



Department  
of Health

# Access to the NHS Pension Scheme for Independent Providers

September 2014

# Introduction

- The Health & Social Care Act 2012 signalled a sea-change in the 'traditional' model of clinical provision, from one provided solely by NHS Employers, to one performed by a range of providers from both the NHS and Independent sectors
- NHS Employers are entitled and required to automatically enrol into the NHSPS all eligible staff they recruit
- In contrast, Independent Providers (IPs) often found it prohibitively expensive to include comparable pension benefits in their reward packages, creating recruitment barriers
- Regulations effective from 1 April 2014 now offer IP's 'same cost' Access to the NHSPS, in line with the policy aims of the 2012 Act

# Wider Access to the NHSPS

- Responses to consultation on the 'National Health Service Pension Scheme (Amendment) Regulations 2014' were published on 10<sup>th</sup> March 2014
- Regulations enabling the new access arrangements came into force on the 1<sup>st</sup> April 2014
- The new Access arrangements build on HMT's 'New Fair Deal' policy, extending NHSPS access to non-NHS Employers providing NHS Clinical Services (IPs)
- This supports the delivery of a 'fair playing field' in pension provision, and the continued viability of the NHSPS, by allowing IP's to offer staff delivering NHS services a new recruitment and retention incentive

# Scope of Access

- **The policy applies to:**
  - Non-NHS Employers (Independent Providers) delivering NHS Clinical Services,
    - under an APMS contract , or
    - an NHS Standard Contract , or
    - a Local Authority contract relating to the improvement and protection of public health under the 2006 Act
  - This includes services procured under ‘Any Qualified Provider’ and can cover both clinical and non-clinical staff delivering that clinical service.
  - IPs can choose the default position of compliance with New Fair Deal or two broader levels of NHSPS access

# Qualifying for Access

- IP's can apply to Scheme Administrator for IP employing authority status
- Must hold one or more NHS Standard or APMS contracts, or a Public Health related Local Authority contract to provide NHS Clinical Services
- Follow NHSPS rules as set out in the Employers Charter and NHS Pensions guidance
- Comply with HMT and regulatory Access monitoring requirements

# Access to the NHSPS - Timing

- With effect from the 1<sup>st</sup> April 2014 an IP who holds one of the above contracts can apply to become an Employing Authority (EA)
- However,
  - IPs must be directly commissioned holders of the named contracts (sub-contract work does not qualify)
  - An application to become a NHSPS EA must be from a forward date

# Access to the NHSPS

- IPs can choose from the two levels of access described below
- **or**
- choose to maintain the default position of compliance with New Fair Deal only
  
- The choice will apply to ALL qualifying NHS contracts held by the Employer, so is an important ‘Board Level’ decision

Either (Option 1)

# Access to the NHSPS – Level 1

- **Level 1: Access for previous members:** IPs are required to auto-enrol into the NHSPS:
  - From the date of commencement as a NHSPS employing authority, all existing eligible staff who were entitled to participate in the NHSPS at any time in the previous 12 months, and
  - From the date of recruitment, all new eligible staff who were entitled to participate in the NHSPS at any time in the 12 months before joining the IP.
  - All staff must be ‘wholly or mainly’ engaged in NHS work to retain access to the NHSPS

Or (Option 2)

# Access to the NHSPS – Level 2

- **Level 2: Access for all eligible IP staff:** IPs are required to auto-enrol into the NHSPS:
  - From the date of commencement as a NHSPS employing authority, all existing eligible staff, whether or not they have previously been entitled to join the NHS scheme, and
  - From the date of recruitment, all new eligible staff, whether or not they have previously been entitled to join the NHS scheme.
  - All staff must be ‘wholly or mainly’ engaged in NHS work to gain access to the NHSPS

# Managing Risk

In order to manage potential risks to the NHSPS and to protect the taxpayer, HMT required several control mechanisms to apply including:

- NHS Standard or APMS Contracts only
- Normal overall threshold for maximum NHSPS pensionable pay of 75% of gross contract value
- The employer must manage a requirement for employees under a 'single contract' to be "wholly or mainly" engaged in NHS work, i.e. more than 50%. A lower commitment can be managed if 'split contracts' are used
- Increases in final pensionable pay for 1995 section scheme members only will be capped at CPI + 4.5%
- All Employers will be charged interest of CPI + 3% for late payment of pension contributions
- NHS Pensions will apply 'spot audits'

# IP Responsibilities

- Complete an initial application/declaration form
- Notify NHS Pensions whenever NHS contracts start or cease
- Maintain accurate pension records including pay and hours
- Identify staff who meet the 'more than 50%' rule and make them aware of their pension rights
- Collect employee and employer contributions and pay them to NHS Pensions by the 19<sup>th</sup> day of the month after deduction
- Inform NHS Pensions when a pensionable employee starts or leaves

# IP Responsibilities (continued)

- Provide required information to NHS Pensions and support audit/ review processes
- Give 6 months notice if they choose to withdraw from NHSPS Employer status
- Give 3 months notice if they wish to change Scheme access level
- Stay within the 75% pensionable earnings ceiling on an annual basis
- Comply with all pension legislation and the NHS Employers Charter.

# Rate of Employer Contributions

- Rates for participating IP's are the same as for all NHSPS employers – currently 14%
- However, the Employer contribution rate will be 14.3% from April 2015
- Employee contributions currently range from 5% to 14.5%
- All employers are required to comply with any future rate changes, both for employer and employee contributions

# Next Steps...

- HMT required formal reviews of the new Access arrangements at 1 and 5 years
- The reviews will be conducted in the Staff Passport Group with stakeholder representatives and include:
  - the fit and effectiveness of regulations and administrative procedures in the light of experience
  - opportunities for procedural and regulatory simplification/improvement
  - opportunities for changes in scope
- Any changes considered must follow the introduction of new 'career average' public service pensions, from April 2015

# Further information and contact details

The NHS Pensions website contains the following help for Independent Providers (IP's):

IP Guidance:

<http://www.nhsbsa.nhs.uk/Pensions/4328.aspx>

## **Contact Details:**

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