

NHS Pensions - mental health officer status (1995 Section only) employer factsheet

History of mental health officer status

Mental health officer (MHO) status is a historical provision that was introduced to acknowledge that the demands of caring for patients who suffer from mental illness may lead to members shortening their working lives.

It was a continuation of arrangements which existed prior to the formation of the NHS in 1948, when treatment for mental health patients was different to today.

Benefits

1995 section members who have 20 years membership or more as an MHO can:

- retire from age 55 without any reduction to their 1995 Section benefits, providing they are still in pensionable MHO employment on the day before they retire.
- count each complete year of MHO membership, after building up 20 years, as two years for benefit purposes, known as doubling.
- MHO status does not apply in the 2008 Section or the 2015 Scheme. Members who transition from the 1995 Section to the 2015 Scheme may continue to maintain their MHO status – to maintain potential for an earlier retirement age for their 1995 Section benefits.

See the section **Transition to the 2015 Scheme** later in this factsheet.

Abolition of MHO status

On 6 March 1995 the NHS Pension Scheme regulations were amended and MHO status was abolished for all members, however, an exception was made for members who already held MHO status on or before this date and who did not have a break in membership of five years or more.

Eligibility

To be considered for MHO status a member must:

- spend all, or almost all, of their time in the direct treatment and care of patients who are mentally ill.
- hold active (counting towards pension benefits) 1995 Section membership as an MHO on or before 6 March 1995.
- not have had a single break in pensionable NHS employment of five or more years that ends after 6 March 1995.

‘Direct treatment and care’ generally means contractual duties or activities that must be undertaken where the patient is present.

To meet the condition; **‘all or almost all of time’**, a member’s contractual duties must require them to be continually engaged in the direct treatment and care of patients for 80% or more of their time at work.

Employment groups that automatically qualify

Members employed on the nursing or medical staff of a hospital that is used primarily for the treatment of persons suffering mental illness, can automatically qualify for MHO status under the Scheme Regulations. These include:

Nursing

NMC registered Nurse
Senior Nurse (Staff Nurse, Sister for example)
Deputy / Ward Manager
Specialist Nurse
Nurse Practitioner
Clinical Nurse Specialist
Nurse Consultant
Modern Matron

Medical

Doctor
House officer
Senior House officer
Registrar
Senior Registrar
Psychiatrist
Child Psychiatrist
Consultant

The above is not exhaustive but is provided to illustrate the types of roles that qualify automatically.

MHO status is accepted for members in these occupational groups, subject to all other eligibility criteria being met.

Members in other occupational groups / professions can also qualify for the status if they spend all, or almost all, of their time in the direct treatment and care of patients who are mentally ill.

For non-nursing/medical roles, we will ask employers to provide a breakdown of the member's duties and a job description so we can establish whether their role meets this condition. See also **MHO status in managerial roles** later in this factsheet.

For **Clinical Psychologists**, the nature of their work means that a wider, defined range of their duties can count as direct treatment and care for MHO purposes. These include activities such as participating in case conferences, consultations and writing reports relating to clinical work.

For this reason, a specific MHO application form is available for Clinical Psychologists – see **Process for applying for MHO status** later in this factsheet.

Eligibility following a break in membership

In pensionable employment on 6 March 1995

If a member was in pensionable employment (contributing to the Scheme) on 6 March 1995 as an MHO, they can resume MHO status if they re-join the Scheme in an employment that attracts the status, as long as they have not had a break in pensionable employment of any one period of five years or more that ends after 6 March 1995.

This is the case even if their earlier MHO membership was extinguished due to a refund of contributions or because they transferred benefits out of the Scheme.

Not in pensionable employment on 6 March 1995

If a member had deferred benefits as an MHO member on 6 March 1995, they can resume MHO status if they re-join the Scheme in an employment that attracts the status, as long as they have not had a break in pensionable membership of any one period of five years or more that ends after 6 March 1995.

Note: If the member transferred their benefits out of the Scheme, received a refund of contributions, or retired as an MHO member prior to 6 March 1995, they are not eligible for the status on returning to pensionable employment.

Process for applying for MHO status (Non managerial grades)

Employers should consider MHO status when enrolling a new employee in the Scheme.

To gain an understanding of the new employees' pension background, employers should provide the New employee questionnaire to their employees as soon as possible. The information gained will help employers decide whether MHO is likely.

The questionnaire can be downloaded from the Technical guidance page on our website.

MHO status may be requested retrospectively if it wasn't considered when enrolling the member, although it should be noted that where a request has previously been rejected, further requests should not be made unless new supportive evidence is available.

Members are also being encouraged to keep track of their own membership record and employers may receive SM MHO Form A member application to investigate MHO status.

Action for employers to take:

- For new joiners, send the New employee questionnaire to help establish if MHO status is likely and the member will be eligible.
- telephone the customer contact centre to confirm whether the member is an eligible MHO.
- refer to the MHO application forms.

Important note: The scheme joiner form (SS10) will ask if MHO status should apply, but in all cases where MHO status needs to be investigated, you should still complete one of the separate application forms summarised below:

MHO Application forms

SM333 – An application form to request MHO status for the occupational groups that qualify automatically (nurses capacity code 01 and hospital doctors capacity code 03).

SM215 – An application form to request MHO status specifically for trainee or qualified clinical psychologists.

SM1 – An application form to request MHO status for all other occupational groups (where the member is **not** employed in a nursing or medical capacity or as a qualified clinical psychologist).

Please ensure all forms are completed accurately, as we may not accept additional submissions for the same period of employment.

MHO status in managerial roles

Managerial roles that do not require the member to spend all or almost all of their time in direct treatment or care of patients who are mentally ill, do not attract MHO status.

Where an MHO is appointed to a managerial position in mental health services and the role involves responsibility for the treatment or care of patients, it may be possible for them to keep their MHO status in the managerial role.

Historically, many senior posts were changed or created to take account of the restructuring of management responsibilities in the NHS. The position for members with MHO status meant they would lose the status, upon promotion to a managerial position.

Representations were made to enable MHOs, who were appointed to non-qualifying managerial roles, to apply to keep their MHO status. A policy was developed to enable MHO status to be considered individually for members in these circumstances.

The policy is known as **retention of MHO status** and is still applicable, as follows:

MHO status can be considered for MHOs who are appointed to senior positions, in psychiatric hospitals and units caring primarily for patients suffering from mental disorder. Grades up to the equivalent of a Director of Nursing Services or Medical Director can be considered.

Members employed in units or services which do not cater primarily for mentally ill patients would not normally be allowed to keep the status.

Criteria for MHO status in managerial roles

When considering whether MHO status can be granted, it is expected that:

- the member is appointed to a senior role within their relevant profession **and**
- the member has managerial responsibility for staff in roles that would meet the conditions for MHO status, meaning the manager continues responsibility for the treatment or care of patients who are mentally ill **or**
- the member's experience and mental health qualifications relevant to their previous MHO role are essential requirements of the managerial role **or**
- the member is providing professional advice to organisations responsible for the commissioning or delivery of mental health services **or**
- the member is involved in setting and monitoring standards of psychiatric care and training of staff.

Process for applying for MHO status for members in managerial roles

On commencement of a managerial role where MHO status needs to be applied for, the employer should:

- record the capacity code as 04 on the joiner form SS10 or equivalent
- for new joiners, send the New employee questionnaire, to help establish whether the member can still be considered for MHO status. (For example, whether they held the status on or before 6 March 1995 or whether they had a break of more than 5 years since 6 March 1995)

- refer to the MHO application forms and download the SMR form. This application form must be used to request retention of MHO and/or Special Class status in all cases.
- provide any supporting evidence that may assist our consideration.

Separate forms will be required for any subsequent change in job role once MHO status has been accepted.

We will reply to the employer to confirm if MHO status is accepted or not. Where MHO status is accepted, we will update our records accordingly.

Where MHO status is not accepted or where the member has moved into a non-MHO role, you **must** inform the member immediately as this may affect their retirement plans.

MHO application forms should not be passed to the employee to complete.

Restriction of MHO membership

The following restrictions apply only to membership in the 1995 Section.

A member with MHO status is restricted to 40 years calendar length membership at age 55 and 45 years overall (if membership continues beyond 55). 'Calendar length' means the length of time a member has been an active member of the Scheme. This applies regardless of whether employment is whole-time or part-time.

When the maximum calendar length membership is reached before age 60, the member must continue to pay pension contributions until age 60 unless they opt-out of the Scheme or retire and claim their pension benefits.

Where the maximum 45 years calendar membership is reached after age 60 but before age 65 the member must cease paying contributions when 45 years calendar length membership is achieved. Where doubling of membership has commenced for MHOs, employers and members are advised to keep track of the membership being accumulated to help ensure contributions are not collected beyond 45 years.

An MHO member must cease to pay contributions at age 65 regardless of the amount of calendar length membership they have achieved.

In all cases, pension benefits are not payable until the member leaves NHS employment and retire or on reaching age 75 (70 on or before 31 March 2008) whichever is earlier. Where an MHO transitions to the 2015 Scheme, the above restrictions do not apply to membership in the 2015 Scheme.

Alternative benefit calculation

Benefits are usually based on pensionable pay up to the date contributions stopped. However, the Scheme Regulations allow for an alternative calculation for MHOs who cease to be pensionable, but have continued to work in the NHS, before taking retirement benefits.

In these circumstances, the Regulations allow benefits to be calculated using actual membership (no doubled years) and a later pensionable pay figure if this is more beneficial.

The later pensionable pay figure and the actual membership values would be assessed at whichever of the following events happened first:

- retirement.
- reaching upper pensionable age 65.
- the achievement of 45 years actual membership (not including doubled years).
- death.

If benefits using this method are more beneficial, the Regulations also allow outstanding contributions to be deducted from the retirement or death benefit lump sum.

Criteria for entitlement to retire from age 55 from the 1995 Section

To achieve entitlement to an earlier retirement age (from age 55), a member must:

- have achieved at least 20 years calendar length membership as an MHO. This does not need to be continuous and can include work in mental health services outside the NHS, subject to agreement by us (covered later in this fact sheet).
- be an active MHO member on the day they retire

When a member leaves pensionable employment before age 55 (or before they achieve 20 years membership as an MHO) and does not return, their benefits become deferred and do not become payable until the normal pension age (60) in the 1995 Section.

Redundancy - An exception to this is where an MHO is made redundant and is not in receipt of a redundancy pension. In these circumstances a member with **deferred benefits** may claim these benefits at age 55 if all other eligibility criteria are met and they did not return to a pensionable non-MHO employment.

Transition to the 2015 Scheme

MHO membership that counts towards doubling will cease when a member moves to the 2015 Scheme.

For MHOs who were on-track to achieve doubling of membership in the 1995 Section by age 55, an additional calculation may be made when calculating their 1995 Section benefits at retirement.

This calculation is known as Uniform Accrual and it accounts for the proportion of the doubled years that could have been achieved by 55, that their existing 1995 Section membership counts towards.

Further information about the Uniform Accrual calculation can be found within the Ask Us knowledge base on our website.

Although MHO status is not applicable in the 2015 Scheme, employers must still consider and record MHO status for 2015 Scheme members who held the status in the 1995 section. This is because an earlier normal pension age can continue to apply to benefits earned in the 1995 Section if the member continues to be employed in a qualifying post.

If the criteria to retire from age 55 for continues to be met, the 1995 Section benefits can be claimed from age 55 once all NHS employment ends. This does not apply to benefits earned in the 2008 Section or the 2015 Scheme, which remain subject to the member's normal pension age in these sections of the Scheme. Such 2008 or 2015 benefits can be claimed at the same time as 1995 Section benefits but as they would be paid early, they will be subject to actuarial reduction. Members do not have to claim their 2008 or 2015 benefits at the same time as their 1995 benefits.

Arrangements are being made to remedy age discrimination in respect of reforms of public service pension schemes in 2015, as found by the Court of Appeal.

Under the remedial arrangements, from **1 April 2022** every member of the NHS Pension Scheme will build up their benefits in the same scheme – the 2015 Scheme. This means the 1995 and 2008 Sections of the scheme will close, and members will automatically move into the 2015 Scheme for benefits they build up from 1 April.

For members who transitioned to the 2015 Scheme between 31 March 2015 and 1 April 2022, we'll also give them a choice between 1995 Section or 2015 Scheme benefits for any pensionable service that's affected, between 1 April 2015 and 31 March 2022.

The 2015 Scheme doesn't have an MHO or Special Class provision. But if the member has MHO or Special Class status now, it will be protected for 1995 benefits for as long as they stay within the qualifying regulations set out in the 1995 Section.

For more information, please refer to section [Changes to public service pensions](#) on our website.

Part-time membership

Historically, only whole-time members could be considered for MHO status. However, part-time members may now be granted the status in certain circumstances. MHO status may be backdated to 8 April 1976 for part-time members who made a valid application to an Employment Tribunal and for those members who were contributing to the Scheme on 14 January 1999. A member who was not in pensionable employment on 14 January 1999, but subsequently re-joined the Scheme after that date will still be entitled to have MHO status considered for current and future periods of part time membership, subject to fulfilling the eligibility criteria.

Periods worked in mental health services outside the NHS or where previous NHS pension benefits have been extinguished

Some periods of employment in mental health which do not count towards a member's NHS pension, might still count towards the 20 years required to commence doubling of membership. These include:

- previous membership with MHO status that is no longer reckonable in the NHS Pension Scheme. For example, membership for which contributions were subject to a refund or where pension rights were transferred out of the Scheme.
- work with mental health patients outside the NHS (including some work in government approved premises outside the UK).

When considering whether these periods count towards a member's doubling date, doubling cannot commence from a date prior to entry to the NHS Pension Scheme or prior to age 50.

This provision would only be of benefit to a member who holds active MHO membership (counting towards pension benefits) on or before 6 April 1995, has not had a single break of five or more years and who has the potential to achieve doubling of membership.

Eligible members should contact us directly using the dedicated application form on our website (SM-MHO) if they believe this provision applies to them. They should include documentary evidence, such as job descriptions, person specifications or letters of appointment, to enable us to investigate further.