HSC Business Services Organisation
Pension Service

Working together Excellence Openness & Honesty Compassion

HSC Pension Service - Final pay control factsheet

Introduction

As an employer you may be liable for a final pay control charge where an officer member who is:

- A member of the 1995 Section
- A 1995/2015 transition member

Has been awarded a significant pay increase in the last four years before retirement or has elected to transfer their HSC pension benefits to another scheme. This includes employees of a trust, GMS/PMS/APMS surgery, independent provider, direction body, and non-GP providers.

HSC pension benefits awarded in respect of the death of a scheme member are not subject to final pay controls.

Final pay controls are legislated for under regulation 11Aof the 1995 HSC Pension Scheme regulations (as amended). There are no provisions under regulation 11A to apply any discretion in respect of the actual charge

The allowable amount

The allowable amount is the amount that a member's pensionable pay can increase by in their final 3 years before the employer is liable for a final pay control charge.

The allowable amount is the lesser of the:

- member's pensionable pay in the relevant year
- member's pensionable pay in the previous year, plus the consumer prices index (CPI), measure of inflation plus 7% an amount confirmed in legislation.
- percentage increase in the member's pensionable pay for the current year compared with the previous year

The allowable amount was increased from the CPI measure of inflation plus 4.5%, to CPI plus 7% from 1 July 2021. This increase is applied retrospectively see rules and exemptions from 1 July 2021.

Rules and exemptions from 1 April 2014 to 30 June 2021

From 1 April 2014, the employer was subject to a final pay control charge, also known as excess employer contribution, for the cost of pension benefits calculated on pay increases above the 'allowable amount'.

The 'allowable amount' was the **lesser** of:

- the member's pensionable pay in the relevant year, or
- the member's pensionable pay in the previous year plus 'A' ('A' is the Consumer Price Index (CPI) % plus 4.5%), or
- the percentage increase in the member's pensionable pay for the current year compared with the previous year.

From 1 April 2014 to 30 June 2021 the final pay control rules had a limited number of exemptions for pay increases as a result of:

- an increase in the national minimum wage and
- pursuant to the 'Framework agreement on the reform of Agenda for Change' adopted on 27 June 2018
- the ending of a salary sacrifice arrangement made before 1 April 2014
- the member taking up a new employment
- the acceptance of a transfer payment in the circumstances described in regulation C1(5).

Rules and exemptions from 1 July 2021 (backdated to 1 April 2018)

On 1 July 2021 the HSC Pension Scheme regulations were amended changing some of the final pay controls rules.

From 1 July 2021 the 'allowable amount' increased to CPI plus 7%.

Further exemptions were introduced for pay increases as a result of:

- a nationally agreed contract, or framework agreement where this is authorised under particular HSC terms and conditions
- a promotion following fair and open competition, with supporting evidence
- a National Clinical Excellence Award (CEA)
- the ending of a salary sacrifice arrangement
- an increase in practice profits impacting non-GP providers in certain circumstances such as:
    - a change in their practice share allocation in the last three years which is as a direct result of another provider's share allocation decreasing
    - a change in their practice share allocation in the last three years which is as a direct result of another provider leaving
    - an increase in the partnership profits within the three year period immediately prior to the date on which they cease to be in pensionable employment
    - an increase in the partnership profits and an increase in the actual share allocation during the same three-year period

These changes and exemptions have been applied retrospectively to the 1 April 2018.

Paying the final pay control charge

We will not delay awarding pension benefits where the employer is liable for a charge. The charge is not payable by the retired member.

After the pension has been awarded we will first check for any exemption and then check for any charge and invoice the relevant employer. Where the member was a non-GP provider (non-GP partner) the relevant surgery are responsible for the charge. Where there are two or more employers the charge will be made to the one that increased the pensionable pay.

Under the statutory 1995 HSC Pension Scheme regulations if the employer does not pay the charge within the one-month deadline they are subject to additional statutory charges.

Final pay control charge example

The final pay control charge is calculated as: (excess pension x pension factor) + (excess lump sum x lump sum factor).

This example is for illustration purposes only and uses hypothetical pay.

Whole time (WT) officer member aged 60 with 20 years membership and a last day of HSC service of 30 September 2020.

Step 1: Calculate the pensionable pay for each of the last three years and the base year.

Year	WT pensionable pay
01/10/2022 - 30/09/2023 (base year)	£35,000.00
01/10/2023 - 30/09/2024 (Year 3)	£37,000.00
01/10/2024 - 30/09/2025 (Year 2)	£39,000.00
01/10/2025 - 30/09/2026 (Year 1)	£45,000.00

Step 2: Calculate the allowable amount for each of the three years.

Base year pensionable pay = £35,000.00

Year 3
Year 3 pensionable pay = £37,000.00

Pensionable pay in the previous year plus CPI plus 7% = Base year pensionable pay of £35,000.00 +9.3% (February 2017 CPI of 2.3% + 7%) = £38,255.00

The legislation does not allow for a percentage increase in pensionable pay

The allowable amount in Year 3 is **£37,000.00**.

Year 2
Year 2 pensionable pay = £39,000.00

Pensionable pay in the previous year plus CPI plus 7% = Year 3 allowable amount of £37,000.00 + 9.7% (February 2018 CPI of 2.7% + 7%) = £40,589.00

Percentage increase in pensionable pay = Year 3 allowable amount of £37,000.00 x £39,000.00 (Year 2 pay) ÷ £37,000.00 (Year 3 pay) = £39,000.00

The allowable amount in Year 2 is **£39,000.00**

Year 1
Year 1 pensionable pay = £45,000.00

Pensionable pay in the previous year plus CPI plus 7% = Year 2 allowable amount of £39,000.00 + 8.9% (February 2019 CPI of 1.9% + 7%) = £42,471.00

Percentage increase in pensionable pay = Year 2 allowable amount of £39,000.00 x £45,000.00 (Year 1 pay) ÷ £39,000.00 (Year 2 pay) = £45,000.00

The allowable amount in Year 1 is **£42,471.00**

Year	WT pensionable pay	Allowable amount
01/10/2022 - 30/09/2023 (base year)	£35,000.00	……...
01/10/2023 - 30/09/2024 (Year 3)	£37,000.00	£37,000.00
01/10/2024 - 30/09/2025 (Year 2)	£39,000.00	£39,000.00
01/10/2025 - 30/09/2026 (Year 1)	£45,000.00	£42,471.00

As the best year's pay of £45,000.00 exceeds the allowable amount of £42,471.00 the employer will be charged.

Step 3: Calculate the excess pensionable pay.

The excess pensionable pay is £2,529.00 (£45,000.00 minus £42,471.00).

Step 4: Calculate the actual HSC pension benefits based on £45,000.00.

The pension for a 1995 section member is equal to one-eightieth of the best of the last three years of your final pensionable pay for each year and part year of Scheme membership

It is calculated as follows:
pensionable pay x pensionable membership ÷ 29200 (80 x 365 = 29200) = pension.

The retirement lump sum is normally three times the pension

Annual pension = £11,250.00 (£45,000.00 x 7300 days ÷ 29200)
Lump sum = £33,750.00 (£11,250.00 x 3)

Step 5: Calculate the excess pension based on the excess amount of £2,529.00.

Excess annual pension = £632.25 (£2,529.00 x 7300 days ÷ 29200)
Excess lump sum = £1.896.75 (£632.25 x 3)

Step 6: Calculate the charge payable by the employer.

Excess pension of £632.25. x 21.66 (Scheme Actuaries final pay control factor for a person aged 60) = £13,694.54 Excess lump sum = £1,896.75

Final Pay Control Charge = £15,591.29 (£13,694.54 + £1,896.75)