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Dear

PENSIONS TAX IMPACTS ON THE NHS – A SOLUTION FOR 2019/20

Many of you have had first-hand experience of the effect on work patterns caused by the annual allowance pensions tax, and the annual allowance taper. Each have impacted on an increasing number of clinical staff in the NHS Pension Scheme.

NHS England and NHS Improvement (“NHSEI”) have taken action to address the issue in order to reduce the negative impact of the pensions tax on the delivery of NHS services during the tax year 2019/20.

As a clinical academic you are in an unusual position. As you know, your employment contract is with the university and you have an honorary contract with [name of Trust/FT]. Clinical academics can also be members of the NHS Pension Scheme through something called the “direction status” of their employer, the university. So, the university and [Trust/FT] have come together to send this letter, explaining their roles in supporting NHSEI’s initiative.

The specific purpose of this letter and the [FAQs](#) is to set out how this will work in practice. It is also to re-assure you that we are completely committed to ensuring that clinicians who exceeded their annual allowance as a result of the growth in their NHS Pension Scheme benefits in the 2019/20 financial year can now use the NHSEI mechanism to ensure that you do not suffer any negative financial consequences as a result.

Under the policy any additional shifts or sessions during 2019/20 will not in themselves generate an annual allowance tax charge with respect to your NHS pension benefits now, or the tax charge impacting on your income when you retire. Subject to the eligibility criteria and other details set out in this letter and [FAQs](#), this means that in the event that:

- a) You incur a pensions annual allowance tax charge with respect to the 2019/20 tax year as a result of your membership of the NHS Pensions Scheme (the ‘tax charge’); and
- b) You elect to have the tax charge paid by the NHS Pension Scheme under the “Scheme Pays” facility; then

where your pension becomes payable to you under the NHS Pension Scheme and the amount of such payment is reduced as a result of a tax charge for 2019/20, the University (backed by the Trust, NHS England and ultimately the Secretary of State for Health and Social Care) will make a contractually binding commitment to make additional compensatory payment to you. This will be of

a sum equal to the amount of this reduction, including any reduction to a tax-free lump sum, grossed up for applicable taxes at that point in time. These payments shall become due and owing from the same date as the date of any payment that becomes due as a result of your accrued NHS pension rights. The payments will be administered by the NHS Business Services Authority who also administer your pension.

You will need to pay tax on these compensatory payments at the prevailing marginal rate at the time they are made, just as you would for any other income, including your NHS pension.

If the Secretary of State directs that your NHS Pension Scheme benefits should be reduced or withheld entirely in exercise of powers¹ to forfeit such benefits upon conviction for treason, serious offences in connection with employment to which the pension scheme relates, or specific offences under the Official Secrets Acts 1911 to 1989 or in recovery of losses to public funds that resulted from criminal, negligent or fraudulent actions, your entitlement to these compensatory payments would immediately cease and the right to receive future payments would be extinguished.

The legal status of this letter is that it will constitute a formal variation to your contractual terms of employment with the University to incorporate an offer of a compensatory payment in retirement if you use the NHS Pension Scheme 'Scheme Pays' mechanism to pay your pensions annual allowance tax charge with respect to 2019/20. Further detail on Scheme Pays is included in the [FAQs](#). The arrangements specified above and the contract variation to implement those arrangements, will take effect automatically unless you write to us at the address given at the head of this letter, formally objecting to the proposed variation of your contract.

We understand that staff may be worried or anxious that any commitment from the University which is given now (but which may not come into effect until many years in the future), might in some way be at risk of being lost or eroded over time. However, the legally binding contractual offer given in this letter, to make additional payments in retirement, like the benefit promise under the NHS Pension Scheme itself, is backed by the Trust and NHS England. The Trust is itself underwritten by the Government. In the unlikely event the University ceases to exist, the commitment set out in this letter would be honoured by the NHS as set out further in the [FAQs](#).

The liability to make the payments under this arrangement is not contingent on your remaining as an employee of the University.

This letter should therefore give you the necessary assurance to be certain that you were able to undertake any combination of NHS activities during the 2019/20 tax year without suffering any financial loss as a result of the annual allowance pensions tax, subject to using the Scheme Pays mechanism as explained in the FAQ document.

This will apply to registered doctors, nurses, AHPs, academic clinicians and other clinicians in active clinical roles who are members of the 1995/2008 and 2015 NHS Pension Schemes. It will apply to all pension savings built up in the NHS Pension Schemes in 2019/20 (but not annual allowance tax charges which may arise due to pension savings you have built up outside the NHS Pension Schemes, nor additional voluntary contributions (AVCs) within the NHS Pension Scheme such as additional pension purchases). You will be able to have this charge paid by the NHS Pension Scheme by completing and returning a 'Scheme Pays' election before the 31 July 2021 deadline meaning that

¹ 1995 Section: regulations T5 and T6 of the National Health Service Pension Scheme Regulations 1995; 2008 Section: regulations 2.J.6, 2.J.7, 3.J.6 and 3.J.7 of the National Health Service Pension Scheme Regulations 2008; 2015 Scheme: paragraphs 11 and 12 of Schedule 3 to the National Health Service Pension Scheme Regulations 2015

you don't have to worry about paying the charge now out of your own pocket. In certain circumstances, such as retirement, you may need to make this election earlier, we will provide further guidance on the necessary steps well in advance of any deadline.

Please do take some time to read the accompanying FAQs, which can be found at <https://www.england.nhs.uk/pensions/> which should help you understand how the new initiative operates, and what you need to do in order to ensure that it works for you personally.

Finally, pensions tax is a complex subject. NHS Employers have provided guidance on the pensions annual allowance available at www.nhsemployers.org/pay-pensions-and-reward/pensions/pension-resources/annual-and-lifetime-allowance

If you have any further questions about the annual allowance or how the NHSEI initiative might affect your financial position you should take independent financial advice.

Yours sincerely

[University signatory]