

The British Medical Association's consultation response to the implementation of increasing the normal minimum pension age

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Pensions Remedy Project Team

HM Treasury
1 Horse Guards Road
London
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Increasing the normal minimum pension age: consultation on implementation

As Chair of the BMA's Pension Committee, I am elected to represent the views of all doctors in the UK on matters relating to their pensions. I am therefore writing to you in this capacity to respond to the consultation published by HM Treasury. This relates to the proposals to amend NHS Pension Scheme regulations and implement an increase to the normal minimum pension age (NMPA).

In addressing the six questions set out for respondents, we would like to highlight that there is no rationale for increasing the NMPA in the NHS Pension scheme. The last valuation of the NHS pension scheme resulted in a 'cost floor' breach that was mainly a result of the expected increase in life expectancy not materialising.

Furthermore, the complex nature of pensions taxation means that not only do doctors not benefit from income tax relief on pensions but the compound nature of multiple layers of taxation on their pensions savings means that many doctors need to opt out of the scheme before the current NMPA and retire before the age of 57. There is therefore no rationale for this change either on the basis of improving the affordability of the scheme or to ensure that members save for later life.

Increasing the NMPA for doctors, particularly when it is not financially viable for them to continue contributing to the scheme, will simply lead to further detriment. At a time where pressures on the NHS have never been greater, with doctors reporting high levels of fatigue and burnout, increasing the NMPA will only serve to demotivate and worsen the already low levels of morale amongst the medical workforce.

If the government is intent on increasing the NMPA, we would strongly argue that the special dispensation given to members of the armed forces, police and fire services be extended to the NHS. Working within the NHS is extremely physically and mentally challenging, and the demands on NHS staff are comparable to many of those in protected schemes. Indeed, the COVID-19 pandemic has clearly highlighted the demands on the NHS with staff not only risking their own lives, but those of their family whilst caring for patients. In addition, they have been expected to work exceptionally long hours, including significant amounts of time during unsocial periods whilst working under intense pressure, alongside the additional demands of working with personal protective equipment.

We hope that you will note our evidence on this and other points and would welcome the opportunity to work with you in addressing alternative solutions.

Please get in touch for further clarification or information.

Yours sincerely,



Dr Vishal Sharma
BMA Pensions committee chair

FOREWORD

The BMA is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

Most BMA members are members of the NHS Pension Schemes (NHSPS). This is a response from the BMA to the proposed changes to the NHS Pension Scheme regulations, consulting on the implementation of increasing the normal minimum pension age (NMPA).

RESPONSE TO CONSULTATION

The BMA is fundamentally opposed to the proposal to increase the NMPA to 57 as set out in the consultation for members of the NHSPS and believe there is no reasonable justification for doing this. Indeed, at the last valuation of the NHSPS, there was a 'cost floor' breach that was the result of predicted increases in life expectancy not materialising. We also believe that members in receipt of the Mental Health Officer status should be able to remain under the protection of existing scheme rights arrangements. The ability to retire earlier without being subject to actuarial reduction on withdrawal of their pension is an extremely valuable benefit, particularly given the concerns surrounding the demands placed upon those working in this setting.

Notwithstanding our opposition to the core proposal, we understand from this consultation, and in particular paragraph 2.5, that the government is not planning to increase the NMPA to 57 in 2028 for those that have a right under the scheme rules to take pension benefits at an age below 57 as of the date of this consultation. This applies to current members of the NHSPS who have the right to retire and draw their pension at the age of 50 or 55 as outlined within the NHSPS regulations.

Therefore, we expect that it is not the government's intention to increase the NMPA of existing NHSPS members to 57 in 2028. However, notwithstanding our objection to a rise in NMPA for any NHS scheme member, we can see no rationale for proposing that protection is offered only to those who have an existing right under their scheme rules to retire before 57 at the date of the consultation, rather than determining a member's protected status in 2028.

Question 1: Are there any specific considerations that should be taken into account regarding the government's proposed framework for the increase to the NMPA?

As outlined above, we do not believe that there is justification for increasing the NMPA for any NHSPS member. However, if the government proceeds with this course of action, we must highlight the significant demands of working in medicine and the challenges faced by doctors who are required to work long and often unsocial hours, on high intensity rotas. Many doctors find this physically and mentally demanding, particularly as they become older.

We believe that the same protections afforded to the police, firefighters and members serving in the armed forces, should be offered to doctors in acknowledgement of the demanding nature of working in the NHS. Such demands placed upon doctors are clearly comparable to those occupations listed who have a protected pension age, and to exclude NHS workers from such protection is inequitable.

In ordinary times, doctors are faced with constant mental and physical challenges – from having to continually train to ensure they maintain a high level of understanding and knowledge, as well as having to make literal life or death decisions when caring for patients. This takes a significant mental toll over the course of their career. The occupation can also place immense physical demands on doctors, who can often be constantly on their feet, having to be reactive to any developing situations.

The demands of working in the NHS have been highlighted by the extraordinary efforts and sacrifices doctors have made over the past year during the COVID-19 pandemic, which has placed unprecedented demands on the medical workforce. The NHS staff survey results¹ underlined the severe impact of pandemic on doctors' wellbeing with 44% of all staff, and 40% of doctors and dentists, reporting to being ill because of work-related stress. This also reflects what our members are telling us, with half of respondents to a BMA survey in February,² saying they are suffering with work-related mental health conditions, and almost 60% saying levels of exhaustion and fatigue are higher than normal. Of most relevance was that over 25% of respondents noted they were more likely to take early retirement as a result. It is clear therefore that the pandemic has exacerbated what was already a highly demanding profession.

We therefore feel that implementing the increased NMPA in the NHSPS would be unfair and unreasonable, as the government would essentially be penalising doctors for retiring early due to the extreme demands they take on to care for the nation's health. What is more, we feel that there is a case to be made that doctors should be eligible for the same protections afforded to the occupations noted above.

There are few options available to doctors to mitigate such demands – they are inherent to the work they do. At present, due to the demands of the pandemic and the significant backlog of work within the NHS, there is increasingly limited scope for doctors to work less than full time or even take their annual leave, thereby exposing them to greater mental strain and detriment. It is therefore inevitable that doctors may wish to retire at an earlier age than the wider population, and the proposed plan to in effect force them to work longer to avoid being unduly taxed would again be unfair and unreasonable.

On top of this, we would note the potential safeguarding issues for patients that would result from doctors being forced to continue working beyond when they feel they should ideally retire for the betterment of their health and wellbeing. Forcing doctors who are unable to continue working at the full and necessary capacity will only serve to undermine the quality of patient care that is expected in the NHS.

It may also be also unrealistic to expect that all older doctors will be able to maintain their same resilience to fatigue over time. There is evidence to suggest that as doctors age, some may become less able to quickly recover after working at night - less adaptable and consequently more subject to stress when covering unexpected situations, such as those encountered with urgent and emergency/on-call work. This is supported by a Royal College of Emergency Medicine recommendation which suggests that consultants over the age of 50 should no longer undertake the overnight shifts³ but due to rota gaps this has not been possible to implement.

Such work may generate stresses in those doctors, anxious that they may no longer be able to accomplish those duties with the same facility as they once had and that their colleagues still exhibit. Those stresses may encourage doctors to consider retirement, particularly if this is the only available route that would allow the stressors to be avoided, although this proposal is in essence compelling members to work longer.

The role of pension taxation has also resulted in many doctors choosing to retire early. Data shows that there has been a sharp increase in numbers choosing voluntary early retirement (VER), with 30% of consultants and 54.7% of GP retirements were VER in 2020.⁴ We know from multiple surveys the BMA has undertaken over the past year, that over half of respondents

¹ <https://www.nhsstaffsurveyresults.com/>

² <https://www.bma.org.uk/media/3810/bma-covid-tracker-survey-february-2021.pdf>

³ <https://www.rcem.ac.uk/docs/Workforce/CEM5324-Emergency-Medicine-Consultants---CEM-Workforce-Recommendations-Apr-2010.pdf>

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/865709/DHSC_written_evidence_to_the_DDRB_for_2020_to_2021.pdf

considering VER, do so to avoid punitive pension taxation, with two-thirds of doctors over 55, and one in eight aged between 35 and 54 considering retiring within three years as a result of the recent announcement to freeze the lifetime allowance.⁵

This crucially means that pension taxation is already unfairly having a severe financial impact on our members, and the proposals set out in the consultation will make this much worse. Forcing many of these members to delay accessing their pension for a further 2 years may result in a significant financial detriment.

We would finally note that the BMA was vigorously opposed to the linking of the state pension age to the NHS pension age, as part of the 2015 public sector pensions review, on the grounds laid out above. We hope that the government now takes this into account and makes a fair and reasonable decision to grant doctors special status, as is currently the case for the police, firefighters, and members of our armed forces.

Question 2: Are there any particular issues that the government should consider in the way NMPA is defined in pension scheme rules?

As stated above, the BMA reiterates that the government must reconsider the proposal to increase the NMPA in the NHSPS. In addition, we would urge to government to retain the NMPA as defined in the NHS legacy (1995/2008) scheme and reconsider the linking of pension age to the state pension age in the 2015 reformed scheme.

The BMA would welcome an opportunity to discuss how the government can achieve a reasonable position for the nation's doctors for the reasons set out above. We would also question the rationale behind the changes being proposed. As noted, they are likely to have a wholly detrimental impact upon the workforce and will inevitably lead to doctors who need to retire being forced to continue working.

Question 3: The government proposes that the protected pension age will apply to all the member's benefits under the scheme (if the conditions for a protected pension age are met), not just those benefits built up before 2028. Are there any other alternative options or issues the government should consider around the treatment of accrued and future pension savings?

As stated above, the BMA would ask the government to be mindful of the difficulties of working as a doctor, particularly later in their career, and reconsider the application of the proposals set out in the consultation on our members for this reason.

Separate to this, we would also ask the government to consider alternative solutions to retaining doctors within the workforce. We are hearing from our members that intense workloads, understaffed rotas, and long hours are leaving them at risk of illness and burnout, forcing many of them out of the profession altogether. This is why the BMA has long lobbied for employers to make reasonable adjustments which will facilitate older doctors continuing to work. Raising the NMPA would not address the key issues faced by older doctors but would simply penalise them for deciding to retire early.

Question 4: Are there any issues associated with schemes informing members who meet the conditions of their rights to a protected pension age?

The proposal put forward by the government would further complicate the NHSPS, which already has 3 different schemes with different retirement ages and varying features/benefits that are already considered difficult to understand. The proposed changes to the NMPA in the staggered manner suggested is only likely to increase the confusion around the schemes.

⁵ <https://www.bma.org.uk/bma-media-centre/freeze-on-pension-lifetime-allowance-would-have-serious-impact-on-medical-workforce-warns-bma>

Question 5: Are there any circumstances why the increase in NMPA may impact on pension flexibility (which was introduced following the 2014 consultation on “Freedom and Choice in Pensions”)?

The increase of the NMPA from 55 to 57 would curtail pension flexibility for members to be able to take early retirement before the age of 57. This is despite in the majority of cases doctors’ pensions being subject to an actuarial reduction when drawing their pensions early. This therefore has no cost implication to the scheme and fellow scheme members, and as such we do not believe there is any justification for the government’s proposal.

Question 6: Are there any implications the government should consider by not requiring that all scheme benefits must be crystallised on the same day as a condition for a protected pension age?

This question is not directly relevant to our members who have membership in the NHSPS, as the rules do not allow for this. Nevertheless, greater pension flexibility in this regard would be something we would be keen to explore.