



# Government Actuary's Department

## **National Health Service Pension Scheme**

### **Final pay control**

### **Factors and Guidance**

Version 1.0

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## 1 Introduction

### Scope

- 1.1 This note is addressed to the NHSBSA as administrator of the National Health Service Pension Scheme (“NHSPS”). It sets out how to calculate “employer charges” that may arise under “final pay control” where excessive pay increases have affected the final year’s pensionable pay (FPP) of a member who has retired from the 1995 Section or left service and become a deferred pensioner.
- 1.2 This note relates to regulation D3 of the NHSPS Regulations 1995, which was inserted by the NHSPS (Amendment) Regulations 2014 (SI 2014/570) and amended by SI 2014/1607.
- 1.3 The factors and guidance cover members who retire from the 1995 Section under regulations<sup>1</sup> E1, E2A, E3A, E3C or E5 or who left service under regulation L1 and were entitled to a deferred pension at the date of assessment.

### Assumptions

- 1.4 We have advised the Department of Health (DH) on the assumptions to be adopted for the factors provided in this note. Our letter of 16 January 2015 refers. DH has confirmed it has obtained HM Treasury consent to the factors as required by the Regulations.
- 1.5 A summary of the assumptions is listed in Appendix A.

### Implementation and review

- 1.6 The factors and guidance contained in this note apply with immediate effect.
- 1.7 The factors should be reconsidered whenever there is a change in the SCAPE basis, following each actuarial valuation where mortality and other relevant experience is reviewed or if other credible and material information comes to light.
- 1.8 The remainder of this note covers the factor tables, guidance on their use and worked examples.

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<sup>1</sup> All references to regulations in this guidance relate to the NHSPS Regulations SI1995/300 (as amended).



## 2 Final pay control – basics

### Background

- 2.1 Final pay controls were introduced to the 1995 Section of the NHSPS with effect from 1 April 2014. Although this is in conjunction with opening up the NHSPS to participation by independent providers (IPs), the final pay controls apply to all Employing Authorities and not just IPs.
- 2.2 Subject to certain exceptions, the controls apply an employer charge (referred to as “excess employer contributions” in the regulations) to a member’s Employing Authority<sup>2</sup> if the member’s pensionable pay increased by more than a specified percentage<sup>3</sup> in any of the three years’ reckonable service preceding the member’s last day of employment and such increases affected the final year’s pensionable pay (FPP). This covers retirement in normal health as well as in ill health and early leavers, but excludes deaths in service (or in deferment).
- 2.3 Pay increases prior to 1 April 2014 or more than 1,095 days prior to a member’s last day of pensionable employment should be ignored for the purposes of the controls<sup>4</sup>. Post-1 April 2014 pay increases that arise from the ending a salary sacrifice arrangement made before 1 April 2014 should also be ignored<sup>5</sup>.
- 2.4 The process for calculating an employer charge is set out in regulation D3(6). The “applicable factors” referred to in regulation D3(6) are to be determined from time to time by the Secretary of State having considered the advice of the Scheme Actuary and having obtained the Treasury’s consent, in accordance with regulation D3(21)(e).
- 2.5 The following paragraphs set out the basic approach to calculating an employer charge. Section 3 sets out guidance relating to specific circumstances and complications, such as where there has been
- a change in employment, concurrent (Officer) employments or one or more national CEA(s) during the final three years’ reckonable service or
  - a break in pensionable service at any time.
- 2.6 Section 4 contains worked examples.

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<sup>2</sup> In certain cases the charge applies to the body responsible for the funding of awards recommended by the Advisory Committee on Clinical Excellence Awards

<sup>3</sup> The increase in the CPI over the year to the February preceding the relevant year plus 4.5%; see paragraphs (3), (4) and (5) of regulation D3

<sup>4</sup> See regulation D3(21)(d)

<sup>5</sup> See regulation D3(17)(b)



### **Calculation of employer charge for members retiring on an immediate pension**

2.7 In the case of a member who:

- retires under regulations E1, E2A, E3A, E3C or E5 or
- having left service with a deferred pension under regulation L1, attains the age of 60 before the final pay control tests are applied to their deferred pension

the applicable factor referred to in step 4 of regulation D3(6) should be determined from Table B1 in Appendix B as applicable to the member's age at the point of retirement. (The member's age should be determined as age last birthday.)

2.8 The employer charge should be calculated as follows:

Employer charge = (Excess pension<sup>6</sup> x applicable factor) + Excess lump sum<sup>7</sup>

### **Calculation of employer charge for members who have an entitlement to a deferred pension**

2.9 For members who leave service early with entitlement to a deferred pension from the 1995 Section under regulation L1, DH's current policy is to postpone the calculation of employer charges until their benefits are put into payment. Thus, for the time being, most cases will fall to be dealt with as specified in paragraphs 2.7 and 2.8 above.

2.10 The only exception will be where the member exercises their right to transfer their benefits, determined in accordance with Regulation L1, out of the Scheme under regulation M1. For a transfer case, the calculation should be carried out as at the date of transfer.

2.11 Where a calculation is to be carried out other than when the member's benefits are put into payment, the applicable factor referred to in step 4 of regulation D3(6) should be determined from the "Pension Factor" column of Table B2 in Appendix B as applicable to the member's age at the point of calculation and the applicable factor referred to in Step 5 should be determined from the "Lump Sum Factor" column. (The member's age should be determined as age last birthday.)

2.12 The employer charge should then be calculated as follows:

Employer charge = (Excess pension<sup>8</sup> x pension factor) + (Excess lump sum<sup>9</sup> x lump sum factor)

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<sup>6</sup> Calculated in accordance with Step 2 in regulation D3(6)

<sup>7</sup> Calculated in accordance with Step 3 in regulation D3(6)

<sup>8</sup> Calculated in accordance with Step 2 in regulation D3(6)

<sup>9</sup> Calculated in accordance with Step 3 in regulation D3(6)



- 2.13 If and when DH decides that charges should generally be calculated while benefits are still in deferment (eg once there is a break in service of greater than 5 years and the member rejoins pensionable service after 1 April 2015), revised guidance will be provided.



### 3 Calculation of employer charges in specific situations

- 3.1 This section considers the specific circumstances in which an employer charge should be assessed and how to allocate employer charges where there are multiple employments and/or a national Clinical Excellence Award is awarded in the member's final three years' reckonable service.

#### **A) Members retiring from active service in the NHSPS**

- 3.2 This sub-section applies to any member who:
- (a) retires from service before 1 April 2015;
  - (b) has full transitional protection; or
  - (c) has tapered protection and retires within his/her period of protection.
- 3.3 For members retiring in normal health (at any age and with or without actuarial adjustment) or ill health an assessment is required of whether an employer charge should apply. The regulatory references and factors are set out in paragraphs 2.7 to 2.8 and 3.5 to 3.20. Worked examples are included in Section 4.
- 3.4 An assessment is required at the date of retirement in all circumstances, but where a member has had a change in employment, concurrent (Officer) employments or one or more national CEA(s) during the final three years' reckonable service or a break in pensionable service at any time, the following principles should be applied.
- i) Change(s) of employment within the period where earnings are considered for the determination of FPP and where no entitlement to deferred benefits arises due to the length of any gap**
- 3.5 FPP should be calculated as normal over the final three years' reckonable service.
- 3.6 Where a change in employment is within a single employer or within a group of connected employers, paragraphs 2.7 and 2.8 above apply as normal and a single employer charge arises at the point of retirement.
- 3.7 Where a genuine change of employment<sup>10</sup> occurs within the period where earnings are considered for the purposes of determining FPP at retirement (including a transfer of employment in the circumstances described in regulation C1(5)<sup>11</sup>) (and noting paragraph 2.3), multiple employer charges potentially arise. These charges are assessed at the point of retirement.

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<sup>10</sup> Within this section, a change of employment means a genuine change, ie one where the Secretary of State is satisfied that the second employment is with a new employer. In accordance with regulation D3(18), any move between "connected" employers should not be treated as a change in employment (and paragraph 3.6 applies).

<sup>11</sup> See regulation D3(19).



- 3.8 Any increase in pensionable pay arising from the genuine change in employment itself should be disregarded in the calculation of any employer charge.
- 3.9 For the purpose of determining the amount of any charges, pay received from a former employer in the year of leaving that employer and a new employer in the year of joining should be annualised in accordance with regulation D3(21)(c) before comparing with other years.
- 3.10 The former employer's charge is based on a comparison of the annualised rate of pensionable pay in the year of leaving and such earlier years' pay as are relevant to the FPP determination.
- 3.11 The new employer's charge is based on a comparison of the annualised rate of pensionable pay in the year of joining and such later years' pay as are relevant to the FPP determination.
- 3.12 Any excessive increases in pay determined in accordance with paragraphs 3.10 and 3.11 should be applied to the benefits arising from the member's entire period of reckonable service when determining the associated employer charge for each employer.

**ii) Concurrent Officer employments within the period where earnings are considered for the determination of FPP**

- 3.13 FPP should be calculated as normal over the final three years' reckonable service, based on aggregate pensionable pay from all Officer employments.
- 3.14 Earnings from each separate employment<sup>12</sup> should be looked at independently when determining whether any excessive pay increases have affected the member's FPP.
- 3.15 Any excessive increases in pay in each separate employment should be applied to the benefits arising from the member's entire period of reckonable service when determining the associated employer charge for each employer.

**iii) Inclusion of National Clinical Excellence Awards (CEAs) in FPP**

- 3.16 Where a member's FPP exceeds the maximum allowable amount for the relevant year only because it included an amount resulting from a national CEA recommended by the Advisory Committee on Clinical Excellence Awards ("ACCEA"), ie FPP would not have been excessive if the CEA had not been awarded, the employer charge should be paid by ACCEA<sup>13</sup>.
- 3.17 Where a member's FPP exceeds the maximum allowable amount for the relevant year because of both a national CEA recommended by ACCEA and a pay increase awarded by the member's employer, the allocation of the aggregate employer charge between the employer and ACCEA should be determined as follows:

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<sup>12</sup> See regulation D3(15).

<sup>13</sup> See regulation D3(7)





- (a) If FPP would be based on a different relevant year if the national CEA had not been awarded, refer the allocation to the Government Actuary's Department<sup>14</sup>;
  - (b) Otherwise the allocation should be determined as in paragraph 3.18 below.
- 3.18 Where paragraph 3.17(b) applies, the allocation between the employer and ACCEA should be determined as follows<sup>15</sup>:
- (a) Calculate the amount by which FPP exceeds the allowable amount for the relevant year ("A");
  - (b) Calculate the total employer charge based on amount A ("B");
  - (c) Calculate the amount by which FPP would have exceeded the allowable amount if the national CEA had not been awarded ("C");
  - (d) Calculate charge to be allocated to employer ("D") =  $(C / A) \times B$ ;
  - (e) Calculate charge to be allocated to ACCEA =  $B - D$ .
- iv) Break(s) in service where service is not linked for benefit purposes**
- 3.19 The charge payable by the member's employer(s) in the three years prior to retirement should be based only on reckonable service following the break and FPP should only be based on so much of the last three years' reckonable service that came after the break.
- 3.20 If this has not already been done, an employer charge should also be calculated based on reckonable service and pensionable pay prior to the break(s) (if the break(s) occurred after 1 April 2014). This is payable by the member's employer(s) in the three years prior to the break(s).

## **B) Members leaving voluntarily from active service in the NHSPS**

- 3.21 This sub-section applies to any member who:
- (a) leaves service before 1 April 2015;
  - (b) has full transitional protection; or
  - (c) has tapered protection and leaves service within his/her period of protection.

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<sup>14</sup> See regulation D3(9)

<sup>15</sup> See paragraphs (10) and (11) of regulation D3



- 3.22 DH's current policy is that the assessment of employer charges is not to occur before a deferred member's benefits are put into payment. Consequently the calculation of employer charges should follow the methodology and principles set out in sub-section A above at the time of retirement other than for transfers out, in which case refer to paragraphs 2.9 to 2.12.

### **C) Members retiring from active service in the NHSPS 2015**

- 3.23 This sub-section applies to all members with 1995 Section benefits who retire from service on or after 1 April 2015 except those who:

- (a) have full transitional protection; or
- (b) have tapered protection and retire within their period of protection.

- 3.24 For members retiring in normal health (at any age and with or without actuarial adjustment) or ill health an assessment is required of whether an employer charge should apply in relation to NHSPS benefits. The principles set out in sub-section A above apply in these cases but reckonable service refers only to reckonable service in the NHSPS. However, FPP should continue to be calculated over the final three years' reckonable service (whether this is in the NHSPS or National Health Service Pension Scheme 2015 ("NHSPS 2015")).

### **D) Members leaving voluntarily from active service in the NHSPS 2015**

- 3.25 This sub-section applies to all members with 1995 Section benefits who leave service with a deferred pension on after 1 April 2015 except those who:

- (c) have full transitional protection; or
- (d) have tapered protection and leave within their period of protection.

- 3.26 As above, DH's current policy is that the assessment of employer charges is not to occur before a deferred member's benefits are put into payment (and deaths in deferment are to be disregarded for this purpose). Consequently the calculation of employer charges should follow the methodology and principles set out in sub-section C above at the time of retirement other than for transfers out, in which case refer to paragraphs 2.9 to 2.12.



## 4 Worked examples

### Example 1 – Member retiring on an immediate pension (simple case)

4.1 See paragraphs 2.7 to 2.8

Date of birth: 1 August 1953

Last day of employment: 31 August 2014

Retirement date: 1 September 2014

Amount B calculated in accordance with Step 2 of regulation D3(6): £2,000 pa

Amount C calculated in accordance with Step 3 of regulation D3(6): £6,000

Age in complete years on retirement date: 61

Applicable factor (Step 4 of regulation D3(6)): 20.20

Employer charge calculated in accordance with Step 6(b) of regulation D3(6):

$$(2,000 \times 20.20) + 6,000 = £46,400.$$

### Example 2 – Member with entitlement to a deferred pension and opting for transfer out (simple case)

4.2 See paragraphs 2.9 to 2.12

Date of birth: 1 August 1971

Date of leaving: 31 May 2015

Date of calculation: 1 June 2020

Amount B calculated in accordance with Step 2 of regulation D3(6): £1,200 pa

Amount C calculated in accordance with Step 3 of regulation D3(6): £3,600

Age in complete years on calculation date: 48

Applicable pension factor (Step 4 of regulation D3(6)): 14.58

Applicable lump sum factor (Step 5 of regulation D3(6)): 0.70

Employer charge calculated in accordance with Step 6(a) of regulation D3(6):

$$(1,200 \times 14.58) + (3,600 \times 0.70) = £20,016.$$



**Example 3 – Member retiring from NHSPS having had a genuine change of employment in the final three years' reckonable service**

4.3 See paragraphs 3.5 to 3.12

Date of birth: 1 May 1955 (so fully protected)

Last day of employment: 31 August 2016

Retirement date: 1 September 2016

Total Reckonable Service = 32 years

Last day of employment with Employer A: 28 February 2015

First day of employment with Employer B: 1 March 2015

Pensionable Pay 1 September 2012 - 31 August 2013 ("Year 4"): £59,000

Pensionable Pay 1 September 2013 - 31 August 2014 ("Year 3"): £60,000

Pensionable Pay 1 September 2014 - 28 February 2015 (181 days): £35,000

Pensionable Pay 1 March 2015 - 31 August 2015 (184 days): £45,000

Total Pensionable Pay 1 September 2014 - 31 August 2015 ("Year 2"): £80,000

Pensionable Pay 1 September 2015 - 31 August 2016 ("Year 1"): £97,500

CPI increases: 2.0% in each year (so allowable increases = 2.0 + 4.5 = 6.5% pa)

FPP = £97,500 (ie Pensionable Pay in Year 1)

Annualised Year 2 Pensionable Pay in final 6 months with Employer A =

$$365/181 \times 35,000 = £70,580$$

Annualised Year 2 Pensionable Pay in first 6 months with Employer B =

$$365/184 \times 45,000 = £89,266$$

Employment with Employer A

Max allowable Pensionable Pay in Year 3 =  $59,000 \times 1.065 = £62,835$

Max allowable Pensionable Pay in Year 2 =  $\min\{60,000; 62,835\} \times 1.065 = £63,900$

Annualised Pensionable Pay in Year 2 is excessive by:  $70,580 - 63,900 = £6,680$

Excess pension =  $32/80 \times (6,680 \times 1.02) = £2,725.44 \text{ pa}$



Excess lump sum =  $3 \times 32/80 \times (6,680 \times 1.02) = £8,176.32$

Age in complete years on retirement date: 61

Applicable factor (Step 4 of regulation D3(6)): 20.20

Employer charge calculated in accordance with Step 6(b) of regulation D3(6):

$(2,725.44 \times 20.20) + 8,176.32 = £63,230.$

#### Employment with Employer B

Max allowable Pensionable Pay in Year 1 based on annualised Pensionable Pay in Year 2 =  $89,266 \times 1.065 = £95,068$

Pensionable Pay in year 1 is excessive by:  $97,500 - 95,068 = £2,432$

Excess pension =  $32/80 \times 2,432 = £972.80$  pa

Excess lump sum =  $3 \times 32/80 \times 2,432 = £2,918.40$

Employer charge =  $(972.80 \times 20.20) + 2,918.40 = £22,569.$

#### **Example 4 – Member retiring from NHSPS having had concurrent employments in the final three years' reckonable service**

4.4 See paragraphs 3.13 to 3.15

Date of birth: 1 May 1955 (so fully protected)

Last day of employment: 30 April 2016

Retirement date: 1 May 2016

Total Reckonable Service = 32 years

Year	Period	Pensionable Pay from Employer A	Pensionable Pay from Employer B	Aggregate Pensionable Pay
4	1 May 2012 – 30 April 2013	£29,000	£20,000	£49,000
3	1 May 2013 – 30 April 2014	£30,000	£28,000	£58,000
2	1 May 2014 – 30 April 2015	£31,000	£30,000	£61,000
1	1 May 2015 – 30 April 2016	£30,000	£32,000	£62,000



FPP = £62,000 (ie Pensionable Pay in Year 1)

Employment with Employer A

Max allowable Pensionable Pay in Year 3 =  $29,000 \times 1.065 = £30,885$

Max allowable Pensionable Pay in Year 2 =  $\min\{30,000; 30,885\} \times 1.065 = £31,950$

Max allowable Pensionable Pay in Year 1 =  $\min\{31,000; 31,950\} \times 1.065 = £33,015$

Year 1 Pensionable Pay (£30,000) is not excessive, so no employer charge is payable by Employer A.

Employment with Employer B

Max allowable Pensionable Pay in Year 3 =  $20,000 \times 1.065 = £21,300$

Max allowable Pensionable Pay in Year 2 =  $\min\{28,000; 21,300\} \times 1.065 = £22,685$

Max allowable Pensionable Pay in Year 1 =  $\min\{30,000; 22,685\} \times 1.065 = £24,160$

Year 1 Pensionable Pay is excessive by:  $32,000 - 24,160 = £7,840$

Excess pension =  $32/80 \times 7,840 = £3,136.00$  pa

Excess lump sum =  $3 \times 32/80 \times 7,840 = £9,408.00$

Age in complete years on retirement date: 61

Applicable factor (Step 4 of regulation D3(6)): 20.20

Employer charge =  $(3,136.00 \times 20.20) + 9,408.00 = £72,755$ .

**Example 5 – Member retiring from NHSPS having received a national CEA in the final three years' reckonable service**

4.5 See paragraphs 3.16 to 3.18

Date of birth: 1 May 1955 (so fully protected)

Last day of employment: 30 April 2016

Retirement date: 1 May 2016

Total Reckonable Service = 32 years



Year	Period	Pensionable Pay from Employer	CEA	Total Pensionable Pay
4	1 May 2012 – 30 April 2013	£88,000	£20,000	£108,000
3	1 May 2013 – 30 April 2014	£90,000	£20,000	£110,000
2	1 May 2014 – 30 April 2015	£91,000	£36,000	£127,000
1	1 May 2015 – 30 April 2016	£99,000	£36,000	£135,000

FPP = £135,000 (ie Pensionable Pay in Year 1)

Max allowable Pensionable Pay in Year 3 =  $108,000 \times 1.065 = £115,020$

Max allowable Pensionable Pay in Year 2 =  $\min\{110,000; 115,020\} \times 1.065 = £117,150$

Max allowable Pensionable Pay in Year 1 =  $\min\{127,000; 117,150\} \times 1.065 = £124,765$

So, FPP is excessive by:  $135,000 - 124,765 = £10,235$

Excess pension =  $32/80 \times 10,235 = £4,094.00$  pa

Excess lump sum =  $3 \times 32/80 \times 10,235 = £12,282.00$

Age in complete years on retirement date: 61

Applicable factor (Step 4 of regulation D3(6)): 20.20

Total employer charge =  $(4,094.00 \times 20.20) + 12,282.00 = £94,981$

Without the latest national CEA:

FPP would be £119,000 (ie  $99,000 + 20,000$ ) (also Pensionable Pay in Year 1)

Max allowable Pensionable Pay in Year 3 =  $108,000 \times 1.065 = £115,020$

Max allowable Pensionable Pay in Year 2 =  $\min\{110,000; 115,020\} \times 1.065 = £117,150$

Max allowable Pensionable Pay in Year 1 =  $\min\{(91,000 + 20,000); 117,150\} \times 1.065 = £118,215$

Thus FPP would have been excessive by  $119,000 - 118,215 = £785$  if the latest national CEA had not been awarded



Charge allocated to employer =  $(785 / 10,235) \times 94,981 = £7,285$

Charge allocated to ACCEA =  $94,981 - 7,285 = £87,696$ .





## Appendix A: Assumptions

### Financial assumptions

Nominal discount rate	5.06% pa
Real discount rate (in excess of CPI)	3.00% pa

### Mortality assumptions

Base mortality tables	S1NMA and S1NFA
Base table adjustment	Adjustments applied so that 20% fewer deaths at each age are assumed for male members and 15% fewer deaths at each age are assumed for female members than implied by the standard tables. (As per 2012 valuation.)
Future mortality improvement	Based on ONS's principal UK population projections 2012
Year of use	2016

### Other assumptions

Age difference between member and partner	Males assumed 3 years older than females
Proportions partnered at retirement	Sample rates:

Age	Males	Females
50	0.76	0.54
60	0.76	0.54
70	0.74	0.46
75	0.69	0.35

Unisex weightings	Unisex factors based on 1/3 <sup>rd</sup> weighting to males and 2/3 <sup>rd</sup> weighting to females
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## Appendix B: Factors

**Table B1**  
**Final pay control factors applicable to members retiring with an immediate pension**

Age last birthday	Factor
50	24.10
51	23.78
52	23.46
53	23.13
54	22.79
55	22.45
56	22.10
57	21.73
58	21.37
59	20.99
60	20.60
61	20.20
62	19.78
63	19.36
64	18.93
65	18.48
66	18.02
67	17.56
68	17.08
69	16.57
70	16.06
71	15.57
72	15.08
73	14.59
74	14.04
75	13.48



**Table B2**  
**Final pay control factors applicable to members transferring out benefits**

Age last birthday	Pension Factor	Lump Sum Factor
26	7.92	0.37
27	8.14	0.38
28	8.37	0.39
29	8.60	0.40
30	8.84	0.42
31	9.09	0.43
32	9.34	0.44
33	9.61	0.45
34	9.88	0.47
35	10.15	0.48
36	10.44	0.50
37	10.73	0.51
38	11.03	0.53
39	11.35	0.54
40	11.66	0.56
41	11.99	0.57
42	12.33	0.59
43	12.68	0.61
44	13.04	0.63
45	13.41	0.65
46	13.79	0.66
47	14.18	0.68
48	14.58	0.70
49	15.00	0.72
50	15.43	0.75
51	15.87	0.77
52	16.33	0.79
53	16.80	0.81
54	17.28	0.84
55	17.79	0.86
56	18.31	0.89
57	18.85	0.92
58	19.41	0.94
59	19.99	0.97