

NHS General Dental Practitioners (GDS/PDS Providers & Performers)

A Guide to the NHS Pension Scheme
(England & Wales)

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Chapter 1: The NHS Pension Scheme and Contacting NHS Pensions

The purpose of this Guide is to provide an overview of the NHS Pension Scheme (NHSPS) rules for NHS General Dental Practitioners. The Guide is divided into several chapters.

A NHS General Dental Practitioner, in NHS pension terms, is

- A (GDS or PDS) **Provider** (i.e. a Contractor who is a shareholder, partner, or sole trader)
- A GDS or PDS **Performer** (i.e. an Associate working for a GDS/PDS Provider).

A Performer who sets them self up as a limited company cannot be a member of the NHSPS with effect from the 7th of November 2011. This is subject to Parliamentary approval however (pensionable) Performers are advised to put arrangements in place by this date to ensure they can comply.

There are 2 sections to the NHSPS; the 1995 section, and the 2008 section. The 2008 section is sometimes referred to as the 'new Scheme'.

The NHSPS is a statutory occupational pension scheme. GDS/PDS Providers and Performers pensions are broadly based on their career pensionable pay, not their final salary. NHSPS benefits are paid for by the contributions made by members and their Employing Authorities (PCTs/LHBs). A GDS or PDS Practice is not, itself, a NHSPS Employing Authority.

The NHSPS 'fund' is not invested in stocks or shares and therefore not subject to the vagaries of the Stock Market. Employer contributions (paid by PCTs/LHBs) are based on 14% of NHS pensionable pay. Employee contributions currently range from 5% to 8.5% and attract tax relief.

The statutory NHSPS Regulations can be downloaded at (<http://www.nhsbsa.nhs.uk/pensions>).

The NHSPS offers: -

- An annual (index linked) pension and tax-free lump sum at retirement. (A member of the 2008 section may elect for a lump sum by commuting some of their annual pension).
- Life Assurance benefits including pensions and allowances for a member's spouse/civil partner (or nominated partner) and dependent children in the event of the member's death.

The NHSPS is administered centrally at,

NHS Pensions
Hesketh House
200/220 Broadway
Fleetwood
FY7 8LG

NHS Pensions (who work closely with NHS Dental Services) provide a dedicated email address for NHS General Dental Practitioners and their representatives; practitioners@nhspa.gov.uk.

Chapter 2: Roles & Responsibilities

GDS/PDS Contractors, the commissioning PCT/LHB/Dental Services, and NHS Pensions are legally bound to administer the NHS Pension Scheme (NHSPS) in accordance with statutory pensions legislation.

To summarize, a GDS/PDS Contractor (i.e. Practice) must, in law:

- State the estimated pensionable income for all the NHS Providers and Performers prior to the start of the pensions year.
- Liaise with their PCT/LHB and Dental Services throughout the year in respect of any changes at the Practice.
- Ensure that every Provider and Performer has access to the NHSPS unless they are ineligible or have opted out by completing (opt out) form SD502.
- Declare the NHS pensionable pay for every Provider and Performer immediately following year-end on the ARR (Annual Reconciliation Report).
- Ensure that NHS pensionable income in respect of a Provider or Performer is not assigned to another; this is illegal.
- Ensure that arrangements are in place for tiered employee contributions to be collected by Dental Services.
- Liaise with the PCT/LHB/Dental Services where a 'claw back' situation arises.

NHS Pensions and Dental Services are legally required to:

- Maintain records of NHSPS members and pensioners.
- Award pension benefits under the NHS Pension Scheme Regulations.
- Collect the employee and employer contributions.
- Provide estimates of benefits upon request.
- Pay transfer values in respect of a member transferring out of the NHSPS and receive payments for member transferring into it.
- Pay refunds of contributions to members where applicable; i.e. those with less than 2 years NHSPS membership.
- Process applications to purchase additional NHSPS benefits.
- Liaise with the GDS/PDS Contractor and the PCT/LHB where a 'claw back' situation arises.

Chapter 3: Liaising With the PCT/LHB/Dental Services & The ARR (Annual Reconciliation Report/ Notice)

Prior to the start of the NHS pensions year (April) every GDS/PDS Contractor is sent a form so that Dental Services can collect tiered employee contributions 'on account' from the Contractor (Practice). This form must, in law, be completed and returned before the 1st of April. Dental Services will collect employer contributions from the PCT/LHB 'on account'.

Every GDS/PDS Contractor is legally required to liaise with the commissioning PCT/LHB/Dental Services throughout the year regarding any changes at the Practice such as 'comings and goings'.

At the end of the pensions year Dental Services will send a partially completed ARR to the GDS/PDS Contractor. The Contractor (i.e. owner, senior partner or principle shareholder) must fully complete the ARR and return it to Dental Services within **two** months; i.e. by the end of May. The two-month deadline is statutory.

An ARR must be completed in respect of every Practice that holds a GDS or PDS contract even where several Practices are owned by the same organization. This is because each Practice has its own unique GDS/PDS contract and budget.

Chapter 4: Pensionable Pay

A Provider's NHS pensionable income must be consistent with their GDS/PDS income after NHS income in respect of other Providers and Performers have been taken account of.

A Provider cannot pension GDS/PDS income in respect of a colleague even if that colleague is not a member of the NHSPS. A Performer's NHS pensionable income must be consistent with their net GDS/PDS income.

The maximum net pensionable income that can be declared in one GDS/PDS Practice is 43.9% of the total contract value. This excludes maternity, paternity and sick pay.

Example:

A (single-handed) GDS Practice has a total contract value of £1,000,000.00; the pensionable earnings ceiling is £439,000.00. If there are 4 Performers and their net GDS income is £80,000.00 each this leaves the Provider with up to £119,000.00 to 'pension'.

If one of the 4 Performers is not a member of the NHSPS the Provider cannot assign the £80,000.00 to their own pensionable pay record. That means the Provider's pensionable pay remains as £119,000.00; the Provider cannot declare their pensionable pay as £199,000.00.

A Practice must still notify the relevant organizations of GDS/PDS income that is non-pensionable for the purposes of calculating maternity pay, etc.

Where the Practice is a limited company, the Provider can only 'pension' income that is paid to them by the company in the form of salary and dividends. In the above example the Ltd Co Provider's pensionable income may be less than £119,000.00 if money is left in the business.

Private income cannot be regarded as NHS pensionable income; please see chapter 7.

Chapter 5: Contributions

Tiered Employee Contributions

NHS Dental Services will arrange for the appropriate employee tiered contributions rate to be collected. Tiered contribution rates are currently 5%, 6.5%, 7.5%, or 8.5% of pensionable income and are collected based on the estimated pensionable pay in the current year. If the wrong rate has been applied it will be adjusted.

If a GDS/PDS Provider or Performer is a new starter (or leaver) their pensionable earnings are scaled to a full year (i.e. annualized) for the purposes of setting the tiered rate.

Example:

A Performer joins a GDS Practice on the 1st of October; exactly six months into the pensions year. Their GDS net pay from the 1st of October to the 31st of March is £30,000.00. Therefore the annualized (hypothetical) pay is £60,000.00 and their tiered rate is 6.5%.

If a Provider or Performer is part-time the tiered rate is based on their actual pensionable pay; it is not converted to a whole-time equivalent value for the purposes of setting a tier.

Examples:

1) A part-time Performer works 20 hours a week at a GDS Practice for a full year (i.e. April to March); their net GDS income is £40,000.00. They therefore pay 6.5% tiered contributions.

2) A part-time Performer starts work at a PDS Practice on the 1st of October working 20 hours a week. Their PDS net (pensionable) pay from the 1st of October to the 31st of March is £20,000.00; therefore their annualized pay is £40,000.00. They pay 6.5% tiered contributions.

Additional Contributions

Added Years contributions are paid as a fixed percentage of all pensionable NHS earnings. A Provider/Performer must therefore pay additional contributions in respect of every NHS pensionable post they hold. These contributions are collected by Dental Services.

Additional Pension contributions are paid as a fixed sum of money. The additional contributions are paid through one post only and are collected by Dental Services.

Any additional contributions in respect of NHS Money Purchase AVCs (payable to Standard Life, Prudential, or Equitable Life) are collected by Dental Services.

Any additional contributions in respect of Free Standing AVCs are payable directly to the relevant organization by the Provider/Performer.

Employer Contributions

Employer contributions are based on a fixed 14% rate and are collected off the commissioning PCT/LHB by Dental Services every month. Once the ARR is completed Dental Services will collect any arrears from the PCT/LHB or repay overpaid contributions.

Chapter 6: Limited Companies & DBCs

Providers

A GDS or PDS Practice may be owned by a single-hander or by a partnership. It may also be a company limited by shares (or DBC). Where a shareholder is a qualified (and listed) dentist they are afforded type 1 dental Practitioner/Provider status under the NHSPS Regulations.

If the GDS/PDS shareholder is not a qualified dentist they do not have access to the NHSPS.

A shareholder must 'pension' all the GDS/PDS income that they take (i.e. draw down) from the business in the form of salary and dividends. Any GDS/PDS income that is not taken but left in the business cannot be pensioned now or in future years.

If a dental Provider is a shareholder of a company that holds several GDS/PDS contracts they must pension income in respect of every Practice and complete an ARR in respect of every Practice.

The NHS pensionable pay declared on the ARR must only be in respect of GDS/PDS; any income in respect of private (non-NHS) work must never be recorded as NHS pensionable income.

If a Provider opts out of the NHSPS or is ineligible to join his/her colleagues cannot 'pension' his/her GDS/PDS income.

(Refer to chapter 7 for more information).

Performers

If a Performer (i.e. Associate) works for a GDS/PDS Contractor as an individual they are also afforded type 1 dental Practitioner NHSPS status. The Practice is legally required to ensure that the Performer's GDS/PDS net income is pensionable unless they are ineligible; i.e. have retired and returned to NHS dentistry and are already in receipt of a NHS pension or they have formally opted out of the NHSPS by completing form SD502.

If a Performer creates a limited company and works at the Practice through that limited company they (or anyone else who works for the Performer's limited company) cannot pension their GDS/PDS income with effect from the 7th of November 2011. This is because this sub-contractor limited company is not recognized under the statutory NHSPS Regulations.

A Performer must work as an individual (not through a unique limited company) to be able to pension their GDS/PDS income with effect from the 7th of November 2011.

If a Performer opts out of the NHSPS or is ineligible to join his/her colleagues cannot 'pension' his/her GDS/PDS income.

(Refer to chapter 7 for more information).

Chapter 7: Frequently Asked Questions & Examples

The FAQs are listed under separate headings for ease of reference.

1. NHS Pensionable Income & Tiered Contributions
2. NHS Pension Scheme Membership
3. NHS Pension Scheme Benefits
4. Limited Companies & DBCs
5. Added Years & The Additional Pension
6. Examples

1. NHS Pensionable Income & Tiered Contributions

Q. What is pensionable pay for Providers (i.e. partners, shareholders, single-handers)?

A. It is basically their net income derived from the GDS/PDS contract after taking account of the NHS income of the other dentists and the 43.9% pensionable earnings ceiling.

If a Provider or Performer is not a member of the NHSPS their GDS/PDS net income is still accounted for under the pensionable earnings ceiling. This is to ensure that their NHS earnings are not assigned to another.

Q. What is the pensionable earnings ceiling?

A. The pensionable earnings ceiling is the maximum total amount of GDS/PDS income that a Practice can declare as pensionable income and is 43.9% of the total contract value. This 43.9% - 56.1% ratio is set by the Department of Health.

Q. Can a Provider pension some, but not all of their GDS/PDS income?

A. No. Providers must pension all of their net GDS/PDS income after taking account of the income of others and the 43.9% ceiling. They cannot de-select income to avoid tax or going into a higher tiered contribution rate. If, however, the Practice is a limited company the pensionable income is only what the Provider as a shareholder takes from the business. If they elect not to take some income this is non-pensionable

Q. Can a Provider assign pensionable income to them self in respect of a colleague?

A. It is illegal for anyone to credit them self with NHS (pensionable) income in respect of another.

Q. What is pensionable pay for Performers (Associates)?

A. It is their net GDS/PDS income as agreed at Practice level. How the net income is arrived at is an internal issue and it is not illegal to use a standard percentage rate however a Performer's NHS pensionable income cannot be less than their net GDS/PDS income.

Q. Our Practice uses a standard 43.9% rate to calculate the net Performers income from the gross; is this allowed?

A. Although the 43.9% is used to calculate the pensionable earnings ceiling for the Practice as a whole it is not illegal to use this same % figure to derive the net from the gross, so long as this method is agreed at Practice level. It is basically up to the Practice to decide as to

how a Performer's net GDS/PDS income is arrived at though, once established, it must equate to the pensionable pay.

Q. Can a Performer decide to 'pension' some but not all of their NHS income?

A. No. A Performer's pensionable pay must be the same as their (locally agreed) net GDS/PDS income. A Performer cannot de-select pensionable income to avoid tax or going into a higher tiered contribution rate.

Q. Can a Performer pension income if they are working as a limited company?

A. With effect from the 7th of November 2011 a Performer who chooses to work at a Practice through, or as, a limited company cannot pension their GDS/PDS income. This is because this sub-contracting arrangement is not recognized under the statutory NHSPS Regulations; they must work as an individual (i.e. a person) to be able to pension their GDS/PDS income.

Q. What about a Performer working as a limited company prior to November 2011?

A. Their NHSPS membership will remain intact up to and including the 6th of November 2011. They must 'de-incorporate' with effect from the 7th of November 2011 if they want to continue to pension their GDS/PDS income.

Q. How does the principal of pensioning 43.9% of the total contract value work in reality?

A. Every GDS/PDS Practice must notify NHS Dental Services of the net pensionable earnings (NPE) for every Provider and Performer working at the Practice within two months of year-end. With the exception of maternity, paternity and sick pay the total pensionable income cannot exceed the 43.9% pensionable earnings ceiling.

Where a GDS/PDS Practice engages Performers, the Performers pensionable income must be the same as the net GDS/PDS income. The Performers net GDS/PDS income is agreed locally and takes account of expenses and overheads. Once the Performers NHS pensionable pay is calculated (i.e. their net GDS/PDS income) the Providers shall calculate their own pensionable pay up to the 43.9% ceiling. Providers must always take account of their Performers GDS/PDS net income before arriving at their own.

(If a Provider or Performer is not a member of the NHSPS their GDS/PDS net income is still accounted for under the pensionable earnings ceiling. This is to ensure that their (non-pensionable) NHS earnings are not assigned to another).

Q. Are UDAs or laboratory bills a direct factor in determining pensionable pay?

A. Not directly but they play a part. If a Provider makes a margin on a Performer in respect of UDAs or laboratory bills that is an internal Practice arrangement. The golden rule for Performers is that their agreed net GDS/PDS income (however it is arrived at) is the same as their NHS pensionable pay. Please refer to the examples below.

Q. Is a Provider's/Performer's pensionable pay for a specific pensions year what they were paid in that year (regardless of when the work was actually performed) or is it pay in respect of work performed in that year?

A. The pensionable pay for year 2011/12, for example, should be in respect of the GDS/PDS work they performed from the 1st of April 2011 to the 31st of March 2012. There is, however, a degree of latitude/pragmatism especially where dental treatment spans a pensions year.

Q. Can a Provider or a Performer buy another person's NHS Pension Scheme rights?

A. No; it is illegal to buy (or sell) NHS Pension Scheme rights.

Q. Is there still a NHS Pension Scheme pensionable earnings cap?

A. No, since April 2008 there is no longer an earnings cap however there is still a 'virtual cap' affecting those who used to be capped and bought added years prior to April 2008; more information can be found in Technical Newsletter 5/2011 on NHS Pensions website. There is no longer a Scheme MAR (Maximum Allowable Remuneration) or DEL (Dental Earnings Limit).

Q. Are vocational trainee (VT) costs pensionable?

A. It may be possible to pension VT income but only within the 43.9% pensionable earnings ceiling. For example if a GDS Practice receives a budget of £1m the maximum income that can be pensioned (the ceiling) in total is £439,000.00. If the total pensionable income for all the dentists working in the Practice reaches the max of £439,000.00 it is not possible to pension any VT income; if the total pensionable income is less then there is scope to pension VT costs.

In the event that a Provider or Performer may not be an active NHSPS member and therefore the pensionable earnings ceiling is not reached this does not mean that these VT payments can be pensioned. When assessing if there is scope to pension these payments the NHS earnings of non-pensionable Providers/Performers have to be treated as though they were pensionable.

Q. Are additional payments (i.e. in respect of performance or treating high treatment patients) pensionable?

A. It may be possible to pension additional payments but only if they fall within the 43.9% pensionable earnings ceiling. If the total contract value remains unchanged and the ceiling is already reached these payments will not be pensionable. In the event that a Provider or Performer may not be an active NHSPS member, and therefore the pensionable earnings ceiling is not reached, this does not mean that these additional payments can be pensioned. When assessing if there is scope to pension these additional payments the NHS earnings of non-pensionable Providers/Performers have to be treated as though they were pensionable.

Q. Does a Provider/Performer qualify for deemed pensionable sick pay?

A. If their pensionable pay reduces (or stops) for a lengthy period because of illness they can apply for deemed sick pensionable pay for up to 12 months by writing to NHS Pensions however they do not receive any actual income; a deemed pay figure is credited to them.

Q. Where can I find information about recent tax changes ('A-day') affecting pensions?

A. NHS Pensions website provides useful up to date information.

Q. What are tiered contributions?

A. There are currently four different tiers (or bands). These are 5%, 6.5%, 7.5%, or 8.5% and are based on the level of annualized pensionable income. The level of income that falls within the bands is reviewed every year. If they are paid at the wrong rate Dental Services

will make the necessary adjustments once the end of year ARR has been submitted. Please refer to NHS Pensions website for more information.

2. NHS Pension Scheme Membership

Q. Are all GDS/PDS dentists entitled to join the NHSPS?

A. Yes. They are all Scheme members except if they are ineligible or if they have formally opted out. No person can take that right away from them.

Q. Which section of the NHSPS am I a member of?

A. If you joined the NHSPS for the first time on, or after, the 1st of April 2008 you will be a member of the 2008 section. If you joined before that date (and have not had a break of five years or more) you will be a member of the 1995 section.

Q. Where can I find out more about both sections?

A. At NHS Pensions website, <http://www.nhsbsa.nhs.uk/pensions>.

Q. What is the normal 'pension age'?

A. 60 in the 1995 section and 65 in the 2008 section.

Q. What happens if I have to finish work permanently by virtue of ill health?

A. You should apply for the (in service) ill health pension before you finish work. To qualify NHS Pensions (and its medical advisors) must be satisfied that you are permanently incapable of performing your NHS duties (tier 1) or any type of work (tier 2).

Q. What happens if a Performer leaves the Practice (or retires) and the Practice forgot to inform the PCT/LHB?

A. This needs to be rectified immediately by liaising with Dental Services.

3. NHS Pension Scheme Benefits

Q. How does a GDS/ PDS Provider or Performer claim their NHS pension?

A. By contacting NHS Dental Services Division in the first instance.

Q. Does a Provider or Performer have to retire from the Practice to claim their pension?

A. All Scheme members must retire for at least 24 hours to claim their NHS pension. A single-handed Provider must resign from their GDS/PDS contract. A Provider who is a partner must resign from the partnership; a shareholder must cease to be a shareholder.

A Performer must terminate their contract for service(s) for at least 24 hours.

Q. How are Providers and Performers NHS pensions calculated?

A. Their NHS pension benefits are based on their total career (Practitioner) earnings; not their final salary. All NHS earnings are updated (dynamised) to a current day value in order to calculate the pension. Any salaried (Officer) service will be taken account of. The accrual rate in the 1995 section of the NHSPS is 1.4% of total dynamised income. The accrual rate in the 2008 section is 1.87%. There is no automatic lump sum in the 2008 section.

Q. Can some of the annual pension be given up to provide for a bigger lump sum?

A. Yes, this is available in both sections of the NHSPS up to a certain limit.

Q. Does the NHSPS provide life assurance cover?

A. Yes, this includes a death in service gratuity and dependents benefits. More information is available on NHS Pensions website.

4. Limited Companies & DBCs

Q. Are dividends pensionable if the GDS/PDS Contractor is a limited company/dental body corporate?

A. Dividends are pensionable however they must only be in respect of GDS/PDS. If any part of the dividend is in respect of private work the private element must be stripped out leaving only pensionable NHS dividend income.

Q. Where a GDS/PDS Contractor/Practice is a limited company/dental body corporate what happens if the shareholders do not take (i.e. draw down) all their GDS/PDS income?

A. They can only pension income that they take in that year. If they take (draw down) this income in a future year it cannot be pensioned.

Q. What happens where a Provider is a shareholder in a company that runs many GDS/PDS Practices?

A. They must complete an ARR in respect of every Practice because each one is ring fenced in pension terms. Each Practice is individually subject to the 43.9% pensionable earnings ceiling.

Q. What happens if a Performer (Associate) is a limited company)?

A. If a Performer has incorporated then, with effect from the 7th of November 2011, that Performer cannot be a member of the NHSPS. They must de-incorporate if they wish to remain a member. (This is subject to Parliamentary approval).

Q. Can Performers perform as a limited company in one GDS/PDS Practice and as an individual in another?

A. Yes, but with effect from the 7th of November 2011 they will only have access to the NHSPS in their 'individual' role.

5. Added Years & The Additional Pension

Q. How is the NHS additional pension purchased?

A. It can be bought either in regular instalments over an agreed period of time or as a one off payment. There is more information on NHS Pensions website; click onto 'Member Guides'.

Q. Can a Scheme member who is already buying added years also purchase the NHS additional pension?

A. Yes, subject to HMRC (annual and lifetime allowance) rules a Scheme member can buy the new additional pension even if they are already paying 9% in added years contributions.

Q. Are NHSPS added years contributions capped?

A. Since April 2008 there is no longer a pensionable earnings cap there is still a 'virtual cap' affecting those Scheme members who used to be capped and bought added years prior to April 2008. More information can be found in Newsletters 5/2011 and 17/2008 on the Pensions Division's website.

Q. Are added years contributions deducted from all NHS pensionable income?

A. Yes, including any salaried (Officer) hospital based dental work.

6. Examples

Example A – Traditional Partnership

The High St Practice is a GDS Practice with 2 Partners, Mr Brown and Mrs Grey, who are both qualified (and listed) dentists. They engage one Associate/Performer, Mr Green.

The GDS total contract value is £140,000.00. The pensionable earning ceiling is £61,460.00 (i.e. 43.9% of the total contract value).

The contract price per UDA at the High St GDS Practice is £28.00. However the gross amount per UDA paid to Mr Green is agreed locally as £20.00. The agreed net GDS income paid to Mr Green is £10.00 per UDA.

Taking into account the amount of GDS work performed by Mr Green (i.e. about 4000 UDAs a year) his gross annual GDS income is agreed locally as £80,000.00 and his net annual GDS income is agreed locally as £40,000.00. Mr Green's net GDS income of £40,000.00 is also his NHS pensionable income.

This leaves up to £21,460.00 (£61,460.00 less £40,000.00) as pensionable income to be shared between Mr Brown and Mrs Grey. If they are equal Partners they may decide to declare their pensionable income as £10,730.00 each.

Example B – Ltd Co Practice

The Main St GDS Practice is a Limited Company Practice with 2 equal shareholders, Mr Smith and Mrs Jones, who are both qualified (and listed) dentists. They engage one Associate/Performer, Mrs Black.

The GDS total contract value is £200,000.00. The pensionable earning ceiling is therefore £87,800.00 (i.e. £200,000.00 x 43.9%).

The contract price per UDA at the High St GDS Practice is £28.00. However the gross amount per UDA paid to Mrs Black is agreed locally as £22.00. The agreed net GDS income paid to Mrs Black is £12.00 per UDA.

Taking into account the amount of GDS work performed by Mrs Black (i.e. about 3000 UDAs a year) her gross GDS income is agreed locally as £66,000.00 and her net GDS income is agreed locally as £36,000.00. Mrs Black's net GDS income of £36,000.00 is also her NHS pensionable income.

This leaves up to £51,800.00 (£87,800.00 less £36,000.00) as pensionable income to be shared between Mr Smith and Mrs Jones. If they are equal shareholders they may decide to declare their pensionable income as £25,900.00 each.

NB: If Mr Smith (or Mrs Jones) decides not to 'draw down' the full £25,900.00 from the business they can only pension the amount they have taken. The residual amount cannot be pensioned in a later year or assigned to another Provider or Performer. (If either Mr Smith or Mrs Jones are not qualified and listed dentists they cannot be in the NHSPS; nor can another dentist pension their income.)