



Department
of Health



Public Health Transfers from the NHS to Local Authorities

Pension provision update (July 2013)

July 2013

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Public Health Transfers from the NHS to Local Authorities

Pension provision update (July 2013)

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Introduction

A set of Pension Provision – Frequently Asked Questions was published on 28 February 2013. This additional paper reiterates some key messages and provides further guidance and information on administering the NHS Pension Scheme (NHSPS), Directions Orders changes to Agenda for Change and the NHS Injury Benefits Scheme, which came into effect on 31 March 2013.

Key messages:

- Continued access to the NHSPS for certain groups of staff has been carefully considered and agreed by employers and trade unions as partners in the Concordat Steering Group. The decisions were made after consultation with trade unions' networks and are designed to facilitate movement of public health staff between the NHS and local authority employers. (See below "Staff transferred to a local authority under a Transfer Scheme")
- Both the NHSPS and Local Government Pension Scheme (LGPS) are valuable parts of the pay and rewards system (Further guidance on job evaluation systems within local authorities and how these relate to public health jobs will be published following discussion at the Public Health Working Group – sub group of the NJC).
- On transfer, all staff transferring from the NHS are covered by the pension protections specified in the Transfer Scheme. NHS staff who are eligible for the NHSPS will continue to belong to that pension and as such may not choose to transfer to the LGPS. The LGPS rules mean that while a member of staff is entitled to contribute to the NHSPS, they will not be eligible to join the LGPS. Similarly, any future staff with access to the NHSPS through a direction order cannot opt to join the LGPS.
- Local authorities, as employers, can decide whether to apply for an "open" NHS Pension Direction Order to allow continued access to the NHSPS for public health professionals and staff nearing retirement where they recruit eligible "new joiners" to public health roles who already have access to the NHSPS. These staff could be recruited from the NHS, another local authority or elsewhere.

Administering the NHSPS

The guidance material for local authorities is available from the NHS Business Services Authority (BSA) as follows:

1. Employers Toolkit

<http://www.nhsbsa.nhs.uk/2533.aspx>

This provides information about a wide range of topics, eg the section titled “pensionable pay and contributions” includes advice regarding maternity leave/sick leave.

2. Pension Scheme Forms

<http://www.nhsbsa.nhs.uk/2518.aspx>

Staff transferred to a local authority under a Transfer Scheme

There is no need for a local authority to apply for a Direction Order for staff they received through a Transfer Scheme on 1 April 2013. This is because the Transfer Schemes already set out the terms of access for transferred staff who move roles within the same local authority, which are set out below:

- Transferring staff who have their access to the NHSPS protected and will retain access to the NHSPS if they are then compulsorily moved to another post in the same local authority and remain in direct local authority employment
- Transferring “public health specialists and practitioners” and staff in the 1995 section of the Scheme within 10 years of their normal pension age of 55 or 60 as at 1 April 2012 and those covered by tapering protection who will retain access to the NHSPS if they make a voluntary move to another public health post within the same local authority.
“Public health specialists or practitioners” must meet the following description to retain access to the NHSPS, which informed the drafting of the transfer scheme legal document:
“Members who are Public Health Specialists or Practitioners: whose job role involves them wholly or mainly undertaking public health practice or activity either in relation to prevention, health protection, healthcare public health, or health promotion programmes for individuals from particular population groups, or in relation to the whole population within a certain geography. They should be

registered on one or more of the GMC, GDC, UKPHR, HCPC or NMC registers or be carrying out a public health role as defined by the attached list of Agenda for Change (AfC) role profiles:

Information Analyst Principal, Public Health Intelligence, AfC payband 8a-b

Information Analyst Advanced/Team Manager, Public Health Intelligence, AfC payband 7

Information Analyst Specialist, Public Health Intelligence, AfC payband 6

Health Improvement Practitioner, AfC payband 5

Health Improvement Practitioner Specialist, AfC payband 6

Public Health Researcher, AfC payband 7

Health Improvement Practitioner Advanced, AfC payband 7

Public Health Research & Development Manager, AfC payband 8a

Health Improvement Principal, AfC paybands 8

Public Health Consultant, AfC paybands 8a-9

- All other transferring staff who do not fall within the categories above will join the LGPS if they move posts voluntarily after transfer.

Directions Orders

1. Overview

The Transfer Scheme does not apply to staff who fall within the categories outlined above. This includes new recruits who are recruited post April 2013 to local authorities. The decision to continue to provide NHS pensions access for public health staff as part of the transfer scheme was driven by the need to support workforce mobility. These labour market factors will be an ongoing consideration in the new public health system.

Local authorities may apply for an open NHS Pension Direction that will provide continued access to the NHSPS for staff recruited to public health roles who are registered public health professionals, or who are members of the 1995 section of the Scheme and nearing retirement. These staff could be recruited from the NHS, another local authority or elsewhere.

2. Application process and direction criteria

Local authorities can apply for a direction by submitting an application to the BSA. Further information on the application process, including an application form is available on the BSA website <http://www.nhsbsa.nhs.uk/2806.aspx>

Upon satisfactory completion of an application, the local authority will receive a direction legal document signed by the Department of Health. The legal document sets out the terms of the direction, including the criteria that determines which staff are eligible for continued entitlement to the Scheme (notwithstanding general NHSPS entry criteria). The direction drafting will be the same for all local authorities.

- The direction will provide continued access to staff in the following groups providing they had entitlement to join the NHSPS in the 12 months before they commenced employment with the local authority:
 - a) those staff who are working within the public health function who have entitlement to the 1995 section of the NHSPS and are within 10 years of their normal retirement age of 55 or 60 as at 1 April 2012 (including those likely to receive the tapered protection)
 - b) those staff who are registered public health professionals and are working within the public health function. This includes staff registered on one or more of the GMC, GDC, UKPHR, HCPC or NMC registers.
- Local authorities with a direction are required to offer the NHSPS to all staff who satisfy the direction criteria. A local authority can apply for a Directions Order at any time.
- A person to whom a Direction Order applies can be included in the NHSPS from the date the Direction takes effect in relation to that person.
- Local authorities applying for an open Direction Order are not required to list the job titles or roles to whom the registered public health professional eligibility relates (in either their request nor in the Direction Order itself). Instead, once the Direction is authorised the local authority will be required to provide access for all those staff who satisfy the Direction criteria.
- On an exceptional basis, local authorities will have the flexibility to apply for individual “closed” Direction Orders for staff working within the public health function. Each application will be considered on its merits and should be supported by a business case.

Agenda for Change

Useful links include:

Pay Circular detailing the uplifts for 1 April 2013:

http://www.nhsemployers.org/Aboutus/Publications/Documents/Pay_circular_AforC_1_2013.pdf

Further changes to Agenda for Change terms & conditions of service that come into effect on 31 March 2013, including pay progression, job re-profiling and sick pay:

<http://www.nhsemployers.org/PayAndContracts/AgendaForChange/Agenda-for-Change-proposals/Pages/Agenda-for-Change-agreed-amendments-April-2013.aspx>

Summary of the amendments to the NHS terms and conditions of service handbook that came into effect on 31 March 2013:

- Progression through all incremental pay points in all pay bands to be conditional on individuals demonstrating that they meet locally agreed performance requirements in line with Annex W (England) of the handbook.
- For staff in bands 8C, 8D and 9, pay progression into the last two points in a band will become annually earned, and only retained where the appropriate local level of performance is reached in a given year.
- Annex X (England) – new guidance on the principles to be followed regarding workforce re-profiling, including the need to follow the processes set out in the [NHS Job Evaluation Handbook](#) and the application of local organisational change policies to protect staff in cases of redeployment into lower grade posts.
- Annex 14 (a) (England) – pay during sickness absence will be paid at basic salary level and not including any allowance or payments linked to working patterns or additional work commitments. This change will not apply to staff who are paid on spine points 1 to 8 of Agenda for Change, or to those whose absence is due to work-related injury or disease.
- The AfC changes outlined above require the development of some local HR processes and procedures – these will need to be agreed with the relevant trade unions.

NHS Injury Allowances Scheme

Following the NHS Staff Council partnership review of the NHS Injury Benefit Scheme, a new Injury Allowance Scheme was introduced on 31 March 2013:

<http://www.nhsemployers.org/PayAndContracts/NHS-Injury-Allowance/Pages/NHSInjuryAllowance.aspx>

What's changed?

The Department of Health has consulted on amended regulations which closed the Injury Benefit Scheme in respect of injuries or diseases occurring on or after 31 March 2013. These amended regulations introduce transitional arrangements in respect of injuries or diseases occurring before that date.

In its place a clear and transparent contractual provision called the "Injury Allowance" (IA) has been introduced as a new section of the NHS Terms and Conditions of Service Handbook. The IA was introduced on 31 March 2013.

What does the new Injury Allowance look like?

The function of the new IA is to recompense employees who have temporarily lost income due to an injury or illness as a result of work.

The IA is paid as an income top-up to eligible staff. The allowance will top up NHS sick pay (or earnings when on phased return on reduced pay) and certain other income ie contributory state benefits, up to 85% of pay.

The allowance is limited to the period of the employment contract only and restricted to a period of up to 12 months per episode, subject to local absence management, return to work and rehabilitation policies.

The details of the IA provisions are set out in [Section 22](#) of the NHS Terms and Conditions of Service handbook.

Who is eligible for Injury Allowance?

Eligible employees are those employees covered by the provisions contained within the NHS Terms and Conditions of Service handbook or by reference within other national or local NHS employment contracts. Eligible employees must be on authorised sickness absence or a phased return to work, with reduced pay or no pay.

What supporting materials are available?

NHS England and the trade unions have produced a range of support materials to assist in the implementation of the new provisions. These include the following:

- [Injury Allowance - a guide for employers](#)
- [Injury Allowance - a guide for staff](#)
- [Transactional protection arrangements - guidance on the application of the sunset and exception clauses](#)
- [Partnership Review of the NHS Injury Benefit Scheme - final agreement on proposals for reform](#)
- [Equality impact assessment](#)