Process for receipt of a termination/exit code 02

**NHS Pensions**

**Termination due to loss of public funds**

**Forfeiture of benefits (exit code 02)**

Exit code 02 should only be used if one of the following is to be considered:

* withholding of retirement benefits to recover a loss to public funds
* the forfeiture of retirement benefits due to a serious offence connected with NHS employment

Where we, NHS Pensions, receive leaver information from an employer showing a termination / exit code 02, form ‘Reason for termination shown as 02 (SM219)’ will be issued to the employer to confirm the exit code is correct.

Returned forms indicating a genuine exit code 02 will be looked at on an individual basis and the employer will receive further contact from us.

# Withholding of retirement benefits

Where a loss to public funds occurs as a result of a member's criminal, negligent or fraudulent act or omission, it may be possible to recover the loss by withholding some or all of the member's retirement benefits.

Recovering monies

In the first instance the employer should attempt to recover any monies lost from public funds. This can be done either by agreement with the member, or if necessary, by applying for a court order.

If this has not been possible then recovery can be considered from scheme retirement benefits. If withholding of retirement benefits is considered appropriate, then retirement benefits will not be withheld until such time that the member claims their retirement benefits, if not already claimed.

It is not possible to recover from any part of the retirement benefits resulting from a transfer into the NHS Pension Scheme from another pension provider or from retirement benefits resulting from the purchase of added years / additional pension. Neither can it be recovered from the Guaranteed Minimum Pension (GMP) element of the member’s pension.

## Information we need from employers

Where the employer has been unable to recover the monies direct and wishes the Scheme to make recovery from the member’s benefits, we need to be informed of the amount of the loss and the details of the circumstances in which the loss occurred. If there has been a conviction, we will also require sight of the Certificate of Conviction.

If there is no dispute as to the amount involved, there is no criminal conviction and the member is agreeing to the proposed recovery from their retirement benefits. A statement signed by the member to this effect should be sent to us.

Where the member disputes the amount of loss to public funds, withholding of benefits cannot be considered until such time that the member's obligation to make good the loss has become enforceable by way of a court order.

A terminal form SD55 and the appropriate application for benefits form where applicable, should be forwarded to us. Each SD55 must be coded 02 in the **reason for termination** box, even where the member has voluntarily resigned or retired to avoid dismissal.

# NHS Pensions action

Where the loss to public funds has been suffered by the employer, we will pay the amount of the reduction in retirement benefits to the employer once the member claims their retirement benefits, or from the next pay date if these have been claimed.

# Forfeiture of benefits

This is a separate consideration to withholding of benefits and falls under different regulations.

# Serious offences

The Secretary of State has the power to authorise forfeiture of all or part of of any retirement benefits payable to, or in respect of, a member of the Scheme who has been convicted of a serious offence connected to their NHS employment.

A serious offence could be constituted as an offence in connection with the member’s employment which is certified by the Secretary of State to:

* lead to serious loss of confidence in the public service
* have been gravely injurious to the state
* an offence of treason
* offences under the Official Secrets Act for which the member has been sentenced to a term of imprisonment of at least 10 years

# Information we need from employers

Where there has been a conviction of a serious offence, which in the opinion of the employer may warrant consideration of forfeiture, we should be notified at the earliest opportunity and be provided with:

* copies of any reports and any other relevant information
* summaries of court proceedings
* the terminal form SD55 and the appropriate application for benefits form where applicable. Each must be coded 02 in the **reason for termination** box, even where the member has voluntarily resigned or retired to avoid dismissal

# Timescales

If all the relevant information is not received by us within a reasonable period following the date of termination, the member’s pension benefits may be paid in full. It is therefore important to send the required information as soon as possible, in line with NHS Pensions target and Customer Charter and to keep us informed of any unexpected delays.

The Customer Charter can be found on our website.

**How we use your information**

For more information about how the NHSBSA processes your personal data, please see our Privacy Notice - [www.nhsbsa.nhs.uk/our-policies/privacy/nhs-pensions-privacy-notice](http://www.nhsbsa.nhs.uk/our-policies/privacy/nhs-pensions-privacy-notice)

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