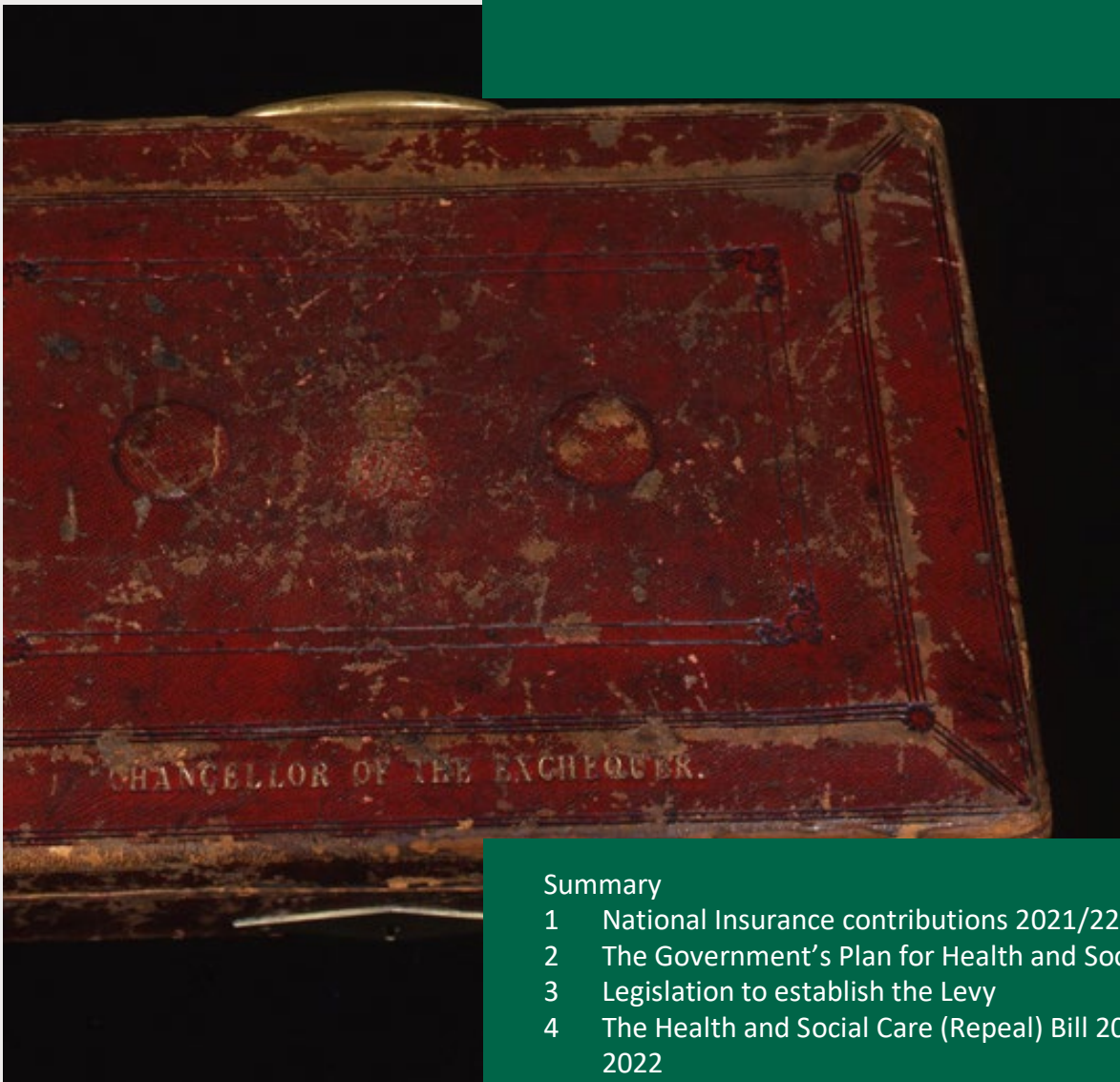


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6 October 2022

Health and Social Care Levy Act 2021



Summary

- 1 National Insurance contributions 2021/22
- 2 The Government's Plan for Health and Social Care
- 3 Legislation to establish the Levy
- 4 The Health and Social Care (Repeal) Bill 2022-23: September 2022

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Contents

Summary	4
1 National Insurance contributions 2021/22	7
The structure of NICs in 2021/22	7
NICs receipts: Size, composition and the NI Fund (2021/22)	10
2 The Government’s Plan for Health and Social Care	12
2.1 The Government’s announcement of its plan: 07 September 2021	12
2.2 Earlier debate on the case for raising NICs to pay for social care	15
2.3 Initial responses to the new Levy: September and October 2021	17
Commentary surrounding Parliamentary procedure	23
2.4 Initial assessment of the impact of the Levy: September and October 2021	24
Amount raised from change	24
Number of people and businesses affected	25
Distributional impact	27
Economic impact	30
Administrative cost	31
2.5 Autumn Budget 2021	34
3 Legislation to establish the Levy	42
3.1 The Act	42
3.2 HMRC’s impact assessment	43
3.3 Fast track procedure	46
3.4 The Act’s scrutiny: 14 September 2021	50
4 The Health and Social Care (Repeal) Bill 2022-23: September 2022	53

Summary

Introducing a health and social care tax

The Health and Social Care Levy Act 2021 was introduced on 8 September 2021 as the Health and Social Care Bill 2021-22. It received Royal Assent on 20 October 2021, and it came into force on 6 April 2022.

[In a statement to the House on 7 September 2021](#), then Prime Minister Boris Johnson announced plans to substantially increase funding for health and social care for a three-year period from 2022/23 to 2024/25, to be funded by a new tax: the Health and Social Care Levy.

The Levy is based on National Insurance contributions (NICs), which are paid by employees, employers and the self-employed. Most NICs payments go into the National Insurance Fund, to pay for contributory benefits (primarily the State Pension). A single portion of the income from NICs is not paid into the fund, but is allocated to the National Health Service.

The plan to introduce the Levy contained two stages. The first stage was implemented at the beginning of the 2022/23 financial year, and the second was due to be implemented in 2023/24:

- On 6 April 2022, the rate of primary Class 1 NICs for employees charged on their earnings, the rate of secondary Class 1 NICs for employers charged on their employees' earnings, and the rate of Class 4 NICs for the self-employed charged on their trading profits, was increased by 1.25 percentage points.
- In 2023/24 a separate levy set at 1.25% was planned to be introduced, replacing this temporary increase in NICs rates. People in employment who were over State Pension age would also have been liable to pay the levy. At present, pensioners are not liable to pay NICs on any earnings they receive from employment.

The Health and Social Care Levy Act provides for the temporary increase in NICs rates for 2022/23, and its replacement with the Levy from April 2023.

The Act also makes provision for the Treasury to determine how the money raised from the Levy is allocated between health care and social care, and the amounts to be split between England, Wales, Scotland and Northern Ireland. NICs is not a devolved tax. The Act extends and applies to the whole of the UK.

Statutory provisions regarding NICs [are not included](#) in the annual Finance Bill, so changes to National Insurance in recent years have been made by the

introduction of relatively short bills (for example, the [National Insurance Contributions Act 2014](#), and the [National Insurance Contributions Act 2015](#)).

Financial impact

The Government's health and social care plans were set out in detail in a [Command Paper](#) published alongside the Prime Minister's statement. This estimated that the Levy would raise an additional £11.4 billion a year for health care and social care, for the three-year period 2022/23 to 2024/25.

The Office for Budget Responsibility (OBR) published a revised estimate in its [Economic and Fiscal Outlook](#) which accompanied the Autumn Budget in October 2021. It anticipated that the Levy would raise around £12.4 billion a year for health and social care in 2023/24, rising to £13 billion in 2026/27.

Parliamentary procedure

Following Boris Johnson's statement on 7 September 2021, then Leader of the House Jacob Rees-Mogg announced that the House would consider a motion to approve a Ways and Means Resolution, to enable the Government to [bring forward legislation to introduce the Levy](#). This was approved on 8 September, after which the Health and Social Care Levy Bill was published ([Votes and Proceedings No.43, 8 September 2021 - PDF](#)). In the Business Statement on 9 September 2021, Mr Rees-Mogg said all stages of the Bill in the House of Commons would be taken on 14 September, [as announced on Twitter on 9 September](#).

A Commons Library briefing on [public bills receiving their second and third readings on the same day](#), provides a list of examples of public bills being 'fast-tracked' in this way. Another recent example of expedited legislation in the field of tax law was the [Stamp Duty Land Tax \(Temporary Relief\) Act 2020](#). This introduced a temporary relief for residential house sales, as part of a package of measures announced by then Chancellor Rishi Sunak in June 2020 to boost job creation in the context of the Covid-19 pandemic. Initially the Government's decision to 'fast-track' the Health and Social Care Levy Bill was not addressed in the explanatory notes, published alongside the Bill on 8 September 2021. An updated version of the notes, with an additional section relating to fast-track legislation, was published [on 13 September 2021](#).

In turn, on 14 September 2021 the House approved a motion for all of the Bill's stages in the Commons to be taken that day, and the Bill was agreed, unamended ([Votes and Proceedings No.47, 14 September 2021](#); [HC Deb 14 September 2021 cc837-947](#)). Following its first reading in the House of Lords on 15 September, the Bill went through its second and third readings on 11 October, after which it was passed. The Bill received Royal Assent on 20 October 2021 and became the [Health and Social Care Levy Act 2021](#).

The Health and Social Care (Repeal) Bill 2022-23: Autumn 2022

On 23 September 2022, Chancellor Kwasi Kwarteng announced that the Government would [repeal the Health and Social Care Act 2021](#), in line with campaign pledges made by Prime Minister Liz Truss during the 2022 Conservative leadership race. The Health and Social Care (Repeal) Bill 2022-23 was introduced on 22 September 2022. The Bill, alongside its explanatory notes, can be found on the [Bill's page on parliament.uk](#). The [Commons Library briefing paper on the Health and Social Care \(Repeal\) Bill 2022-23](#) provides more detailed information.

On 22 September 2022, Leader of the House Penny Mordaunt [announced](#) that all stages of the Health and Social Care (Repeal) Bill, would take place on Tuesday, 11 October 2022, following the same fast-track procedure used for the Health and Social Care Act 2021.

Further reading

Several Commons Library briefings provide further background to the Government's plans for health and social care:

- [Proposed reforms to adult social care announced in September 2021](#), CBP9315, 03 October 2022
- [Paying for adult social care in England](#), CBP01911, 29 April 2022 (provides an overview of how individuals currently access social care funding support from their local authority).
- [Adult Social Care Funding \(England\)](#), CBP7903, 11 February 2022 (examines the key funding pressures facing adult social care and sets out the additional funding provided since 2016/17).
- [Reform of adult social care funding: developments since July 2019 \(England\)](#), CBP8001, 12 May 2021.
- [Social care: Government reviews and policy proposals for paying for care since 1997 \(England\)](#), CBP8000, 23 October 2017 (section 5 provides information on the proposals of the Dilnot Commission in 2011).

1

National Insurance contributions 2021/22

National Insurance contributions (NICs) are paid by employees, employers and the self-employed, and used to fund contributory benefits: the state pension, contributions-based jobseeker's allowance, contributory employment and support allowance, maternity allowance, and bereavement benefits. Entitlement to contributory benefits is based on someone's National Insurance payment record.¹

Most income from NICs is paid into the National Insurance Fund, which is separate from all other revenue raised by taxation. The Fund operates on a 'pay as you go' basis; broadly speaking, this year's contributions pay for this year's benefits. Over 90% of spending on benefits from the Fund goes to retirement pensions² The Government has no powers to use NICs to fund anything else.³

The structure of NICs in 2021/22

Employees are liable to primary Class 1 NICs on their earnings if they exceed the lower earnings limit (LEL). The LEL was set at £120 per week for 2021/22.

A zero rate of NICs is charged on earnings between the LEL and the primary threshold (PT), which was set at £184 per week. In effect those earning between these two thresholds do not pay any tax, but they are treated as if they have made a contributory payment, which maintains their entitlement to contributory benefits. Earnings above the PT were charged NICs at a rate of 12%, subject to a cap at the upper earnings limit (UEL), which was set at £967 per week. Earnings *above* the UEL were charged NICs at a rate of 2%.

Employers pay secondary Class 1 NICs on employee earnings. This was at a rate of 13.8% on earnings above the secondary threshold (ST) in 2021/22. The ST was set at £170 a week. Employers were also liable to pay Class 1A

¹ For details see, HMRC, [What National Insurance is for](#), retrieved September 2021

² GAD, [Report by the Government Actuary on: The draft Social Security Benefits Up-rating Order 2022](#), January 2022 (Table 2.2)

³ Part XII of the [Social Security Administration Act 1992](#) contains the statutory authority for the Fund; section 163 specifies that payments out of the Fund may only be made to finance a list of specified benefits.

NICs on benefits provided for employees, and Class 1B NICs on PAYE Settlement Agreements (PSAs) at a rate of 13.8%. ⁴

Class 1 NICs rates for employees and employers for 2021/22

Earnings ^a £ per week	Employee NIC rate (per cent)	Earnings £ per week	Employer NIC rate (per cent)
Below £120 (LEL)	0%	Below £120 (LEL)	0%
£120 to £184 (PT)	0%	£120 to £170 (ST)	0%
£184 to £967 (UEL)	12%	Above £170	13.8%
Above £967	2%		

^a The limits are defined as: LEL - lower earnings limit; PT - primary threshold; ST - secondary threshold; and UEL - upper earnings limit. ⁵

Employers could be entitled to one of three tax reliefs on their payment of employer NICs:

- The Employment Allowance, announced in the 2013 Budget, and applied from April 2014. ⁶ This provides a flat rate deduction for businesses and charities against their annual employer NICs bill. Initially the allowance was set at £2,000, but was increased to £3,000 from April 2016, and to £4,000 from April 2020. ⁷ From April 2020, the allowance can only be claimed by employers with employer NICs below £100,000 in their previous tax year, a change announced in the 2018 Budget. ⁸ Further details on the operation of the allowance are published by HMRC. ⁹
- An Upper Secondary Threshold (UST) for under 21s, which was announced in the 2013 Autumn Statement. ¹⁰ From April 2015, a zero rate of secondary Class 1 NICs has been charged on earnings up to the UST set in line with the UEL (which, as noted above, is £967 per week for 2021/22). In effect, employers only pay secondary Class 1 NICs for employees under 21 on earnings above this threshold. ¹¹

⁴ A PSA is an agreement an employer may make with HMRC to pay tax on a lump sum on certain expenses and benefits in kind provided to employees (for details see, HMRC, [Employer further guide to PAYE and National Insurance contributions 2020/21](#), 12 May 2021).

⁵ HM Treasury, [Budget 2021: overview of tax legislation and rates](#), March 2021 ([Annex A: Rates and Allowances](#)). These thresholds are set by Order ([SI 2021/157](#)).

⁶ [Budget 2013, HC 1033, March 2013 para 2.41](#). Statutory provision for the new allowance was made by [ss1-8 of the National Insurance Contributions Act 2014](#).

⁷ These increases in the Allowance were made by Order: [SI 2016/63](#), [SI 2020/273](#), and, [SI 2022/364](#)

⁸ [Budget 2018, HC 1629, October 2018 para 3.11](#). This change was made by Order : [SI 2020/218](#). See also, HMRC, [Employment Allowance: excluded persons regulations 2020](#), 24 January 2020

⁹ HMRC, [Employment Allowance](#), ret'd September 2021

¹⁰ [Autumn Statement, Cm 8747, December 2013 para 1.195](#). Statutory provision for the UST by [s9 of the National Insurance Contributions Act 2014](#).

¹¹ HMRC, [Employer National Insurance contributions for under 21s](#), December 2014

- An Apprentice Upper Secondary Threshold (AUST), which was announced in the 2014 Autumn Statement.¹² From April 2016 a zero rate of secondary Class 1 NICs has been charged on earnings up to the AUST, which is also aligned with the UEL. In a similar fashion to the UST for under 21s, employers only pay secondary Class 1 NICs for apprentices aged under 25 on earnings above this threshold.¹³

Self-employed people pay a weekly flat rate Class 2 NIC (which was set at £3.05 for 2021/22). They may apply for exemption from paying Class 2 contributions if their annual profits are less than the level of the ‘small profits threshold’ (SPT), which was £6,515 in 2021/22. They may also be liable to pay a separate Class 4 profits related contribution. Class 4 NICs were charged at a rate of 9% on profits between a lower annual profits limit (£9,568) and an annual upper profits limit (£50,270) in 2021/22. NICs were set at 2% for any profits above the upper limit (UPL) in 2021/22.

Voluntary Class 3 contributions can be paid by some people entitled to do so. This might be to ensure they qualify for the state pension and bereavement benefits. Class 3 NICs are charged at a weekly flat rate, set at £15.40 for 2021/22.

Difference between NICs and income tax

NICs are charged on earnings from employment and self-employment only.

By comparison, income tax is charged on a person’s total income which includes savings and investment income, state and occupational pensions as well as earnings-replacement benefits.

UK residents and others with income in the UK are liable to pay income tax, whereas only people over 16 and under state pension age working in the UK are liable to pay NICs.¹⁴

An employer’s liability to pay secondary Class 1 NICs based on earnings paid to or for the benefit of an employee is **unaffected** when the employee reaches state pension age. Employers continue to pay NICs on earnings of employees who have reached this age.

Employees’ contributions entitle them to the range of contributory benefits, including contributions-based jobseeker’s allowance, incapacity benefit, retirement pensions and bereavement benefits. The flat rate Class 2 NICs paid by the self-employed entitle them to all benefits apart from jobseeker’s

¹² [Autumn Statement, Cm 8961, December 2014 para 2.53](#). Statutory provision for the AUST was made by [s1 of the National Insurance Contributions Act 2015](#).

¹³ HMRC, [Employer National Insurance contributions for apprentices under 25](#), February 2021

¹⁴ Further details are given in, Chartered Institute of Taxation, [NICs – an explainer](#), 28 July 2021.

allowance. However, Class 4 contributions (charged on trading profits) do not count towards any benefit entitlement.

Further background on the National Insurance system is given in the Commons Library briefing, [National Insurance contributions: an introduction, Commons Library briefing](#).

NICs receipts: Size, composition and the NI Fund (2021/22)

National Insurance Contributions (NICs) raised £158 billion in 2021/22.¹⁵ This compares with receipts of £220.6 billion from income tax, and £156.8 billion from VAT.¹⁶

Most of the receipts from NICs are paid into the National Insurance Fund, which is separate from all other revenue raised by taxation. The Fund is used exclusively to pay for contributory benefits.

A single portion of the income from NICs is not paid into the Fund but goes to the National Health Service. For example, in the case of Class 1 NICs, the NHS allocation is 2.05% of earnings between the primary threshold and the Upper Earnings Limit (UEL), and 1% of earnings above the UEL.

[example – only use main 12% rate as a practical example – make a clear split between NI fund and NHS (9.95% to NI Fund and 2.05% to NHS)]

For example, this can be shown practically for earnings between £184 and £967 per week. In 2021/22, 9.95% of those earnings went into the National Insurance Fund. Conversely, 2.05% of earnings was allocated to the NHS. All these funds were raised through National Insurance Contributions (as 9.95% + 2.05% = 12%, which was the Class 1 NICs rate for employees in 2021/22). This is shown clearly in the Government Actuary's Department's (GAD) 2022 report to Parliament.¹⁷

The GAD report also includes information about NICs funds channelled into the NHS. The report states that £29 billion raised from NICs in 2020/21 went to the NHS. The report, released in January 2022, estimated this sum to rise to £48 billion in 2022/23.

¹⁵ HMRC, [HMRC tax receipts and National Insurance contributions for the UK](#), GOV.UK September 2022 (accessed on 04 October 2022)

¹⁶ As above

¹⁷ GAD, [Report by the Government Actuary on: The draft Social Security Benefits Up-rating Order 2022 \(PDF\)](#), January 2022 (Table C.1, p25)

The table below is an excerpt from the 2022 GAD report. It shows how much of the NICs pot went to the National Insurance Fund and the NHS in 2021/2022 and the estimated amount for 2021/2023.

Table G.1 – NICs split between NIF and NHS

Great Britain, £ million		2021-2022	2022-2023
National Insurance Fund			
Class 1 ¹	Primary	48,424	50,398
	Secondary	70,167	71,416
	Total	118,591	121,814
Classes 1A and 1B		1,510	1,624
Class 2		393	388
Class 3		145	145
Class 4		2,125	2,301
Total National Insurance Fund contributions^{2,3}		122,765	126,272
National Health Service			
Class 1	Primary	11,354	19,127
	Secondary	16,574	27,772
	Total	27,928	46,898
Classes 1A and 1B		241	259
Class 2		72	71
Class 3		27	27
Class 4		826	891
Total National Health Service contributions³		29,093	48,146
All contributions			
Class 1 ¹	Primary	59,778	69,525
	Secondary	86,741	99,188
	Total	146,519	168,712
Classes 1A and 1B		1,752	1,884
Class 2		465	459
Class 3		172	172
Class 4		2,951	3,191
Total contributions³		151,858	174,418

¹ All figures are gross of recoveries by employers of Statutory Maternity Pay, Statutory Paternity Pay Statutory Adoption Pay, Statutory Shared Parental Pay and Statutory Parental Bereavement Pay.

² These figures appear in Table 2.1 in the main report.

³ Figures may not sum to totals shown due to rounding.

Source: GAD, [Report by the Government Actuary on: The draft Social Security Benefits Up-rating Order 2022](#), January 2022 (Table G.1)

2 The Government's Plan for Health and Social Care

2.1 The Government's announcement of its plan: 07 September 2021

[In a statement to the House on 7 September 2021](#), then Prime Minister Boris Johnson announced plans to substantially increase funding for health and social care over the three-year period from 2022/23 to 2024/25, by introducing a new tax: the Health and Social Care Levy.

Mr Johnson said that from April 2022, National Insurance Contributions rates would increase, UK-wide, by 1.25 percentage points to fund health and social care. This temporary increase would be substituted in 2023/24 by a separate tax, the Health and Social Care Levy. Mr Johnson also announced a 1.25 percentage point rise in the rates of tax on dividend income. The then Prime Minister stated that this money would be “going directly to health and social care across the whole of [the] United Kingdom.”¹⁸

Mr Johnson went on to make the case that this approach to funding was “right, reasonable and fair”. He said:

Some will ask why we do not increase income tax or capital gains tax instead, but income tax is not paid by businesses, so the whole burden would fall on individuals, roughly doubling the amount that a basic rate taxpayer could expect to pay, and the total revenue from capital gains tax amounts to less than £9 billion this year.

Instead, our new levy will share the cost between individuals and businesses, and everyone will contribute according to their means, including those above state pension age. So those who earn more will pay more, and because we are also increasing dividends tax rates, we will be asking better-off business owners and investors to make a fair contribution too. In fact, the highest-earning 14% will pay around half the revenues. No one earning less than £9,568 will pay a penny, and the majority of small businesses will be protected, with 40% of all businesses paying nothing at all.¹⁹

¹⁸ [HC Deb 7 September 2021, c153](#)

¹⁹ [HC Deb 7 September 2021, cc153-4](#)

The then Prime Minister went on to explain that the funds raised by the Levy would be allocated across the UK by directing money raised to health and social care services in Scotland, Wales and Northern Ireland. He pledged an extra £2.2 billion a year to the three nations, which was 15% more than they were to contribute to the new levy, adding it would “create a Union dividend worth £300 million:”

The state should target its help at protecting people against the catastrophic fear of losing everything to pay for the cost of their care, and that is what this Government will do ...

Wherever you live, whatever your age, your income or your condition, from October 2023 no one starting care will pay more than £86,000 over their lifetime, and no one with assets of less than £20,000 will have to make any contribution from their savings or housing wealth—up from £14,000 today. Meanwhile, anyone with assets between £20,000 and £100,000 will be eligible for some means-tested support.²⁰

Alongside Mr Johnson’s statement, the Government published a Command Paper which provided more details of its plan, particularly how the new Health and Social Care Levy would be introduced over 2022/23 and 2023/24.

The Health and Social Care Levy (the Levy) will apply to employees and employers liable for Class 1 NICs and self-employed individuals liable for Class 4 NICs. It will be introduced from April 2022.

In 2022-23, given the time it takes to prepare HMRC systems, that will be done through an increase in NICs rates by 1.25 per cent. All revenues generated by the increase in rates will be ringfenced and sent directly to NHS England and Improvement, and equivalent in Scotland, Wales and Northern Ireland.

Once systems have been updated in 2023-24, a formal legal surcharge of 1.25 per cent will replace the increase in NICs rates and apply to those working above State Pension age; the underlying NICs rates will return to their previous level. From April 2023, receipts from the Levy will go to those responsible for health and social care in the devolved administrations, including NHS Scotland, NHS Wales and Health and Social Care (HSC) in Northern Ireland. The Levy will appear on payslips and a generic message could appear on payslips in the next tax year.

²⁰ HC Deb 7 September 2021, cc154-5. See also, Prime Minister’s Office press notice, [Record £36 billion investment to reform NHS and Social Care](#), 7 September 2021; Prime Minister’s Office, [Letter to the First Ministers of Scotland, Wales and Northern Ireland and Deputy First Minister of Northern Ireland](#), 7 September 2021

Table 1. Health and Social Care Levy rates

	Employee Main / higher rate	Employer	Self-employed Main / higher rate
Current NICs rates (2021-22)	12% / 2%	13.8%	9% / 2%
2022-23 NICs rates	13.25% / 3.25%	15.05%	10.25% / 3.25%
2023-24			
NICs rates	12% / 2%	13.8%	9% / 2%
Levy	1.25%	1.25%	1.25%
Charged on all earnings/profits above: (2021-22 thresholds)	£9,568	£8,840	£9,568

Existing NICs reliefs to support employers will apply to the Levy.

The 2021-22 thresholds are used as an illustration: the Levy will apply to earnings/profits above the respective thresholds in future years.

The Government also announced an increase in the rates of income tax charged on income from dividends:

From April 2022, all rates of dividend tax will increase by 1.25 per cent. This change will apply UK-wide. It will be scored at the Budget and legislated for in the next Finance Bill.

Table 3. Dividend Tax Rates

	Basic Rate	Higher Rate	Additional Rate
Current dividend tax rates (2021-22)	7.5%	32.5%	38.1%
2022-23 dividend tax rates	8.75%	33.75%	39.35%

Dividend tax is charged on taxable dividend income an individual receives that falls outside of the personal allowance (£12,570 in 2021-22) and the dividend allowance (£2,000 in 2021-22). Taxable dividend income excludes, for example, dividends on assets held in ISAs.²¹

In a press conference following Mr Johnson's statement the then Chancellor Rishi Sunak reiterated the Government's case that the new Levy represented "the best way to raise the funds we need":

It is fair: the more you earn, the more you pay. It is honest: it is not a stealth tax or borrowed - the Levy will be there in black and white on people's payslips. And it is UK-wide, so people in England, Scotland, Wales and Northern Ireland will all pay the same amount. To make sure everyone pays their fair share, we will also increase dividend tax rates by the same amount. And, from 2023, people

²¹ HM Government, [Build Back Better: Our Plan for Health and Social Care](#), CP 506, September 2021 para 80, para 91-92

over the age of 66 will be asked to pay the Levy on their earnings too.²²

2.2 Earlier debate on the case for raising NICs to pay for social care

Prior to Boris Johnson's statement on 7 September 2021 there was considerable speculation over the summer that the Government would announce plans to reform the funding of social care through an increase in National Insurance contributions.²³ An editorial in the Times noted that "a hypothecated fund designed specifically for health and social care could at last be politically feasible, and there is a precedent with Gordon Brown imposing such a tax."²⁴

This is a reference to the decision by the then Labour Government in its 2002 Budget to increase the main rate of NICs paid by employees, employers and the self-employed by 1 percentage point, and to introduce a new 1% NICs rate for both employees and the self-employed on earnings/ profits above the UEL/UPL.²⁵ By amending the formula for allocating a proportion of NICs receipts to the NHS the Government ensured that all of this extra money went to the NHS.²⁶ It is worth adding that a second 1 percentage point increase in NICs rates for employees, employers and the self-employed that was introduced from April 2011 was not allocated in this way.²⁷

In a short paper published by the Resolution Foundation Torsten Bell and Adam Corlett argued that "an increase in Income Tax would be fairer between rich and poor, and young and old", setting out four reasons for this view: that, "younger people bear more than their share because NI is only paid by the working-age population", that "lower earners pay more under a NI rise than they would from an Income Tax rise, that "the focus on lower and younger earners is made worse by the fact that all sources of income other than earnings are exempt", and that, "increasing National Insurance

²² HM Treasury, [Health and social care press conference – Rishi Sunak](#), 7 September 2021. See also, [PQ48299](#), 21 September 2021.

²³ For example, "Boris Johnson puts social care reform on ice until autumn", Times, 21 July 2021; "Higher taxes look like only way to fix UK's social care crisis", Guardian, 20 July 2021; and more recently, "Boris Johnson to unveil £10bn-a-year tax rise to fund NHS and social care", Financial Times, 6 September 2021.

²⁴ "Leader: Age Concern", Times, 21 July 2021. See also, "Why national insurance is being used to fund our care", Times, 24 July 2021.

²⁵ Budget 2002, HC 592 April 2002 p121, pp154-5.

²⁶ [HC Deb 6 October 2003 c1092](#). See also, [National Insurance Contributions Bill \(Bill 130/2001/02\)](#), Commons Library Research Paper 02/32, May 2002. Appendix 2 to Government Actuary's Department, [Report on the 2003 Up-rating Order](#), February 2003 illustrates the change in this formula.

²⁷ For details of this see, [National Insurance contributions : changes from April 2011](#), Commons Library briefing, 8 November 2013

will increase the tax gap between employees and the self-employed.” The authors went on to conclude, “the fact that NI is still being considered reflects one view of the politics of the problem. This holds that an NI rise is less visible to most workers (if part of the rise is on employers) and that the public has historically seen a more direct connection between NI and funding the health service, a connection that in any practical sense does not exist.”²⁸

An editorial in the Financial Times raised similar objections, arguing that if the Government was determined to raise extra revenues through NICs, it should have extended its scope to those over pension age. It also argued that the “better option” would have been to have based the Levy on the income tax system even if “political practicalities mean it must be called something else.”²⁹ Writing in Taxation magazine the editor, Andrew Hubbard, noted that the NI exemption for those over state pension age, “dates back to an era of compulsory retirement ages and lower life expectancy. I was shocked to be reminded that, at the time of the 1942 Beveridge Report, the average life expectancy of a man after retirement was one year”, before going on to add, “it would be a brave chancellor who abolished the exemption. But we do need a grown up debate about this.”³⁰

Many commentators noted that an increase in either income tax rates or NIC rates, or indeed in VAT rates, would have contravened the Conservative Party’s 2019 General Election manifesto,³¹ though a leader in the Times suggested that the then Prime Minister’s “best strategy is to make a virtue of fixing the social care system by a one-off levy, promising to reduce taxes again as soon as conditions allow.”³²

Although various economists and tax practitioners raised many objections to using NICs to increase funding for social care, Heather Self (Blick Rothenberg) suggested NICs was the obvious candidate. In her view the significant sums required to properly finance social care could only be raised through an increase in the rates of one of the three ‘big’ taxes – VAT, income tax or NICs – and since putting up any of these would contravene the manifesto, the decision would be shaped by which could be raised “with less political pain”. This meant a raise in NICs rates “probably spun as ‘paying more insurance to fund health and social care for everyone’”, though at the same time the Government could have also improved the base of NICs – say, by extending it to pensioners’ earnings, raising the LEL up to the level of the personal allowance, or increasing the NI rate applied to higher-earning self-employed individuals.³³ Writing in the New Statesman in early August former Treasury

²⁸ Torsten Bell & Adam Corlett, [A caring tax rise?: The impacts of a potential increase in National Insurance](#), Resolution Foundation, 21 July 2021. See also, Torsten Bell et al., [To govern is to choose: the choices facing the Chancellor this autumn](#), 6 September 2021 (pp22-24).

²⁹ “Editorial: How to fund Britain’s social care system”, Financial Times, 22 July 2021. See also, Chris Giles, “Social care reforms are another missed chance for change”, Financial Times, 19 August 2021.

³⁰ “National Insurance conundrum”, Taxation, 29 July 2021

³¹ Conservative Party, [2019 Election Manifesto](#), November 2019 p17. For example, William Hague, “Boris Johnson risks being defined by a broken promise”, Times, 6 September 2021

³² “Leader: Promises Postponed”, Times, 7 September 2021

³³ Heather Self (@hselftax), [Twitter](#), 21 July 2021

Minister David Gauke commented “NICs is ... fundamentally, a con. It is not an insurance contribution; it is just another tax. Many members of the public, however, think otherwise and seem relatively relaxed about paying more of it. A cynic might argue that it is difficult to raise revenue and the temptation to exploit the delusions and ignorance of the public is hard to resist.”³⁴

2.3 Initial responses to the new Levy: September and October 2021

Following Mr Johnson’s statement on 7 September 2021, initial responses in the press focused on the amounts the new Levy was estimated to raise, and the impact that this would have on the tax burden.³⁵ In the Institute for Fiscal Studies’ first response, IFS director Paul Johnson said, “today’s announcements constituted a Budget in all but name”:

£14 billion of tax raised through a supposedly new tax, equivalent increases in spending on health and social care, and an announcement of spending totals for the next three years certainly constitute a major fiscal event ...

It is disappointing that the government did not find a better package of tax measures to fund these spending increases. A simple increase in income tax would have been preferable. But overall much needed reforms to social care are being introduced and unavoidable pressures on the NHS are being funded through a broad based and broadly progressive tax increase. That is better than doing nothing.³⁶

Writing the following day in the Times Paul Johnson noted that taking this tax rise with the tax increases announced in the March 2021 Budget would “mean an increase in the UK’s tax burden of about 1.5 per cent of national income” with the result that “it will hit its highest sustained level in peacetime.”³⁷

In a follow-up piece on health and social care funding, Ben Zaranko at the IFS suggested that it was quite possible that in future years most if not all Levy proceeds would have just gone to the NHS:

³⁴ “The young should not foot the social care bill – pensioners must contribute too”, New Statesman, 5 August 2021

³⁵ “[Boris Johnson stakes reputation on £12bn fix for health and social care](#)”, Guardian, 7 September 2021; “[Boris plays catch-up: what the papers say](#)”, Guardian, 8 September 2021; “Johnson’s £12bn tax gamble: big-state Conservatism or expedient politics?”, Financial Times, 10 September 2021.

³⁶ Paul Johnson et al, [An initial response to the Prime Minister’s announcement on health, social care and National Insurance](#), Institute for Fiscal Studies, 7 September 2021

³⁷ “Comment: Covid’s the cover for this inevitable rise”, Times, 8 September 2021

The plan seems to be for the £12 billion raised from the tax rise to be increasingly channelled into social care as the parliament goes on, to meet the growing costs of the government's new 'cap and floor' plan for social care funding. But that would require the government to stick to these NHS spending totals – something which history teaches us is unlikely. Instead, the experience of the past 40 years shows that NHS spending plans are almost always topped up. If history repeats itself, the 'temporary' increases in NHS funding announced this week could end up **permanently** swallowing up the money raised by the tax rise.³⁸

Commenting on Twitter David Gauke, one-time Treasury Minister, observed that while an NI increase to fund social care had been expected, the Government had delivered "an NI increase + other tax rises (dividends/over 66s) that made it a bit more like an income tax increase but with added complexity to fund the NHS + some unfunded commitments on a care costs cap & means testing."³⁹ An editorial in the Financial Times argued the new Levy would "do little to address the chronic underfunding of social care", in part the commitment to increase the allocation of receipts for social care would require taking money away from "the ever-popular health service is credible."⁴⁰

In this context it is worth noting that in his statement to the House Boris Johnson referred to the Levy being "hypothecated in law to health and social care."⁴¹ As the legal commentator David Allen Green noted on Twitter the term 'hypothecated in law', just as the terms 'enshrined in law' or 'ringfenced in law', should be treated with some caution given the fact that "anything in a UK statute can be undone by a UK statute" so that "no statutory provision is any more hypothecated or enshrined than any other."⁴²

The BBC's economic editor Faisal Islam commented on the advantages to basing the new Levy on NICs:

It is pretty clear that one of the rationales here is to be able to present a National Insurance increase of 1.25% as lower than the 2% rise in income tax that would have been required to raise such funds. The argument is almost entirely presentational and relies on a general public lack of familiarity with how National Insurance works. The tax rise on working is effectively 2.5%, with the direct burden shared between workers and their bosses. As the Treasury

³⁸ Ben Zaranko, [An ever-growing NHS budget could swallow up all of this week's tax rise, leaving little for social care](#), IFS Observation, 8 September 2021

³⁹ David Gauke (@DavidGauke), [Twitter](#), 8 September 2021. See also, "[Treasury to decide how much of social care levy goes to NHS after 2025](#)", Guardian, 9 September 2021.

⁴⁰ "Editorial: Johnson will face more hard choices after tax rise", Financial Times, 10 September 2021

⁴¹ [HC Deb 7 September 2021 c153](#)

⁴² David Allen Green (@davidallengreen), [Twitter](#), 7 September 2021

acknowledges, however, firms may reduce wages, or raise prices to pay the extra bill.⁴³

In this context it was striking that the organisation FullFact, in a piece on the implications of this tax rise for the tax burden, referred to the Government's plans "to raise National Insurance by **2.5 percentage points** for employees (split between employers and their staff) and 1.25 percentage points for the self-employed" (**emphasis added**).⁴⁴

The Guardian's economics editor Larry Elliott observed that, "in theory, there were alternative ways of raising money that avoided breaking the manifesto pledge not to increase NICs, VAT or income tax. In practice it had to be one of the "big three" to raise £12bn a year. While a one-point rise in employee NICs and income tax raises around £5bn a year, similar increases in inheritance tax or capital gains tax raise around £100m."⁴⁵

A leader in the Times noted that the Government had sought to avoid imposing this new tax burden disproportionately on younger workers "by extending the new charge to those in work above state pension age, increasing dividend tax and limiting pension increases" but "even so, those living off pensions or property income will be less liable for the cost of a reform of social care from which they may be the biggest beneficiaries."⁴⁶

In the Chartered Institute of Taxation's response, the Institute's Director of Public Policy John Cullinane observed:

Looked at in the round, today's announcement represents a significant increase in tax on employment and business, in order to, among other things, help more people keep their homes and other assets in old age and pass them on to their descendants when they die. That is, taxing working age people more to protect the property wealth of older people. That is of course a legitimate policy choice for an elected government to make, if it is intended.⁴⁷

An editorial in the Observer focused on the impact the new Levy would have on marginal tax rates, comparing the situation of a graduate paying off their student loan and a pensioner on the same income: "It is shocking that a recent graduate earning more than £28,000 will from next year lose more than 48% of their earnings, including NI and their 9% graduate levy, while a

⁴³ "Analysis: a very significant tax rise", BBC News, 8 September 2021. See also, "National Insurance: What's the new Health and Social Care tax and how will it affect me?", BBC News, 9 September 2021

⁴⁴ FullFact, [What the National Insurance rise means for the tax burden](#), 8 September 2021. See also, Chris Giles (@ChrisGiles), [Twitter](#), 8 September 2021; Paul Johnson (@PJTheEconomist), [Twitter](#), 7 September 2021

⁴⁵ "PM's social care fix meant he had to break a promise to fulfil a pledge", Guardian, 7 September 2021

⁴⁶ "Leader : Johnson's Gambit", Times, 8 September 2021

⁴⁷ CIOT press notice, [CIOT comments on Health and Social Care Levy announcement](#), 7 September 2021

70-year-old on the same pay will contribute less than 24%.”⁴⁸ In a piece which appeared the same day the paper’s chief political correspondent, Andrew Rawnsley argued, “Care workers, whose median pay is just £8.50 an hour, will be asked to sacrifice some of their very low income so that the property wealth of much richer people is ringfenced for the benefit of their heirs. There are several words you can use to describe this arrangement. Unfair would be one of them. Brave is not.”⁴⁹

There were also some concerns raised about the potential impact of the Government’s decision to raise NICs would have on business and employment.⁵⁰ Writing in the Times Simon Nixon observed that increasing NICs rates for employers might have been “the most politically palatable way to raise the money needed.” However, it also argued that the tax would add costs on businesses that were just “emerging from the pandemic and grappling with the consequences of Brexit.” It also added that the tax came “on top of a giant £17 billion tax raid in the budget in the form of an increase in corporation tax to 26 per cent from 2023.”⁵¹ Writing in the Financial Times Helen Thomas noted that by contrast with corporation tax, NICs “isn’t levied on profits: it is a tax on activity, argues Neil Carberry at the Recruitment & Employment Confederation, which could fall hardest on those labour-intensive sectors worst hit by the pandemic.”⁵²

In a second piece in the paper Nicholas Macpherson, former permanent secretary to the Treasury, noted the decision to base the Levy on NI followed a long trend in tax reform, that had seen the main NI rate paid by employees rising from 5.75% (in 1977) to 13.25% (from April 2022), while the basic rate of income tax had been cut from 34% to 20%.⁵³ Even while the operation of the National Insurance Fund was “more apparent than real”, Chancellors had been “only too happy to exploit this quirk of taxpayer psychology.” Mr Macpherson also noted businesses would bear 2/3rds of the £40bn increase

⁴⁸ [“The Observer view on the weaknesses of Boris Johnson’s social care levy”](#), Observer, 12 September 2021. Chris Giles, the Financial Times economics editor, also noted that the new levy meant a 50% marginal tax rate for graduates: “UK graduates face 50% tax rate on additional pay from next April”, Financial Times, 8 September 2021

⁴⁹ [“Opinion: Boris Johnson’s generation game: the young and poor pay for the old and rich”](#), Observer, 12 September 2021

⁵⁰ [“Dismayed business groups warn tax rises will harm recovery”](#), Guardian, 7 September 2021; “Tax on jobs comes at worst time, say businesses”, Times, 8 September 2021; David Smith, “After this dog’s dinner, can we sustain record taxes?”, Sunday Times, 12 September 2021.

⁵¹ “Comment: Taxing jobs now imposes another unnecessary shock to the system”, Times, 9 September 2021. In the Spring Budget the Government announced the main rate of corporation tax would be increased from 19% to 25% from April 2023, forecast to raise just over £17bn per year by 2025/26. For more details see, [Corporate tax reform](#), Commons Library briefing CBP9178, 12 November 2021.

⁵² “Comment: Business bleating on UK tax plan looks merited”, Financial Times, 7 September 2021

⁵³ HMRC publishes details of the main features of income tax (since 1948) and NICs (since 1975) here: <https://www.gov.uk/government/collections/tax-structure-and-parameters-statistics>

in taxes the Chancellor had announced over the year: “that may be good politics but ... it is almost certainly bad economics.”⁵⁴

Torsten Bell, Chief Executive of the Resolution Foundation, noted that while Gordon Brown, when Chancellor, “gained in popularity after raising NI during the 2000s”, the decision to use the same tax rise twenty years later “might face more of a backlash today”:

NI is fundamentally a badly designed Income Tax, covering only one kind of income (workers’ wages) and treating different types of people very differently (the self-employed and pensioners are both partially exempt). These gaps create real problems – and crucially these have only grown over time ...

Raising NI is deeply problematic because it further increases the tax gap between employees and the self-employed ... The scale of these risks wasn’t apparent at the start of this century, but the growth in self-employment since then shown in the chart means they can’t be ignored today.

Similarly, the fact that NI falls largely on the working age population not pensioners was less problematic two decades back. Then worries about high pensioner poverty dominated policy debates, while earnings were growing fast in the late 1990s and early 2000s. But wages have stagnated since, while pensioner incomes have grown significantly. Indeed, the average pensioner household is now, for the first time ever, better off than the average working age household. Against that backdrop there’s no reason for asking working age households to pay more but while most pensioners will have to contribute nothing.

The big picture here is that trying to be clever on the politics by raising NI rather than Income Tax creates all kinds of other problems, with very visible unfairness built in that’s much more visible today than in previous eras when NI rose.⁵⁵

Commentators also noted that while, as Ministers had underlined, those on higher earnings would pay more in terms of the Levy, NI as a whole was not as progressive a tax as income tax.⁵⁶ Andy Summers, associate professor at the London School of Economics, noted that a standard definition of the progressivity of a tax schedule is one in which the proportion of income taken in tax rises with income – that the **average** rate of tax should increase

⁵⁴ “Opinion: Raising UK national insurance levy is good politics but bad economics”, Financial Times, 11 September 2021

⁵⁵ Torsten Bell, [Social Care Budget Special: Top of the Charts, Resolution Foundation](#), 10 September 2021. The tax gap that NICs creates between employment and self-employment is examined further in the discussion of the potential economic impact of the Levy below.

⁵⁶ For example, Jo Maugham (@JolyonMaugham), [Twitter](#), 9 September 2021. See also, National Institute of Economic and Social Research, [Government announced employment tax increase will hit hardest the sectors that suffered most from Covid, NIESR research shows](#), 22 October 2021

with income. From this perspective, NICs would be classed a regressive tax. The average rate of NICs paid decreases, if one looks at income increasing above £50,000 – the level of the Upper Earnings Limit/Upper Profits Limit, when the marginal rate drops from 12% to 2%.⁵⁷

Professor Summers was one of the authors of a report, published at this time by the Cage Research Centre based at the University of Warwick, arguing that structural reform of NICs – as opposed to this increase in NI rates – would be a fairer approach: extending the tax base to investment income; removing the exemption for those of pension age (while continuing to relieve pension income from NI); and, reforming the rate schedule so that the main rate applied to earnings above the UEL/UPL.⁵⁸

In a subsequent piece which appeared in the Times, IFS director Paul Johnson commented, “as the past week has demonstrated, you can’t understand present policy unless you understand history”:

National insurance contributions were first introduced in 1911 and were, in the 1940s, central to Beveridge’s idea of a contributory pension and benefit system. I still recall NICs being referred to as “the stamp” (perhaps they still are) after the stamp cards that recorded flat-rate contributions on the basis of which entitlement to flat-rate benefits were earned.

The remnants of that flat-rate system remain today in the form of the upper earnings limit. The historical relationship between contributions and entitlements is now just that: historical. No such relationship now exists, yet the folk memory lingers on, one of the reasons that national insurance is, supposedly at least, still a relatively popular tax. Which, in large part, is why it was effectively NICs that were raised to pay for last week’s announcements.⁵⁹

Some weeks after Boris Johnson’s statement, just prior to the Autumn 2021 Budget, Rishi Sunak (then the Chancellor) was asked whether raising NICs was not a regressive way to raise money, when he appeared on the BBC’s Andrew Marr show. On this occasion Mr Marr noted the analysis published by both the Resolution Foundation and the IFS, discussed above. Mr Sunak reiterated that increasing NICs was the responsible way to address issues in health and social care. He added that it was also a progressive way to raise money. He explained why NICs were chosen, rather than income tax: unlike NICs, income tax does not involve businesses, meaning that the impact of the levy on individuals would be higher; furthermore, income tax is devolved, and given that the NHS is a state-wide service, the Government

⁵⁷ Andy Summers (@Summers_AD), [Twitter](#), 9 September 2021

⁵⁸ Cage Research Centre, [Fix our existing National Insurance system instead of adding a new Levy, urges new report](#), 8 September 2021. See also, “[If national insurance must fund social care, at least make it fair](#)”, Guardian, 10 September 2021

⁵⁹ Paul Johnson, [The mess of our present health and tax systems is a product of history](#), IFS, 13 September 2021

wanted to raise this money across the four nations. Lastly, the then Chancellor argued that NICs were created to fund the NHS. This is still partially true, as a portion of money raised through NICs goes to the NHS.⁶⁰

Commentary surrounding Parliamentary procedure

In a commentary on the Act (in Bill form) on 13 September 2021 the Hansard Society raised concerns about the way in which Parliament would be able to scrutinise the way in which the Levy is spent:

The government estimates that the new 1.25% Levy will raise almost £36 billion over the next three years. However, the Bill does not specify how the money raised is to be distributed between health and social care or between the four nations, particularly in the longer term. Clause 2(2) of the Bill gives the Treasury discretionary power to determine this. What criteria will the Treasury use to determine the allocation?

Clause 2 of the Bill also stipulates that the funds raised from the NICs Levy will go direct to the Department of Health and Social Care, with any deductions made by HM Revenue and Customs to cover the costs of the system paid into the Consolidated Fund (the government's current account). Health revenue raised via NICs has its own legislative cover – in this case, the current Bill – and so is not subject to scrutiny via the [Estimates Cycle](#). The onus in future will therefore be on the Health and Social Care Select Committee, and/or possibly the Treasury Select Committee, to undertake scrutiny of the Levy via analysis of Departmental Resource Accounts and the Department of Health and Social Care's Annual Report.

On the one hand, under this arrangement, the Select Committee Members concerned will have the power to call Ministers to give evidence before them about the operation of the Levy. On the other hand, backbenchers may find it difficult to secure debating time in the Chamber to enable all MPs to discuss the way in which the Levy revenue has been spent. (This is compared to the Estimates process which, while a weak form of scrutiny, does enable backbench MPs to bid to debate departmental Estimates of interest to them.)⁶¹

it also commented on the implication for the devolution settlement:

The Bill has potentially important constitutional implications for devolution. National Insurance is a reserved revenue matter. The

⁶⁰ Andrew Marr Show, [Transcript of interview with Rishi Sunak, Chancellor of the Exchequer](#), BBC, 24 October 2021 pp10-11. See also comments by the Financial Times' economics editor, Chris Giles (@ChrisGiles_), [Twitter](#), 24 October 2021.

⁶¹ Dr Ruth Fox & Dheemanth Vangimalla, [The Health and Social Care Levy Bill: four questions about scrutiny and accountability](#), Hansard Society, 13 September 2021

transfer mechanism that is used to allocate the funding to the devolved nations matters because, as [Professor David Bell of the University of Stirling has set out](#), it could give rise to circumstances in which there was a transfer of funding from England to Scotland, thus undermining the government's proposition that the new Levy is hypothecated. Are the devolved nations to receive the actual amount of National Insurance raised within their borders, or are they to receive a share of the entire pot based on their population?

There is also no requirement in the Bill for the Treasury or the Health Secretary to consult the devolved administrations about any aspect of the process. This once again sets up the prospect of inter-governmental problems. In the absence of any substantive mechanism for inter-parliamentary relations, the Westminster Parliament will have little oversight of such issues if and when they arise.⁶²

2.4 Initial assessment of the impact of the Levy: September and October 2021

Amount raised from change

Alongside the then Prime Minister's statement on 7 September 2021 the Treasury published its initial estimate of the amounts that would be raised by the new Levy, and the associated increase in the rates of income tax on dividends.

The Treasury assessment estimated the Levy would raise around £13.2 billion per year, with the increase in the dividends tax to raise a further £0.6 billion.⁶³ Health and social care were set to receive around £10 billion of the income while the devolved administrations would receive around £2 billion through the Barnett formula. The remaining £1.8 billion would meet the cost of the tax rises on the public sector.⁶⁴ Public sector employers would have needed to make larger NICs payments, which the Government confirmed it would compensate them for.⁶⁵

The Government stated that these tax rises would provide around £12 billion of additional funding for Health and Social Care per year on average. £0.6 billion of this would be from the increase in the dividends tax. The remaining

⁶² [As above](#). On the potential implications on health and social care spending in Scotland see, Nicola Hudson, [Health and social care: who pays, who decides?](#), Scottish Parliament Information Centre, 14 September 2021.

⁶³ This includes the indirect effects on the tax and welfare system of the increase to NICs and the dividends tax. For instance, increasing NICs will mean an increase in welfare payments as some recipients incomes will be lower.

⁶⁴ HM Government, [Build back better: our plan for health and social care](#), 7 September 2021 ([Table 2](#)). Resolution Foundation. [Nationally insured?](#) 8 September 2021, [page 8](#)

⁶⁵ HMG, [Build back better: our plan for health and social care](#), 7 September 2021, [para 86](#)

£11.4 billion would be the amount raised by the levy (£13.2 billion) less the compensation for public sector employers (£1.8 billion).⁶⁶

The OBR scrutinised these costings in its October 2021 Economic and Fiscal Outlook. It forecast the net yield of the levy to be £12.4 billion in 2023/24, rising to £13 billion in 2026/27. Additionally, the OBR estimated the increase in rates of dividends tax to raise £1.3 billion in 2022/23, to cost £540 million in 2023/24, and then increase again to raise £905 million in 2026/27.⁶⁷

Number of people and businesses affected

People

HM Revenue & Customs published an impact assessment of the Levy on 7 September 2021. This stated that that around 29 million individuals would be worse off from the increase to NICs, in 2022/23. Of these, 15.6 million were male and 13.4 million female. An individual earning the median basic rate taxpayer's income of £24,100 would be expected to pay an additional £180; and an individual earning the median higher rate taxpayer's income of £67,100 would be expected to pay an additional £715.⁶⁸

Provisions in the Act meant that from April 2023, those in employment over state pension age would be liable to pay the Health and Social Care Levy. There are around 1.3 million people aged 65+ in employment in the UK.⁶⁹ Not all of these would have earned enough to pay the Levy when it was introduced.

In its initial analysis of the Government's proposals the Institute for Fiscal Studies estimated that "only about 2% of the overall tax rise would come from pensioner families, with about two-thirds coming from families aged under 50."⁷⁰ The majority of pensioners incomes come from private or state pensions, to which the Levy would not have applied.

⁶⁶ HM Government, [Build back better: our plan for health and social care](#), 08 March 2022

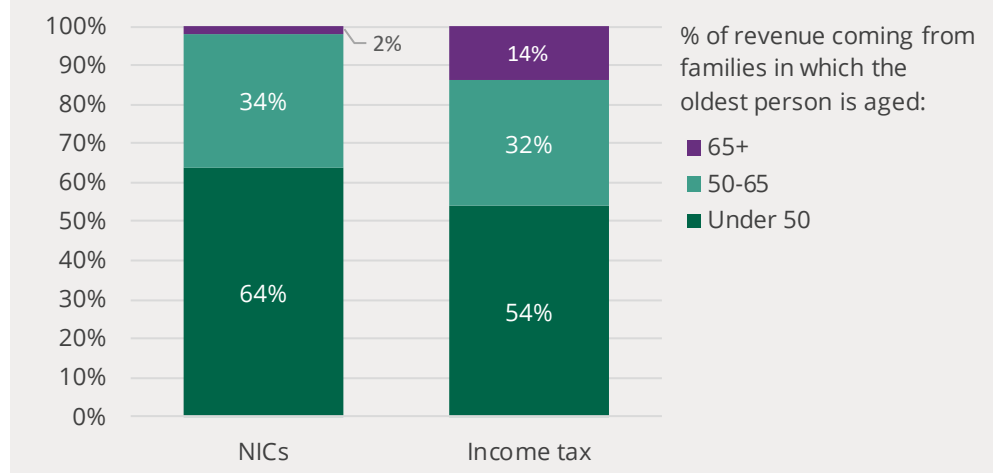
⁶⁷ OBR, [Economic and Fiscal Outlook \(PDF\)](#), CP545, October 2021 (Table A.2)

⁶⁸ HMRC, [Health and Social Care Levy Policy Paper](#), 8 September 2021

⁶⁹ ONS, [A05 SA: Employment, unemployment and economic inactivity by age group \(seasonally adjusted\)](#), 17 August 2021

⁷⁰ IFS, [An initial response to the Prime Minister's announcement on health, social care and National Insurance](#), 7 September 2021. See also, "Who are the winners and losers from the UK's £12bn social care tax raid?", Financial Times, 9 September 2021

Contribution of age groups to the revenue raised by increasing the basic and higher rates of income tax or all rates of NICs



Source: IFS. [An initial response to the Prime Minister's announcement on health, social care and National Insurance](#), 7 September 2021

Businesses

HMRC's impact assessment stated that the Levy was expected to have a "significant impact on over 1.6 million employers who will be required to introduce this change". This covered the administrative burden on employers, such as familiarisation with the change and the updating of payroll systems.⁷¹ It did not just include the number of businesses who will pay the Levy.

The Government did not publish a precise estimate of the number of businesses that it thought would be liable to pay the Levy, but it appeared to be a little under 1 million. It was expected that around 640,000 businesses (40% of employers) would be required to pay the Levy as they were eligible for the [Employment Allowance](#).⁷² The next 40%, around 665,000 businesses, would have faced an average increase of £450 per year.⁷³ This suggested that another 20%, around 320,000 businesses, would have faced a larger increase.

Commentators pointed out that, while employer NICs would have been paid by businesses, the economic impact (or incidence) of the increase was going to ultimately fall on people.⁷⁴ The [economic incidence](#) of a tax describes

⁷¹ HMRC, [Health and Social Care Levy Policy Paper](#), 8 September 2021

⁷² The Employment Allowance allows eligible employers to reduce their annual employer National Insurance liability by up to £4,000.

⁷³ HMG, [Build back better: our plan for health and social care](#), 7 September 2021 [para 90](#), [para 66](#)

⁷⁴ Paul Johnson (@PJTheEconomist), [Twitter](#), 10 September 2021; David Gauke (@DavidGauke), [Twitter](#), 10 September 2021

which people are ultimately made worse off by the tax (and can be different from those who are legally liable to pay the tax). As the Institute for Fiscal Studies (IFS) point out:

When a tax is paid by businesses, as with employer NICs, it could be felt by the firm's owners/shareholders (via reduced profits from the business) or could be passed on to the firm's workers (via lower wages), customers (via higher prices) or suppliers (via lower input prices). In practice, it will almost always be a combination of these.

Simple economic theory suggests that the incidence of employer NICs and employee NICs should be the same, at least in the long run. It is likely that the long-run incidence of both employer and employee NICs is predominantly on employees, but the empirical evidence is not clear-cut.⁷⁵

Writing in the *Tax Journal*, former Treasury Minister David Gauke observed,

When explaining why he had increased NICs rather than income tax, the prime minister argued that 'income tax is not paid by businesses, so the whole burden would fall on individuals, roughly doubling the amount that a basic rate taxpayer could expect to pay'. This provoked some gnashing of teeth from those who understand tax incidence, but it is likely to have had many viewers (including quite a few MPs) nodding along.⁷⁶

In its analysis of the impact of the Government's health and social care package, the Treasury stated that it was unclear, how, and when employers would have passed on the impact of the increase in employer NICs, particularly in the short-run. They suggested, for example, that "businesses may choose to adjust wages, prices, or profits."⁷⁷

Distributional impact

The Treasury published analysis of the impact of this tax increase in 2022/23 across the income distribution, finding that the increases were broadly **progressive**: that is, the increase to employee NICs and self-employed NICs had a greater impact on higher income households. This was the case whether the Treasury was looking at the impact relative to households' net income or in £s per week. Including the dividends tax, over a third of the tax

⁷⁵ Institute for Fiscal Studies, "[Incidence](#)", TaxLab, ret'd September 2021

⁷⁶ "Funding health and social care – or the art of plucking the goose", *Tax Journal*, 17 September 2021. An editorial in the *Economist* at this time also noted "in the long run the burden of payroll taxes, even those paid by companies, falls on workers, whose wages fall as their employers' tax bills rise" ("[Leader: Age and enlightenment](#)", *Economist*, 11 September 2021).

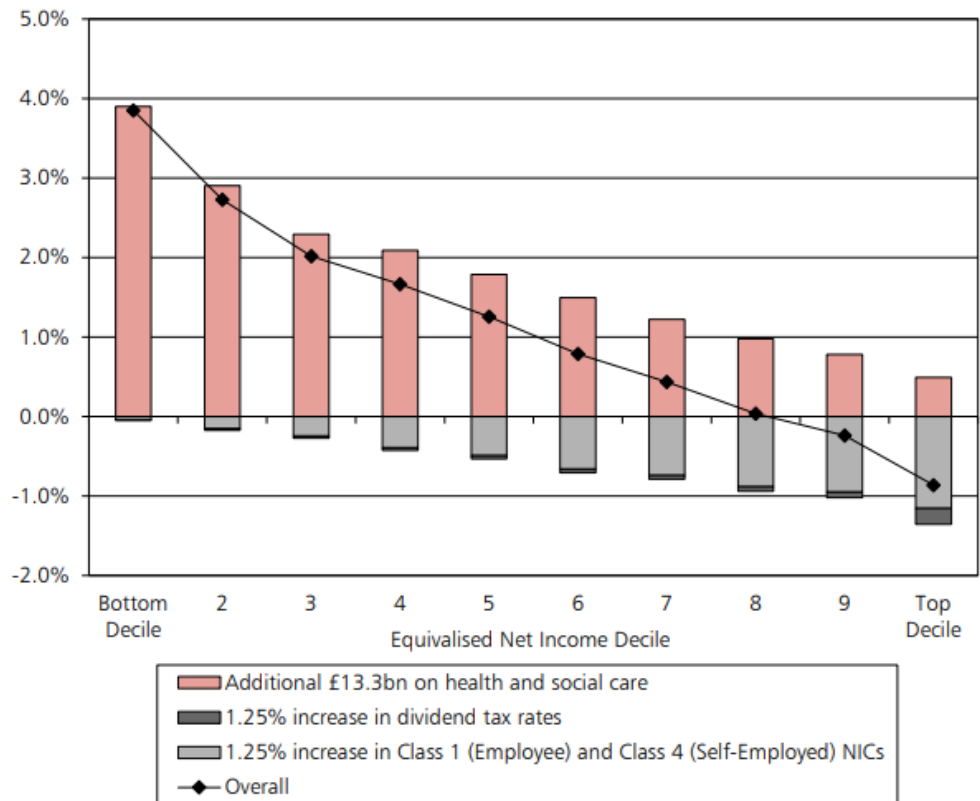
⁷⁷ HM Treasury, Illustrative analysis of the impact of "Building Back Better: Our Plan for Health and Social Care" on households, September 2021, [para 3](#)

increases “will come from the top 10% of households, with the majority coming from the top 20% of households”.⁷⁸

Charts from the Treasury’s 2021 analysis are reproduced below.

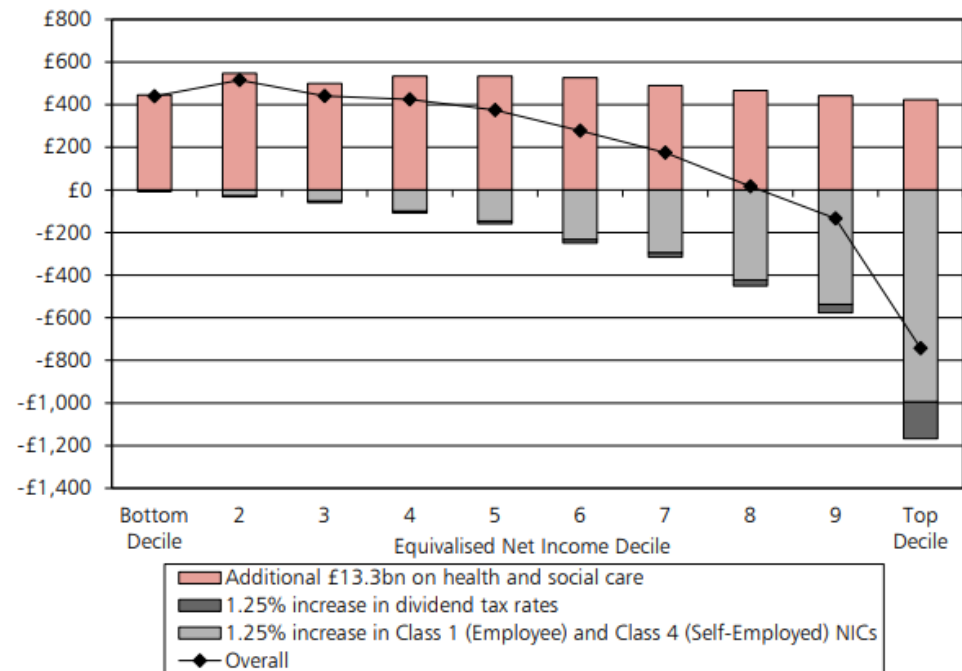
They included an estimate of how much households could have benefited from the extra health and social care spending. The charts don’t include the increase in employer NICs, which gives the impression of more being spent on health and social care than is being raised. As discussed above, the Treasury was not clear how employers will pass the additional employer NICs onto households, so it can’t be included in their analysis. They said, however, that “even if we were to assume that employer NICs impacts pass wholly through to wages, we expect that the poorest households still stand to benefit the most as a proportion of income”.⁷⁹

Chart 1.A: Impact of tax and spending decisions on households in 2022-23, as a percentage of net income, by income decile



⁷⁸ As above, [para 6](#)

⁷⁹ As above, p2 ([footnote 2](#))

Chart 1.B: Impact of tax and spending decisions on households in 2022-23, in cash terms (£ per year), by income decile

Source: HM Treasury, [Illustrative analysis of the impact of “Building Back Better: Our Plan for Health and Social Care” on households](#) (PDF), September 2021 (Charts 1.A and 1.B, pp2-3)

In their analysis of the Levy both the Resolution Foundation (RF) and Institute for Fiscal Studies (IFS) agreed with the Treasury’s view that these tax rises were broadly progressive.⁸⁰ But, as the RF noted, the tax rises would be predominantly borne by workers, with very little coming from pensioners:

Pensioners with earnings will have to contribute something, but only 17 per cent of pensioner families are in that position (compared with 65 per cent of pensioner families who receive some private pension income, which is exempt from NI and will not attract the dividend tax either.... Pensioners are more likely to hold shares, but many will be unaffected by the change in dividend taxation given that there is a dividend allowance exempting the first £2,000 a year of income, and the fact that dividends on shares held in ISAs are tax exempt.⁸¹

The RF also pointed out that focusing on NICs and dividends tax rates meant that other incomes would be excluded: “rental income stands out in this regard. And that income is heavily concentrated amongst higher income households [...] 67 per cent of the 1.9 million adults who own buy-to-let

⁸⁰ Resolution Foundation, *Nationally Insured?*, 8 September 2021, [p5](#); IFS, [An initial response to the Prime Minister’s announcement on health, social care and National Insurance](#), 7 September 2021

⁸¹ Resolution Foundation, *Nationally Insured?*, 8 September 2021, [p5](#)

properties are in the top fifth of the income distribution.” In their view these issues could “have easily been overcome with an increase in Income Tax”, which is charged on a wider range of incomes than NICs.⁸² The RF had examined the impact of raising tax revenue either through NICs or income tax in a report published some months before.⁸³

Economic impact

HMRC’s impact assessment stated that the economic impact of the Levy would be significant:

The measure is anticipated to have a significant macroeconomic impact, with consequences including but not limited to for earnings, inflation and company profits. Behavioural effects are likely to be large, and these will include decisions around whether to incorporate or not, and business decisions around wage bills and recruitment.⁸⁴

Increasing NICs rates may encourage more self-employment at the expense of employment. There is already a tax incentive for doing so and increasing NICs rates deepens that incentive. This is because while the Act increased both employee NICs and self-employed NICs by 1.25 percentage points, there is no equivalent to employer NICs for the self-employed. Incomes of the self-employed were already taxed more lightly than those of employees and increasing the NICs rates exacerbated this further.

The Office for Budget Responsibility had previously discussed the consequences for tax receipts of an individual switching the way they chose to be taxed on their income from work. They flagged it as a risk for the public finances.⁸⁵

The RF observed that the Government’s policy package “deepens the tax incentive for firms to use self-employed labour – something the Chancellor promised during the pandemic to address, rather than exacerbate.” (This is a reference to Rishi Sunak’s statement in March 2020, announcing the Self-Employed Income Support Scheme. At the time the then Chancellor said that in crafting a support package for the self-employment alongside the Government’s furlough scheme for employers and employees, “it is now much harder to justify the inconsistent contributions between people of different employment statuses. If we all want to benefit equally from state support, we must all pay in equally in future.”⁸⁶)

⁸² [As above](#)

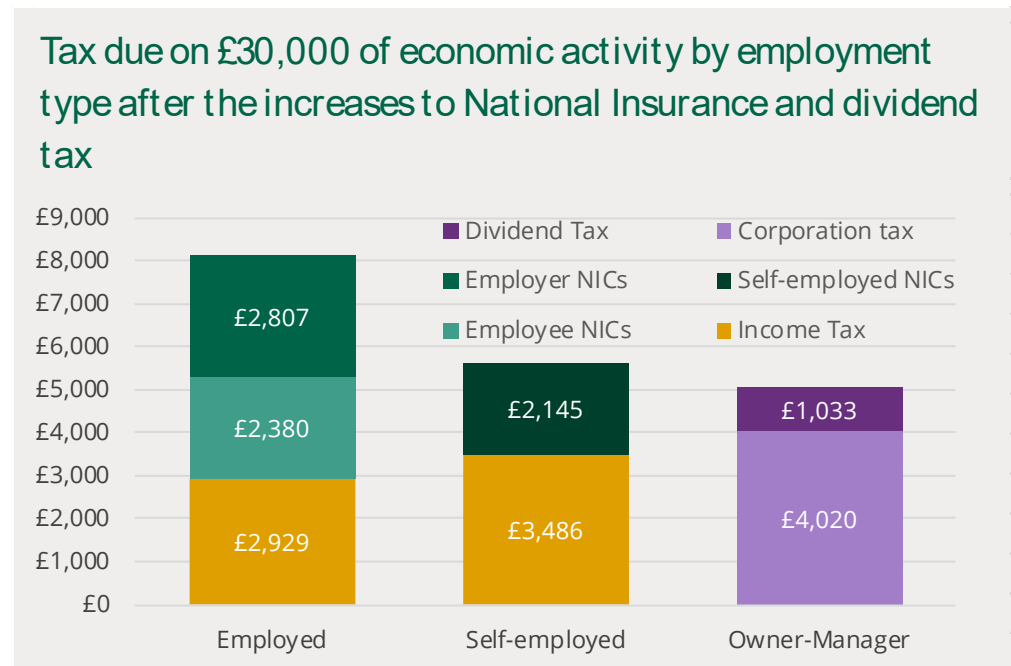
⁸³ Resolution Foundation, [A caring tax rise? The impacts of a potential increase in National Insurance](#), July 2021

⁸⁴ HMRC, [Health and Social Care Levy](#), 9 September 2021

⁸⁵ OBR, [Fiscal risks report](#), July 2019 paras 4.19-4.24, [para 5.16](#)

⁸⁶ HM Treasury press notice, [Chancellor outlines new coronavirus support measures for the self-employed](#), 26 March 2020. For further details see, [Self-Employed Income Support Scheme](#), Commons briefing paper, 2 August 2021 (Section 3.3: Commentary on the prospects for future tax reform).

The RF went on to argue this would “encourage more self-employment at the cost of employment, which is bad for the public finances and for ensuring workers receive proper employment rights”.⁸⁷



Source: Resolution Foundation, *Nationally Insured?*, 8 September 2021, [figure 4](#)

The IFS noted that “levying lower rates of tax on the incomes of the self-employed than of employees is unjustified, unfair and inefficient ... today’s NICs increases increase the gap and therefore move the tax system further in the wrong direction.”⁸⁸

In his piece in the *Tax Journal* quoted above, David Gauke concluded by saying “increasing NICs is less unpopular with voters than increasing other taxes and public misunderstanding concerning the nature of the tax additionally allows some room for political manoeuvre. The end result, though, is three taxes on income – income tax, NICs and the HSC levy – with three different bases and a UK tax system that is both unnecessarily complex and further tilted to favour the self-employed.”⁸⁹

Administrative cost

HMRC’s assessment also noted that the introduction of the Levy “will require changes to HM Revenues and Customs’ IT systems” and create “extra staff

⁸⁷ Resolution Foundation, *Nationally Insured?*, 8 September 2021 [p7](#)

⁸⁸ IFS, [An initial response to the Prime Minister’s announcement on health, social care and National Insurance](#), 7 September 2021

⁸⁹ “Funding health and social care – or the art of plucking the goose”, *Tax Journal*, 17 September 2021. See also, “Leader: The Times view on the health and social care levy: Taxing Problem”, *Times*, 13 September 2021

costs supporting customers and ensuring compliance with the new system, although “those costs are currently being quantified.”⁹⁰

The administrative costs associated with the Levy were raised by the Institute of Chartered Accountants in their Autumn 2021 Budget submission to Treasury, published after the Act’s scrutiny by the Commons:

HSCL is a new tax which will impose additional compliance costs on employers (owing to having thresholds and rules which are similar to but not quite the same as those already in force for, for example, national insurance contributions (NIC), auto-enrolment and apprenticeship levy). It will require the completion of additional boxes on payslips and on self assessment tax returns and impose costs of changing IT systems to collect the tax on both businesses and HMRC. The HSCL will also further exacerbate the fiscal imbalance for businesses and workers between different employment statuses.

HSCL is twice as expensive for employers/employees as for the self-employed or those receiving dividend income because there is both an employee and an employer component. It will therefore exacerbate the fiscal disadvantages for businesses and workers of taking on or being an employee or deemed employee over being self-employed or being a service provider. To discourage arbitrage and reduce distortive behaviours, Matthew Taylor in his Good Work report of July 2017 recommended that ‘Over the long term, in the interests of innovation, fair competition and sound public finances we need to make the taxation of labour more consistent across employment forms...’. However, the proposed structure of the HSCL is moving in the opposite direction.

HMRC’s tax information and impact note (TIIN) was not published until two days after Parliament voted on the HSCL Bill so that the anticipated outcomes cited in the TIIN could not be considered. We believe that a simpler approach could have been considered had there been proper advance consultation, including using the Office of Tax Simplification (OTS), and other official bodies such as the Administration Burdens Advisory Board, and, we suggest, on a confidential basis, professional bodies whose members work at the coalface and have practical experience of dealing with payroll.

We believe it would have been simpler and less costly to introduce a new NIC letter to raise the charge. The compliance cost saving could

⁹⁰ HMRC, [Health and Social Care Levy](#), 9 September 2021

then be used to fund the NHS rather than the implementation of the levy.⁹¹

In a letter to the Treasury Committee published the day after the Bill's consideration by the Commons, the then Financial Secretary Jesse Norman noted that HMRC's Tax Information and Impact Notes (TIINs) "set out that the operational costs to HMRC for the Levy were being quantified. It is not unusual for TIINs to be updated, and the Government will publish final estimates before the measure comes into effect in April 2022", going on to add, "the current estimate of HMRC operational costs is in the range of £40-50 million including IT costs and resource."⁹²

As of October 2022, the TIIN has not been updated to reflect additional operational costs to support the implementation of the Levy.

In his letter Mr Norman also emphasized the limitations of the analysis provided in TIINs; that they are "technical documents which **only** consider the tax impacts and do not look at the cumulative picture":

In this instance, that means the document is not a full and proper picture of the impact on families or the economy since it does not consider the around £12 billion a year for three years that the Levy will enable the Government to spend on health and social care. This spending will stimulate the economy.

That is why it is important to note that HMRC's language in the Levy TIIN is deliberately conditional; HMRC have not modelled the macro-economic impacts or impact on family formation, and the assessment is based on a judgment considering only some elements of the tax points in isolation. The increase in dividend tax rates, which is highly progressive, was also not taken into account. ...

[The OBR] will certify full policy costings in the usual way at the next fiscal event, which the Chancellor has confirmed will be the Budget on 27th October. As their remit requires, and in contrast to HM Treasury, which does not offer economic forecasts, the OBR will consider the economic effects of the levy and the additional spending that it funds in light of their updated economic and fiscal forecast, which they will publish alongside the Budget. The full costing will also rely on economic determinants from that forecast.⁹³

⁹¹ ICAEW, [Autumn Budget 2021 representations: building a modern tax system](#), 5 October 2021 pp7-8. The ICAEW's reference to Parliament's vote preceding publication of the impact assessment is to the debate [on the Ways and Means Resolution on 8 September](#).

⁹² Treasury Committee, [Correspondence from the Financial Secretary to the Treasury relating to the Health and Social Care Levy \(14/9/2021\)](#), 15 September 2021 p3

⁹³ [op.cit.](#) p2, p1

2.5

Autumn Budget 2021

Then Chancellor Rishi Sunak presented the Autumn Budget on 27 October 2021, and the Budget report confirmed details of the new Levy:

5.28 The Health and Social Care Levy – As announced by the Prime Minister on 7 September 2021, the government has legislated for a new 1.25% Health and Social Care Levy (the Levy), to fund an historic investment in the NHS and social care. The Levy will apply UK-wide, to the same population and income as Class 1 (Employee, Employer) and Class 4 (Self-Employed) National Insurance contributions (NICs), and to the main and additional rates. The Levy will not apply to Class 2 NICs or Class 3 NICs.

The Levy will be effectively introduced from April 2022, when NICs for working age employees, self-employed people and employers will increase by 1.25% and be added to the existing NHS allocation. From April 2023, once HMRC's systems are updated, the 1.25% Levy will be formally separated out and will also apply to the earnings of individuals working above State Pension age, and NICs rates will return to their 2021-22 levels. From April 2023, receipts from the Levy will go to those responsible for health and social care across all parts of the UK.

The report also confirmed the associated increase in the rates of income tax on dividends:

5.29 Dividend rates – As announced on by the Prime Minister on 7 September 2021, legislation will be introduced in the Finance Bill 2021-22 to increase the rates of income tax applicable to dividend income by 1.25%. The dividend ordinary rate will be set at 8.75%, the dividend upper rate will be set at 33.75% and the dividend additional rate will be set at 39.35%. The dividend trust rate will also increase to 39.35% to remain in line with the dividend additional rate. The changes will apply UK-wide and will take effect from 6 April 2022.

In England, revenue from this increase will help to fund the health and social care settlement announced in September with the Barnett formula applying in the normal way. This change will ensure those with dividend income make a contribution in line with that made by employees and the self-employed on their earnings.⁹⁴

⁹⁴ [Autumn Budget and Spending Review 2021](#), HC 822, October 2021 pp141-2

The Budget report provided updated estimates for the amounts to be raised from these tax increases. The Levy was anticipated to provide around £12.4 billion for health and social care – £1 billion more than initially estimated:

Forecast revenues from Health and Social Care Levy and increase in dividends tax £ million						
	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Gross yield	+45	+16,505	+16,805	+16,905	+17,290	+17,875
<i>Reduction in yield due to passthrough to wages by employers</i>	0	-2,060	-2,620	-2,720	-2,825	-2,935
<i>Compensation for the additional cost to public sector employers</i>	0	-1,735	-1,765	-1,800	-1,865	-1,935
Net yield available to allocate to health and social care ⁶	0	+12,710	+12,420	+12,385	+12,600	+13,005
Increase rates of dividend tax by 1.25% from April 2022	-15	+1,340	-540	+650	+815	+905

Notes:

¹ Gross yield reflects total direct tax raised from the Health and Social Care Levy.

² Net yield reflects total amount available to allocate after accounting for (1) the reduction in yield due to passthrough to wages by employers and (2) compensation for the additional cost to public sector employers.

Source: HM Treasury. [Autumn Budget and Spending Review 2021](#), October 2021, Table 5.1

The OBR observed that “the direct scorecard yield” from the Levy “rises from £16.5bn in 2022-23 to £17.9bn in 2026-27. On this basis, it was forecast to be an even larger tax rise than the £17.2bn in 2025-26 that was raised by the 6 percentage point increase in the main rate of corporation tax that the Chancellor announced in his March 2021 Budget.”⁹⁵ The OBR noted their forecast “[reflected] the impact of this policy on economy-wide determinants. The largest of these relates to the incidence of the employer element of the tax”:

We assume this element is passed through entirely on to real wages in the medium term, with 80 per cent via nominal wages rising more slowly than would otherwise have been the case and 20 per cent via higher prices. (In the first year we assume that 20 per cent is absorbed temporarily in lower profits.)

To quantify the effect of this pass-through to private sector wages on all income taxes, we have used a simple ready-reckoner based on the effective tax rate of each tax line in our forecast multiplied by the reduction in wages and salaries attributable to the pass-through to wages in the private sector. Because the thresholds for income

⁹⁵ OBR, [Economic and Fiscal Outlook](#), CP 545, October 2021 para A13

tax, NICs, the health and social care levy and the apprenticeship levy are not indexed, only the nominal wage element affects the overall receipts from these taxes.

Our pass-through assumptions result in a 0.5 per cent reduction in nominal wages in the private sector in 2022-23, rising to 0.6 per cent in the following years, which translates into a 0.5 per cent reduction on whole economy wages and salaries (increasing to around £6 billion a year). ... Pass-through to lower wages results in a £2.1 billion loss of receipts on all employment income taxes in 2022-23, rising to £2.9 billion in 2026-27.⁹⁶

The Treasury Select Committee took evidence from OBR officials on 1 November, and on this occasion Emma Hardy (Labour) asked Professor Sir Charlie Bean if the OBR's assessment that the whole additional NICs cost for employers would be passed on:

Q85 Emma Hardy: So the assumption is that the whole thing will be passed on?

Professor Bean: Yes: 80% comes in the form of lower pay and 20% in higher prices. Some firms charge higher prices, and that means real wages for the workforce as a whole are lower. However, this pass-through of the tax is not instantaneous. In the first year, firms absorb some of the costs, so 20% is actually borne in lower profits temporarily. Then by the second year, firms have basically either said to their workers, "You're going to have to accept the cost of this in a lower pay settlement this year", or they have passed it through into a higher price level. That assumption is based on empirical assessment of similar tax changes in the past.

Q86 Emma Hardy: So first the company pays, then the worker pays, then the consumer pays.

Professor Bean: Yes, and workers and consumers are the same at the end of the day. They bear 100% of the burden at the end of the day, even though it is the employer who nominally pays the tax.

Q87 Emma Hardy: Ultimately, then, the worker pays.

Professor Bean: Yes.⁹⁷

At an earlier point in the session Ms Hardy asked Richard Hughes, the OBR's Chairman, about the Government's decision to announce the Levy prior to the Budget, without an OBR assessment of its cost:

⁹⁶ OBR, [Economic and Fiscal Outlook](#), CP 545, October 2021 paras A17-A19

⁹⁷ Treasury Committee, [Oral evidence: Autumn Budget and spending review](#), HC 825, 1 November 2021

Q80 Emma Hardy: ... Were you surprised that the Government chose to announce significant changes to national insurance and the introduction of a new tax outside a fiscal event without an OBR assessment of the cost?

Richard Hughes: We were not surprised, based on past practice. As we have noted in previous forecasts, the pandemic has had its own timetable and logic, and it has required the Government to react more or less in real time. We thought it was understandable that they would have to make major policy announcements outside a Budget cycle, but outside the pandemic, the Government have also tended to make major fiscal policy announcements, particularly about the health service, outside the usual fiscal policy-making timetable. I think it is a matter for you and the Government to decide whether it is wise to announce major fiscal decisions when you do not have a forecast against which to assess their macroeconomic impact.

In this case, it was not particularly a pandemic-driven decision; it was about medium-term levels of tax and spend in the health service and on adult social care. The Government decided to announce that when they did. The logic of fiscal decision making is that you should have a look at the macroeconomic outlook—the outlook before measures—and then look at what your measures do to that overall. Because these decisions were taken in September, they did not have that complete picture.

Q81 Emma Hardy: Why do you think the Chancellor chose to keep the OBR out of the loop on this?

Richard Hughes: I would not say that we were completely out of the loop, in that this stuff had been trailed in the press since the summer.

Emma Hardy: You found out through the press, like the rest of us.

Richard Hughes: They keep us informed of policy decisions as they emerge, although what they announced in September was based on their own costings and their own assessment of its fiscal impact. We then recosted it when we incorporated it into our Blue Book, with some slightly different numbers on what the tax would yield.⁹⁸

The OBR also looked at the impact that the Levy, and the associated increase in the rates of income tax on dividend income, would have on the incentives for individuals to shift from employment to self-employment, or to set up their own personal service company:

⁹⁸ [As above](#)

Chart A.2 shows the tax saving in 2025-26 for a self-employed person or single director earning £100,000, relative to the tax they and their employer would pay if they worked as an employee – and shows how that has evolved as a result of tax policies announced this year.⁹⁹

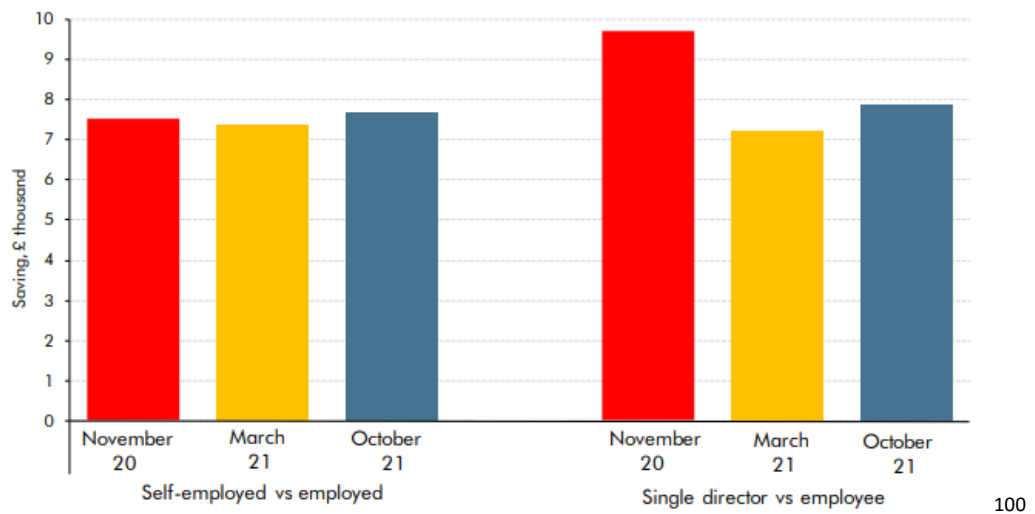
These tax savings are one of the factors that lead some people to choose these employment statuses:

- The movement in the saving from being **self-employed** are relatively small, with little change resulting from March 2021 Budget measures and a modest increase resulting from this Budget (as a result of not being liable to the employer element of the new health and social care levy, only the self-employed element).
- The changes in the saving for **single directors**, however, are more material – falling by 26 per cent as a result of March Budget measures, then rising back by 9 per cent as a result of this Budget. The fall due to the March Budget reflects the increase in the main rate of corporation tax, tempered for someone earning this much by the reintroduction of the small profits rate.

The 1.25 per cent dividend tax rise in this Budget reduces the tax saving from being a single director, but the effect of that is more than offset by the health and social care levy, which raises the overall tax paid on employee earnings by more (because of its employee and employer elements). This Budget therefore reverses around a third of the reduction in the tax incentive to incorporate (at this level of earnings) that had been achieved as a result of the March Budget measures.

⁹⁹ These calculations assume the individual has only one source of income. The deduction of employer NICs means that less of an employee's total compensation is made up of their wage, thereby paying less income tax but more NICs than the self-employed. Company directors are assumed to withdraw profits in the most tax efficient way, paying themselves a salary up to the primary threshold for NICs, and taking the rest as dividends, all in the same year. These examples all reflect taxpayers outside Scotland. In Scotland higher tax rates at the top-end of the distribution create a slightly larger incentive to incorporate.

Chart A.2: Tax saving on £100,000 of income in 2025-26 relative to an employee: latest policy settings versus March 2021 and November 2020



The Budget report included updated estimates of the amounts to be raised from the increase in dividend tax rates from April 2022. Initially the Treasury had forecast that this tax measure would raise around £600m a year.¹⁰¹ the Budget report estimated that the yield will be £650m in 2024/25, rising to £815m in 2025/26, and £905m in 2026/27.¹⁰² In their assessment of the Budget costings and the degree of uncertainty associated with these estimates, the OBR assigned this measure a ‘high’ uncertain rating, “mainly relating to the potential scale of the behavioural response, and in particular the degree of forestalling (the bringing forward of dividend payments) in order to avoid the tax rise, took effect on 6 April 2022 (it was announced in early September).”¹⁰³ The Treasury’s Budget Policy Costings document noted that the costing “[accounted] for multiple behavioural effects including individuals bringing some of their dividend income forward to before the increase has come into effect, behaviours to reduce taxable dividend income, and a lower incentive for individuals to incorporate.”¹⁰⁴

This phenomenon can be seen in the projected yield for the first two years, as the OBR anticipated tax receipts to **rise** by £1.34bn in 2022/23, and then **fall** by £540m. The timing of these impacts is due to the lag between the receipt of dividend income over the tax year, and the deadline for paying tax on that income under self assessment ten months **after** the end of the tax year.¹⁰⁵ There is an assumption that taxpayers would be encouraged to bring forward dividends that they would have planned to receive in 2022/23 a year earlier, so that this income

¹⁰⁰ OBR, [Economic and Fiscal Outlook](#), CP 545, October 2021 para A30

¹⁰¹ HMG, [Build back better: our plan for health and social care](#), CP 506, 7 September 2021 para 82

¹⁰² [Autumn Budget and Spending Review 2021](#), HC 822, October 2021 p134 (Table 5.1 – item 11)

¹⁰³ OBR, [Economic and Fiscal Outlook](#), CP 545, October 2021 para A33. For an earlier example of this type of response to pre-announced changes to dividend taxation see, OBR, [The effect of dividend forestalling on self-assessment receipts](#), 18 August 2017.

¹⁰⁴ HMT, [Autumn Budget and Spending Review Policy Costings](#), October 2021 p9

¹⁰⁵ For a short explanation see, HMRC, [Self Assessment tax returns: deadlines](#), retrieved November 2021

would fall within the 2021/22 tax year. HMRC will only receive the tax on these extra payments during 2022/23.

The OBR discussed this aspect of the policy costings process in more detail:

A.36 Policy costings estimating the cost or yield of a new tax measure will typically be broken down into three sections: (i) an estimate of the size of the underlying tax base that will be affected by the measure; (ii) a static costing, which is the difference between the amount of tax raised by the existing and new regimes when applied to the existing tax base; and (iii) an estimated behavioural effect, which aims to capture the way individuals and businesses change their actions in response to the policy – and thereby change the tax base to which the new regime will be applied. These changes to tax bases often affect more taxes than just the one that is the subject of the measure, so behavioural costs or yields can be large relative to the static cost or yield of the policy change.

A.37 The scale of the behavioural adjustment depends on the relative ability and willingness of individuals and businesses to respond. It is captured via behavioural elasticities that compare the responsiveness of taxpayers to a given change in the tax rates they face. For some changes these can be based on econometric studies carried out by HMRC or academic institutions based on similar policy changes in the past. For others, judgement has to be relied upon if there is no directly comparable historical or international evidence.¹⁰⁶

The OBR went on to present the percentage of the cumulative five-year static costing that remained once behavioural responses were factored in for selected tax policy announcements from both Budgets in 2021. In the case of the change in dividend tax rates it anticipated that about a quarter of the static yield would be lost.¹⁰⁷

HMRC's impact assessment gave further details on the current law and how this will be revised:

Current law : The current rates of Income Tax on dividend income are outlined in Chapter 2 of Part 2 of the Income Tax Act 2007. The current rates are set out at sections 8 and 9. Section 13 determines what dividend income is charged at each rate. For these purposes, "dividend income" is defined in section 19.

Proposed revisions : Legislation will be introduced in Finance Bill 2021-22 to change sections 8 and 9 of the Income Tax Act 2007 to increase the rates of tax applicable to dividend income including the dividend trust rate. This will also have the effect of raising the rate

¹⁰⁶ OBR, [Economic and Fiscal Outlook](#), CP545, October 2021 p218

¹⁰⁷ OBR, [Economic and Fiscal Outlook](#), CP545, October 2021 p 219, Chart A3

of tax charged under section 455, Corporation Tax Act 2010 on loans to participators and on personal representatives that are liable to tax on dividends paid into estates of deceased persons under section 14 of the Income Tax Act 2007.

It also explained the impact anticipated on individuals, households and families:

Individuals who receive dividend income and pay tax on that income will be affected. It is estimated that this will affect 2,555,000 individuals in the year 2022 to 2023. Shares held in ISAs are not subject to dividend tax and, due to the £2,000 tax-free dividend allowance and the personal allowance, around 59% of individuals with dividend income outside of ISAs are not expected to pay any dividend tax, or be affected by this change in 2022 to 2023. The average loss of those affected is around £335.¹⁰⁸

¹⁰⁸ HMRC, [Increase of the rates of Income Tax applicable to dividend income](#), 27 October 2021

3 Legislation to establish the Levy

3.1 The Act

The Act is comprised of seven sections.

Section 1 establishes the new Health and Social Care Levy. **Section 1(1)** sets the Levy at 1.25% on the earnings or profits on which someone would be liable to pay primary Class 1, secondary Class 1 or Class 4 NICs. In addition **Section 1(1)(b)** provides that the Levy applies if someone were liable to pay NICs if the exemption which applies to those over pension age were ignored. Section 1(6) states that the Levy will apply from 6 April 2023. Notably **Section 1(5)** specifies that in assessing liability to the Levy earnings that are subject to a zero rate of secondary Class 1 NICs are to be ignored. This means that in cases where relief is provided from secondary Class 1 NICs by way of a 0% rate (for example, in relation to certain apprentices), that relief will also apply to the Levy.¹⁰⁹

Section 2 provides for the distribution of the proceeds from the Levy. **Section 2(2)** provides the Treasury with a ‘discretionary power’ to determine how these proceeds are to be allocated between health care and social care, and between England, Wales, Scotland, and Northern Ireland. It is notable that this provision makes no mention of how and when these allocations would be determined. HMRC may deduct expenses associated with either the collection of the Levy or the recovery of related penalties and interest, from the proceeds of the Levy.

Section 3 provides for the application of NIC legislation for purposes of operating the Levy. Notably **section 3(3)** specifies that payment of the Levy does **not** give rise to entitlement to contributory benefits, unlike NICs.¹¹⁰

Section 4 provides the Treasury with regulation-making powers to make general provision for the purposes of the Levy. **Section 4(2)** provides a number of examples of provisions that may be covered by any regulations. **Section 4(3)** provides that in addition to this, regulations may make ‘different provision for different purposes’, ‘supplementary, incidental and consequential provisions’, or ‘transitional or transitory provision and savings.’ Notably **section 4(5-6)** specifies that any such regulations would be subject to [the affirmative procedure](#) if they ‘have the effect of limiting the application of (or reducing or removing) any existing relief or exemption’.

¹⁰⁹ [Explanatory Notes](#), Health and Social Care Levy Act 2021, paragraph 26

¹¹⁰ [Explanatory Notes](#), Health and Social Care Levy Act 2021, paragraph 34

Section 4(6) specifies that all other regulations would be subject to the [negative procedure](#).¹¹¹

In their commentary on the Bill on 13 September 2021, the Hansard Society argued that this regulation-making power “is concerning for its width and its inconsistent application of parliamentary scrutiny procedures.”¹¹² On the following day, then Financial Secretary Jesse Norman wrote to the Deputy Speaker and Chairman of Ways and Means Dame Eleanor Laing to clarify the provisions contained in Clause 4 (now Section 4 of the Act).¹¹³

Section 5 provides for a 1.25 percentage point increase in the rates of primary and secondary Class 1 NICs, and the rates of Class 4 NICs, for 2022/23 only. Notably **section 5(5)** amends the allocation of NICs receipts from Class 1 and Class 4 NICs to ensure that the proceeds of this temporary rate increase go to the NHS.

Sections 6 & 7 cover interpretation – defining various terms used in the Act – the Act’s short title and its Crown application.

3.2

HMRC’s impact assessment

HMRC published [an impact assessment to the Bill](#). As noted above, this tax information and impact note (TIIN) did not provide figures for the amount that the Bill was anticipated to raise in additional tax receipts, which was included in the 2021 Autumn Budget report and the OBR Economic and Fiscal Outlook. HMRC’s TIIN on the Levy addressed its impact on the economy:

The measure is anticipated to have a significant macroeconomic impact, with consequences including but not limited to for earnings, inflation and company profits. Behavioural effects are likely to be large, and these will include decisions around whether to incorporate or not, and business decisions around wage bills and recruitment.

It also addressed the impact on individuals, households and families:

The impact analysis that follows relates specifically to the impact of the legislative provisions outlined above. Losses are presented compared to the National Insurance contributions individuals would have faced if the rate remained unchanged.

¹¹¹ As above, paragraph 39

¹¹² Dr Ruth Fox & Dheemanth Vangimalla, [The Health and Social Care Levy Bill: four questions about scrutiny and accountability](#), Hansard Society, 13 September 2021

¹¹³ [Letter from Jesse Norman MP to Eleanor Laing MP regarding delegated powers](#), Deposited Paper DEP2021-0735, 14 September 2021 para 5-9

The levy will be paid by employed and self-employed individuals earning above the Primary Threshold and Lower Profits Limit (£9,568 in 2021 to 2022 tax year). In 2022 to 2023 tax year an individual earning the median basic rate taxpayer's income of £24,100 would be expected to pay an additional £180; and an individual earning the median higher rate taxpayer's income of £67,100 would be expected to pay an additional £715.

Actual losses for individual taxpayers will vary according to individual circumstances.

There may be an impact on family formation, stability or breakdown as individuals, who are currently just about managing financially, will see their disposable income reduce.

HMRC's assessment went on to note that the levy "is expected to have a significant impact on over 1.6 million employers who will be required to introduce this change" and its introduction "will require changes to HM Revenue and Custom's IT systems" and create "extra staff costs supporting customers and ensuring compliance with the new system", although "those costs are currently being quantified."¹¹⁴

The administrative costs associated with the Levy were raised by the Institute of Chartered Accountants in their Autumn 2021 Budget submission to Treasury, published after the Act's scrutiny by the Commons:

HSCL is a new tax which will impose additional compliance costs on employers (owing to having thresholds and rules which are similar to but not quite the same as those already in force for, for example, national insurance contributions (NIC), auto-enrolment and apprenticeship levy). It will require the completion of additional boxes on payslips and on self assessment tax returns and impose costs of changing IT systems to collect the tax on both businesses and HMRC. The HSCL will also further exacerbate the fiscal imbalance for businesses and workers between different employment statuses.

HSCL is twice as expensive for employers/employees as for the self-employed or those receiving dividend income because there is both an employee and an employer component. It will therefore exacerbate the fiscal disadvantages for businesses and workers of taking on or being an employee or deemed employee over being self-employed or being a service provider. To discourage arbitrage and reduce distortive behaviours, Matthew Taylor in his Good Work report of July 2017 recommended that 'Over the long term, in the interests of innovation, fair competition and sound public finances we need to make the taxation of labour more consistent across

¹¹⁴ HMRC, [Health and Social Care Levy](#), 9 September 2021

employment forms...'. However, the proposed structure of the HSCL is moving in the opposite direction.

HMRC's tax information and impact note (TIIN) was not published until two days after Parliament voted on the HSCL Bill so that the anticipated outcomes cited in the TIIN could not be considered. We believe that a simpler approach could have been considered had there been proper advance consultation, including using the Office of Tax Simplification (OTS), and other official bodies such as the Administration Burdens Advisory Board, and, we suggest, on a confidential basis, professional bodies whose members work at the coalface and have practical experience of dealing with payroll.

We believe it would have been simpler and less costly to introduce a new NIC letter to raise the charge. The compliance cost saving could then be used to fund the NHS rather than the implementation of the levy.¹¹⁵

In a letter to the Treasury Committee published the day after the Bill's consideration by the Commons, the then Financial Secretary Jesse Norman noted that HMRC's TIIN "set out that the operational costs to HMRC for the Levy were being quantified. It is not unusual for TIINs to be updated, and the Government will publish final estimates before the measure comes into effect in April 2022", going on to add, "the current estimate of HMRC operational costs is in the range of £40-50 million including IT costs and resource."¹¹⁶

In his letter Mr Norman also emphasized the limitations of the analysis provided in TIINs; that they are "technical documents which **only** consider the tax impacts and do not look at the cumulative picture":

In this instance, that means the document is not a full and proper picture of the impact on families or the economy since it does not consider the around £12 billion a year for three years that the Levy will enable the Government to spend on health and social care. This spending will stimulate the economy.

That is why it is important to note that HMRC's language in the Levy TIIN is deliberately conditional; HMRC have not modelled the macro-economic impacts or impact on family formation, and the assessment is based on a judgment considering only some elements of the tax points in isolation. The increase in dividend tax rates, which is highly progressive, was also not taken into account. ...

¹¹⁵ ICAEW, [Autumn Budget 2021 representations: building a modern tax system](#), 5 October 2021 pp7-8. The ICAEW's reference to Parliament's vote preceding publication of the impact assessment is to the debate [on the Ways and Means Resolution on 8 September](#).

¹¹⁶ Treasury Committee, [Correspondence from the Financial Secretary to the Treasury relating to the Health and Social Care Levy \(14/9/2021\)](#), 15 September 2021 p3

[The OBR] will certify full policy costings in the usual way at the next fiscal event, which the Chancellor has confirmed will be the Budget on 27th October. As their remit requires, and in contrast to HM Treasury, which does not offer economic forecasts, the OBR will consider the economic effects of the levy and the additional spending that it funds in light of their updated economic and fiscal forecast, which they will publish alongside the Budget. The full costing will also rely on economic determinants from that forecast.¹¹⁷

3.3 Fast track procedure

Following Mr Johnson's statement on 7 September 2021, the then Leader of the House Jacob Rees-Mogg [announced](#) that the House would consider a motion to approve a Ways and Means Resolution, to enable the Government to bring forward legislation to introduce the Levy. This was approved on 8 September, after which the Health and Social Care Bill was published.¹¹⁸ In his [Business Statement on 9 September](#) Mr Rees-Mogg announced that on Tuesday 14 September the House would be asked to approve a motion so that the Bill would be subject to the 'fast track' procedure – that is, all of its stages of the Bill would be taken that same day.¹¹⁹

In 2009, the House of Lords Constitution Committee published a report on this type of legislation – that is, “bills ... which the Government of the day represents to Parliament must be enacted swiftly ... and then uses its power of legislative initiative and control of Parliamentary time to secure their passage.”¹²⁰ The Committee recommended that the Government should explain the reasons for fast-tracking legislation; what consultation had taken place with interested parties; the steps taken to maximise parliamentary scrutiny; and mechanisms in place for post-legislative scrutiny. It also recommended that there should be a presumption in favour of sunset clauses in fast-track legislation.¹²¹ The Cabinet Office's [Guide to Making Legislation](#) states that when a Bill is fast-tracked, the Government uses the Explanatory Notes for the legislation to address these questions.¹²²

¹¹⁷ [As above](#) p2, p1

¹¹⁸ House of Commons, [Wednesday 8 September 2021 Votes and Proceedings](#) (PDF), 08 September 2021, HC 43

¹¹⁹ HC Deb [09 September 2021](#), c466

¹²⁰ Select Committee on the Constitution, [Fast-track Legislation: Constitutional Implications and Safeguards](#), 7 July 2009, HL 116-I 2008-09, para 27

¹²¹ Select Committee on the Constitution, [Fast-track Legislation: Constitutional Implications and Safeguards](#), 7 July 2009, HL 116-I 2008-09

¹²² Cabinet Office, [Guide to Making Legislation](#), July 2017, para 11.54

In a review of the legislative process in the 2017 Parliament, the Constitution Committee referred back to conclusions in its 2009 report on the justification for fast-tracking:

We considered the circumstances in which it may be reasonable for minimum intervals not to apply in our report, [Fast-track legislation: constitutional implications and safeguards](#), in 2009. We concluded that legislation should be fast-tracked only when it was “a proportionate, justified and appropriate response to the matter in hand” and that “Fundamental constitutional rights and principles” should not be jeopardised.

We recommended that, for legislation subject to fast-tracking, the Government should set out its justification for fast-tracking in the explanatory notes to the bill. We welcome the fact that the Cabinet Office’s Guide to Making Legislation now requires the justification for fast-tracking to be included in a bill’s explanatory notes. We note that the Government has observed it in respect of most recent bills that have been fast-tracked.¹²³

HMRC’s impact assessment noted “this measure was announced on 7 September 2021 and is being implemented at the earliest opportunity to increase funds for the National Health Service”, though “the transitional increase to the main and additional rates of National Insurance contributions will take effect from 6 April 2022 and will last for the 2022 to 2023 tax year only [and] the new Health and Social Care Levy will take effect from 6 April 2023.”¹²⁴

The Government’s decision to ‘fast-track’ the Health and Social Care Levy Bill was not addressed in the explanatory notes published alongside the Bill [on 8 September 2021](#), but an **updated version** of the notes, with an additional section, was published on 13 September 2021; an extract is reproduced below:

Fast-track legislation

1. The Government intends to ask Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards,¹²⁵ the House of Lords Select Committee on the Constitution recommended that the Government “should provide more information as to why a piece of legislation should be fast-tracked”.¹²⁶ The justification for fast-tracking the Bill is explained below.

¹²³ Constitution Committee, [The Legislative Process: The Passage of Bills through Parliament](#), 8 July 2019, HL Paper 393 2017-19, para 38. As noted, the Cabinet Office’s guidance on this point is set out in, Cabinet Office, [Guide to Making Legislation](#), July 2017, para 11.54

¹²⁴ HMRC, [Health and Social Care Levy](#), 9 September 2021 para 3.1, para 4.1

¹²⁵ House of Lords’ Constitution Committee, 15th report of session 2008/09, HL paper 116-I

¹²⁶ House of Lords’ Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para 186

2. The legislation is required to be in place for the 2022-23 tax year, which starts on 6 April 2022. The increase in National Insurance rates for that year will require changes to be made to the systems of employers and HMRC (including those designed to facilitate Pay as You Earn). To help ensure that people are not over or under taxed it is important for both those employers and HMRC to have as much time as possible to implement the changes. This is particularly important given all employers in the UK liable for NICs will be affected.

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

3. The Bill was introduced as soon as possible after the announcement of the intention to introduce a Health and Social Care Levy. While the Bill reflects an important and significant policy, the Bill is short (containing only 5 substantive clauses). The principle of the policy was debated in the context of the ways and means resolution on which was introduced.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

4. No consultation has taken place in relation to the Bill. This is not unusual for measures having the effect of increasing rates of taxation.

Does the Bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

5. The Levy is a permanent change to the tax system to ensure the increases to health and social care spending are fully funded. A separate sunset clause is therefore not appropriate.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

6. As is the case for tax policy, the Health and Social Care Levy will be continuously kept under review using information collected from internal systems, National Insurance, and Levy receipts.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

7. The Health and Social Care Levy is a new tax; there is therefore no existing legislation relating to it. The policy could have in part been achieved by a permanent increase in the rates of National Insurance Contributions. However, that would be less transparent (since none of the proceeds are payable to the National Insurance Fund) and it

would not secure that payments are made in respect of earning and profits of persons over State Pension age.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

8. A European Convention on Human Rights analysis is included in these Explanatory Notes for the Joint Committee on Human Rights.¹²⁷

Further information on this procedure is provided in [Fast-track legislation](#), Commons Library briefing, 25 March 2020. A second Commons Library briefing provides a list of public bills since 1979 where the main Commons stages (Second and Third Reading) have been passed within one day.¹²⁸

Another example of expedited legislation in the field of tax law was the [Stamp Duty Land Tax \(Temporary Relief\) Act 2020](#), which introduced a temporary relief for residential house sales, as part of a package of measures announced by the Chancellor on 8 July 2020 to boost job creation in the context of the Covid-19 pandemic.¹²⁹ The reason for introducing legislation in this way was to provide legal certainty for buyers and sellers, as the new relief applied to transactions completed on or after the day of the Chancellor's announcement. Previous reforms to this tax have also been implemented in this way.¹³⁰ One reason for this is that the tax is assessed by reference to the day a transaction is completed, rather than say income tax being assessed on an annual basis.

Normally Chancellors reserve the announcement of new tax measures to the Budget, and statutory provision to put them into effect will be made in the annual Finance Bill. Although Finance Bills will not usually be fast-tracked, on occasion the passage of the Bill may be truncated, when a Budget coincides with a General Election. In brief, this is because both income tax and corporation tax are annual taxes; the authority to levy them expires at the end of the tax year – which runs from April to March. As the Finance Act has to reimpose these taxes each year, the Government may have limited time to pass the Act before the Dissolution of the House, if the Budget is in March, and an election is called soon after. Indeed in 2005 the timing of the Budget and the General Election saw all of the Finance Bill's stages being taken on a single day – 6 April.¹³¹

¹²⁷ [Bill 160-EN, 13 September 2021](#) pp4-5

¹²⁸ [Expedited legislation: Public bills receiving their Second and Third Readings on the same day in the House of Commons](#), Commons Library briefing, 9 September 2021.

¹²⁹ For further details see, [Stamp Duty Land Tax \(Temporary Relief\) Bill 2019-21](#), Commons Library briefing, 23 July 2020.

¹³⁰ For some examples see, [Stamp duty land tax on residential property](#), Commons Library briefing, 10 August 2021.

¹³¹ For further details see, [The Budget and the annual Finance Bill](#), Commons Library briefing, 8 September 2021.

3.4 The Act's scrutiny: 14 September 2021

On 14 September the House approved a motion for all the Bill's stages in the Commons to be taken that day, and in turn, the Bill was agreed, unamended.¹³²

Introducing the Bill on Second Reading the then Chief Secretary to the Treasury, Steve Barclay, set out how the new Levy would be introduced:

The levy will apply UK-wide to taxpayers liable for class 1 employee and employer, class 1A, class 1B and class 4 self-employed national insurance contributions. However, it will not apply where taxpayers pay class 2 or class 3 NICs. It will be introduced in April 2022, and from April 2023 it will also apply to those working over the state pension age. ... It takes time for Her Majesty's Revenue and Customs to prepare its systems for such a major shift. That is why, as set out in clause 5, in 2022-23 the levy will be delivered through a temporary increase in NICs rates of 1.25% for one year only.

Mr Barclay also addressed its distributional impact on both individuals and businesses:

Existing NICs reliefs and allowances will also apply to the levy. That will mean that 40% of all businesses will not be affected owing to the employment allowance. When it comes to individuals, those earning more will pay more. Indeed, the top 14 per cent. of taxpayers will pay about half the revenues. Conversely, at least 6.2 million people earning less than the NICs primary threshold will not pay the levy at all ... It is not just that the first 40% will not pay anything ... The next 40% will pay less than 1% of their wage bill, and indeed 70% of the employer contribution comes from just 1% of business.¹³³

Speaking for the Opposition James Murray argued that increasing NICs was "not the way to raise the money [for social care] fairly", and that there was "no guarantee that a plan for social care will be in place even when the levy comes into force."¹³⁴

In his speech Jeremy Hunt, chair of the Health Select Committee, argued the Levy was the right approach to raising funds as it would "add £12 billion every year into our health and care system", which was "more than any wealth tax would generate" and was "more progressive than using plain NI ...

¹³² [Votes and Proceedings No.47, 14 September 2021](#)

¹³³ [HC Deb 14 September 2021 cc840-2](#)

¹³⁴ [As above, c846](#)

because, for the first time, working pensioners will be paying this tax, as well as people who pay dividends.” Mr Hunt went on to raise concerns that “there is a risk that the NHS will continue to gobble up the lion’s share after that, which is why it is essential to ring-fence the amount of money that goes to social care after those three years.”¹³⁵

Speaking for the SNP Alison Thewliss raised concerns that Members had been “presented with a huge additional spending commitment but no detail whatsoever as to how it will actually be spent on the other side” and that the Bill provided no details of how Levy receipts would be allocated between England, Wales, Scotland and Northern Ireland.¹³⁶ For the Liberal Democrats Christine Jardine argued that “the Government could have taken the time to have cross-party discussions and come up with a proper, detailed plan, which I believe would have had the support of everyone in this place ... sadly, this is not it.”¹³⁷

In the event the House gave the Bill a Second Reading, by 317 votes to 256. The House proceeded to complete the remaining stages of the Bill, which received its Third Reading, unamended, by 307 votes to 251.

The House divided on one amendment, tabled by the SNP, and two new clauses, tabled by the Opposition, rejecting each of them.

In addition Conservative backbencher Marcus Fysh tabled a probing amendment to provide that receipts from the Levy could be used in any tax year. As Mr Fysh explained, his purpose was to “give scope for the Government to think about applying some of the funds ... to help incentivise [some type of pooled savings scheme] ... that is not necessarily insurance or private insurance with a middleman; it could be national schemes or community schemes that are properly co-operative and very low-cost.”¹³⁸ Opposing the amendment the Financial Secretary said, “the levy is designed to mirror the approach of the national insurance system which has always operated on a pay-as-you-go basis”:

Indeed, that has been the case since the NHS and the National Insurance Fund were established in 1948. This means that national insurance contributions collected in one year are used to pay for the NHS and contributory benefits paid out in the same year. The pay-as-you-go basis provides a clear precedent for how the levy should operate and that also ensures simplicity and consistency across the NICs system.¹³⁹

As the Bill was a ‘Bill of Aids and Supplies’ (a bill that intends to levy taxes or authorise expenditure), it only received formal consideration from the House

¹³⁵ [As above, cc851-2](#)

¹³⁶ [As above, cc853-4](#)

¹³⁷ [As above, c863](#)

¹³⁸ [As above, c911](#)

¹³⁹ [As above, 902](#). In the event the House did not vote on the amendment as Mr Fysh withdrew it.

of Lords. The House of Lords cannot amend Bills of Aids and Supplies once they are passed by the Commons, although debate still takes place. The role of the House of Lords in financial legislation is detailed in Chapter 37 of Erskine May.¹⁴⁰

Therefore, the Health and Social Care Levy Bill received its first reading in the House of Lords on 15 September 2021. It then received its second reading on 11 October 2021. Following that, the Committee stage was negatived. Prior to the third reading being received, the House had to dispense Standing Order 44 (which says that “no two stages of a bill [can] be taken on one day”).¹⁴¹ Following, the Bill received its third reading and was passed on the same day. It became the Health and Social Care Levy Act 2021 after being given Royal Assent on 20 October 2021.

¹⁴⁰ Erskine May, *Parliamentary Practice*, 25th edition, 2019, Chapter 37

¹⁴¹ [The Standing Orders of the House of Lords Relating to Public Business](#), UK Parliament [Online],

4 The Health and Social Care (Repeal) Bill 2022-23: September 2022

During the 2022 Conservative leadership campaign, Prime Minister Liz Truss pledged to reverse the rise in National Insurance which had come into effect in April 2022 due to the Health and Social Care Levy Act 2021 being implemented.¹⁴²

Upon winning the leadership race and becoming Prime Minister, the new Government fulfilled this pledge by introducing the Health and Social Care (Repeal) Bill 2022-23 on 22 September 2022. The Bill, and details of its progress, can be found on the [Bill's page on parliament.uk](https://www.parliament.uk/bills/2022-23/health-and-social-care-levy-repeal). The Chancellor, Kwasi Kwarteng, announced the introduction of the Bill in a statement to the House on 23 September 2022:

It is an important principle that people should keep more of the money they earn, and it is good policy to boost incentives for work and enterprise. Yesterday we introduced a Bill that means that the health and social care levy will not begin next year – it will be cancelled. The increase in employer national insurance contributions and dividends tax will be cancelled, and the interim increase in the national insurance rate, brought in for this tax year, will also be cancelled. This cut will take effect from the earliest possible moment, 6 November. Reversing the levy delivers a tax cut for 28 million people and is worth, on average, £330 every year. It is a tax cut for nearly 1 million businesses. I can confirm that the additional funding for the NHS and social care services will be maintained at the same level.¹⁴³

The day before, on 22 September 2022, Leader of the House Penny Mordaunt announced that the House would be asked to approve a motion so that the Bill would be subject to all its stages on 11 October 2022.¹⁴⁴

The House of Commons Library has published a briefing paper on the Health and Social Care Levy (Repeal) Bill 2022-23.¹⁴⁵

¹⁴² Visual Journalism Team, [How Liz Truss won the Conservative leadership race](https://www.bbc.com/news/health-61888888), BBC [Online], 05 September 2022

¹⁴³ HC Deb [23 September 2022](https://hansard.parliament.uk/Commons/2022-09-23/deb/202209230001), cc937-938

¹⁴⁴ HC Deb [22 September 2022](https://hansard.parliament.uk/Commons/2022-09-22/deb/202209220001), c810

¹⁴⁵ Commons Library Briefing CBP-9626, [Health and Social Care Levy \(Repeal\) Bill 2022-23](https://commonslibrary.com/briefings/cbp-9626)

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