

Auto-Enrolment and Workplace Pension Reform

Information sheet No. 3 – Human Resource Issues

This information sheet gives a high-level summary of the forthcoming requirements, and particularly focuses on the issues that will need to be considered by Human Resource personnel. Previous information sheets include a detailed summary of the requirements and financial implications – to access these and register for updates, please see “Services and Further Information”.

Summary of the Requirements

The new duties will be introduced at employers’ “staging dates”; these will be staged over a period of four years starting in October 2012 and beginning with the largest employers. The Government announced on 28 November 2011 a delay to proposed staging dates for employers with less than 50 employees; there will also be a very small knock-on adjustment to staging dates for employers with between 50 and 3,000 employees. A revised schedule of staging dates is expected to be announced in January 2012.

Employers will need to assess their workforces, including consideration of whether the requirements extend to non-employees, e.g. agency staff and contractors. Workers will need to be categorised as either Eligible Jobholders, Non-Eligible Jobholders or Entitled Workers, and the following table summarises the requirements for each group. Qualifying earnings are based on an employee’s total earnings, i.e. including variable pay elements.

Qualifying Earnings	Age 16 – 22	22 – State Pension Age	State Pension Age – 75
Under the lower limit of the qualifying earnings band	Entitled Worker		
Between the lower limit of the qualifying earnings band and the “earnings trigger”		Non-Eligible Jobholder	
Over the earnings trigger	Non-Eligible Jobholder	Eligible Jobholder	Non-Eligible Jobholder

The Government published consultation on 15 December 2011 on its proposals for the automatic enrolment earnings trigger and the lower and upper limits for the qualifying earnings band. The consultation will run to 26 January 2012 and proposes the following:

- £8,105 pa for the automatic enrolment earnings trigger;
- £5,564 pa for the lower limit of the qualifying earnings band; and
- £39,853 pa for the upper limit of the qualifying earnings band.

Please note that annual amounts are shown above but pro-rated amounts will apply for each worker’s relevant pay reference period, e.g. monthly amounts for workers paid by reference to calendar months.

For the purpose of the new duties, pension schemes will be classified as automatic enrolment schemes, qualifying schemes or non-qualifying schemes. Automatic enrolment schemes will generally satisfy the same criteria as qualifying schemes but will additionally need to be open to new joiners and allow them to be auto-enrolled without them providing any information or expressing any choice.

Summary of the Requirements (continued)

The following table summarises the requirements for those workers who are not already participating in a qualifying pension scheme.

Worker Category	Requirement
Eligible Jobholder	Must be auto-enrolled into an automatic enrolment scheme but can then opt out. Opt outs (other than those within the previous 12 months) will need to be re-enrolled at each third anniversary of the employer's staging date.
Non-Eligible Jobholder	Can opt in to an automatic enrolment scheme.
Entitled Worker	Can choose to join a pension scheme. This need not be an automatic enrolment scheme or a qualifying scheme and the employer is not required to contribute.

The minimum requirements for automatic enrolment schemes and qualifying schemes are very generally:

- Defined benefit schemes will need to be either contracted-out of the State Second Pension or be deemed to meet the "test scheme standard";
- Defined contribution schemes will need to meet minimum contribution requirements (see the table below for the minimum requirement options applying from October 2017 - these will be phased in - based on the qualifying earnings band or alternative pensionable pay definitions); and
- Hybrid schemes will generally be measured according to the dominant defined benefit or defined contribution feature.

Definition of pensionable pay	Minimum employer contribution	Minimum total contribution
Qualifying earnings band	3%	8%
Basic pay from the first £1	4%	9%
Pensionable pay at least 85% of total pay	3%	8%
Total pay from the first £1	3%	7%

Considerations

When will the employer become subject to the new requirements?

The new requirements will apply from the employer's staging date. Staging dates will be from 1 October 2012 to 1 September 2016, and will normally be determined based on the number of individuals in the employer's largest PAYE scheme size as at 1 April 2012 (please note this will include any pensioner members paid through the employer's PAYE). The employer may choose to bring forward its staging date to another set staging date more convenient to the operation of its business.

The employer must be ready to comply with the new requirements by its staging date, so a project plan working back from this date (and with some contingency) will help to ensure the employer is adequately prepared.

Who will ensure that the employer is prepared for the new requirements?

In practice, responsibility for preparing for the new requirements is likely to be shared between Human Resources and Finance, and possibly any pension trustees too. It will be important that the respective roles are agreed and understood, so that the potentially high fines for non-compliance are avoided.

Considerations (continued)

Who are workers for the purpose of the requirements and how are they likely to be categorised?

The workforce should be assessed, with recognition that the requirements can potentially extend to workers who do not have a contract of employment, e.g. agency workers and contractors. If there are areas of doubt, this may be a matter on which legal advice is required.

Going forwards from the employer's staging date, any Non-Eligible Jobholders and Entitled Workers who are not participating in qualifying pension provision will need to be re-assessed for each subsequent pay reference period, to monitor whether their categorisation changes. For example, a Non-Eligible Jobholder may exceed the earnings trigger for automatic enrolment or reach age 22 and thus qualify as an Eligible Jobholder. Many pension providers and payroll providers are developing software (commonly known as "middleware") that may help Human Resources categorise their workers and satisfy some of the record keeping requirements.

What are the requirements for the various categories of worker?

There are different information requirements for each of the three categories of worker, and different obligations in terms of pension provision. This may fall to Human Resources to ensure that the new duties are understood and met.

Which pension schemes will the employer use to meet the new requirements?

The employer will need to review its existing pension arrangements and consider what role, if any, they will take with regard to the new requirements. Most existing pension schemes will need some degree of change, and the timescales for this should be recognised. For example, if the employer's benefit spend is to cover a substantially increased proportion of the workforce, consideration will need to be given to the additional costs and in some cases there may need to be some "leveling-down" of benefits.

Within trust-based pension schemes, changes are usually made by a deed of amendment, and this will add to the timescales. Any reduction to benefits will also require a process of formal consultation with the employees and any unions or representative bodies, and again the timescales for this will need to be recognised.

The employer will need to register with the Pensions Regulator (and in some cases also certify) those pension schemes used to comply with the new requirements. To ease this process, the employer may wish to consider any consolidation of existing pension arrangements prior to its staging date.

Will the employer use postponement?

The employer will be allowed to postpone an individual's automatic enrolment date by up to three months. This could be useful to align automatic enrolment with pay reference periods. However, Eligible and Non-Eligible Jobholders may immediately opt in if they wish. A longer period of postponement, up to 1 October 2016, is available (subject to conditions) for any defined benefit or hybrid automatic enrolment schemes.

How are Jobholders enrolled?

The employer will need to understand the actions that need to be undertaken to auto-enrol an Eligible Jobholder, or to enrol a Non-Eligible Jobholder who has completed an opt-in notice, and the timescales within which these need to be achieved.

Who will validate any opt-out, opt-in and joining notices?

The responsibility for this lies with the employer rather than any pension scheme administrators, and it may be that this is undertaken by Human Resources. It will be important therefore to understand the validation process and the implications of each notice. For example, in the event of the receipt of an opt-out notice, if this is provided within a regulatory one-month opt-out period then the duties will include ensuring a refund of any employee contributions deducted from pay within prescribed timescales and stopping further contribution deductions. Thereafter, opt outs (other than those who have opted out within the previous 12 months) will need to be automatically re-enrolled at each third anniversary of the employer's staging date if an Eligible Jobholder at that time.

Considerations (continued)

Planning for the additional administrative burden	The employer will need to assess the additional administrative burden and decide whether any additional internal resource or adviser support is required to manage this.
Record keeping	There will be prescribed records that employers, pension schemes and trustees will need to keep to evidence compliance with the new requirements. The employer's record keeping requirements are likely to fall to Human Resources.
Communications	It is likely that, in addition to the different post-staging communications that will be required for each category of worker, the employer will want to undertake some "warm up" communications on the forthcoming requirements and their implications.
Other employee benefits	Group risk insurances, particularly death in service benefits and sometimes income protection benefits, can be contingent on pension membership. If there is to be any change to levels of pension participation or restructuring of pension provision, the employer should therefore also consider the implications for such other employee benefits.
Impact on pay reviews	It is likely that the forthcoming requirements will mean additional costs for most employers, arising from increased participation for pension provision and other contingent employee benefits (and increased quality of benefits up to the minimum level for some employers), and from additional administrative and support costs. For some employers, these additional costs will need to be managed through pay reviews, perhaps over a number of years.
Safeguarding impact on pay reviews	<p>The employer must not take, or fail to take, any action that would result in a jobholder ceasing to be an active member of a qualifying scheme or automatic enrolment scheme. Any decision by a jobholder to opt out or leave a qualifying scheme or automatic enrolment scheme without joining another should be taken freely and without influence by the employer.</p> <p>The employer must not screen job applicants on grounds relating to their potential scheme membership; this is known as Prohibited Recruitment Conduct.</p>

Services and further information

We provide a range of services to help employers prepare for their forthcoming automatic enrolment duties, e.g. reviewing existing pension arrangements, consultancy on defined benefit and defined contribution pensions, preparation of communications and project management. If you require assistance, please contact your usual Barnett Waddingham consultant or email autoenrol@barnett-waddingham.co.uk

For further information and to access our previous information sheets and register for updates, please visit www.barnett-waddingham.co.uk/auto-enrolment

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