



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

PENSION SCHEMES

NOTIFICATION BY PENSION SCHEME TRUSTEES

INTRODUCTORY NOTES

1. The Information Commissioner is responsible for promoting the Data Protection Act 1998 ('the Act') and enforcing that Act. He interprets the Act and provides advice about it. We do receive a number of queries about pension schemes. The most frequently asked question is whether trustees of pension schemes should notify as data controllers under the Act.
2. If you are involved in the operation of a pension scheme you will appreciate the complexity of the pensions industry itself. There are a range of schemes available. In practice there also appears to be different ways of operating or administering even similar schemes.
3. The basic notification requirements of the Data Protection Act 1998 are straightforward. Broadly speaking a data controller – a person who determines the purposes for which and the manner in which any personal data are, or are to be processed – must notify unless there is a relevant exemption for the processing in question. However in practice determining who is the data controller may not always be so simple. Determining who is the data controller always requires close attention to the facts of the particular case and the decision made should reflect the facts of the case.
4. There is no specific exemption from notification relevant to the processing of personal data for pension purposes. There is an exemption from notification where the processing is only of manually-held personal data. Apart from this exemption for manual records, the only exemption which may be relevant is the exemption at section 36 of the Act for personal, family or household affairs which includes exemption from notification. If you are the sole member and trustee of an occupational pension scheme you may wish to rely on this exemption.
5. In many cases we can provide a straightforward and clear answer to those enquiring about their notification position in respect of their pension scheme related processing. In some cases we cannot. The decision whether to notify is a matter for the data controller in the first instance. Failure to notify when notification is required is a criminal offence. Any data controller seeking to rely on an exemption from notification would be well advised to document the basis for relying on the exemption in case the issue of non-notification is raised in future.

Broad summary of the general position

Trustees of occupational pension schemes are likely to have to notify with this office, except where the sole trustee is an individual who is also the sole member. The sole trustee in this situation may seek to rely on the exemption at section 36 of the Act for personal, family or household affairs which includes exemption from notification.

Bearing in mind the general points made above, you should now read the Frequently Asked Questions on the next page which amplify this statement.

FREQUENTLY ASKED QUESTIONS

A Is notification required?

Q1 I run my own business. I am a sole trader. I am the sole trustee for my own pension scheme. There are no other members. Am I required to notify as a trustee of the scheme?

As trustee you are not required to notify. (See the introductory notes, paragraph 4, section 36 exemption.)

Q2. I run a small family business. There is a pension scheme. All the members of the scheme are family members. All the trustees are family members. Are the trustees required to notify?

The trustees are required to notify.

Q3. I am a trustee of a small self-administered scheme (a SSAS). Do the trustees of the scheme have to notify?

The trustees are required to notify.

Q4. I run a company and we have an occupational pension scheme for employees. Do the trustees have to notify?

The trustees are required to notify.

Q5. I run a company and our employees contribute to a Group Personal Pension Plan. Should there be a specific notification for the pension schemes?

A notification is not required where each individual is responsible for his own scheme. (See introductory notes, paragraph 4, section 36 exemption.)

Q6. My company has set up a Stakeholder pension scheme for its employees. Should there be a specific notification for the pension scheme?

Whether there should be a specific notification for the pension scheme will depend on how the scheme is set up.

If the scheme is set up under a trust, the trustees will be required to notify.

If the scheme is not set up under a trust but each individual is responsible for his own scheme notification will not be required. (See introductory notes.)

B. How do I notify?

You can complete the notification form online at www.ico.gov.uk print it and send the form to us with the correct notification fee to:

The Notification Department, Information Commissioner's Office, PO Box 66, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

or

You can request a draft notification by completing the attached 'Request for a Notification Form' and returning it to us by fax on 01645-545748 or by post to: Notification Requests, The Notification Department, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Alternatively the information can be e-mailed.

The Notification Department will then send the notification forms for further completion.

or

You can telephone the Notification Helpline on 01625 545740. You will be asked to provide your name, address and contact details and to specify the nature of your business.

C. What happens if I don't notify but I should?

Failure to notify when notification is required is a criminal offence.

Any data controller seeking to rely on an exemption from notification would be well advised to document the basis for relying on the exemption in case the issue of non-notification is raised in future.

D. What else do I have to do to comply with the Data Protection Act 1998?

As a data controller, whether you are notified or not, you must comply with the eight Data Protection Principles. Guidance on these can be found on our website:

www.ico.gov.uk.

E. Do you still need advice?

We can only answer enquiries about pensions which relate to data protection matters. If the information provided here has not answered your pension related data protection enquiry, please write to:

CAD Team 5 – Pensions Enquiry
Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

or email by using the online enquiry form on our website www.ico.gov.uk

Request for a Notification Form

If you have determined that notification is required there are two easy ways to notify.

1. Complete The Form Below – send it to us, fax it (01625 545748) or email the information and a draft notification form **will be sent to you for further action**.
2. Internet – you can complete the notification form on-line by visiting our website (www.ico.gov.uk). The form should then be printed and sent to us with the appropriate fee.

Data Controller Name: <i>(E.g. Trustees of XYZ Ltd Pension Scheme)</i>	
Data Controller Address: <i>(if a Ltd or plc company this should be the registered office address)</i>	
Company Reg. Number <i>(optional):</i>	
Contact Name & Job Title:	
Contact Address:	
Contact Telephone Number:	
Contact Fax Number:	
Contact Email Address:	
<i>Nature of Business: e.g. Doctor, Accountant. (Please note it is essential to indicate the nature of business so that the correct information can be sent to you.)</i>	N822 Pensions Administration

Signature _____

Name _____

Job Title _____

Date _____

Tel. No. _____

Advice about any aspect of notification can be obtained by writing to the address below or by calling the notification help line on 01625 545740.

PLEASE DO NOT SEND ANY MONIES WITH THIS FORM

Notification Dept, Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire. SK9 5AF.
 t: 01625 545740, f: 01625 545748 e: notification@ico.gsi.gov.uk w: ico.gov.uk

Data Controller Name

The name you provide must be the correct legal title of the individual or organisation. Examples are given below.

- **Sole Traders**
Provide the full name of the individual e.g. Anna Katherine Smith
- **Partnerships**
Provide the trading name of the firm e.g. Buttersfield & Co (you do not have to provide the names of the partners)
- **Limited or public limited companies**
Provide the full name of the company e.g. ABC Ltd - not your trading name.
- **Groups of companies**
Groups of companies cannot submit a single notification. Individual companies who are data controllers must notify separately.
- **Schools**
Provide the name of the school – e.g. Hazeldown School
- **Others, e.g. voluntary bodies**
Provide the name by which you are known to the public.

Data controller address

If you are a limited company you must provide your registered office address. In all other cases you must provide the address of your principal place of business. If there is no place of business (e.g. for a small local voluntary body) you should provide the address of the official who has completed the form.

Company Registration Number

If you are a limited or public limited company we encourage you to provide your company registration number as a unique identifier for the company. However, you are not obliged to provide it.

Contact details

You may provide a name, address (within the UK), telephone number, fax number and e-mail address. We will use these details for all correspondence in connection with your notification. These details will not appear on the public register.