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NHS Pensions - Working for a Direction / Determination Employer

Information for Employees

Contents

NHS Pensions - Working for a Direction / Determination Employer.....	1
Information for Employees.....	1
NHS Pension Directions	3
NHS Pension Determinations	3
New Fair Deal.....	3
Closed Directions/Determinations.....	3
Open Directions/Determinations	3
Officer Status.....	4
Total Rewards Statements	5
Special Class or Mental Health Officer status.....	6
Changes to employment Terms and Conditions.....	6

Overview

This guide is for employees of an NHS Direction / Determination / New Fair Deal Employing Authority in the NHS Pension Scheme.

NHS Pension Directions

An NHS Pension Direction is a legal document drafted under powers conferred within Section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 and provides access to the 1995/2008 NHS Pension Scheme.

NHS Pension Determinations

An NHS Pension Determination is a legal document drafted under powers conferred within Section 25 of the Public Service Pensions Act 2013 and provides access to the 2015 NHS Pension Scheme.

New Fair Deal

New Fair Deal (NFD) is a non-statutory policy issued by HM Treasury in October 2013 which sets out how pension issues are to be dealt with when staff are compulsorily transferred from the public sector to the private sector.

When a compulsory transfer takes place from a NHS Organisation (or existing Direction employer) to a Non-NHS Organisation, the organisation should apply for a closed direction / determination in respect of the eligible staff who are part of the compulsory transfer.

Closed Directions/Determinations

Closed Directions/Determinations are legal documents which extend access to the NHS Pension Scheme for those members of staff listed in the Schedule(s), providing they satisfy the criteria set out in the documents. These documents are mainly issued in respect of staff who have been compulsory transferred.

New recruits are not eligible to be enrolled into the NHS Pension Scheme under the “closed” access.

Once an employment has been terminated with a closed direction/determination employer you will not be eligible to return to a pensionable employment under their direction/determination employing authority code but you may wish to see if your employer has alternative access to the NHS Pension Scheme.

Open Directions/Determinations

Employers who hold an open direction/determination are able to offer the NHS Pension Scheme for new recruits who meet the terms of the legal documents.

Officer Status

Under an NHS Direction / Determination Employer you will have “Officer” Status in the NHS Pension Scheme. More information on the benefits the Scheme provides, are available in the Scheme Guide for the section of the Scheme that you are in. The scheme guides can be found on the NHS Pension Scheme website at <https://www.nhsbsa.nhs.uk/member-hub/joining-scheme>

The Application Process

During the closed direction/determination application process.

During the application process your pension record may not reflect your employment with the new employer. NHS Pensions are made aware that you are part of the compulsory transfer.

Once the application is approved and the legal documents have been signed, the joiner details for all eligible staff must be sent to NHS Pensions which will be updated on members records. All pension records will be backdated to the date of transfer and once updated for those contributing up to and after the date of transfer there will be no break in service.

If you are eligible and listed on the approved legal documents then your employer should notify you that you have been placed into the NHS Pension Scheme. You should receive a scheme guide that gives you information about the scheme. This can be received via email with a PDF version of the guide attached or by handing you a physical copy of the guide.

It is also the responsibility of your NHS direction / determination employer to notify NHS Pensions of the monthly contributions that have been collected and paid over to us. Under the Annual Update process the employer should provide information for contributions from the scheme year, 1st April to 31 March, to NHS Pensions by the 31st May each year.

If you decide to take on an additional role with the direction/determination employer you will not be eligible to pension this additional role under the direction/ new fair deal EA code. However, if your employer has other access routes into the NHS Pension Scheme you may be eligible to contribute. Please check with your employer for further information.

During the open direction/determination application process.

If your employer / prospective employer has applied to become or is an existing open direction / determination employer, you may be eligible to contribute to the NHS Pension Scheme. Please contact your employer for further information.

Opting Out

Before applying to opt out of the NHS Pension Scheme you should first read the opting out factsheet, Leaving Early and Transferring Out Guide, and the relevant Member Guide which can be found on our website.

To opt out you must complete form SD502, the application to leave the NHS Pension Scheme, which is also available on our website.

If you opt out of the NHS Pension Scheme then under Workplace Pension and NHS Pension Scheme Contractual Enrolment the employer has met their responsibilities. If you are still eligible and wish to opt back into the NHS Pension Scheme, contact your employer.

When it comes to auto re-enrolment if you are still eligible, the employer must re-enrol you in the NHS Pension Scheme as part of their on-going responsibilities.

If you are Auto Enrolled back into the NHS Pension Scheme on the employers staging date and do not wish to remain in the NHS Pension Scheme then you will need to opt out again by completing a further SD502 form.

Leaving the NHS Pension Scheme

If you are looking to claim your NHS Pension benefits and you are still in active employment you need to complete the Retirement Benefits Claim Form (AW8), which can be requested from your employer. We recommend that you read the retirement guide and watch the how to apply video that is on the NHS Pensions website at <https://www.nhsbsa.nhs.uk/member-hub/applying-your-pension>

Other Information

Redundancy Payments

If you are subject to redundancy with your employer, there may be an option to claim your NHS Pension Benefits on the grounds of redundancy. You will need to contact your employer to confirm if this applies to you.

Total Rewards Statements

Information relating to your Total Rewards Statements and Annual Benefit Statements can be found [here](#).

Special Class or Mental Health Officer status

If you still meet the criteria after a compulsory transfer then you may be able to maintain your Special Class or Mental Health Officer Status. Further information can be found [here](#).

Changes to employment Terms and Conditions

A change in the written terms and conditions of employment does not usually result in access to the NHS Pension Scheme ceasing.

Further information for members

Further information for members can be found in the members hub [here](#).

Additional Information for GPs

Information for Self-Employed GPs

As a self employed GP who is completing work for a closed direction / determination employer you are not eligible to pension any work that you complete for them either through their employing authority code or through your returns to Primary Care Support England (PCSE).

Information for Salaried GPs

If you are a salaried GP who is compulsory transferred you will be included in the application and listed on the legal documents. You will be classed as officer for this post and do not need to include this work on your end of year certificates.

Information for Self-Employed GPs who become Salaried GPs

If you are a Self-Employed GP and become a salaried GP with a direction employer, you will not be included as part of the compulsory transfer as you were not employed at the point of transfer. However, if the receiving organisation has other access routes into the NHS Pension Scheme you may be eligible to contribute. Please check with your employer for further information.

Additional Information for Medical School Employees

As a self employed GP if you complete work for a University Medical School, you will not be able to pension income from that work.

If you hold an Honorary Appointment within a University Medical School and this is the only NHS post you hold you will not be eligible to contribute. However, if you hold an Honorary Appointment and at the same time hold any other employment which entitles you to join the scheme you may be eligible to contribute.

A direction / determination does not apply to you if you participate in a scheme operated by the University Medical School e.g. the Universities Superannuation Scheme.

Additional Information for Local Authority Employees

Local Authorities may have or gain access to the NHS Pension Scheme via different arrangements, these include the following:

- I) Transfer of Staff order; these are in respect of Section 75 partnership arrangements between the NHS and Local Authority (restricted to staff who transferred on the date specified in the order)
- II) Public Health Staff Transfer Scheme; in respect of the public health transfers which took place on 1 April 2013 (restricted to staff who transferred on the 1 April 2013)
- III) Closed Direction / Determination; in respect of compulsory transferred staff (restricted to the employees listed in the schedule attached to the Direction / Determination)
- IV) Public Health Open Direction / Determination; in respect of eligible new recruits who satisfy the terms detailed in the relevant Direction / Determination

Bulk Transfers

If you have previously been part of a compulsory transfer from the NHS to a non NHS organisation you may have been provided with access to a Broadly Comparable Pension Scheme (BCPS). If you are subject to another compulsory transfer, you may be eligible to contribute to the NHS Pension Scheme with your new employer and also make a Bulk Transfer of benefits accrued in the BCPS to the NHS Pension Scheme. You will need to contact your new employer to check if this applies to you.