**NHS Pensions**

**Independent provider access to the**

**NHS Pension Scheme**

**Applicant guide**

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## Overview

The purpose of this guide is to inform independent providers about how to become an independent provider employing authority (IPEA), how to access the NHS Pension Scheme, and specific rules and regulations that impact them. This guide is provided by us, NHS Pensions, the administrators of the NHS Pension Scheme. General information regarding the NHS Pension Scheme and administration of the scheme is available on our website [Employer hub | NHSBSA](https://www.nhsbsa.nhs.uk/employer-hub) [www.nhsbsa.nhs.uk/employer-hub](http://www.nhsbsa.nhs.uk/employer-hub)

## **Independent provider access**

An independent provider is an organisation that holds a qualifying contract and does not qualify as an NHS Pension Scheme employing authority (EA) under any other access route.

Qualifying contracts are:

* NHS Standard Contract
* NHS Standard Sub-Contract
* alternative provider medical services (APMS) contract
* a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health
* Network Contract DES – sub-contract for the provision of services

An organisation that holds any of the above contracts and does not qualify as an employing authority under any other access route, may apply to become an IPEA.

Retrospective applications can be considered from 1 April 2016 or the start date of the earliest contract whichever is later. Access for the Network Contract DES – sub-contract for the provision of services can be approved from 1 April 2023.

Access to the NHS Pension Scheme as an IPEA is voluntary.

As IPEA access to the NHS Pension Scheme is only for new start employees, it does not apply to employees who are already members of the NHS Pension Scheme under a New Fair Deal, closed direction, or closed determination arrangement.

Existing New Fair Deal (NFD) closed direction and closed determination employers entering into a qualifying contract can choose to apply for IPEA access to offer access to the NHS Pension Scheme to new start employees.

Employers who hold an alternative provider of medical services (APMS) contract and meet the criteria for classic NHS Pension Scheme access should not apply for IPEA access. Refer to the document ‘Which Scheme Access Application Form do I need to complete?’ on our website [Access to the NHS Pension Scheme | NHSBSA](https://www.nhsbsa.nhs.uk/employer-hub/access-nhs-pension-scheme) <https://www.nhsbsa.nhs.uk/employer-hub/access-nhs-pension-scheme>

If an existing classic APMS employer, general medical services (GMS) practice or personal medical services (PMS) practice enters into an NHS Standard contract or NHS standard sub-contract, it does not need to apply to become an IPEA as it can offer the NHS Pension Scheme to all eligible salaried staff. The GPs can pension the contract income.

An employer approved as an Out Of Hours provider (OOHP) employing authority does not have to apply to become an IPEA if it enters into an NHS Standard, APMS, or local authority contract.

## **Primary care networks (PCNs)**

A PCN may sub-contract the Network Direct Enhanced Services (DES) to an independent provider, for example a company limited by shares held by the partners of the network practices.

From 1 April 2023 the Network Contract DES – sub-contract for the provision of services is a qualifying contract for IPEA access and independent providers holding this type of contract may apply for IPEA access, provided that the sub-contract is drawn up using the NHS England template.

An existing IPEA which is awarded this type of PCN sub-contract must complete an IPEA application form and include the new contract.

If an independent provider decides to become an IPEA so as to be able to offer NHS Pension Scheme access to employees working on the DES, all qualifying contracts must be included in the application and, if approved, access to the NHS Pension Scheme must be offered to all eligible employees working wholly or mainly on all qualifying contracts.

If access is required only for those employees working on the DES, the independent provider can consider applying for open PCN determination access instead. Open PCN determination access will only provide access for Additional Roles Reimbursement Scheme (ARRS) employees and employees working wholly or mainly on the PCN DES sub-contract.

It is recommended that employers fully consider the benefits of both access types, and take independent advice if needed, when making their choice.

## **Independent provider employing authority (IPEA)**

An IPEA is an organisation that holds any of the above qualifying contracts and has been approved to become an employing authority for the NHS Pension Scheme.

## How to become an NHS Pension Scheme employing authority

If an independent provider meets the criteria of holding a qualifying contract it is not legally required to become an NHS Pension Scheme IPEA, it has a choice. However, if it does become an IPEA, all qualifying contracts awarded become pensionable and it is bound by statutory pension legislation.

An independent provider application form must be completed in full and submitted with supporting contract documents.

[The application form is available on our website.](https://www.nhsbsa.nhs.uk/employer-hub/access-nhs-pension-scheme) <https://www.nhsbsa.nhs.uk/employer-hub/access-nhs-pension-scheme>

An application can be made for a retrospective access start date, which cannot be earlier than 1 April 2016 and cannot predate the start date of the earliest qualifying contract on the application form. Access for the Network Contract DES – sub-contract for the provision of services can only be approved from 1 April 2023. If a retrospective date is chosen, employee and employer contributions will be due for all eligible employees backdated to the chosen access start date and will need to be paid in full once access is approved.

## Completing the application form

Care should be taken to complete the application form fully and accurately, as incomplete, or incorrect forms will be returned.

The form is an Excel spreadsheet which must be submitted in Excel format as it contains formulae. There are 3 tabs to complete. Read the guidance notes on the form.

### First tab - IPEA application form

Part 1 Before completing the form, check you are completing the right form.

Part 2 Complete in full if this is your first application. Existing IPEAs submitting new contracts do not complete this part.

Part 3 Details of the applying organisation. If the applicant is a registered company, the organisation name must match the name on Companies House.

Part 4 The link takes you to the ‘Qualifying contracts’ tab. You need to complete the application in this order so that the formulae work.

### Second tab – Part 4 Qualifying contracts

All qualifying contracts held must be included. Additional guidance about qualifying contract criteria is available on tab four, and guidance notes to help you complete this tab are at the bottom of the page from line 60. Read the guidance notes before filling in this tab.

The contract name is the service being delivered, the practice name or the PCN name.

The contract type has to be one of the qualifying contracts listed at the top of the page. A memorandum of understanding (MOU) is not a qualifying contract. With the exception of contracts issued by local authorities, the contracts must be drawn up on NHS England contract templates.

We may use the commissioner information provided to contact the commissioning body if we need more information about the contract. The email address may for be an individual or a team.

If employees work across more than one contract enter them against each contract they work on.

The contract values entered should be for the pension year you want access from if this is your first application, or the current pension year if this is a renewal for an existing IPEA. The pension year runs from 1 April to 31 March. If access is to start part way through the year the values should be pro-rata.

When all contracts are entered return to the first tab.

### First tab - IPEA application form

Part 4 Check there is now a value in box 4.2.

Part 5 Include figures for all new start employees who will be working on the qualifying contracts in the pension year access will start. If this is part way through a pension year, you must pro-rata the figures. Do not include employees who have access to the NHS Pension Scheme under a New Fair Deal or closed direction arrangement.

5.5 is a formula and cannot be amended. Check the figure is below 75%. If this is a first application and the ceiling is exceeded approval will not be granted. If this is additional contracts for an existing IPEA you will be required to pay the surcharge as outlined in the exceeding the ceiling section later on this guide.

5.6. Use the cost of being in the scheme link on the application form to check current rates of employee contributions.

5.7 is a formula and cannot be amended.

Part 6 Read the declaration in full as you must agree to all parts and answer ‘Yes’ to all.

Part 7 The signature can be electronic or typed, it does not have to be a wet signature.

### Third tab – Contact details

This information will be used to set up access to the payment portal and will be added to our database of contacts.

If you are using a third-party payroll provider and you name them as the main contact, they will receive all correspondence. We recommend that you do not do this as you may miss out on important communications. If a third-party payroll provider is submitting the contributions for you, they need to be named as the finance contact. For all other cases where you use a third-party payroll provider they do not need to be added to our database. If in doubt check with your third-party payroll provider.

## Closed (restricted) and open IPEA NHS Pension Scheme access

An independent provider must choose either closed (restricted) access or open access to the NHS Pension Scheme.

All eligible staff who will join the NHS Pension Scheme must fall under the chosen access type, there cannot be a mixture.

### Closed (restricted) access

Existing, eligible employees, who were working in the NHS and were entitled to join the NHS Pension Scheme within the 12 months prior to the independent provider first becoming an IPEA.

New, eligible employees, who were entitled to be a member of the NHS Pension Scheme at any time in the 12 months before they first started working for the IPEA.

### Open access

All eligible employees may join the NHS Pension Scheme.

### Retire and return

Employees who retire and return to an IPEA from 1 April 2023 should be reassessed against the relevant eligibility criteria upon their return to work.

For closed (restricted) access, employees who retired and claimed their 1995 pension benefits prior to 1 April 2023, and wish to return after 1 April 2023, should be assessed as being eligible for the scheme using 1 April 2023 as the start date of the 12-month period.

## The application process

* When the application is received by the scheme access team a reference number will be allocated and a receipt issued. Any queries will be raised with the applicant
* The contracts will be checked to make sure they are qualifying contracts, and additional confirmation may be requested from the commissioner of the contracts
* If the application is approved the applicant will be asked to reconfirm the access requirements, including the access start date, before access is granted
* The outcome of the application will be sent individually for each contract
* Employing authority (EA) codes will be issued by the scheme access team where appropriate and the IPEA will be sent information about the actions they need to take

## **NHS Pension Scheme membership for IPEA employees**

All NHS Pension Scheme members are officers, there are no practitioners. This includes GPs and bank staff employed directly by an IPEA.

Freelance self-employed GP locums cannot pension their IPEA income.

IPEA employees are not covered by the NHS Injury Benefits Scheme.

Where a new recruit or employee is ineligible to join the NHS Pension Scheme, their employer must consider their auto enrolment liabilities.

For an IPEA, the pensionable earnings ceiling is 75% of the total sum of all the qualifying contract values. The 75% pensionable earnings ceiling must include the pay of those staff who spend more than 50% of their time on the qualifying contracts and who would have qualified for access but who are ineligible to join the NHS Pension Scheme or who have opted out by completing an opt-out form (SD502).

Employers are advised to identify those employees who will be eligible for NHS Pension Scheme membership before submitting the application form so that these employees can be enrolled into the NHS Pension Scheme from the access start date if the application is successful. Those applying for closed access must also remember that the date chosen is likely to affect the number of employees who may be eligible for NHS Pension Scheme membership.

## Changing access type

If an IPEA wishes to change from closed to open access it must give us 3 months’ notice.

If an IPEA wishes to change from open to closed access it must give us and its employees 6 months’ notice.

## Termination of IPEA status

An IPEA can choose to end its employing authority status. At least 6 months’ notice must be given to us and its employees.

If an IPEA acts in breach of statutory pension legislation or fails to cooperate with NHS Pensions in respect of administering the NHS Pension Scheme, it may cease to be an employing authority. We, NHS Pensions will, after consulting the Department of Health and Social Care, give the IPEA due notice in writing.

## Additional contract awarded

A revised application form must be completed whenever a new qualifying contract is awarded. This must be submitted within14 days of any change.

An IPEA must list all qualifying contracts, including those already approved, on every application form submitted. This is to monitor the 75% pensionable pay ceiling.

## Extension of an approved qualifying contract

The IPEA should notify the scheme access team as soon as it is aware that an approved contract is being extended past its original expiry date and must send a copy of the new or extension contract as soon as it is available. This will ensure there is no break in access to the NHS Pension Scheme.

## Changes to an approved qualifying contract and organisation changes

The IPEA should notify the scheme access team of any variation to an approved contract, or change to the structure of the organisation, as these types of change may affect access to the NHS Pension Scheme as an employing authority.

## Qualifying contract criteria

The NHS Pension Scheme Regulations defines a qualifying contract as:

“Qualifying contract” means a contract between a relevant commissioning party and an Independent Provider the primary purpose of which is the provision of clinical health care services for the NHS, and which is—

1. an NHS Standard Contract
2. an NHS Standard Sub-Contract;
3. an APMS Contract, or
4. a contract entered into by a Local Authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes;

In addition, from 1 April 2023 the following contract was added to the NHS Pension Scheme Regulations as a qualifying contract:

**Network Contract DES – sub-contract for the provision of services.**

The applicant must be named as the contractor on the contract.

Sub-contracted NHS Standard contracts must be sub-contracted from an organisation which is an employing authority in the NHS Pension Scheme, and which employs at least one member of staff. If the main contractor holds an NHS Standard contract (Full Length) the sub-contract must be an NHS Standard sub-contract (Full Length) and if the main contractor holds an NHS Standard contract (Shorter Form) the sub-contract must be an NHS Standard sub-contract (Shorter Form).

Sub-contracted Network Contract DES must be sub-contracted from the Core Network Practices and each practice must be an employing authority in the NHS Pension Scheme.

NHS Standard contracts containing APMS services in schedule 2L are treated in NHS Pension terms as NHS Standard contracts and not APMS contracts.

If any contract does not meet the criteria, approval will not be granted for that contract.

To qualify for NHS Pension Scheme membership, an IPEA employee must spend more than 50% of their working pensionable hours on approved qualifying contracts. Income from any non-qualifying contracts can be pensioned provided that the employee spends more than 50% of their time working on an approved qualifying contracts.

We must be made aware of and approve any qualifying contract before it becomes pensionable in the NHS Pension Scheme.

## The ‘more than 50%’ criteria

To qualify for NHS Pension Scheme membership an IPEA employee must work wholly or mainly, that is spend more than 50% of their working pensionable hours, on qualifying contract work over the Scheme year, from the 1 April to the 31 March.

Hours worked in excess of the whole-time working week are overtime in NHS Pension terms and are therefore not pensionable. They must therefore be excluded when determining the more than 50% criteria. However, any additional hours worked by a part time employee up to the wholetime working week are pensionable and do count towards the more than 50% criteria.

If an employee’s working pattern changes and they no longer spend more than 50% of their time on qualifying contract work, they are no longer eligible for NHS Pension Scheme membership. Their membership must end immediately as there is no grace period.

If an employee has more than one contract of employment with the same employer, for example they work on two contracts and have an employment contract for each, then each contract of employment is treated separately.

**Examples**

|  |  |  |  |
| --- | --- | --- | --- |
| 1 contract of employment for 37.5 hours, working on 2 contracts | Time spent in hours | Percentage of whole time | Pensionable |
| Contract 1 – qualifying contract | 22.5 | 60% | Yes |
| Contract 2 – non-qualifying contract | 15 | 40% | Yes |

|  |  |  |  |
| --- | --- | --- | --- |
| 1 contract of employment for 37.5 hours, working on 2 contracts | Time spent in hours | Percentage of whole time | Pensionable |
| Contract 1 – qualifying contract | 15 | 40% | No |
| Contract 2 – non-qualifying contract | 22.5 | 60% | No |

|  |  |  |  |
| --- | --- | --- | --- |
| 2 contracts of employment | Time spent in hours | Percentage of whole time | Pensionable |
| Contract 1 for 15 hours – qualifying contract | 15 | 100% | Yes |
| Contract 2 for 22.5 hours – non-qualifying contract | 22.5 | 100% | No |

**Part time contracts**

Caution must be applied when an IPEA employs staff on an irregular hours basis, as there is a possibility they could be put in the NHS Pension Scheme on the first day of employment and then fail to satisfy the more than 50% criteria.

## The 75% pensionable pay ceiling

There is a maximum amount of totalNHS pensionable income that can be declared by an IPEA in a specific pension year. This is known as the pensionable pay ceiling or threshold. An IPEA must estimate its pensionable pay bill prior to the start of the pension year.

**The pensionable pay ceiling is 75% of the total of the contract value(s).** For example, if an IPEA holds NHS Standard / APMS contracts to the total value of £1,000,000.00 in a pension year, the pensionable pay ceiling would be £750,000.00.

**The pensionable pay estimate must include the pay of ‘the more than 50%** **staff’ who are not NHS Pension Scheme members.** The estimate must include the pensionable income of all NHS Pension Scheme members andthe hypothetical pensionable pay of those employees who meet the more than 50% criteria but who are not scheme members.

Where an IPEA offers closed (restricted) NHS Pension Scheme access, the number of pensionable and non-pensionable staff captured within the estimate will be less than if the IPEA offers open NHS Pension Scheme access.

The 75% ceiling is a threshold; it does not mean that 75% must be achieved. If the total pensionable pay bill does not reach the 75% limit an IPEA cannot put other non-eligible staff in the NHS Pension Scheme until the threshold is achieved.

The contract value is reduced if an organisation is also a New Fair Deal (NFD) / closed direction / closed determination employer and there are staff that are in the NHS Pension Scheme through the closed direction / determination route that are working on the contract, otherwise the contract value and the pensionable earnings ceiling would be overstated.

### Exceeding the ceiling

The NHS Pension Scheme Regulations state that if the 75% ceiling is exceeded the IPEA must pay a surcharge. The surcharge is 12% of the pensionable pay in excess of the threshold.

For example:

Total contract value(s) is £1,000,000.00

Pensionable pay threshold is £750,000.00 (£1,000,000.00 x 75%)

Actual declared pensionable pay is £800,000.00

Excess is £50,000.00 (£800,000.00 less £750,000.00)

Surcharge levied is £6,000.00 (£50,000.00 x 12%)

The surcharge must be paid within one calendar month of receiving the invoice from us. If it is not paid on time the IPEA will be subject to statutory interest and administration charges.

If an IPEA continues to exceed the 75% threshold it may result in its status as an NHS Pension Scheme employing authority being terminated, even if it has paid the surcharges. An IPEA that ceases to be an employing authority must provide alternative pension arrangements to employees.

**The NHS pensionable pay of the employees and their pensions will not be affected if the IPEA exceeds the threshold.**

## Contribution guarantees

We may, at our discretion, ask an IPEA to provide a contribution guarantee.

This must guarantee a payment of a sum of money equal to between 100% and 110% of 3/12ths of a reasonable estimate of the IPEA’s total annual contributions liability. This contribution liability includes all NHS Pension Scheme contributions; employer, employee, added years and additional pension contributions.

Whilst an IPEA must proactively calculate the guaranteed sum, if there is any question as to the amount, we shall determine it.

There are 3 different types of contribution guarantee:

1. A letter of credit / bank guarantee

2. A parent company guarantee

3. A security over bank account guarantee

IPEAs may choose any of the 3 different forms of guarantee, subject to proper completion. They may also mix and match guarantee types if they wish. For example, a letter of credit or bank guarantee for their initial cover and a security over bank account guarantee for any ‘top-ups’ subsequently required.

The statutory NHS Pension Scheme regulations state that the format of the guarantee is determined solely by us, meaning that an IPEA cannot come up with their own version.

If we have asked an IPEA to provide a contribution guarantee it must be reviewed by the IPEA in each of the circumstances listed:

* no later than one month prior to the start of each Scheme year
* no later than one month after that date when it was first granted employing authority status
* no later than one month prior to when the contribution guarantee is set to end. For example, if it has an eight-month lifespan it must be reviewed by the end of the seventh month
* if it becomes a party to a new qualifying contract
* if it believes that its estimated contribution liability has increased, or may increase, by more than 10%
* where we have considered that the sum guaranteed is not enough

When there is a change to the sum guaranteed this must be processed within fourteen days.

When the IPEA has internally reviewed the guaranteed sum and there is no change it must proactively notify us within 14 days.

If an IPEA fails to comply with the rules regarding the contribution guarantee it may be removed from the NHS Pension Scheme, resulting in it having to offer its employees an alternative pension scheme.

## IPEAs additional responsibilities

All IPEAs are legally bound to administer the Scheme in accordance with statutory pension legislation. IPEAs are obliged to offer the NHS Pension Scheme to all their eligible (more than 50%) employed staff.

An IPEA is legally required to:

* complete an initial IPEA application form
* notify us whenever a new qualifying contract(s) is awarded. This must be done by completing an IPEA application form
* notify us whenever approved contracts cease, are novated or a variation is issued
* identify those staff who meet the more than 50% (wholly or mainly) criteria and make them aware of their pension rights by providing these employees with a copy of the Member Guide relevant to their section of the Scheme in accordance with Disclosure of Information obligations and the NHS Pension Scheme Employer Charter. Copies of the Member Guides can be obtained from [Member hub | NHSBSA](https://www.nhsbsa.nhs.uk/member-hub) <https://www.nhsbsa.nhs.uk/member-hub> and the Employer Charter from [Employer hub | NHSBSA](https://www.nhsbsa.nhs.uk/employer-hub) <https://www.nhsbsa.nhs.uk/employer-hub> It is also recommended that employers record when such information has been supplied to members and how it has been distributed in case of any dispute at a later date
* complete an End of Year IP Certificate and submit it on time
* give notice if they wish to withdraw from the Scheme
* give notice if they wish to change IPEA Scheme access type
* stay within the 75% pensionable earnings ceiling on an annual basis

## Compulsory transfer of employees from an IPEA to another Non-NHS provider

An independent provider is not an NHS employer. This means that employees who start their membership of the NHS Pension Scheme with an IPEA, even though they are working on NHS services, are not covered by New Fair Deal Policy covering the transfer of staff from the public sector to non-NHS providers. Therefore, any employees compulsorily transferred from an IPEA to another independent provider or non-NHS employer cannot be included in a New Fair Deal closed direction or determination application. If access to the NHS Pension Scheme is to be offered to transferred employees in these circumstances, the new independent provider employer would need IPEA access.

## Contacting Us

[Contact NHS Pensions - employers | NHSBSA](https://www.nhsbsa.nhs.uk/employer-hub/contact-nhs-pensions-employers)

<https://www.nhsbsa.nhs.uk/employer-hub/contact-nhs-pensions-employers>

[Contact NHS Pensions – members | NHSBSA](https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members)

<https://www.nhsbsa.nhs.uk/member-hub/contact-nhs-pensions-members>

[Contact NHS Pensions - pensioners | NHSBSA](https://www.nhsbsa.nhs.uk/pensioner-hub/contact-nhs-pensions-pensioners)

<https://www.nhsbsa.nhs.uk/pensioner-hub/contact-nhs-pensions-pensioners>