



Department of Health & Social Care

Freedom of Information Team
Department of Health and Social Care
39 Victoria Street
London
SW1H 0EU

www.gov.uk/dhsc

Dr Moshin Khan
request-569573-583f66d2@whatdotheyknow.com

17 May 2019

Dear Dr Kahn,

Freedom of Information Request Reference FOI-1173890

Thank you for your request dated 17 April in which you asked the Department of Health and Social Care (DHSC):

*"Dear Department of Health and Social Care,
The Heath Secretary has the power to remove NHS Pension Scheme benefits from those convicted of certain crimes.
How many times has this power been used, broken down by year?
If possible, I'm asking about the time period 1990-2019, but if this is too costly or cumbersome, please provide me with data for as far as back as reasonable from the present day. "*

Your request has been handled under the Freedom of Information Act (FOIA).

I can confirm that the Department holds information relevant to your request.

However, where a number of individuals is less than or equal to five, we are unable to disclose the exact number of cases under section 40(2) of the FOI Act, which relates to personal information of third parties.

We consider that the disclosure of this information could breach an individual's confidentiality, as there is a risk that individuals may be identified if this data is put together with other information that is, or may become, available on that individual. We believe that this could cause unnecessary or unjustified distress or damage to the individual in question, and would therefore contravene the principles of 'fairness' as defined by the Data Protection Act.

Outside of the Act and at our discretion, you find the following information useful. The Secretary of State for Health and Social Care has the power to forfeit a Scheme member's right to pension benefits or other rights payable under NHS Pension Scheme (NHSPS) Regulations.

The power to forfeit NHSPS benefits is found in the NHS Pension Scheme Regulations (the National Health Service Pension Regulations 1995, regulation T6 (SI 1995/300); the National Health Service Pension Scheme Regulations 2008, regulations 2.J.7 and 3.J.7 (SI 2008/653); and the National Health Service Pension Scheme Regulations 2015, paragraph 12 of Schedule 3 (SI 2015/94)).

The power to forfeit is discretionary, meaning the Secretary of State may forfeit all or part of any NHSPS benefits in relation to a member, if the member has been convicted of:

- a) an offence in connection with employment to which the pension scheme applies (i.e. their NHS employment) which the Secretary of State considers to be gravely injurious to the State or liable to lead to serious loss of confidence in the public service, or
- b) an offence of treason, or
- c) one or more offences under the Official Secrets Act 1911 to 1989 for which the member has been sentenced to a jail term/s of at least 10 years.

Please note that from 1990 to the present day there were 22 forfeiture cases.

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the address at the top of this letter, or the email address at the end of this letter.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner (ICO) who may decide to investigate your concerns. Generally, the ICO cannot make a decision unless you have already appealed our original response, and received our internal review response. The ICO will not usually investigate concerns where there has been an undue delay in bringing it to their attention. You should raise your concerns with them within three months of your last meaningful contact with us.

The ICO can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

<https://ico.org.uk/concerns/>

Yours sincerely,

Ed Franklyn
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