

The original and authentic Practice value index

Why do we do it?

Frank Taylor & Associates clarifies who is eligible for workplace pensions auto-enrolment

Sometimes we are asked why we get involved with how dentists run their business when we are sales agents. The reality is we consider ourselves well placed to identify core business issues that are pertinent to the successful running of a dental practice and will always encourage any principal to ensure his/her business is well led and well managed – both of which are areas that CQC will be looking at during any inspection.

Key considerations

One really important area for consideration to any business owner is workplace pensions auto-enrolment and listed below are key points that should be considered:

- Auto-enrolment brings with it 33 new mandatory pension responsibilities for an employer – at worst failure to comply could result in a jail sentence
- There are 1.2 million employers yet to auto-enrol, all of which will have to enrol between now and April 2017, which sounds a long way away – but it is only 13 months
- Even if all of your employees opt out you still have to enrol and keep the regulator updated
- The definition of a ‘worker’ is being challenged, so even a self-employed associate may be classed as a ‘worker’ and there could be a liability on your part for auto-enrolment.

Laura Pearce, a senior solicitor at JFH Law, has commented on who is an eligible job holder:

‘An eligible job holder is a worker who:

- ‘Is working under a contract
- ‘Is aged at least 22 and under state retirement age
- ‘Earns at least £10,000 (in 2015/2016).

‘Therefore it’s not just employees who must be enrolled; it is workers, agency staff, apprentices, and could even extend to some self-employed contractors. It will also cover permanent and temporary staff and those on fixed-term contracts.

‘Given this is a relatively new scheme, there is limited legal guidance as to what an eligible job holder, or worker, will be for the purposes of the Pensions Act 2008. However, the definition is similar to that found within the Employment Rights Act 1996. As such, we can look to existing case law to assist with the definition of a “worker” under the new act.

‘Interestingly, in the case of *The Hospital Medical Group Limited (HMG) v Westwood (2012) EWCA Civ 1005*, the Court of Appeal held that a GP working as a self-employed independent contractor for a private clinic was a worker.

‘Dr Westwood held three positions. He was contracted by the HMG to perform hair loss surgery for its clients, and he was referred to in marketing material as “one of our surgeons”. He also had his own medical practice that he worked at, and finally, he had a contract to provide advice on transgender issues with another separate clinic.

‘When asked to determine whether he was a “worker” at the HMG, the Court of Appeal held that there is a distinction

between those who market their services independently to the world in general and those recruited by the principal to work as an integral part of the principal’s operations.

‘Whilst there was no requirement for the clinic to provide work and for Dr Westwood to accept it, the HMG had engaged Dr Westwood because of his skills. The patients were clients of the clinic, not Dr Westwood. The principal therefore recruited him as an integral part of the principal’s operations. He was therefore considered a worker despite the flexibility of his role and the terms of his written contract stating he was a self-employed independent contractor.

‘The parallels between Dr Westwood’s position and that of most self-employed associate dentists are clear. As such, it seems extremely likely that for the purposes of pension enrolment legislation, associate dentists will be considered an eligible job holder working under a contract. As such, they will need to be included in the practice’s qualifying pension scheme, unless of course they choose to opt out.’

Further points to consider

- It is estimated that an employer who self-administers will have to set aside the equivalent of 10 working days a year to ensure the scheme is running properly
- Some employers are relying on their accountant to sort out auto-enrolment for them; some accountants are failing in this and yet it is the employer that is being held liable for any delays
- Failure to have a fully operational scheme in place will cost a £400 fine with ongoing daily charges until a scheme is in place
- In the last quarter of 2015 a record number of 335 firms had been fined – this number is expected to increase day by day
- If you are in the process of selling your practice there may be a delay whilst auto-enrolment is sorted out



- NEST is a scheme the government has highlighted; however, it does not deal with any of the administrative burden or employee communications.

Make a call to our office and talk to one of our account managers about Simple Pensions, which is a service specially designed for dentists and is only available from our in-house team.

All we need is your staging date or PAYE number. Currently it will cost you nothing for a bespoke proposal for your business. A solution can be produced for you even if you have more than one practice and savings can be made on multi-location practices.

If your accountant is already dealing with your auto enrolment, Simple Pensions can work with them to take away the administrative burden and ensure you are complying with all 33 new mandatory regulations. It is that simple. Remember, there is no way of avoiding auto-enrolment, it is here, and it will affect you and your business unless you are a limited company with only one director. **D**

IF YOU WOULD like advice on who an eligible job holder may be in your practice, contact Laura on 0207 388 1658 or lpearce@jfhlaw.co.uk. To find out more about Simple Pensions, contact Frank Taylor & Associates on 0330 088 1156 or team@ft-associates.com or visit www.ft-associates.com.

Practice one – Hertfordshire

Practice location – This practice is located in a very desirable location situated on the ground and lower ground floors of a shop-fronted property in a small parade of shops. This is mainly a residential area with a mainline train station close by.

Practice type – This is a two-surgery fully private practice, established for six years and operates as a profit share partnership.

Practice financials – Gross fee income from management information for the past 12 months is in the region of £200,000. Included in this figure is a rental income of circa £4,000 from an osteopath who rents a room. One principal working 2.5 days a week and one working two days a week have generated the gross, alongside an associate one afternoon a week, an associate one day a month and a third associated available as needed. In addition, there are two hygienists both working one day a week, a full-time dental nurse, a part-time dental nurse working three days a week and a part-time receptionist.

Price achieved – A price of £316,805 was achieved, which was the asking price.

Agent’s comments – The practice is in a very desirable location and with the enthusiasm of a new principal in place and the fact that the current opening hours could be extended to provide five full days, there is a real opportunity to develop and grow the practice. There is an additional potential in the rental room as it could be converted into a third surgery where it could produce a great return on investment than the current occupier provides at £4,000 per annum.

Practice two – Essex

Practice location – This practice occupies the ground floor of a large detached two-storey property located in a residential area close to a parade of shops and a local health centre.

Practice type – This is a five-surgery mixed practice, which is mainly NHS and is sold as leasehold. There is 14 years left on the lease with rent at £1,000 per month and rent reviews every four years.

Practice financials – The gross fee income from management information for the past 12 months is in the region of £600,000, which is derived from a NHS-GDS contract and some fee per item. The principal works four days a week and three associates each work 3.5 days a week. In addition, there is a full-time manager and three nurses who work a combined 107 hours per week and two nurses/receptionists who work a combined 58 hours a week.

Price achieved – A price of £1,155,000 was achieved, which was in excess of the asking price. FTA Finance sourced the funding for this purchase.

Agent’s comments – Not surprisingly, this was a very popular practice in one of the most sought after locations and with a substantial NHS contract. From practice launch to an accepted offer was less than three months, and due to the popularity of the practice we went to the sealed bids process. Selling a practice with an NHS element is far more complicated than selling a private practice, as CQC requirements demand a joint registration and this can delay the sale time considerably.

Practice three – London

Practice location – This practice occupies the ground floor of a prominent corner property situated across the road from a mainline station in a busy London suburb.

Practice type – This is a one-surgery fully private practice, established over 16 years. It is a leasehold practice with 16 years on a lease left to run; the current annual rent is £29,400 with rent reviews every four years. The principal is selling to enable relocation.

Practice financials – The gross fee income from management information for the past 12 months is in the region of £210,000, of which 98% derived from private income and 2% from a Denplan scheme. The principal worked 2.5 days a week and increased to three days a week in February 2015. In addition, there is a full-time nurse/receptionist and a receptionist working four days a week.

Price achieved – A price of 262,640 was achieved, which was the asking price.

Agent’s comments – The adjusted net profit for this practice is 43% and there is still a great opportunity to develop the practice, as the current principal works only three days a week. The practice is location in a desirable area with many opportunities for the incoming principal to undertake a substantial marketing campaign.

Practice four – Surrey/south west London

Practice location – This practice occupies the ground floor of a mid-terrace shop-fronted practice situated on a busy high street. There is a mix of residential homes and local shops in close proximity and footfall from local commuters.

Practice type – This is a two-surgery predominately private practice being sold as leasehold with a new lease of 15 years being created. The practice was established over 100 years ago and the principal is looking to sell to focus on other business opportunities.

Practice financials – The gross fee income from management information for the past 12 months is in the region of £250,000, of which 30% derived from private income and the balance from a NHS-GDS contract. The principal works 14 hours a week, assisted by an associate who works 12 hours a week, two hygienists who both work seven hours a week, a full-time and a part-time nurse/receptionist and a part-time manager who works 19 hours per week.

Price achieved – A price of £411,000 was achieved, which was in excess of the asking price.

Agent’s comments – This practice is yet another example of where an incoming principal who is planning on working at the practice could massively affect the profitability by working at the practice full-time and thereby losing the cost of the associate. The current adjusted net profit is just over 50% and an ideal practice for an associate stepping into the role of principal for the first time.