

Freedom of Information Request

Request:

1. Are GP's who own their own Practice and employ staff kept regularly up to date with the NHS pension scheme and their responsibilities as employers? (If they were could I please have a copy of the communications sent if you have them.)

All NHS Pension Scheme Employing Authorities (EAs), including GP Practices, are regularly updated.

Section 21 of the Act exempts public authorities from providing information if it is already in the public domain, for example, via the authority's website. NHS Pensions Division Technical Newsletters, GP Letters, Scheme member booklets, etc can all be found on our website, www.nhsbsa.nhs.uk/pensions. Click onto 'Employers Library' then onto 'Employers Newsletters' where all the Technical Newsletters (TNs) and GP Letters (covering admission to the Scheme in 1997) can be found.

2. What form do these updates take - i.e. letters, publications, e-mails and approx how often are they sent out etc? (Could I please have a copy of the communications sent if you have them).

The regularity of any information that we provide depends upon the need. The Scheme member booklets are updated on a regular basis to take account for any Scheme developments.

Section 21 of the Act exempts public authorities from providing information if it is already published, for example, via the authority's website. NHS Pensions Division publications (i.e. Technical Newsletters, GP Letters) can all be found on our website.

3. When the scheme changed to allow the inclusion of admin employees of GP's in 1997 was this newly created policy communicated to all Practices? (If it was could I

please have a copy of the communications sent if you have them)

In 1997 the NHS Pensions Agency (the Division's predecessor) identified and contacted GP Practices in England & Wales in order to set them up as EAs. There were several communications at the time including GP Letters and Technical Newsletters (TN) 6/97 and 8/98. These are available on our website.

Scheme access was opened up to all GP Practice employees, not just clerical staff.

4. Was there a one-off communication, or was the level of information sent out by the NHSPA regarding this important change higher and more frequent - Please describe this? As stated above there have been several TNs and GP Letters issued in respect of the admission of GP Practice Staff.

5. Would the NHSPA expect every employee of a GP working within the NHS to be included to the scheme if they have not completed an SD502 form to opt out? A qualifying NHS employee should be in the Scheme unless they have completed a SD502 or similar.

6. Should an SD502 form be pre-completed by an employer and not by the employee it relates to?

There is nothing irregular in an employer pre-completing the SD502.

7. Should the employer expect this form to be returned to them to read and forward, instead of to the NHSPA directly?

The employer should send the original copy of the SD502 to NHS Pensions and retain a copy for their records.

8. If an employing GP / Practice Manager has any query relating to the scheme and their responsibilities, is there advice readily available from the NHSPA?

Yes; our website provides contact details for employers and copies of TNs, GP Letters, etc.

9. Are the NHSPA thorough in ensuring that GP's who employ admin staff are fully aware that automatic inclusion for their staff on their point of employment into the NHS pension is a legal / regulatory requirement?

We provide guidance to employers, who are also regarded as Scheme administrators, in the form TNs, GP letters, etc.

10. How was this legal requirement regarding the inclusion of admin staff within a Practice communicated to employing GP's and how did the NHSPA ensure the information had got to the people (employers) that needed it?

In 1997 the Pensions Agency issued several communications (as outlined above) about the admission of GP Practice Staff to the Scheme. There was also information at the time in press articles. The Regulations are also available on our website.

11. Was the notification of this legal requirement a one-off communication, or has there been regular information given to Practices regarding this matter?

Regular information has been provided to GP Practices.

12. Does the NHSPA communicate with the Practice business owner only, or do they also communicate with the Practice Manager?

The Pensions Division communicates with the Employing Authority; i.e. the Practice.

13. Has the NHSPA ever sent out informational literature that was intended for general distribution among the employees of a Practice as well as the business owner and Practice Manager, and if so, approx how often is this done?

Yes; please refer to the GP Practice Staff Scheme booklet on our website (click onto 'Members Library')

14. Could it be described as 'common practice' for an employing GP and Practice Manager to be guilty of 'non-disclosure' and malpractice resulting in every single employee not being entered into the NHS pension scheme without ever completing an SD502 form, or is this a very rare occurrence?

We do not hold information on this in order to comment.

15. How did the NHSPA ensure that all GP Practices affected by the changes to the scheme (making inclusion mandatory for admin staff unless they opt out using an SD502 form) were made aware - Was there a way of checking every Practice affected was informed or any type of follow up? As stated above the Pensions Agency wrote to all GP Practices at the time.

16. Is the North West London Medical Centre, 56 Maida Vale, London, W9 1PP on your list of Practices that receive updates, literature and e-mails etc?

The North West London Medical Centre is an Employing Authority and therefore has access to Scheme literature.

17. If the above Practice is known to you, and the NHSPA has communicated with them, how long has this been the case?

The Practice would have been in a position to receive Scheme information since 1997.

18. Was the above Practice communicated with in 1997 when the NHS pension scheme regulations changed?

The Practice would have been in a position to receive information (such as GP Letters) about the Scheme since 1997.

19. Was the above Practice communicated with whenever there's been a significant change to the scheme and it's provisions?

The Practice would have been in a position to receive information about Scheme changes since 1997. Every EA has access to Technical Newsletters.

20. Do you have named points of contact at the NorthWest London Medical Centre with which to communicate?

Yes.

21. If there are named points of contact - Who are they (if you can disclose this) and how long have they been the people with which the NHSPA communicate about the scheme?

Cannot disclose; Section 40 exemption.

22. Would the NHSPA consider an employment contract stipulating that staff were NOT in ANY pension scheme, but that 'if they were interested they could speak to the Manager about it', as being complicit with the law / regulations as they stand regarding automatic inclusion on your point of employment?

Part B of the regulations cover Scheme inclusion. Regulation B4 covers opting out of the Scheme. A contract of employment cannot override the statutory Regulations.

23. Would the NHSPA expect an employer to fully inform staff about the scheme and it's benefits, as well as ensure they are included at their point of employment?

Yes; every NHS employer should make its employees aware of their pension rights including access to stakeholder pensions, etc.

24. Is it sufficient to merely refer to the NHS scheme as an 'occupational pension scheme' you can 'ask your Manager about' in your contract / HR handbook?

The NHSPS is an occupational public sector pension scheme. We cannot comment on the second question.

25. If you need information about the scheme and the financial ramifications of opting out using an SD502 form, should your employer bring in their own accountant to 'advise' you and then present you with an SD502 form, or would the NHSPA

expect that an employee be advised to take time to think on it and seek independent financial advice from outside the workplace by their employer after they've provided them with the literature needed to make this informed decision?

All EAs have access to Scheme stationery including the form SD502. The remainder of this question, by virtue of asking for a view/opinion, does not fall under the definition of a request for information under Section 84 of the FOI Act.

26. When the regulations were changed how were GP's increased staff costs offset now that they had to pay employer contributions, or were they expected to meet the full cost of this regulatory change out of their existing budgets?

This is a question related to funding for which the Pensions Division is not responsible. However, prior to 2004 a Practice would have requested additional funding from their PCT/FHSA to cover employer costs; it should be noted though that this funding was not always forthcoming.

Since 2004 the budget that a Practice receives from the PCT is based on the number, and type, of patients and not the number of staff employed

27. When the 'PMS' contracts / system of payments to GP's were introduced in 2003 their overall budgets were captured and all included into what was known as the 'Global Sum Payment' - This included staffing costs. As inclusion into the NHS pension scheme was now mandatory for admin staff, was the cost of the anticipated contributions an employer would have to make factored in when the Global Sum amount was calculated?

This is a question related to the funding a Practice receives for which the Pensions Division is not responsible. Global sums are a feature of a GMS Practice, not a PMS Practice.

28. Is there a record of the North West London Medical Centre, 56 Maida Vale, London, W9 1PP ever having had staff included into the NHS pension scheme - If so how many and for what dates?

Our records indicate that there are Scheme members employed at the Practice however, in accordance with Section 40, we cannot provide any more information.

29. Prior to 16th June 2008, is there a record that this Practice ever sought advice from the NHSPA, or had any contact with yourselves that originated from their end since 1997? This scenario will help explain question 30 - An employee becomes aware of the NHS pension schemes existence in 2008 but actually started work in 2003, has NEVER completed an SD502 form to opt-out, complains directly to the NHSPA and then is allowed to back-pay five years of employee contributions to the NHSPA in order to NOW have the entitlement they SHOULD have had IF their employer had of complied with the law regarding automatic inclusion

Every Scheme member has a unique 'pensions file'; this includes information about each of their pensionable employments, pay, etc. The Pensions Division, for accounting purposes, keeps records of Scheme contributions sent in by each EA and can identify the number of Scheme members under a specific EA.

However, by virtue that the Pensions Division does not hold centralised records of correspondence from each EA it cannot confirm if this Practice sought advice prior to 2008.

30. How often have the NHSPA allowed an employee of a GP inclusion into the NHS pension scheme and backdate their inclusion / benefits accrued for more than five years as a result of 'non-disclosure' about the scheme on the part of the employing GP concerned? (on the point of employment) We do not hold the data in order to answer this question however backdated access to the Scheme is allowed regardless of the length of time however is subject to the member paying Scheme employee contributions.

31. If this type of 'scenario' is not recorded by the NHSPA, would it be considered a very rare event or an everyday occurrence?

We do not hold the data in order to answer this question.

32. Have the NHSPA ever communicated with Westminster Primary Care Trust, and whatever body paid the budget of the NorthWest London Medical Centre prior the the Trusts creation about the Practice specifically, and the NHS pension scheme in relation to it? By virtue that the Practice in question is run by an individual, in accordance with Section 40, we cannot provide any more information.

33. If the answer to the question above is yes, could I please have copies of these communications. If some of it mentions specifics / names / amounts that fall outside the terms of the FOI act I am happy for those parts to be blacked out for privacy prior to sending them to me.

By virtue that the Practice in question is run by an individual, in accordance with Section 40, we cannot provide any more information.

34. If an employing GP is aware of the NHS pension scheme, the regulations that make inclusion mandatory, the purpose of an SD502 form as the ONLY way of opting out of the scheme and they still fail to place their employees into the scheme is this still classed as merely a case of 'non-disclosure' and 'maladministration?' Regulation B4 covers opting out of the Scheme and states that a person must give notice in writing. The SD502 is the standard 'notice in writing' form however, by virtue that the Regulations do not make specific reference a SD502 means that a letter would suffice.

35. Taking the above question into consideration. Is it also a breach of the law / regulations as they are stipulated?

Regulation B1(2) states that each eligible person will, on commencing NHS employment, be included in the Scheme unless they opt out. Therefore if an EA does not allow an employee, who has not opted out, into the NHS Pension Scheme they are acting in breach of the statutory NHS Pension Scheme Regulations.

36. The SD502 form is a very important document. It is the only way an employee can opt-out of the NHS pension they are legally supposed to be entered into at the point of employment. Has the NHSPA communicated the purpose of this document to all GP employers / Practice Managers?

Regulations B1 and B4 cover Scheme membership and opting out. As stated above all EAs have access to Scheme literature (including the Regulations) on our website.

37. If the answer to the above is yes, has this been a one-off communication, or is it something that's been regularly captured in the literature the NHSPA have sent to Practices since 1997?

Click onto 'Employers Library' then onto 'Employers Newsletters' where the GP Letters (covering admission to the Scheme in 1997) can be found.

38. In light of the information sent / freely available to employing GP's and Practice Manager's, does the NHSPA receive regularly receive complaints from employing GPs / Practice Manager's that are in complete ignorance of the basics of the scheme?

The Pensions Division does not keep a unique record of any such complaints so cannot answer this question.

39. Is awareness of the scheme and the automatic right of inclusion of admin staff by their employers an ongoing concern within the NHSPA, or do you feel you have this issue in hand with the protocols you have in place?

We do not hold the data in order to answer this question.

40. With the protocols you must have, is it conceivable that a Practice somehow could slip through the net and remain ignorant of changes to the law / regulations regarding automatic inclusion for admin staff for an eleven year period - i.e. Since November 1997?

We do not hold the information in order to answer this question.

41. Obviously the changes to the scheme in Nov 1997 that made automatic inclusion for admin staff mandatory was a very major shift in policy and it affected every GP in the UK. In light of this, was there any sort of 'campaign' or co-ordinated plan to ensure this huge change was clearly communicated to ALL employers affected by this change?

As stated already there was publicity at the time and NHS trade unions also issued guidance to their members. Click onto 'Employers Library' on our website then onto 'Employers Newsletters' where the GP Letters (covering admission to the Scheme in September 1997) issued by the Pensions Agency can be found.

42. If the answer to the above is yes, could you please provide a brief description of how the NHSPA approached this, and how it ensured the correct information was communicated.

Please refer to the answer given at 41.

43. In 1997 when inclusion became mandatory there must have been a system whereby the NHSPA could satisfy itself that it had met its responsibilities to avoid vast swathes of employees having difficulties gaining inclusion or being included very late. The NHSPA would also have to protect employers from having to unexpectedly find large lump-sums of money for backdated contributions if this was not introduced as soon as it became law and their ignorance resulted in very late inclusion for all their admin staff. What methods did the NHSPA employ to do this, and how was it checked that all stakeholders were captured when this information was distributed?

In 1997 the Secretary of State announced that GP Practices would be afforded access to the NHS Pension Scheme. The Pensions Agency identified those GP Practices that qualified as EAs and contacted them. As stated above, there was publicity, GP letters, etc in 1997.

The Department of Health, not the Pensions Agency, addressed the issue of additional funding for increased employer costs.

44. In 2004 the levels of employer / employee contributions changed. This would have caused problems similar to the ones outlined in the question above. What methods did the NHSPA employ to do this, and how was it checked that all stakeholders were captured when this information was distributed?

Any changes to the level of Scheme contributions are notified in the form of Technical Newsletters; i.e. TNs 17/2002 and 3/2004. The direct debit mandate system that is used to collect contributions ensures that the correct rate is applied.

45. When major changes are made to the scheme and the NHSPA feels it must communicate these developments to its stakeholders, does it only communicate the bare minimum or do you seek to provide detailed info along with readily accessible support that's clearly advertised in the literature you send?

The most common way is to issue Technical Newsletters however 'pensions road shows' are occasionally held.

46. Inclusion is now automatic for admin staff and has been since 1997. When this was communicated to employing GP's was it fully explained the part an SD502 form plays should an employee wish to opt out of the NHS pension scheme? Please refer to the GP Letters on our website.

Status: Complete

Response Date: 03/12/2008