

## THE DRAFT NATIONAL HEALTH SERVICE PENSION SCHEME AND ADDITIONAL VOLUNTARY CONTRIBUTIONS (AMENDMENT) REGULATIONS 2017

### Consultation Response from Social Enterprise UK

24/01/2017

#### Introduction

I am delighted to submit Social Enterprise UK's response to the NHS Pension Scheme on behalf of our members and social enterprises across the country.

A social enterprise is a business that trades for a social or environmental purpose and reinvests its profits in that mission. Social enterprises are businesses driven by social or environmental objectives, whose surpluses are reinvested for that purpose in the business or in the community. They operate across a wide range of industries and sectors from health and social care, to renewable energy, recycling and fair trade and at all scales, from small businesses to large international companies. They take a range of organisational forms from co-operatives and mutuals, to employee owned structures, Community Interest Companies, and charitable models. SEUK's members come from across the social enterprise movement, from local grassroots organisations to multi-million pound businesses that operate across the UK.

Social enterprises tend to have a diversity of ownership forms and client engagement which cannot be easily characterised. This diversity is replicated in the senior management: social enterprises are significantly more likely to be run by women, BME groups and people with disabilities than traditional businesses. Social enterprises are therefore delivering the shared society and the type of inclusive growth that the Prime Minister is committed to.

Social Enterprise UK (SEUK) was established in 2002 as the national body for social enterprise in the UK. SEUK is a membership organisation. We conduct research; develop policy; campaign; build networks; support individual social enterprises; share knowledge and understanding; support private business to become more socially enterprising; and raise awareness of social enterprise and what it can achieve. Social Enterprise UK is the membership and campaigning body for the social enterprise movement.

The recent VCSE Review<sup>1</sup>, produced in partnership representatives of the VCSE sector and the Department of Health, NHS England, and Public Health England set out how there are "at least 10,000 more social enterprises" delivering health and care services across the country. VCSE organisations have been delivering health and care long before, and indeed inspiring the birth of the statutory NHS. The VCSE Review described how "The type of health and care work that VCSE organisations do is hugely varied, reflecting their broad range of technical and professional skills and expertise. The sector is known for its diversity and flexibility – ranging

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<sup>1</sup> <https://vcsereview.org.uk/about/>

from large organisations with significant income and staffing to small community groups run largely by volunteers.” There are an estimated 3 million volunteers in health and social care, and 5 million unpaid carers.

Since 2010 around, 50 health and social care social enterprise ‘spin-outs’ have emerged from the statutory sector across the UK, delivering a range of services from community and mental health, to public health, primary care, dentistry and audiology. Their combined turnover is around £1 billion per year.

## **Our Response**

We welcome the draft instrument to amend the scheme regulations to support the development and adoption of new care models as articulated in the Five Year Forward View.

But as well as these new models of delivering care services which transcend traditional boundaries, social enterprises are already delivering innovative services across the country, under diverse commercial arrangements. So more widely, these new rules can support existing and emerging public-spirited, staff and user-owned, transparent social enterprises who often provide the best hope we have for addressing the challenges of:

- financial sustainability - through more sensible and sustainable financial incentives
- integration of health and social care - as it is often the mission of a social enterprise to work collaboratively with partner organisations to build integrated, preventative approaches to care
- developing innovative and preventative care closer to home - as employee owned businesses and social enterprise are better positioned to support and foster innovation; and
- co-production - as there are risks to asking patients and service users to engage in co-production of services run by a private company on a profit-making basis.

We agree that it is critical that income from new types of contracts relating to new ways of delivering primary and secondary care are pensionable. Independent providers of clinical health care services for the NHS who only hold an NHS standard sub-contract or a Multispecialty Community Provider standard sub-contract, for example, must be enabled to apply to become NHS Pension Scheme employing authorities.

## Concerns

The Fair Playing Field Review<sup>2</sup> concluded, “The Government has made a commitment to allow NHS staff who are members of the NHS Pension Scheme to retain their membership if they are transferred to a non-public health care employer. However, to remove this distortion fully, all staff working in NHS-funded health care services should have access to the NHS pension scheme, not just those currently working for the public sector. We recognise this presents practical challenges. However, we recommend that the Government works to overcome them.”

Yet 4 years on from the publication of that review, it remains the case that not all staff working in NHS-funded health care services have access to the NHS pension scheme. This is unfair. As

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<sup>2</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/284634/The\\_Fair\\_Playing\\_Field\\_Review\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284634/The_Fair_Playing_Field_Review_FINAL.pdf)

the Fair Playing Field Review concluded, “at present this is a cost distortion that disadvantages private and charitable sector providers of new NHS-funded clinical services.”

We have concerns with 4 particular issues:

- Sub-contracting – we welcome the decision to extend current Independent Provider rules to sub-contractors. However, this needs to be resolved quickly as it is starting to impact on our ability to recruit and retain staff. Some social enterprises have already lost dental staff or OT professionals, for instance, who have transferred to acute providers because of access to the NHS pension.
- The NHS standard contract - we welcome access to the Pension Scheme being granted to those using a recognised sub-contract. But for other types of contract, such as PDS dental contracts, for example, this is some way short of a fair solution.
- NHS-funded clinical services – there is still sometimes ongoing lack of clarity and understanding as to what constituted NHS funded clinical services, such as health checks not being recognised as clinical health care and for the improvement and protection of public health.
- Bureaucracy – calculating eligibility incurs significant administrative burdens which impact on providers’ ability to deliver the best possible value for money. In practice of members face:
  - Every year having to undertake burdensome calculations
  - Waiting, sometimes months, until eligibility is approved
  - Having to track who has access and who doesn’t
  - Dealing with lower staff morale and, frankly, worry of staff due to the uncertainty of the current arrangements.

In one instance, one social enterprise had to change commissioners through novating the contract to NHS England in order to access the pension.

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