

Recycling of Employer Pensions Contributions Policy

Document Change History (changes from previous issues of policy (if appropriate):

Version number	Page	Changes made with rationale and impact on practice	Date
2	3	Change to percentage of employer contribution to be recycled increased to 12.3% and backdated for those opted out of the pension since March 2022 to April 2023.	16.02.2023
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1. Purpose

- 1.1 This policy outlines arrangements and options for employees who are members of the NHS Pension Scheme (the NHS Scheme) who may be adversely affected by the lifetime allowance and/ or the annual allowance in respect of their pension savings in registered pension schemes in the UK.
- 1.2 This policy has been introduced to address operational risks that have been identified as a result of the changes introduced to the pension tax regime. This policy is an attempt to address these operational issues.
- 1.3 This policy does not form part of any employee's contract of employment and the Trust may amend or remove it at its sole and absolute discretion.
- 1.4 It is not the intention of this Policy to encourage employees to leave any of the NHS Pension Schemes or to provide advice on options or liabilities. As part of the approval process, staff will be required to provide assurance to the Trust that they have sought independent financial advice before making any decisions about their personal circumstances.
- 1.5 The principle of the application of this policy is that it is cost neutral to the Trust, however it may not be financially neutral to the individual receiving the Recycled Pensions Payment, since it is not likely to offer the equivalent value to the pension.

2. Pensions Recycling

- 2.1 If an employee is currently a member of the NHS Scheme, and will be affected by changes to the tax regime of the lifetime allowance (LTA) or the annual allowance (AA) they can:
 - a. Continue in the NHS Scheme and bear any additional tax charges that arise; or
 - b. Opt-out of the NHS Scheme and become a deferred member; or
 - c. Opt-out of the NHS Scheme and be paid a Recycled Pension Payment (if their application is approved by the Trust) as explained below.
 - d. Retire and return
 - e. From October 2023, opt for partial retirement.

There is no limit on the number of times an individual can opt-in or out of the pension scheme and once opted out an individual can opt back in at any time. Individuals currently in receipt of their pension are also eligible to apply for Recycled Pension Payment. It is an individual's responsibility to ensure they are aware of how this may impact them financially.

If an employee opts out of the NHS Scheme, they will become a deferred member. They will also not be able to make any further money purchase additional voluntary contributions into the NHS Scheme. Employees should be

aware that as a deferred member they will not have the same benefits as an active member and should take advice from a professional financial advisor before applying for pension recycling and / or opting out of the pension scheme.

The Recycled Pensions Payment that will be paid in the event that an employee opts out of the NHS Pension Scheme will be equivalent to the Employers pension contribution (net of employer's national insurance contributions and NHS England contributions) paid by the Trust in the month immediately prior to commencement of the Pensions Recycling Payment. Therefore, the Recycled Pensions Payment will equate to around **12.33%** of the employee's pensionable pay and must remain cost neutral to the Trust at the point of processing the payment, taking account of increased employer national insurance contributions.

Pensionable pay for the purpose of calculating the Recycled Pensions Payment will be determined by the Trust and will be based on what an employee's pensionable pay would have been for the purpose of calculating employer contributions to the NHS Scheme had they continued to participate in the NHS Scheme.

- 2.2 If an employee opts out of the NHS Scheme it is their responsibility to provide the pension scheme administrator with effective notice of the opt-out. They must provide the Trust with a copy of this notification and evidence that the opt-out is effective, before any cash payment will be paid.
- c. If an employee opts out of the NHS Scheme, some benefits, such as ill health benefits and lump sum on death benefits, may be reduced as a result of opting out of the scheme.
- d. Employees who have opted out of the NHS Pension Scheme before 31 March 2023 and who decide to request a Recycled Pensions Payment will have their payments backdated to 1 April 2022. This also applies to individuals who have retired and returned before 31 March 2023. The same criteria as above regarding eligibility will apply.

3. Impact of the Recycled Pensions Payment

- 3.1 The Recycled Pensions Payment will not form part of an employee's base salary and will not be included in the calculation of any overtime, bonus, long-term incentive plan, or other benefit entitlements that they may have.
- 3.2 Although not forming part of an employee's base salary, the Recycled Pensions Payment will increase the amount that an employee receives each month. It will also impact on the following:-
 - a. The amount of holiday pay received by an employee. Such calculation will include an element to reflect the Recycled Pensions Payment.
 - b. The amount of any redundancy pay calculation received by an employee. Such calculation will include an element to reflect the Recycled Pensions

Payment but will be subject to NHS terms and conditions and any applicable public sector pay cap.

- 3.3 The Recycled Pensions Payment would be paid in equal monthly instalments and in arrears. Payments would be subject to deduction for income tax and national insurance contributions at source. The Recycled Pensions Payment will show on an employee's payslip as an entry separate to basic pay.
- 3.4 Following a future revaluation of the NHS Pension Schemes, the employer contributions may be adjusted. If this occurs, then the Trust will review the level of Recycled Pension Payment accordingly.
- 3.5 The level of Recycled Pensions Payment will be reviewed by the Trust if the employee changes their hours of working or moves to part-time employment.
- 3.6 All Recycled Pensions Payments will be reviewed by the Trust on an annual basis, on the anniversary of first payment. For Executive Directors, that review would be undertaken by the Remuneration Committee; for all other staff, that review would be undertaken by the Chief Finance Officer and Chief People Officer.
- 3.7 As noted at the onset of this policy document, the Trust may amend or remove the policy at any time. The Trusts' discretion is absolute in relation to the policy as a whole and/or its ongoing application to any employee, and that discretion will be exercised, taking into account the purpose of this policy as set out in paragraph 1.2 above (i.e. there will need to be a clear and justifiable operational need to retain the member of staff before the Trust can agree to making a Recycled Pensions Payment).

4. Requesting a Recycled Pensions Payment

- 4.1 In order to make a request under this policy, an employee must provide evidence that they are or will be affected by the LTA or the AA if their current pension arrangements continued. Evidence will need to be provided in a reasonable time period, normally within three months of the employee's request. Evidence that they are or would be affected by:
 - a. the LTA will usually be in the form of an LTA protection certificate from HMRC or confirmation (such as benefit statements or confirmation from independent financial/pensions adviser) from all the employee's pension arrangements detailing their pension entitlement.
- 4.2 If an employee's request is granted, and they fail to provide the required evidence set out above, or if the Trust subsequently determines that the employee is not or would not have been affected by the LTA and / or the AA (as applicable), any sums paid to them as cash payments in accordance with this policy may be deducted from the employee's salary or any other sums owed to them by the Trust with reasonable notice.

- 4.3 If an employee is interested in taking advantage of this policy, they should submit a formal request to change their current pension arrangements. The Trust has provided a Pensions Recycling Request Form (Appendix 4), for this purpose.
- 4.4 The Pensions Recycling Request Form should be submitted to the employee's direct line manager. There may be a need for a meeting with the employee before a decision can be made.
- 4.5 An employee request should be made in good time and ideally at least two months before they would like the changes to take effect. The Trust accepts no responsibility for changes to pension benefits or arrangements not being made in sufficient time to avoid the impact of the LTA and / or AA.
- 4.6 The Chief People Officer (supported by the Chief Finance Officer) will give final approval for the payment of the Recycled Pensions Payment, on receipt of confirmation that pension savings conditions have been met, and all other criteria are satisfied.
- 4.7 If an employee's request is accepted the Trust will write to the employee with details of the new arrangements, an explanation of the changes to their contract of employment, and the date on which the new arrangements will commence. The employee will be asked to sign and return a copy of the letter. This will be placed on their personnel file to confirm the variation of their terms of employment.
- 4.8 The Recycled Pensions Payment will apply to their current role only. In the event that an employee applies for, or otherwise change roles, then the continuation of the Recycled Pensions Payment will be at the absolute discretion of the Trust.
- 4.9 If an employee's request is refused they will not be able to make another request to change their pension arrangements under this policy until twelve months after the date of the most recent request, unless there has been a change in circumstances in terms of how the LTA and / or AA affects the employee. This does not affect the employee's right to opt out of the NHS Pension Scheme at any point should they wish to do so.

5. Employee Responsibilities

- 5.1 The Trust cannot advise employees if the options set out above will be right for them. If an employee believes that they may be affected by the LTA and / or AA they must make a decision based on their individual circumstances and should take independent professional financial advice. The Trust accepts no liability or responsibility for the consequences of any changes to an employee's pension benefits or arrangements, or any consequences of no changes being made.
- 5.2 The Trust will not provide employees with financial advice or warn them if their benefits might exceed the LTA and / or AA (as applicable). Employees are responsible for keeping track of their total pension benefits and for managing

their personal tax allowances and affairs.

Employees are responsible for notifying the Trust if they are affected by the LTA and / or AA, and that they want their pension arrangements to be changed.

- 5.3 Employees are responsible for monitoring their own LTA and AA limits. If they are affected by the LTA and / or AA it is their responsibility to report this to HMRC and to ensure that any tax charges are paid.

6. Automatic Enrolment

- 6.1 If an employee opts out of the NHS Scheme the Trust will be under an obligation to automatically enrol them into another qualifying pension scheme in the future (unless they have LTA protection or are not eligible for automatic enrolment). Employees will need opt out of membership of the qualifying pension scheme before contributions are paid to ensure that further pension benefits do not start to accrue.

If an employee chooses to remain within that qualifying pension scheme, any Recycled Pensions Payment would be reviewed and could be stopped or adjusted to take into account the employer contributions being paid.

7. Exceptions

Employees who are not subject to adverse impact of pension tax rules are not permitted to request, or be accepted for, Recycled Pension Payments.

8. Monitoring of compliance

Minimum requirement to be monitored	Process for monitoring e.g. audit/ review of incidents/ performance management	Job title of individual(s) responsible for monitoring and developing action plan	Minimum frequency of monitoring	Name of committee responsible for review of results and action plan	Job title of individual/ committee responsible for monitoring implementation of action plan
Corporate KPIs	Review of KPIs	HR Business Partner, Payroll Governance Lead, Deputy Chief People Officer	Annual (first review October 2023)	LNC	LNC

9. Relevant regulations, standards and references

NHS Employers Guidance:
<https://www.nhsemployers.org/publications/pension-tax-guidance-employers>

10. Equality, diversity and human right statement

The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This SOP should be implemented with due regard to this commitment.

11. Legal requirements

This document meets legal and statutory requirements of the EU General Data Protection Regulation (EU 2016/679) and all subsequent and prevailing legislation. It is consistent with the requirements of the NHS Executive set out in Information Security Management: NHS Code of Practice (2007) and builds upon the general requirements published by NHS Digital/Connecting for Health (CfH).

12. Appendices

Appendix 1: Control front sheet

Author with contact details	Steven Richardson, steven.richardson@liverpoolft.nhs.uk		
Lead Executive/ Senior Manager	Elaine Butchard, Acting Chief People Officer Jim Gardner, Medical Director Rob Forster, Chief Finance Officer		
Original Issue date			
Issue Date:			
Approval Group	Chief Executive Operational Group Remuneration Committee		
Consultation	Local Negotiating Committee Staff Partnership Group		
Location of Staff applicable to	All sites	Staff groups applicable to	All staff
Equality, Diversity And Human Right Statement	The Trust is committed to an environment that promotes equality and embraces diversity in its performance both as a service provider and employer. It will adhere to legal and performance requirements and will mainstream Equality, Diversity and Human Rights principles through its policies, procedures, service development and engagement processes. This procedure should be implemented with due regard to this commitment.		
To be read In conjunction with / Associated Documents:	▪ x	Information Classification Label	<input type="checkbox"/> NHS Confidential <input type="checkbox"/> NHS Protect <input checked="" type="checkbox"/> Unclassified
Access to Information	To access this document in another language or format please contact the policy author.		

Appendix 2: Equality impact assessment

Title	
Strategy/Policy/Standard Operating Procedure	
Service change (Inc. organisational change/QEP/ Business case/project)	
Completed by	
Date Completed	

Description *(provide a short overview of the principle aims/objectives of what is being proposed/changed/introduced and the impact of this to the organisation)*

The purpose of this policy is to support senior and high earning employees to continue working with the Trust and in turn to maintain and improve retention of senior and other high earning employees past the point when they might face difficulties because of changes in their financial position due to additional pensions taxation due to reaching the lifetime allowance. Additionally the policy will support senior and high earning employees by prompting them to take regular assessments of their financial position and to seek independent financial advice at the relevant time.

Who will be affected *(Staff, patients, visitors, wider community including numbers?)*

Staff who are working at a significantly senior level i.e. consultant, very senior nurses and very senior managers

The Equality Analysis template should be completed in the following circumstances:

- **Considering developing a new policy, strategy, function/service or project(Inc. organisational change/Business case/ QEP Scheme);**
- **Reviewing or changing an existing policy, strategy, function/service or project (Inc. organisational change/Business case/ QEP Scheme):**
 - If no or minor changes are made to any of the above and an EIA has already been completed then a further EIA is not required and the EIA review date should be set at the date for the next policy review;
 - If no or minor changes are made to any of the above and an EIA has NOT previously been completed then a new EIA is required;
 - Where significant changes have been made that do affect the implementation or process then a new EIA is required.

Please note the results of this Equality Analysis will be published on the Trust website in accordance with the Equality Act 2010 duties for public sector organisations.

Section 1 should be completed to analyse whether any aspect of your paper/policy has any impact (positive, negative or neutral) on groups from any of the protected characteristics listed below.

When considering any potential impact you should use available data to inform your analysis such as PALS/Complaints data, Patient or Staff satisfaction surveys, staff numbers and demographics, local consultations or direct engagement activity. You should also consult available published research to support your analysis.

Section 1 – Initial analysis

Equality Group	Any potential impact? Positive, negative or neutral	Evidence <i>(For any positive or negative impact please provide a short commentary on how you have reached this conclusion)</i>
Age <i>(Consider any benefits or opportunities to advance equality as well as barriers across age ranges. This can include safeguarding consent, care of the elderly and child welfare)</i>	Positive	It is likely it is anticipated that this policy will likely benefit staff aged between 50 – 65 in most cases are most likely to be affected by the lifetime allowance. The purpose of the policy is to support retention of staff.
Disability <i>(Consider any benefits or opportunities to advance equality as well as impact on attitudinal, physical and social barriers)</i>	Neutral	
Gender Reassignment <i>(Consider any benefits or opportunities to advance equality as well as any impact on transgender or transsexual people. This can include issues relating to privacy of data)</i>	Neutral	
Marriage & Civil Partnership <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on same sex couples)</i>	Neutral	

<p>Pregnancy & Maternity <i>(Consider any benefits or opportunities to advance equality as well as impact on working arrangements, part time or flexible working)</i></p>	Neutral	
<p>Race <i>(Consider any benefits or opportunities to advance equality as well as any barriers impacting on ethnic groups including language)</i></p>	Neutral	
<p>Religion or belief <i>(Consider any benefits or opportunities to advance equality as well as any barriers effecting people of different religions, belief or no belief)</i></p>	Neutral	
<p>Sex <i>(Consider any benefits or opportunities to advance equality as well as any barriers relating to men and women eg: same sex accommodation)</i></p>	Neutral	<p>The policy will apply to both male and female staff equally but due to the consultant workforce being most likely to be affected and the higher proportion of male consultants it is likely that male staff will benefit more than female staff from this policy, but female staff will not be adversely impacted, and indeed can benefit from this policy if they reach the lifetime allowance.</p>
<p>Sexual Orientation <i>(Consider any benefits or opportunities to advance equality as well as barriers affecting heterosexual people as well as Lesbian, Gay or Bisexual)</i></p>	Neutral	

If you have identified any **positive** or **neutral** impact then no further action is required, you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address.

If you have identified any **negative** impact you should consider whether you can make any changes immediately to minimise any risk. This should be clearly documented on your paper cover sheet/Project Initiation Documents/Business

[Insert name of Policy, Version No. and date]

case/policy document detailing what the negative impact is and what changes have been or can be made.

If you have identified any negative impact that has a high risk of adversely affecting any groups defined as having a protected characteristic then please continue to section 2.

Section 2 – Full analysis

If you have identified that there are potentially detrimental effects on certain protected groups, you need to consult with staff, representative bodies, local interest groups and customers that belong to these groups to analyse the effect of this impact and how it can be negated or minimised. There may also be published information available which will help with your analysis.

<u>Is what you are proposing subject to the requirements of the Code of Practice on Consultation?</u>	Y/N
Is what you are proposing subject to the requirements of the Trust’s Workforce Change Policy?	Y/N
Who and how have you engaged to gather evidence to complete your full analysis? (List)	
What are the main outcomes of your engagement activity?	
What is your overall analysis based on your engagement activity?	

Section 3 – Action Plan

You should detail any actions arising from your full analysis in the following table; all actions should be added to the Risk Register for monitoring.

Action required	Lead name	Target date for completion	How will you measure outcomes

Following completion of the full analysis you should submit this document with your paper/policy in accordance with the governance structure.

You should also send a copy of this document to the equality impact assessment email address

Section 4 – Organisation Sign Off

Name and Designation	Signature	Date
Individual who reviewed the Analysis		
Chair of Board/Group approving/rejecting proposal		
Individual recording EA on central record		

Appendix 3: Roles and responsibilities

Role	Responsibility
Employee	<p>To regularly review their own individual financial position, be aware of their position in respect of the lifetime allowance and take appropriate financial advice. To proactively opt-out of the pension scheme if and when auto-enrolled</p>
Line Manager	<p>To support employees and make sure awareness of this policy is known</p>
Payroll	<p>To implement any agreed changes</p>
Human Resources	<p>To provide advice and guidance on this policy</p>
Trust	<p>To oversee compliance with this policy</p>

Appendix 4: Pension Recycling Request Form

Please complete in full attaching the required documents, and return to Line Manager / Clinical Director

Section 1: Personal Details

Name:	
Job Title and Specialty / Department	
Assignment Number:	
National Insurance No:	
Date of Requested Pension Scheme opt out:	

Section 2: Declarations

- By submitting this request, I confirm that I have sought professional financial advice, and I have made this request having taken this advice.
- The information I have provided on this form is correct (to the best of my knowledge).
- I accept that providing deliberately false information could result in my application being refused by the Trust.
- I have attached evidence that I am or will be detrimentally impacted by pension taxation
- I agree and understand that by opting out of the NHS Pension Scheme I will no longer be eligible for current member benefits
- I agree that the Trust will recycle employer contributions at the rate of 12.33% and I understand that this amount will be subject to statutory deductions.
- I accept that the Trust will continue to comply with autoenrollment requirements, and it is my responsibility to opt out of any pension scheme following automatic enrolment.

Section 3: Employee Approval

Name.....

Signature

Date

Section 4: Employer Approval

Authorised by Date.....

(Chief Finance Officer)

Authorised by Date.....

(Chief People Officer)