £89,731) from 12.7% to 13.7% in their first year of phased implementation and then reducing them again to 12.7% in the second year. Some respondents also raised concerns about the extent of the increase in contributions for those in the old tier 4 and the new tier 6 (£48,785 to £65,376) where their contributions are proposed to increase by 1.9%, which is the highest increase across all tiers. Finally, respondents highlighted that as part of the new proposals, no members will pay the average (yield) contribution rate of 9.8% and that would appear to contrary to the intention of the reforms.

One respondent made the following comment:

“In particular, there is a significant rise in contributions for those in the current tier 4 and the new tier 6, who will see their contributions disproportionately increase by nearly 2%. This is the steepest increase across the entire structure and impacts members who are already paying rates broadly in line with the target yield. The consultation acknowledges the need to move ‘towards more members paying closer to the 9.8% yield’, however, this change runs entirely counter to this intention.”

4.37. As set out in the consultation, the proposed member contribution structure sought to strike the appropriate balance between maintaining the affordability of the scheme and ensuring that the member contribution structure better reflects the nature of accrual in a CARE scheme.

4.38. With affordability and fairness in mind, the proposed structure aims to keep increases for each tier to minimum and where possible make those increases consistent across the tiers. With the exception of the new tier 6 (£48,785 to £65,376), the gross rate increases for 2022-23 range from 0.5% to 1.1%, with the average increase

being 0.9%. In year 2, the increases range from 0.2% to 0.4%. It is proposed that the new tier 6 would increase by 1.5% in first year and 0.4% in second year. This larger than average increase seeks to correct an anomaly in the existing contribution structure, where members who are earning above the average salary in the NHS are currently paying 9.5% which is below the average required contribution rate of 9.8%.

4.39. With regards to the progressivity of the net contribution rates, because we have tried to keep increases to each tier consistent where possible and because the existing structure is not completely progressive, then the current structure does not have fully progressive net of tax rates. Also, because the intention is to narrow the range of tiers, which involves reducing the highest tiers, the income tax relief received by the highest earners means they are not paying the highest net contribution rates. As highlighted, those members in tier 5 will pay a higher net contribution rate than those in tier 6, this is a result of the effects of higher rate tax relief which applies to those in tier 6. This situation exists in the current structure.

4.40. In an attempt to narrow the range of contribution tiers, we have proposed merging the top three contribution rates into a single tier (tier 7). This means that all members earning above £65,376 will pay the highest contribution rate. As part of the phased implementation, in the first year, those in the old tier 5 would see an increase in their contribution rate from 12.7% to 13.7%. This aligns old tier 5 with the two tiers above and creates a single tier 7. This highest tier then reduces to 12.7% from April 2023. By increasing the old tier 5 by 1% in the first year of implementation, it also allows us to protect the lowest paid from larger contribution increases and the increase levied on tier 5 members is consistent with increases applied to other tiers.

4.41. The consultation document noted that our aim over time is to rebalance the contribution tiers and move towards more members paying closer to the average 9.8% contribution yield. The proposals in the consultation document, which cover 2022-23 and 2023-24, are a move towards members paying 9.8%, with the top tier reducing from 14.7% to 12.7%. However, in terms of achieving the contribution yield, we require the average contribution rate across the membership to be 9.8% which the proposed structures achieve. There is no requirement as part of these transitional proposals for any members to pay the 9.8% rate and therefore the proposals are not contrary to the overall intention to rebalance the contribution rates and to narrow the range of tiers.

4.42. Having reviewed the consultation responses, it is clear that this is an area of tension between: respondents who wish to see a flatter contribution structure, or single contribution rate, and those who have raised concerns around affordability and wish to see slower progress to narrowing the tiers, or retain to the current tiers.

4.43. The SPPA has listened to the responses and there is a clear lack of support for the proposed contribution structures presented in the consultation. Therefore, given the delay in implementation, this will allow the SPPA the opportunity to consider the proposals further and to consult again. A second consultation will take

place over the summer 2022 which will take into account the responses received to the original consultation.

Change 3: Change to the approach of increasing tier boundaries in line with annual AfC pay awards

4.44. When the current member contribution structure was implemented in 2015, one design feature was that the pay/earnings bands set out in each tier were to be increased each year in line with national NHS pay awards in Scotland. The intention was to ensure that the tiers remained in line with annual increases in individual members pay and to avoid individual scheme members being moved into a higher contribution tier as a result of the national NHS pay awards.

4.45. The approach that has been taken since 2015 to avoid scheme members' seeing a reduction in their take-home pay as a result of the AfC pay award, has been to link the tier boundaries to a particular pay point in the AfC pay scales and for the tier boundary to track that pay point. However in recent years, as the number of points has been reduced in each pay band, this has caused issues with setting the tiers and led to some tier boundaries increasing well in excess of the headline pay increase. This has subsequently impacted on the contribution yield as the tier boundaries have increased and is part of the reason why the scheme is currently underperforming against the target yield.

4.46. In order to avoid negatively impacting the yield going forward, it was proposed that all tier boundaries will be increased by the overall average uplift in AfC pay, which for example was 4% in 2021/22. Whilst there are different processes for determining the pay award for different parts of the workforce, it was proposed that the earnings ranges in the contribution tiers will be increased each year in line with the average AfC pay award. This means that the contribution tiers would remain consistent across all areas of the workforce.

4.47. The consultation sought views on this proposal structure and asked the following question:

“Q4. Do you agree or disagree that the thresholds for the member contribution tiers should continue be increased in line with annual AfC pay award? And that the increase should be based on the average uplift in AfC pay rather than tracking individual pay points.”

4.48. Responses to the question are shown in table 4 below. There is majority support for this proposal with 88% in agreement that tier thresholds should be increased annually in line with the average uplift in AfC pay.

Responses	Percentage
Agree	88%
Disagree	9%
Do not Know / No Response	3%

4.49. While 88% of the respondents have agreed that uprating of the tier thresholds should be done by the average pay uplift, 31 respondents have suggested that the tiers should be increased by the greatest of average of AfC or medical staff pay rises. Those 31 responses were from those respondents who used the BMA’s template response which contained the following opinion:

“If tiering is to be maintained, it is clear that uprating is required, although I would suggest the greater of average AfC or medical staff pay rises should be used.”

4.50. Of those members who disagreed, the common reason was that they felt uprating of thresholds should remain linked to individual pay points. One respondent said:

“Disagree. The tiers need to continue to follow the pay points accurately. Assigning a blanket uplift percentage across the pay bands could quickly lead to a further mismatch between actual earnings and contributions.”

4.51. As set out in the consultation, uprating the tier thresholds by linking them with individual pay points has the potential to negatively impact on the contribution yield, which has happened since 2015. It is clear that respondents are in favour of continuing to uprate the thresholds annually, therefore we intend to do this by increasing the tiers by a single average pay uplift figure. We will consider further which pay uplift figure would be most appropriate, however, we do not intend to consult further on this proposal and it will be implemented with the contribution reforms

Implementing the proposals: phasing in the new rates

4.52. The consultation proposed that the new member contribution structure should be phased in over two scheme years: 2022 to 2023 and 2023 to 2024. The aim of the phasing was help to minimise opt-outs and reduce the impact on take-home pay for members who will be paying higher contribution rates under the new structure, while ensuring that the new member contribution structure is implemented in a timely manner. The consultation asked the following question in relation to phased implementation:

“Q5. Do you agree or disagree that the proposed member contribution structure should be phased over 2 years? If you disagree or don’t know how to answer, please explain why.”

4.53. Responses to the question are shown in table 5 below. The number of respondents who agreed and disagreed were fairly evenly split with marginally more respondents disagreeing with the proposal.

Table 5

Responses	Percentage
Agree	48%

Disagree	50%
Do not Know / No Response	3%

4.54. Those who agreed with the phased approach did so because it proposed to lessen the impact on take-home pay by increasing rates for members incrementally over two years. The Royal College of Midwives made this point in their response:

“The RCM agrees that changes should be phased in over two years in order to lessen the impact on take-home pay for members who would pay more under the new structure. Clear and accessible communications would be needed to ensure that members understand the changes given the proposal that this would happen at around the same time as McCloud member communications.”

4.55. Respondents who disagreed, mostly did so because they felt the move towards a flatter contribution structure should be happening at a quicker pace and the phased approach would slow that progress. There were a few respondents who disagreed because they felt phasing these changes over two years was too quick and it should be done over a longer period. The BDA agreed with phasing in principle but also wished to see a longer term plan for moving towards a flat structure.

4.56. The delay in implementation of the contribution reforms until October 2022 has led to changes in the original planned phasing period. As there is a lack of consensus of over phasing, SPPA will consider revised proposals around a phased approach to be included in the consultation later this year.

5. Proposed draft amending regulations

5.1. To apply the proposed changes, the SPPA will need to amend scheme rules. The rules of the NHSPS(S) are set out in regulations, which is a form of secondary legislation. The consultation document requested feedback on the draft amending regulations and whether the draft amending regulations met the policy objectives set out in the consultation document. The draft amending regulations were proposed in order to implement:

- the new tiered contribution rates from 1 April 2022 that correspond to the first year of the proposed phased introduction
- the assessment of a tiered contribution rate for part-time employed members based on their actual annual rate of pay rather than the notional whole-time equivalent
- a mechanism in regulations that uses 2 contribution rate tables to allow:
 - members who have their contribution rate based on their previous year’s pensionable earnings to use the contribution rates before any increase to tier boundaries is applied
 - members who have their contribution rate based on current pensionable earnings to use contribution rates that have increased in line with

the AfC pay award for that scheme year (which will be updated by amendment regulations following the AfC award announcement)

5.2. The consultation document asked:

“Q6. Do you agree or disagree that the proposed draft amending regulations deliver the policy objectives of implementing the first phase of changes to the tiered contribution rate structure and the assessment of a tiered rate using actual annual rate of pensionable pay for part-time members rather than notional whole-time equivalent?”

5.3. Table 6 below shows responses, 79% of respondents agreed that the draft amending regulations would deliver the policy whereas 10% disagreed and 10% either didn't know or didn't answer that question.

Table 6

Responses	Percentage
Agree	79%
Disagree	10%
Do not Know / No Response	10%

5.4. Some respondents were concerned about the complexity of the draft amending regulations, for example the BMA said:

“The draft regulations highlight the level of complexity that will be introduced by retaining a tiered structure and moving to basing contributions on actual pay. All of these difficulties would be avoided by having a flat contribution structure.

However, the draft regulations appear to deliver the proposed objective outlined the consultation.”

5.5. Respondents did not find that there were any issues with the draft amending regulations, although some disagreed with the intention behind the regulations. While these responses did not directly answer the question asked here, they have been considered as responses to the consultation document as a whole.

5.6. As part of SPPA's plans to consult further on some of the proposals, the draft regulations will be amended accordingly and re-published along with the new consultation.

6. Equality Impact Assessment (EQIA)

6.1. The original consultation document did not include an EQIA but instead confirmed that an assessment would be reviewed based on responses received during the consultation. Many respondents were critical of the failure to include a

EQIA along with the proposals so that any equalities points raised by the assessments could be taken into consideration when weighing up the proposals.

6.2. SPPA will consider what EQIA can be provided alongside the revised consultation which will be published later this year.

7. Conclusion

7.1. The SPPA thanks all respondents for providing feedback on the consultation, which has helped test the proposals and provided valuable insight from across the NHSPS(S) membership and interested stakeholders.

7.2. The SPPA has consulted those who appear likely to be affected by the proposed changes to regulations with a view of reaching agreement. Overall, respondents agreed with the proposals to move to actual rates of pay and around the uprating of tiers. There was no consensus on the proposed revised contribution structures, this was largely due to competing interests of different parts of the diverse workforce. SPPA had sought to adopt an approach which is proportionate to all of these views.

7.3. Following consultation, the SPPA intends to proceed with the proposals to:

- use actual annual rates of pensionable pay to determine members' contribution rates, instead of members' notional whole-time equivalent pay
- increase the thresholds within the member contribution structure in line with a single annual pay award, using either the annual AfC or medical staff pay award

7.4. SPPA has decided to consult further on the following proposals:

- how the consultation rates should be rebalanced and the proposed contribution rate structure
-
- how the new contribution rate structure should be implemented and if it should be phased in and, if so, over what period.

7.5. A second consultation will take place over the summer 2022 which will take into account the responses received to the original consultation.