

A common mistake

Alan Suggett explains how most people get their ARR calculations wrong, and what they can do to put things right.



The time of the year when NHS practice owning dentists (and corporates) complete the annual reconciliation return (ARR) on the NHS dental portal is fast approaching. This should be an easy (if perhaps irritating) task, but in my experience, it isn't; many,



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perhaps most, ARR's are completed incorrectly.

Before 2006 errors in pensionable 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).

Although the ARR system has changed since 2006, the problem hasn't. The issue is that many principals think they understand how the calculation works – but they very often don't! Many still think that the correct pensionable earnings entitlement for each associate is

43.9 per cent 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). This is wrong.

In fact, the correct pensionable earnings calculation is remarkably simple: associate pensionable earnings are equal to the amount payable to the associate in respect of NHS work carried out in the year. So, 43.9 per cent does not come into the calculation at any point.

Typically, these errors 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! ➔



☛ The historical background provides mitigation for principals. Until 2011, when clear guidance notes were published it was just about impossible to understand the pensionable earnings calculation rules. Principals therefore followed the historical 43.9 per cent 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 couldn't be publicised as such!

An illustration of the correct and incorrect bases is shown below using the example of an NHS practice with a £400k 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 (the principal and associates) is to take 43.9 per cent of the contract value. So, the NHS pensionable earnings cap for all dentists in the practice is 43.9 per cent of £400k, which amounts to £175,600. This is the first and only

time that 43 per cent is relevant. Now calculate the associate's NHS pensionable earnings, which are equal to what is payable for carrying out NHS work during the year ending March 31.

He/she has performed £200k 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 £10k, so he/she is paid 50 per cent of £200k less £10k – which is £95k. Perhaps surprisingly to many principals, the associate's NHS pensionable pay is therefore £95k. The principal's NHS pensionable pay is therefore what is left: £175,600 minus £95k = £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. Many practice owners do not perform the calculation correctly. Typically the calculation of associate's NHS pensionable earnings is set at 43.9 per cent of gross fees. The incorrect calculation leads to a lower amount

of pensionable pay.

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 regard this as being a commercial dispute, and not something which they will normally become involved with. This is an appalling situation which requires a sensible solution.

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 £1pa 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 £3,000pa, and as the problem has existed since 2006, a reasonable estimate of average financial loss for those associates affected could be in the order of £35k – is that enough to get excited about?