Sackers

Auto-enrolment, taking action

The questions all employers need to ask

auto
enrolment

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2 of 3

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2

This is the second checklist in a series of three, each designed to help employers of all sizes to meet their auto-enrolment obligations. This checklist looks specifically at the various steps employers should consider taking to get to the auto-enrolment finishing line.

Please see our summary for further details of the new requirements.

Are you ready for automatic enrolment?

- Have you taken the initial preparatory steps outlined in our checklist No.1: "Auto-enrolment, are you ready?"
- When will automatic enrolment first apply to you? (See the Pensions Regulator's staging date timeline)
- Have you established your different categories of worker and the proportion eligible for auto-enrolment?
- Have you identified your existing pension arrangement(s)?
- Have you decided how you intend to meet the new requirements in respect of each type of worker?

Who will own the automatic enrolment project and/or whose buy-in is needed?

- Payroll, HR, Finance, or the employer's in-house pensions team (if applicable)?
- A combination of the above?
- Are there likely to be any capacity constraints?
- Are clear lines of communication in place between the parties involved?
- Is it clear to all who is in charge and are there robust decision making processes in place?
- Are the trustees / manager of your chosen pension arrangement(s) on board?

Do you have a project plan?

- How much will auto-enrolment cost to implement and what are the likely ongoing costs?
- Is there a timeline of what needs to be achieved, and by when?
- Do you have professional advisers (actuaries, administrators, benefit consultants, lawyers) in place?
- Are all those involved up to speed with the project and its timescales?

Have you put in place systems to monitor your workers?

- Are any workers due to have a birthday in the run-up to the employer's staging date?
- What arrangements are in place to monitor worker birthdays going forward?
- Will pay rises be automatically communicated to payroll by whoever is responsible for the project (if different)?
- Is there a system for reporting each new hire centrally so that the category of worker to which he/she belongs can be immediately identified and acted upon?

Does your staging date work for you?

- Does your staging date fit in with key payroll dates / your financial year?
- Does it fall at a particularly busy time for the business?
- Are you intending to bring forward or postpone (by up to three months) your staging date?
- Have you notified the Pensions Regulator and affected workers?

Are you using a defined contribution (DC) arrangement for auto-enrolment?

- Are the contribution levels fit for auto-enrolment?
- What elements of pay are included in the definition of pensionable pay (basic, overtime, bonus, commission etc)?
- What level of contributions will the employer / members have to pay, both during the transitional phase and after?
- Will it be possible to self-certify the scheme as meeting the auto-enrolment requirements?
- Is a default investment option in place?

Are you using a defined benefit (DB) arrangement for auto-enrolment?

- Is it contracted-out of the State Second Pension on the "reference scheme test" basis?
- If not, is it broadly equivalent to, or better than, the "test scheme" standard (see summary)?
- If CARE, does it meet the test scheme standard as well as the minimum revaluation requirements (see summary)?
- Are you intending to take advantage of the transitional period in respect of existing workers who have previously opted-out of membership?

Are the scheme's governing documents fit for purpose?

- Are you intending to use statutory or contractual enrolment?
- Could the way in which the scheme operates hinder automatic enrolment (e.g. the need for consent to a salary sacrifice arrangement[1])?
- Are members required to have medicals as a pre-condition of membership?
- Is the eligibility rule in line with auto-enrolment requirements?
- Could any aspect of your employee benefits be an inducement to opt-out of auto-enrolment?
- Are benefit changes planned which could change the scheme's ability to count as a qualifying scheme? (Note the need for the employer to consult affected members.)

Are the trustees / scheme manager ready to implement auto-enrolment?

- Do the trustees / manager know when the employer's staging date is?
- Do the trustees / manager have up-to-date information about eligible and non-eligible jobholders?
- Are the trustees / manager kept informed of any changes to the data?
- Do they have a clear idea of the benefit structure you wish to put in place or use?
- Have the trustees / manager passed all relevant information on to the scheme's administrators?
- Are the trustees / manager primed to process opt-outs within the statutory timescales?
- Does the pension arrangement have appropriate internal controls and governance in place to handle automatic enrolment?

Have you provided relevant information to your different categories of worker?

- How are you intending to communicate with workers (by post or email)?
- Have you communicated with existing members about how you intend to meet your obligations?
- Have you informed eligible jobholders that they have been / will be automatically enrolled and what this means to them?
- Are eligible jobholders aware of their right to opt-out (and the period for doing so), as well as their right to opt back in again?
- Have you provided non-eligible jobholders with information about their right to opt-in?
- Have you informed entitled workers of their right to join a pension scheme?
- Have you told workers where to find further information about pensions and saving for retirement?

Are you ready to go live?

- Have all systems been thoroughly tested?
- Are adequate procedures in place for supporting IT systems going forward?
- Have you registered with the Pensions Regulator? (Required within four months of the employer's staging date.)

[1] Please see Sackers' newsletter: "Auto-enrolment and Salary Sacrifice" dated August 2012

And we can provide practical help too through Sackers Support Services, a team of experienced pensions professionals that provide additional resource, project management and expertise where needed.

For more information about how you should be preparing now for auto-enrolment, and where Sackers and Sackers Support Services can help, please contact your usual Sackers adviser or Mark Wileman, Head of Business Development (mark.wileman@sackers.com).

Auto-enrolment, taking action

Summary of the new workplace pension reforms

Background

Starting in October 2012, employers will be required to enrol their "eligible jobholders" into a qualifying pension scheme. Eligible jobholders are workers between the ages of 22 and SPA (State Pension Age) who earn more than the "minimum earnings threshold" (£8,105 for the tax year 2012/13). Once enrolled, eligible jobholders will have a period of time during which they can opt out of membership, subject to an obligation on their employer to re-enrol them every three years.

The new auto-enrolment duty will come into force in stages from October 2012, starting with larger employers first. Employers will be able to choose to enrol eligible jobholders into their own designated "qualifying scheme" or use the Government established pension scheme, NEST (National Employment Savings Trust).

Who are your workers?

The term "worker" is broadly defined to include individuals working under an employment contract and those with a contract to perform work or services personally, where the work is not undertaken as part of their own business. Employees in the traditional sense will be covered. However, certain atypical personnel (for example, agency workers) can also be workers. By contrast, those who are paid a fee as a self-employed contractor will not normally be workers.

It will be necessary to consider the specific circumstances of atypical personnel to determine whether the automatic enrolment requirements apply.

Non-eligible jobholders and entitled workers

Although there is no requirement on an employer to automatically enrol non-eligible jobholders into a qualifying scheme (see below) such workers have a right to opt in. If they do so, the employer is then obliged to make contributions in respect of him / her.

Workers are classified as non-eligible jobholders if they:

- earn less than the minimum earnings threshold for auto-enrolment but more than the "qualifying earnings threshold" (£5,564 for the tax year 2012/13);
- are aged below 22 or between SPA and 75;
- have opted-out after being automatically enrolled but subsequently wish to rejoin the scheme; or
- are workers whose employer operates a waiting period before eligible jobholders can join its scheme.

Entitled workers are individuals who earn less than the qualifying earnings threshold. Although such workers may join a pension arrangement, they can be admitted to a scheme which is not a qualifying scheme and no employer contributions are required.

Qualifying schemes

A qualifying scheme can either be an occupational pension scheme or a personal pension scheme and must normally be a registered pension scheme under the Finance Act 2004. However, for a scheme to be used for automatic enrolment purposes it must satisfy certain quality requirements, which vary depending on whether the scheme is a DB or a DC arrangement.

The DB test

A DB scheme will meet the quality test if it is contracted-out on the reference scheme test basis[1] or if it is broadly equivalent to, or better than, the "test scheme standard". The test scheme standard is based on a pension payable from age 65, equal to 1/120th of average "qualifying earnings"[2] in the last three tax years before the end of pensionable service for each year of pensionable service (subject to a maximum of 40 years). This standard also assumes that the pension is revalued in deferment and increased in payment in line with the increase in CPI (subject to a maximum of 2.5% per annum).

DWP guidance for DB and hybrid schemes sets out how to determine whether such schemes can be used for automatic enrolment.

The DC test

The quality test for a DC arrangement is based on the contributions made to that arrangement.

By the end of the transitional period (from 1 October 2018), contributions payable in respect of the jobholder must be at least 8% of qualifying earnings overall, with 3% from the employer, 4% from the jobholder and around 1% in tax relief. Employers may also be able to self-certify that their DC scheme is a qualifying scheme if:

- a minimum contribution of 9% of pensionable earnings is paid to the scheme for each jobholder (including at least a 4% employer contribution);
- a minimum contribution of 8% of pensionable earnings is paid (with at least a 3% employer contribution), provided that total pensionable earnings of all relevant jobholders in aggregate constitute at least 85% of their total earnings; or
- a minimum contribution of 7% of total earnings is paid (with at least a 3% employer contribution) - this requires 100% of earnings to be pensionable.

"Pensionable earnings" means whichever is the higher of the employer's definition of pensionable earnings or basic pay, from the first pound.

The DWP has also produced guidance to help employers (and their advisers) certify that their DC scheme qualifies for automatic enrolment purposes.

CARE schemes

A CARE scheme can count as a qualifying scheme if it:

- is broadly equivalent to, or better than, the test scheme or if it is contracted-out; and
- accrued benefits are guaranteed to revalue at a rate of no less than CPI capped at 2.5%.

However, following a recent concession, if revaluation is only applied on the exercise of a discretionary power contained in the scheme rules, the scheme will be able to qualify if the scheme's funding takes account of the discretion. The rate of revaluation must also be at least CPI capped at 2.5%, and must be expressly provided for in the scheme's statement of funding principles.

Compliance and enforcement

The Pensions Regulator (TPR) is responsible for ensuring that employers understand their duties and has published comprehensive guidance to help employers implement automatic enrolment, as part of its goal to establish and maintain a "pro-compliance" culture. TPR has also published a compliance and enforcement strategy, outlining the approach it will take for detecting non-compliance and for dealing with employers who fail to comply with the new requirements.

[1] Broadly, for a scheme to satisfy the reference scheme test basis at least 90% of members must have benefits equal to or better than a "reference scheme". The reference scheme is a notional scheme which provides a pension of 1/80th of qualifying earnings for each year of service and also provides a 50% dependant's pension on death of the member

[2] Gross annual earnings between £5,564 and £42,475 (figures for the tax year 2012/13)

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