

# **Arrangements for Staff breaching the Lifetime Allowance.**

## **Background**

The University's pension schemes are a key element of the reward offering allowing us to attract and retain the most talented employees from around the world. They offer competitive advantage over employers in other sectors and over Higher Education Institutions outside the UK.

Progressive changes in the tax treatment of pensions since 2010 have meant that those pension scheme members with higher earnings and longer service are more likely to incur additional tax liabilities for pension savings in excess of the Lifetime Allowance when they draw their pension at retirement.

Under HMRC regulations those who have breached or expect to breach the Lifetime Allowance have the option to take out Individual Protection to increase the value of their Lifetime Allowance on an individual basis subject to certain rules.

In 2012, in response to the reduction in the Lifetime Allowance from £1.8 million to £1.5 million USS changed its rules to allow members to take "Enhanced Opt Out", ceasing accrual of service in USS while retaining death in service and incapacity cover. The University responded by introducing arrangements to pay an "Additional Salary Element" as a payment in lieu of pension contribution to staff electing to withdraw from accrual in the USS scheme and taking the "Enhanced Opt Out" for tax planning reasons.

In the light of the reforms to the USS pension scheme effective from 1 April 2016 and 1 October 2016 and further reductions in the Lifetime Allowance announced by HMRC the University's Remuneration Committee recently reviewed and restated the University's position on arrangements for payment in lieu of pension contributions.

## **Principles**

The Committee agreed that the following principles should apply to all current and future decisions on this matter:

- The approach should be agreed by the University Remuneration Committee.
- Individuals who have a personal or pecuniary interest should not be part of the decision making process.
- The approach should be fair and equal and in line with relevant pension scheme rules.
- The arrangement should operate at no net cost to the University.

## **Position Statement**

After careful and detailed consideration the Committee agreed that the University should continue with the policy of paying an "Additional Salary Element" as payment in lieu of pension contributions to those employees who opt out of further accrual in USS for tax planning reasons. The Committee agreed that there should be clear criteria for access to these arrangements and that the arrangements should only be open to those employees who:

- Have breached the Lifetime Allowance and provided the University with evidence of such.
- Have taken "Enhanced Opt out" from USS to maintain death in service and incapacity benefit.

## **Detailed Rules for payment in lieu of Pension Contribution**

### **Additional Salary Element**

1. Subject to the paragraphs below, the Additional Salary Element for those who have breached the LTA and have taken “Enhanced Opt Out” from the USS scheme will be calculated as:

- A percentage of the employee’s pensionable salary, on the day immediately preceding the date of the Opt Out, calculated as the percentage of the employee’s pensionable salary that the University would otherwise contribute to the USS in respect of the employee were the employee to continue to accrue pension benefits in the USS less a percentage to reflect the amount payable to USS by the University in respect of individuals taking “Enhanced Opt Out”.
- The University will not pay the Additional Salary Element for any reason other than the employee has breached the LTA and taken “Enhanced Opt Out” from the USS scheme.
- The Additional Salary Element will be paid less deductions for income tax and national insurance contributions (and any other deductions).

2. The percentage calculated for the purposes of determining the Additional Salary Element will not be negotiable and will be calculated on the principle that the University will not suffer any financial detriment and that the employee’s total remuneration costs to the University in respect of an employee do not increase as a result of paying the Additional Salary Element.

3. The Additional Salary Element payable to an individual in respect of the USS opt out may be increased or decreased in accordance with increases or decreases in the percentage rate of employer contributions the University pays to the USS in respect of USS scheme members.

4. The Additional Salary Element will normally be calculated on an annual basis. When calculating the Additional Salary Element the University may take into account any changes in the total remuneration costs it has incurred in respect of the employee’s employment since the last calculation date as a result of changes in the percentage rate of employer contributions the University paid to the USS in respect of USS scheme members (or is likely to have to pay to the USS in respect of USS members).

5. The University also reserves the right to adjust the Additional Salary Element at any time where it reasonably determines that its remuneration costs have changed or are likely to change.

6. The Additional Salary Element will be available to employees as long as the option for the “Enhanced Opt Out” from USS rule exists and as long as the University deems to consider this approach to be appropriate. Should the University decide to withdraw this element, those in receipt would receive appropriate notice. Appropriate notice would normally be three months’, however, notice may be less than this if the USS pension scheme changed or withdrew their rules in relation to opt-out options and it was impracticable for the University to provide three months’ notice.

7. Where an employee re-joins the USS scheme for the purposes of accruing pension benefits, the Additional Salary Element will cease on the working day before the date the employee re-joins the USS scheme.

8. For the avoidance of doubt the Additional Salary Element will not form part of an employee’s pensionable salary.

9. The Additional Salary Element is only available to those current USS members who have breached the LTA and taken “ Enhanced Opt Out” from the USS scheme.

10. A mandatory contribution (currently 2.5%) of salary to USS is required in order to maintain death in service and incapacity benefits. For the avoidance of doubt ‘salary’, for the purposes of the USS deduction, will not include the Additional Salary Element.

11. The employee will be required to sign a contractual agreement with the University to ensure that the terms on which the University offers the Additional Salary Element are clear.

12. The University of Edinburgh’s Pensions Department or Human Resources Departments are not permitted to provide personal pensions and/or tax advice. Individuals considering withdrawing from further accrual in USS and taking the “Enhanced Opt Out” should seek independent financial advice. A list of Independent Financial Advisors is available at [www.unbiased.co.uk](http://www.unbiased.co.uk)

13. To receive the Additional Salary Element employees must:

- have breached the Lifetime Allowance and provided evidence to the University’s Pensions Department of such and
- Have submitted the relevant USS form, to take “Enhanced Opt Out” to the University’s Pensions Department and
- have informed their local Head of HR of their intentions.

The Information and the relevant form to apply for Individual Protection can be found on the HMRC website at the link below:

<https://www.gov.uk/guidance/pension-schemes-protect-your-lifetime-allowance>

The form to apply for “Enhanced Opt Out” from USS can be found on the USS website at the link below:

<https://www.uss.co.uk/members/members-home/tax-considerations>