

NHS Pensions - Information about the new HMRC Lifetime Allowance protections available from 6 April 2016



Introduction of new HMRC Protections

As a consequence of reducing the standard Lifetime Allowance to £1 million from 6 April 2016 the Government's solution is to offer new protections to members who could be impacted by the reduction (as they have done on previous occasions since the Lifetime Allowance was introduced on 6 April 2006).

From 6 April 2016, there will be two more HMRC Lifetime Allowance protections available to members, these are:

- Fixed Protection 2016; and
- Individual Protection 2016.

Members need to consider whether to apply for the new HMRC protections in order to act to protect themselves from a possible tax charge even if they are not yet nearing retirement.

If members hold Enhanced Protection or Fixed Protection but the value of their pension benefits did not qualify them for Primary Protection or Individual Protection 2014, they need to consider whether they now have sufficient pension benefits to apply for Individual Protection 2016, which will remain dormant while the existing protection remains valid.

Legislation for these latest protections will be delivered in the Finance Bill 2016 (later the Finance Act 2016), and will become effective from 6 April 2016.

Fixed Protection 2016

Members can apply for Fixed Protection 2016, whether benefits exceed £1 million or not, as long as they do not already have one of the following protections:

- Enhanced Protection
- Primary Protection
- Fixed Protection 2012
- Fixed Protection 2014.

For Fixed Protection 2016 to remain valid there can be no benefit accrual after 5 April 2016. Fixed Protection 2016 is lost on the day benefit accrual occurs. Benefit accrual includes:

- any pension contributions paid to a defined contribution scheme, this includes the NHS Money Purchase AVC Scheme; or
- pension growth in NHS benefits that exceed a relevant percentage.

To avoid the risk of losing Fixed Protection 2016 certain members, after consulting with a financial adviser, may wish to opt out of the NHS Pension Scheme before 6 April 2016. This is explained further in this factsheet.

Once a member has Fixed Protection 2016 (and it remains valid) their Lifetime Allowance is fixed at £1.25 million. Members with Fixed Protection 2016 may be able to take a tax free lump sum of up to £312,500. This will be lower if the member already has benefits in payment.

Importantly, for 1995/2008 Scheme members with Tapered Protection, Fixed Protection will be lost when they **move and contribute** to the 2015 Scheme. The factsheet 'Loss of Enhanced Protection and Fixed Protection because of the 2015 NHS Pension Scheme' has more information:

<http://www.nhsbsa.nhs.uk/Pensions/4222.aspx>

Until the Finance Act 2016 comes into force members can find further details about Fixed Protection 2014 (similar to Fixed Protection 2016) at:

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093000.htm>.

Individual Protection 2016

Members can apply to HMRC for Individual Protection 2016 as long as they do not have Primary Protection (active or dormant) and the capital value of their pension benefits, from all their registered pensions schemes including their NHS benefits, is equal to or over £1 million as at 5 April 2016.

Individual Protection 2016 allows members to accrue further benefits in the NHS Pension Scheme, without the risk of losing this protection.

Members will have an individual Lifetime Allowance equal to the capital value of their benefits at 5 April 2016 but subject to a maximum cap of £1.25 million. Pension benefits will be protected up to this amount and they may be able to take a tax free lump sum of up to 25% of their individual Lifetime Allowance, this will be lower if the member already has benefits in payment.

A Lifetime Allowance charge would be due on benefits in excess of the individual Lifetime Allowance amount.

Individual Protection will remain dormant while the member holds:

- Enhanced Protection
- Fixed Protection 2012
- Fixed Protection 2014
- Fixed Protection 2016

Individual Protection 2014

A reminder that members still have time to apply for Individual Protection 2014 as the deadline does not end until 5 April 2017. Members with a capital value of benefits of more than £1.25 million should consider applying instead for Individual Protection 2014, which would give them a higher individual Lifetime Allowance than Individual Protection 2016.

More about Individual Protection can be found on our website.

Online applications to HMRC

The Finance Act 2016 will be laid after 6 April 2016 and as a result HMRC will be prevented from processing applications for Fixed Protection 2016 in advance of 6 April 2016. Applications for Fixed Protection 2016 and Individual Protection 2016 will be online using a new HMRC online self service tool, which is expected to be available to members or their authorised representative from July 2016. This is part of the Government's initiative of increasing the amount of transactions undertaken via the HMRC website.

For the 2016 protections, HMRC will not be issuing a paper protection certificate. Instead they will provide a protection reference number and, for Individual Protection 2016, confirmation of the member's individual Lifetime Allowance electronically. Members will need these when they come to retire. HMRC are also exploring ways in which administrators of pension schemes will be able to check the protection status of one of their members.

The information needed by HMRC to process the application will be similar to that in respect of the previous declarations for Fixed Protection 2012, Fixed Protection 2014 and Individual Protection 2014. Fixed Protection 2016 will have precedence over Individual Protection 2016 if both are being applied for.

HMRC has indicated that there will no longer be an application deadline for obtaining Fixed Protection 2016 and Individual Protection 2016 (unlike the 5 April 2017 deadline for Individual Protection 2014).

There will be issues for members wishing to take NHS benefits after 5 April 2016, but before they receive their protection reference number, from July 2016 onwards. In view of this, HMRC has come up with an interim process (see HMRC Newsletter 73), whereby HMRC will provide a letter to pass onto a scheme administrator in advance of the online facility becoming available.

Members will need to have this latest protection before they take their NHS benefits if they want to avoid paying a Lifetime Allowance charge. Without a HMRC letter or confirmation of the protection reference number, NHS benefits will be put into payment assuming a standard Lifetime Allowance of £1 million for 2016/17, this could mean the payment of a smaller lump sum.

Where NHS benefits crystallise, on or after 6 April 2016, without protection and a protection reference number is issued after this date the reduction to the NHS pension will be revised to take into consideration the type of protection received and any reduction to the Lifetime Allowance charge already paid.

Interim HMRC process

HMRC Newsletter 73 states:

'There will be a period between the new protection regimes becoming available in April 2016 and the introduction of the new online self-service in July 2016. For this period we will introduce an interim process for pension scheme members who want to take benefits before the introduction of

the new online service. Scheme members will be able to write to HMRC between April 2016 and July 2016 and we will check the details of their protection and respond to the member in writing. This can then be presented to the scheme administrator in advance of the full application being made after July 2016.'

The link to Newsletter 73 is:

<https://www.gov.uk/government/publications/pension-schemes-newsletter-73-october-2015>

There is also some useful information in Newsletter 72:

<https://www.gov.uk/government/publications/pension-schemes-newsletter-72-september-2015>

Individual Protection 2016 valuations

Members applying for Individual Protection 2016 will need to know the value of their NHS benefits as at 5 April 2016 and will therefore need to apply to NHS Pensions for an 'Individual Protection 2016 valuation' (IP2016 valuation).

NHS Pensions will be adopting a similar approach to the one for applications of IP2014 valuations. In order to deal with IP2016 valuation requests, NHS Pensions will publish forms AW295 (Officer-IP2016) and AW295 (GP-IP2016) on the Tax Information page of the website. These forms will be available during March 2016.

Requests for an IP2016 valuation should preferably be made on one of these forms and members will be directed to complete one if they telephone NHS Pensions. A request using a different format that does not specify IP2016 or 5 April 2016 will be treated as a routine estimate request. Please make members aware that there may be a charge for providing an IP2016 valuation.

If employers receive any IP2016 valuation requests you should refer members to these forms along with the tax information available on the website in the first instance.

Type 1 and 2 Medical Practitioner and non-GP Provider members – NHS Pensions will routinely only provide IP2016 valuations when pensionable earnings and revaluation information up to 5 April 2016 have been confirmed, these will not be final until May 2018.

However, for those members who intend to retire before May 2018 we will provide a provisional IP2016 valuation based on information provided on form AW295 (GP-IP2016). The member must then request a final IP2016 valuation after May 2018, again using form AW295 (GP-IP2016).

We expect the bulk of these requests will be processed after May 2018.

Dental Practitioner members - NHS Pensions will routinely only provide IP2016 valuations when dental pensionable earnings and revaluation information up to 5 April 2016 have been confirmed, these will not be final until May 2017.

However, for those members who intend to retire before May 2017 we will provide a provisional IP2016 valuation based on information provided on form AW295 (GP-IP2016). The member must then request a final IP2016 valuation after May 2017, again using form AW295 (GP-IP2016).

We expect the bulk of these requests will be processed after May 2017.

Hospital, Practice and Approved Employer Staff members - If the member record is updated to year end 31 March 2016 then we will need pay and hours (if part time) for the five day period from 1 April 2016 to 5 April 2016.

Employers will be required to provide pay and membership details up to 5 April 2016 when requested to do so on forms AW295 (Officer – IP2016) or FA11 (IP2016). Without this information NHS Pensions will be unable to calculate an IP2016 valuation.

Opting out

One of the conditions for retaining Fixed Protection 2016 is that a member does not trigger benefit accrual on or after 6 April 2016. This is where future accrual in the NHS Pension Scheme exceeds the value of benefits at 5 April 2016 indexed in line with inflation in the 12 months prior to September 2015. As this value was negative (-0.1% for the year to September 2015) members accruing benefits from 6 April 2016 will more than likely incur benefit accrual immediately.

To retain the right to Fixed Protection 2016, members may therefore decide to opt out of the NHS Pension Scheme before 6 April 2016. Members wishing to apply for Fixed Protection 2016 will need to start thinking about whether they want to leave the NHS Pension Scheme (and any other pension schemes) well before 5 April 2016.

An election to opt out of the NHS Pension Scheme takes effect from the first of the month, following the month in which it is given, therefore to ensure they opt out in time members should consider an opt out no later than the end of March 2016. Form SD502 should be completed and returned to the employer in March 2016, which would have an effective date of 1 April 2016.

With regards to ceasing contributions to money purchase (defined contribution) arrangements, members may need to start the process of ceasing contributions earlier than March 2016. This is because a money purchase contribution received by a scheme on or after 6 April 2016 will constitute further accrual, which will invalidate Fixed Protection 2016.

Before applying to opt out of the NHS Pension Scheme members should first visit our website and read the Leaving Early and Transferring Out guide, the Scheme Guides and the Opting Out factsheet. In addition the Opt out calculator, in the Pension Calculators section, will illustrate the impact of opting out on take home pay and contains standard information outlining the NHS benefits members would lose.

From 1 April 2015, as a result of the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 (SI2015/501), employers are not required to automatically enrol or re-enrol eligible jobholders where the employer has reasonable grounds to believe that, on the enrolment or re-enrolment date in relation to the contract, the person holds Enhanced Protection, Fixed Protection or Individual Protection.

Although in each of these cases the employer can nevertheless choose to automatically enrol or re-enrol the person into the NHS Pension Scheme.

Disclaimer

At the time of this publication the legislation reducing the Lifetime Allowance to £1 million is not in place and the available methods of protection are not yet finalised.

NHS Pensions must advise caution, as there may be future changes and amendments made to the legislation that will frame these protections, before the final drafting of the Finance Bill 2016 goes before Parliament and becomes the Finance Act 2016.

The information contained within the Lifetime Allowance factsheets are therefore based on HMRC announcements received to date and how we expect the legislation to work, based on previous protections. We anticipate that more details will be known before 6 April 2016.

Important:

Members should consider very carefully any decision to opt out and take into consideration the valuable pension and attaching risk benefits (e.g. death in service benefits) that the NHS Pension Scheme provides.

If members think they may be affected by the Lifetime Allowance, it is recommended that they take independent financial advice from a registered individual who can assess and quantify the extent of any potential tax liability and also comment on the benefits of remaining in the NHS Pension Scheme.

Before asking for advice they should make sure they know which type of adviser they are dealing with. They can find a list of independent financial advisors on the following links:

**IFA Promotions Limited - www.unbiased.co.uk
The Personal Finance Society - www.findanadviser.org**

It is advisable for members to check that any independent financial advisor they choose is authorised with the:

**Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London
E14 5HS**

Telephone: 0800 111 6768 or visit their website: www.fca.org.uk