

Safeguarding pensionable pay and the ARR

David Paul discusses the Annual Reconciliation Report for pensions



Failure to meet necessary requirements may result in a void dividend with unwelcome tax consequences

In early April, every practice in England and Wales with a GDS contract or a PDS agreement receives its Annual Reconciliation Report (ARR). It is a statutory duty of the contract holder to submit a completed ARR to the PCT/LHB by 31 May.

The ARR is the cornerstone in the process of identifying the pensionable pay of the dentists at the practice. It is this pensionable pay that will eventually determine the amount of the NHS pension for each dentist. It is therefore essential that the ARR is accurate in apportioning the pensionable pay available at the practice amongst its dentists who are members of the NHS Pension Scheme (NHSPS).

The ARR requirements were introduced in 2006. The new dental contract transferred the responsibility for pensionable pay from the Business Services at Eastbourne to the individual practice. It is fair to say that both the pension regulations and the guidance given by Business Services in relation to the ARR were not fit for purpose. As a result the dental profession endeavoured to complete the ARR as best it could. No unified approach was adopted and many diverse, mainly incorrect, completions occurred.

The Pensions Agency, Business Services at Eastbourne, the BDA and NASDAL (National Association of Specialist Dental Accountants and Lawyers) became aware of the escalating problems arising with the ARR. Over many months, discussions have taken place

between the organisations, which have resulted in clearer Guidance Notes to accompany the 2011/12 ARR.

The main issues and problem areas that were identified related to

- The adoption of a common procedure of ARR completion
- The correct allocation of the practice's pensionable pay amongst the dentists at the practice
- What constituted an associate's pensionable pay
- In the case of a practice that had incorporated what constituted the pensionable pay of the director/shareholders, particularly in a limited company with mixed (NHS and private) income

As a result of the discussions, the *Guidance Notes* to the 2011/12 ARR now give much more comprehensive guidance as to the correct completion of this year's ARR.

The correct procedure for completing the ARR and the allocation of pensionable pay is now as follows

Step 1

Calculate 45.9 per cent of the achieved GDS/PDS contract value. This identifies the maximum pensionable pay available to the practice and is a ceiling that cannot be exceeded when the pensionable pay is distributed amongst the dentists at the practice who are members of the NHSPS.

Step 2

Identify any dentists at the

practice who are not members of the NHSPS such as

- Dentists already in receipt of their NHS pension
- Dentists who have opted out of the NHSPS
- Associates who are incorporated and who cannot pension their income with effect from 7 November 2011

Step 3

Sole practitioner or partnership

The pensionable income allocation to the dentists at the practice is as follows:

- Following Step 1 calculate 45.9 per cent of the achieved GDS/PDS contract value. This is the pensionable earnings ceiling
- Declare the pensionable pay of the associates. This is the actual net amount paid for GDS/PDS work undertaken in the pension year ending at 31 March
- The declared pensionable pay of the associates is deducted from the pensionable pay ceiling. If the practice has any dentists identified in Step 2 their earnings are also deducted from the ceiling
- In the case of a sole practitioner the balance remaining represents the pensionable pay of that sole practitioner
- In the case of a partnership the balance remaining can be allocated between the partners in any proportions provided by the partnership agreement

The total pensionable pay allocated to the dentists working at the practice cannot exceed the pensionable pay ceiling identified in Step 1. If there is working at the practice a non-pensionable dentist identified in Step 2 then the declared pensionable pay on the ARR will fall short of the ceiling by the amount earned by the non-pensionable dentist. It is unlawful for this shortfall to be allocated to other pensionable dentists at the practice.

If the practice employs a dentist then the amount of that dentist's basic NHS salary constitutes their NHS pensionable pay and must be deducted from the pensionable earnings ceiling to arrive at the balance available to the sole practitioner or partners.

Limited company

Where a practice has incorporated and the limited company holds the GDS contract or PDS agreement, the limited company is required to com-

plete an ARR as the provider. The process involved for the company is exactly the same as occurs for a sole practitioner or partnership up to the point that the balance of the pensionable earnings ceiling has been determined. At this point the pensionable pay of the director/shareholders who are active NHSPS members is the amount of salary and dividends paid to those director/shareholders in the year to 31 March, the NHS pension year.

The Pension Agency had identified that one of the main problem areas with earlier ARRs was the understatement of the pensionable pay of some 3,000 associates. The Guidance Notes with the 2011/12 ARR now clarifies the position in that any associate's pensionable pay is the amount paid to the associate for GDS/PDS work undertaken. It therefore does not matter about the terms of the individual associ-

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ate agreement. All that does matter, for pensionable pay purposes, is the amount that is eventually paid under that agreement to the associate for GDS/PDS work.

In November 2011 new legislation was enacted. As a result of this legislation, it is likely that there will be major changes in the 2012/13 ARR which will further safeguard the pensionable pay position of associates. In the meantime, the 2011/12 ARR and its guidance notes are a considerable improvement upon earlier versions and should ensure a more accurate pensionable pay allocation to dentists involved. www.nasdal.org.uk

It is often the case that where a practice has incorporated the limited company receives mixed dental income (ie NHS and private). In these circumstances there is no need to apportion salary/dividends between NHS and private income for NHSPS purposes. All salary/dividends paid to dentists who are active NHSPS members, up to the ceiling, are available for allocation as NHS pensionable income.

It is important to ensure that where dividends are paid

About the author

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