

Department of Health pension policy team
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Consultation on McCloud Remedy - HSC Pension Scheme Response from BMA Northern Ireland

Introduction

BMA Northern Ireland welcomes the opportunity to respond to this consultation on the implementation of the McCloud remedy impacting members of the HSC pension scheme.

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.

Consultation response

Q1. Do you agree that the proposed amendments deliver the policy objective and requirements set by the bill?

Whilst we do not agree with the closing of the Legacy Schemes for the reasons outlined below, the proposed amendments appear to be consistent with the intended policy objectives and the requirements set by the bill to remedy the discrimination against younger members.

However, we have always strongly opposed the changes that were introduced in 2015 and have never accepted the New Scheme for several reasons, included but not limited to:

- Tiered contribution rates were increased (despite the 2008 reforms) further resulting in doctors paying significantly more for their pensions than other public sector employees.
- It is linked to state pension age, which is expected to rise to 68 by 2046. This doesn't take into account the demands being a doctor takes on an individual.
- It switched to a career average revalued earnings (CARE) scheme, which means as a result of Annual Allowance and Lifetime Allowance, doctors do not benefit from higher rate tax relief due to the tiered pension contribution rates.

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- Contribution tiers for those working less than full time are calculated using their full-time salary rather than actual salary. This means that they pay significantly more for the same amount of pension as a full-time colleague even if their actual pensionable pay is the same.
- Members are no longer able to accrue MHO benefits.
- There is the potential for negative pension input amounts in the closure of the Legacy schemes.

In now seeking to address the discrimination it caused to younger members, these proposals are subjecting older members to a detriment and disadvantage.

It has remained our position that all members should have been able to remain in their old Legacy Scheme and that members should be put back in the position in which they would have been had they been allowed to remain in the legacy scheme on and after 1 April 2015. This includes being in receipt of all benefits that flowed from legacy schemes.

Q2&3. Are you aware of additional data that would help assess the potential impacts of the proposed changes on the HSC Pension Scheme membership? Are there other comments or observations on equalities impacts you would wish to make?

We would reiterate our comments above in relation to the closing of the legacy schemes and their detrimental and disadvantageous impact on older members.

Further to this, female members in particular (specifically those working less than full time) or those with a disability (who may be more likely to work less than full time) are set to be placed at a significant disadvantage as a result of the changes proposed.

Whilst the UK Government and the Northern Ireland Department of Health's stated position is that these steps are required to remedy the discrimination found in the McCloud/Sargeant litigation, they are only having to take these steps because of their own actions, and yet again members are being placed at a disadvantage and detriment. We firmly believe that no member should be disadvantaged by this situation and would again reiterate our position that all members should have been able to remain in their Legacy Scheme.

Question 4 - Do you think there are any other benefits, costs or wider impacts of these proposed amendments that have not been mentioned yet?

We note that the remit of this consultation is restricted and limited to the logistics of closing the legacy schemes and then transferring members to the new scheme with effect from 1st April 2022. We have provided our response to the consultation on that basis. The BMA has consistently raised concerns as to the detriments and disadvantages suffered by members as a result of the discriminatory treatment imposed through the various consultations undertaken and the ongoing litigation in the employment tribunal.

We also wish to raise our concern in relation to the potential for unfair treatment towards those who have made an ill health retirement application before 31 March 2022 but who don't receive the initial outcome until after 1 April 2022. It is crucial that no member should be disadvantaged by the differences between the Legacy Schemes and the New Scheme as to ill-health retirement. The proposed Regulations do put in place arrangements for outstanding

applications to be paid in accordance with the Legacy Scheme, but they do not address whether applicants who are declined post 1 April 2022 will then be permitted reassessment under their legacy scheme (which we say they should). In addition, we contend that those members who have been accepted for ill-health retirement under the New Scheme should also be able to choose under which scheme they should receive their benefit.

Furthermore, we consider that the notification proposals for benefits derived from additional contributions can also lead to unfairness. We would query the notification proposals in relation to situations in which the date that a member joins the new scheme is later than their chosen date/birthday. In that situation, the scheme manager is only required to provide 3 months' notice whereas it would otherwise be 6 months. The timeframes in which the scheme manager should notify the member should be consistent and should be therefore 6 months in both scenarios.

Once again, we would like to thank the department for the opportunity to respond to this important consultation. Should you have any questions in relation to it, please contact Samuel Stone, senior policy officer, in the first instance via sstone@bma.org.uk.

Yours sincerely



Dr Tom Black
Chair
BMA NI Council