

Business

NHS superannuation – you're doing it wrong!

Alan Suggett provides a definitive guide on how to calculate NHS pensionable earnings

It's approaching the time of the year when NHS practice-owning dentists complete the annual reconciliation return (ARR) on the NHS dental 'portal'. This should be an easy (if perhaps irritating) task, but it isn't; many, perhaps most, ARRs are completed incorrectly.

The problem started with the 2006 new NHS contract, which, for the first time, created a system of practice-based NHS pensionable earnings, rather than the previous individual calculation. Before 2006, errors in pensionable

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earnings calculations were rare, as the calculation was easily performed automatically. When the 2006 contract came into being, it was no longer an automatic calculation as it relies on the contact holder 'provider' (usually the practice principal, or by delegation the practice manager) to perform a calculation specific to each 'performer' (associate).

The wrong calculation

Although the ARR system has changed since 2006, the problem hasn't changed. The problem is that many principals think they understand how the calculation works – but in fact they don't.

They think that the correct pensionable earnings entitlement for each associate is 43.9% of the associate's 'gross' fees generated (where 'gross' is usually calculated as the number of UDAs performed multiplied by the associate's agreed UDA rate – which might not be the same as the practice contracted UDA rate).

Wrong!

In fact the correct pensionable earnings calculation is remarkably simple: associate pensionable earnings is equal to the amount payable to the associate in respect of NHS work carried out in the year. Note – 43.9% does not come into the calculation!

It is unfortunate that typical errors made lead to an increase in the principal's pensionable pay, and a reduction in the average associate's pensionable pay, and this is where disagreements, stress and acrimony start.

No clear guidance

The historical background provides mitigation for principals. Until 2011, when clear guidance notes

were published (the current version can be accessed at www.nhsbsa.nhs.uk), it was just about impossible to understand the pensionable earnings calculation rules. Principals therefore followed the historical '43.9%' basis.

When the *Pensions Guide* was published in 2011, technically no new rules came into existence; it was simply a clarification of the 2006 rules. But as almost everyone had been using the wrong calculation basis, the guidance was tantamount to a change in the rules – but

An illustration of the correct and incorrect bases

NHS practice with £400,000 contract performed equally by principal and associate:

The starting point for the allocation of NHS pensionable earnings between all of dentists working in the practice (ie, the principal and associates) is to take 43.9% of the contract value:

NHS pensionable earnings cap for all dentists in the practice = 43.9% of £400,000

= £175,600

Note: this is the first and only time that 43.9% is relevant – from now on forget 43.9%.

Now calculate the associate's NHS pensionable earnings, which are equal to what is payable for carrying out NHS work during the year ending 31 March.

He/she has performed £200,000 of gross fees (calculated at an agreed UDA rate – in this case the same rate as the practice UDA rate, but that often will not be the case).

Laboratory fees are, say £10,000, so he/she is paid 50% of £200,000 and 50% of £10,000 = £95,000.

Perhaps surprisingly, the associate's NHS pensionable pay is therefore £95,000.

The principal's NHS pensionable pay is therefore what is left = £175,600 – £95,000 = £80,600.

So, for performing the same amount of gross fees, the principal and associate have different amounts of NHS pensionable earnings, with the principal's amount being less than the associate's.

Most practice owners do not perform the calculation correctly.

Typically the calculation of associate's NHS pensionable earnings is set at 43.9% of gross fees.

In this example, 43.9% of £200,000 = £87,800.

The incorrect calculation leads to a lower amount of pensionable pay for the associate.

couldn't be publicised as such. How can principals be criticised for getting it wrong when there has been very little publicity of the correct basis?

As the word gets out about the problem, there are annual arguments between principals and associates. Some are resolved amicably, some aren't – but there is no dispute resolution scheme. NHS pensions regards this as being a commercial dispute, and not something that it will normally become involved. This is an appalling situation, which requires a sensible solution.

Getting it right

Finally, what are we getting excited about; how much of a problem is it?

Based on average NHS associate earnings (derived from the NASDAL annual benchmarking surveys), the actual annual loss of pension is quite small.

However, as those who are not members of the NHS pension scheme are well aware, every £1 pa of pension (depending on age and other factors) costs much more than £1 to buy.

It is estimated that the average real financial loss is between £2,000 and £3,000 pa, and as the problem has existed since 2006, a reasonable estimate of average financial loss for those associates affected could be of the order of £25,000 – is that enough to get excited about?

In summary:

- 1) Many, perhaps most, NHS practice owners are calculating their associate's pay incorrectly, and too low. It's not 43.9% for associates
- 2) This is a significant problem that will not go away, and will result in considerable future work and hassle for those principals who continue to get it wrong
- 3) It is essential for NHS pensions to introduce a dispute resolution process – why are we waiting? **D**



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