

## **NHS Pensions – Employer membership enquiry factsheet**

### **Background**

The employer is responsible for enrolling all eligible staff into the NHS Pension Scheme automatically unless a person decides to opt-out of paying pension contributions by completing and signing form SD502. An exception to the rule is for Freelance GP Locum staff who instead must opt to join the pension scheme within a specified time frame (see under the GP Locum Factsheet for more information).

NHS Pension Scheme membership has always been available to NHS employees who work full-time but this was not always the case for part time workers (refer to the 'membership record factsheet' in the members Hub for full details). Part time workers access was progressively introduced over time and in particular part time non-medical grades have some key historic dates of change.

Historically part time non-medical grades were not always able to join the Scheme and access was progressively introduced over time. Eligible employees had to opt to join the Scheme for employment between 1 April 1973 and 6 April 1988. During this period NHS employers were responsible for providing eligible employees with literature such as the leaflet SDR which incorporated the form SD157. This form could be used to opt into the Scheme or confirm if a person wished to remain a non-member. As joining the Scheme was through application, failure to return the SD157 to the employer would result in non-membership. When a part time employee continued in non-pensionable employment beyond 6 April 1988 the option to remain a non-member remained in place unless a request to join the Scheme was received. Employers were asked to keep a record of any returned SD157 forms.

The various changes to part time Scheme eligibility were well publicised at the time with information being passed to the employers to include such as; payslip leaflets, guides and posters as well as media coverage and information provided by unions etc.

After receiving a written statement of membership or verbal details from our Helpline, a member may approach their employer to enquire about incorrect or wholly missing membership. In most cases a members' first point of contact should be with their employer but more historic enquiries may need to be referred to us (generally if it relates to employment which no longer exists).

Before accepting any changes being requested by the member, you would first need to establish if there was a valid reason for the differences shown in the membership record from the members' own account. Consider if data amendment has taken place to amend employment for pension purposes. We would normally have informed you if data amendment has occurred.

Some examples of reasons why membership may differ from actual employment detail:

- Non pensionable employment overlapping with whole time membership with your own organisation or another employer
- Non pensionable part time hours that will exceed whole time hours with another concurrent employment with your organisation or another employer
- Has the member signed an SD502 form to opt out?
- Is the employment non pensionable due to NHS pension benefits already being in payment?
- Where the employment was 'Bank' or 'as and when', did actual work commence?
- Was the employment through an Agency or as a non pensionable board member?

Depending on the circumstances membership enquiry can be received as one of three main types:

## 1) Standard membership

### **What is a standard membership enquiry?**

This includes the bulk of the membership enquiry that is received and can include one or more of the following:

- Missing pensionable employment;
- Incorrect employment start/leaving date;
- Whole time/part time;
- Part time hours/sessions;
- Disallowed days.

Contributions will have been collected and clearly recorded in the members pay slip with only the pension record potentially being incorrect in some way.

A Mental Health Officer (MHO) and Special Class (SC) status enquiry is however covered under separate dedicated factsheets and forms.

### **Query handling process**

The enquiry process includes a member factsheet and form pack to make contact with the relevant employer wherever possible or us if the employer no longer exists, cannot be located or where the enquiry relates to historic employment older than seven years. Along with this factsheet the employer also has some letters that can be used to reply back to the member and provide us with amendments where relevant.

### **Membership record enquiry factsheet (Members' Hub)**

Some general information is provided to the member regarding membership. The information is designed to try to reduce the number of enquiries that reach the employer or us.

### **SM27A Membership statement request form (Members' Hub)**

If requested, an employer can produce a membership statement through Pensions-On-Line. Where an employer is not able to produce a statement themselves, a member can be directed towards the helpline for verbal membership details or they can complete the SM27A statement request form.

If after reading the membership record enquiry factsheet the member still believes they have missing or incorrect membership, it will direct them towards one of three dedicated 'enquiry' factsheets depending on the particular circumstances.

### **Standard membership enquiry factsheet (Members' Hub)**

This guidance will cover the bulk of the membership enquiries that are made and will address situations where the details we hold are possibly inaccurate in some way or where pension contributions have been paid during an employment that is missing altogether. The relevant forms for the member are:

#### **SM27B (Members' Hub)**

An application form to make contact with the relevant employer.

#### **SM27C (Members' Hub)**

An application form to make contact with us if the employer cannot help.

On receiving an enquiry you should familiarise yourself with the information in the factsheets and then check your own records to ensure the member isn't querying employment that has already been amended in some way, such as for example; for overlapping whole time employment, where the member opted out or any other reason why employment or pay might not be pensionable.

#### **SM27D – Employer reply form**

Where a member has contacted you using form SM27B regarding standard missing or inaccurate membership, you can reply back using the SM27D.

You should update any relevant changes to the members' record using your usual format for pension records updating. If this is not possible a duplicate copy of the SM27D **must** be sent to us to request help with the data amendment. Where relevant we will inform the member that any such changes have been made and will contact you if there are any problems.

## **2) Retrospective membership**

### **What is a retrospective membership enquiry?**

Depending on the circumstances this can be split into two possibilities:

- Where a payroll error has resulted in an employer failing to correctly enrol an eligible employee into the pension scheme at the time of the employment. Scheme access for an eligible employee cannot be decided by the employer and all eligible employees **must** automatically be enrolled into the Scheme unless they have signed form SD502 to opt-out. Once identified these cases must be immediately rectified.
- Where a part time non-medical employee has been eligible to elect to join the Scheme but the employer did not make this clear at the time. Due to the length of time since passed, it is only possible to give consideration to these cases if supportive evidence can be provided or support can be confirmed by the employer.

In both these instances no pension contributions would have been deducted meaning we would be unaware of the employment and the members pay slip would also show no pension contribution deductions being made.

**Important note:** Be careful not to confuse retrospective membership with standard missing membership (where contributions have been deducted by the employer but employment is simply missing from our records).

### **Query handling process**

As with standard membership enquiry, retrospective claims should first be checked for reasons why the periods in question might not be eligible to be pensionable. In particular you should check for signs that the employee did not sign an SD502 form to opt-out of paying contributions.

**Important note:** The process to enable a member to opt-out of paying contributions came into effect from 6 April 1988 but these forms cannot be stored indefinitely. This means historic claims cannot always be proven simply by a payslip showing nil pension deductions, as this would also be the case where an employee had requested to opt-out but where the SD502 opting out form is no longer available.

If it is clear a member was eligible to join and had not opted-out by signing form SD502 but where the employer had not deducted any contributions, then a retrospective membership claim **must** be accepted by the employer. On receiving the employment details we will use our own records to carry out final checks to validate the claim. Once confirmed we will contact both the employer and member.

If a retrospective claim is found to be relevant, the outstanding employer contributions must be paid as soon as possible. The member must also pay their contributions plus interest as soon as possible but they will be offered payment options according to their member status at the time. If the member is currently contributing and chooses to pay for the outstanding contributions via instalments, we will ask you to make the deductions via payroll.

A request to pay for the member contributions via payroll instalments must not exceed 24-months, end before retirement and collection must commence from the next available pay period once the employer is notified. A member may decide to pay for the instalments in a shorter period of time.

If the member changes NHS employer before the payment is complete, the new employer must be notified to continue the arrangement. Where a member leaves the NHS altogether, we should be contacted and we will arrange to collect the remaining amount.

The amount of backdated contribution payable by the member and the associated payment options will vary to take into account of the interest and tax position. If paying by instalments through the employer and therefore subject to PAYE, the member will receive tax relief. Where a member leaves the NHS before completing the full payment, we will collect the outstanding amount but the member would have to make their own enquiries regarding any potential remaining tax relief through the HM Revenue and Customs.

The employer contributions would normally be paid via inclusion to the monthly return but where this is not possible we can accept a bank transfer or cheque. Instruction will be provided with our payment request.

You should confirm when an instalment plan commences and keep us up to date with any changes, if the member leaves your employment and when the payment has been fully completed.

### **Retrospective membership enquiry factsheet (Members' Hub)**

This member factsheet provides basic enquiry instructions and covers these relatively rare cases.

### **SM Retro1 enquiry form (Members' Hub)**

For the employee to make contact with the relevant employer or us if the employer cannot help or cannot be located.

### **SM Retro2 reply form (Employers' Hub)**

An employer reply template divided into two parts. The form 'A' should be completed and returned to the enquirer (not NHS Pensions) in all cases and can be used to accept, reject or re-direct an enquiry. If accepting a claim you should also send Form 'B' to us in order to confirm the employment details.

## **3) Part Time Access membership**

### **What is a Part Time Access membership enquiry?**

Part Time Access (PTA) refers to the House of Lords ruling regarding access to occupational pension schemes for part-time employees. On 8 February 2001, the House of Lords confirmed that access to membership of occupational pension schemes for part-time employees could be backdated to 8 April 1976, providing the relevant normal conditions for membership were satisfied and the appropriate scheme contributions are paid.

The House of Lords ruling is concerned primarily with those NHS employees who were unable to join their occupational pension scheme because a Scheme's regulations or rules prevented them. As far as the NHS is concerned, the ruling may affect those non-medical grades who worked less than half the standard full-time hours for the grade prior to 1 April 1991 and going back to 8 April 1976.

### **Query handling process**

Most eligible claims have been resolved through Employment Tribunals and newly identified cases are now very rare. More recently we have allowed employees to make direct contact with enquiries.

### **Part Time Access membership enquiry factsheet (Members' Hub)**

This member factsheet provides basic enquiry instructions and covers any remaining very rare cases.

### **SM PTA1 enquiry form (Members' Hub)**

For the employee to make contact with us.

A PTA claim would only ever be applicable for the NHS if a non-medical part time employee who has worked less than half the standard full time hours for their grade prior to 1 April 1991 going back to 8 April 1976 as they would not of been offered access to the pension scheme at the time.

Should any new PTA enquiry be received by the employer, you may wish to direct the enquirer to the member PTA enquiry factsheet or if you have any problems forward the enquiry to us to action. We would only ever need to contact you if it was likely that you still held payroll records in on ongoing or recently terminated employment.

We would generally return any membership enquiry received in a format other than being on the correct form. Employers may wish to adopt the same approach to avoid unnecessary enquiries or additional requests for information.

The list of reasons why employment or pay may not be pensionable in part or at all, listed in the member record factsheet along with historic part time eligibility dates, may also be useful to employers when investigating missing or inaccurate membership enquiries.

**Pay and contributions:** A membership statement does not include a history of pay and contributions. The pay figure used to calculate pension benefits would instead be included with a benefit calculation, Total Reward Statement or benefit estimate. The contributions paid by the member and the employer can be seen as the 'cost' that secures entitlement to pension benefits but are not related to the actual calculation of benefits.

If a member does have a specific reason for requesting details of their 1995/2008 Section annual pay and contributions, the information can be provided but as this type of request is not part of the normal services we provide, the member is asked to attach a note to the SM27A membership request form to confirm they need the information.

**Additional benefits:** Any purchase of an Additional Pension or Early Retirement Reduction Buy Out (ERRBO) arrangements are not recorded on a membership statement. Members can check the details by contacting our Member Helpline.

**2015 Scheme:** The 2015 Scheme commenced on 1 April 2015 and is a Career Average Revalued Earnings (CARE) scheme. In a CARE scheme the pension is based on the members' pensionable earnings throughout their career. The pension earned each year is based on a proportion of the actual pensionable earnings in that Scheme year and is increased by a set rate, known as revaluation, each year up to retirement or leaving. A 'Scheme year' runs from 1 April to the 31 March. The final pension payable is calculated by adding together the revalued pensions earned in each year of membership.

A membership statement is not a feature of the services we normally provide for the 2015 Scheme but members can check their annual pay that the employer has provided by logging into their Total Reward Statement.

### **Pension Review (Pensions Mis-selling)**

In 1994, the industry regulator at the time established " an industry wide review amid concerns about the mis-selling of personal pension policies. The review looked at sales of personal pension policies between **29 April 1988** and **30 June 1994**.

If a consumer wanted their personal pension policy to be considered as part of the Pension Review, they had to apply to their personal pension provider or financial adviser before the deadline of **31 March 2000**. But if the sale of a personal pension wasn't included in the Review – for example, because they believe they didn't receive an invitation from their personal pension provider or because they bought the policy after June 1994 – the Financial Ombudsman may still be able to consider a complaint .