
The Workplace Pensions Reforms

Part 2: Auto-Enrolment - A Guide for Employers

Mitchell Charlesworth Auto-Enrolment Services - a unified solution for employers

The Workplace Pensions Reforms have begun to be phased in. These legislative changes will have a significant impact on businesses of all sizes. The deadline for compliance with these reforms was based on the size of your largest payroll on 1 April 2012. Hence, for the UK's largest employers, Auto-Enrolment became a reality from 1 October 2012.

Over the coming months and years, these reforms will make it a legal requirement for all employers, of all sizes, to automatically enrol their employees into a workplace pension scheme.

“Whilst the effect on pensions and cash flow will probably have been considered by many employers, the operational impact of the legal obligations, particularly with regards to payroll procedures and communication processes, has mostly been overlooked.”

Mitchell Charlesworth are able to call upon the knowledge of experts in both our wealth management division and our payroll services department to offer a unified solution for employers.

This guide has been co-written by our wealth management and payroll departments, specifically for employers, with the ultimate aim of ensuring that you start to prepare now to meet your duties under Auto-Enrolment and are ready to comply with the obligations when your staging date arrives.

Should you have any queries about the details contained in this guide or would like further advice about meeting your Auto-Enrolment obligations, do not hesitate to contact our Auto-Enrolment specialists on...

Tel: 0151 423 7500 or email: autoenrolment@mitchellcharlesworth.co.uk

Disclaimer: This Guide for Employers is for information purposes only and is not financial product or investment advice or recommendation and has been prepared without taking into account the objectives, financial situation or needs of individuals. Before making an investment decision, prospective investors should consider the appropriateness of the information having regard to their own objectives, financial situation and needs and seek financial, legal and taxation advice appropriate to their jurisdiction.

Please note that figures stated in this guide are correct as of April 2014 but are liable to change.

Contents

Detailed summary of Auto-Enrolment	p04
<ul style="list-style-type: none"> ● What is Auto-Enrolment? ● Your Auto-Enrolment action checklist ● Who must be automatically enrolled? ● The Auto-Enrolment staging dates 	
Preparing for Auto-Enrolment - planning in advance	p06
<ul style="list-style-type: none"> ● The benefits of forward planning ● Your legal obligations ● Complex issues to be addressed ● Knowing your workforce - eligible jobholders, non-eligible jobholders, entitled workers ● Knowing your staging date 	
Choosing a qualifying workplace pension scheme	p08
<ul style="list-style-type: none"> ● Which pension scheme should you choose? ● What is a 'qualifying pension scheme'? ● Standard quality test ● What is NEST? ● Alternative quality tests ● Phasing-in 	
The Auto-Enrolment process - an employer's duties	p11
<ul style="list-style-type: none"> ● Putting the theory into practice ● Your on-going responsibilities ● Waiting periods ● Opting in / joining process ● Opting out process ● Employee re-enrolment ● Protecting your workers' rights <ul style="list-style-type: none"> i. Ensuring workers remain in a qualifying pension scheme ii. Inducements iii. Recruitment conduct ● Keeping sufficient records and information requirements ● Penalty regime <ul style="list-style-type: none"> i. Fixed penalty notices ii. Escalating penalty notices 	
Mitchell Charlesworth Auto-Enrolment Services - a unified solution	p15
<ul style="list-style-type: none"> ● Contact details for further advice ● Mitchell Charlesworth Wealth Management (Pensions and Investments) ● Mitchell Charlesworth Payroll Services 	

A detailed summary of Auto-Enrolment

What is Auto-Enrolment?

- Under the Workplace Pension Reforms, all employers will have to place their employees (who meet certain requirements) into a pension scheme and make regular contributions to this pension scheme.
- Members of staff will be able to opt out of this pension scheme but if they do not opt out then they must automatically remain in the scheme.
- Staff members must be told of their right to join your pension scheme.
- A system of fines will be introduced for firms who do not comply by their staging date.

Your Auto-Enrolment action checklist:

Our experts have put together the following action checklist that outlines the key issues you must consider now, even if your staging date remains relatively far off.

After reading this guide, you should be able to answer all of these questions in the affirmative. Should you still have any outstanding queries, please do not hesitate to contact us.

Complying with the reforms:

- Are you aware of your staging date? Do you know what you are required to do by this date?
- Could you identify which members of staff need to be included in your pension scheme?
- Do you know the rules regarding recruitment of staff that are already in force?
- Are you planning to wait for the deadline to comply or will you implement changes sooner?

Dealing with your employees:

Have you considered:

- How you will make your employees aware of the Auto-Enrolment changes?
- How you will sell the benefits of joining a pension scheme to your employees?
- Do you know if your staff will lose 'enhanced protection' if they are auto-enrolled?

Consider the costs:

- Do you know what the cost to your business will be if all your employees joined an existing scheme?
- Have you started to plan for the costs of Auto-Enrolment yet?
- Have you heard of the Alternative Quality Test?
- Will you plan to reduce the cost of pension scheme administration and implementation?
- How much internal resource will be needed for implementation?
- Have you determined who will be your key person in response to the changes?

Your existing pension scheme:

- Does your existing scheme meet the requirements of Auto-Enrolment?
- Are you making the necessary levels of contribution to your existing scheme?

Who must be automatically enrolled into a pension plan?

Any worker earning over £10,000 per year and aged between 22 and state pension age must be automatically enrolled by their employer into a pension plan.

You should also note that any of your employees who earn over £5876, who are not automatically enrolled, can ask to join the pension plan. You are obliged to make people in this bracket aware that they can join the scheme.

Number of employees on payroll on 1 April 2012	Staging date
120,000 or more	October 2012
10,000+	By March 2013
500+	By November 2013
250+	By February 2014
50 - 249	April 2014 to April 2015
30 - 49	By October 2015
Below 30	November 2015 - April 2017
New employers	By February 2018

The above is a guide to your staging date based on the number employees HMRC believed you had under your PAYE reference in April 2012.

However, knowing the correct staging date is complicated by businesses that split their payroll up into smaller schemes for administration purposes. In that instance they must use the staging date of the largest PAYE scheme in the group.

For those schemes falling into the 50-249 bracket, the last two characters in their PAYE scheme is used to determine the specific staging date.

Therefore, we recommend all employers should visit The Pensions Regulator website to confirm their staging date.

Preparing for Auto-Enrolment - planning in advance

The benefits of forward planning:

1. **Budgeting and Cost Control:** It is likely that Auto-Enrolment will bring extra costs to your business. If you plan in advance and are aware of your costs then it is much easier to budget for the changes. To meet these costs you could adjust your prices, constrain salary/wage rises or find another source. If these are your plans, consider when you will put these into action.
2. **Communicating with your employees:** The key to a successful pension scheme adoption or change is to carefully plan communication with your employees and to prepare for subsequent questions and concerns. You should start to plan your internal communication strategy now.
3. **Managing any risks:** With a major change in company procedures comes a risk of errors and fines. By planning now you can reduce your risk.
4. **Peace of mind:** By planning your pension scheme implementation in advance, you can be safe in the knowledge that the changes are more likely to run smoothly with less complications.

Your legal obligations:

From 1 October 2012 and the staging dates thereafter, if you are an employer with at least one employee then you are legally obliged to:

- Set up and register a pension scheme suitable for automatic enrolment
- Automatically enrol certain workers (known as eligible jobholders) into that pension scheme
- Arrange membership of a pension scheme for certain other workers
- Make contributions for eligible jobholders and certain other workers
- Manage the automatic enrolment, joining and opt out processes
- Provide specific information to workers, pension scheme providers and The Pensions Regulator (TPR)
- Keep records of how you have fulfilled and continue to fulfil your duties

Complex issues to be addressed:

There are several factors that may lead to greater complexity in the Auto-Enrolment process. Consider if the following factors relate to your business:

- High staff turnover
- Little or no existing pension plan
- Fluctuating revenue
- Staff on zero hours contracts
- Low paid staff with fluctuating earnings
- Internationally mobile staff
- Workers whose employment status is not clear
- Where other benefits are based on being a member of a pension scheme

Should any of these issues relate to your business then you are urged to start planning for Auto-Enrolment without delay.

Knowing your workforce - eligible jobholders, non-eligible jobholders and entitled workers:

As an employer you need to have a clear understanding of your workforce because there will be a different Auto-Enrolment requirement depending on each type of worker. Under the workplace pension reforms, a worker is anyone who works under a contract of employment or who works for or performs services personally for another party to the contract.

The table below demonstrates the different types of worker and whether they are eligible for Auto-Enrolment:

Earnings	Age		
	16 to 21	22 to State Pension Age	State Pension Age to 74
£5,876 or less	Entitled Worker		
Over £5,876 up to £10,000	Non-Eligible Jobholder		
Above £10,000	Non-Eligible Jobholder	Eligible Jobholder	Non-Eligible Jobholder

Eligible Jobholder:

- ✓ Must be automatically enrolled
- ✓ Employer must keep records of the Auto-Enrolment process
- ✓ Employer must make on-going employer contributions to the scheme
- ✓ Employer must process any opt-out notice
- ✓ Employer must keep detailed records of the Auto-Enrolment process

Non-Eligible Jobholder (Employer must provide information about the right to opt-in). If the employee decides to opt-in:

- ✓ Employer must arrange pension scheme membership
- ✓ Employer must keep records of the enrolment process
- ✓ Employer must process any opt-out notice
- ✓ Employer must make on-going employer contributions to the pension scheme

Entitled Worker (Employer must provide information about the right to join). If the employee decides to join:

- ✓ The employer is NOT required to contribute to the pension scheme but may decide to do so
- ✓ Employer must keep records of the joining process
- ✓ The employer must still arrange collection and payment of the employee's contributions

Knowing your staging date:

Employers' duties have already begun for the largest employers from 1 October 2012. The Auto-Enrolment requirements for smaller employers will begin in the coming months and years.

Your staging date was determined by the number of employees HMRC had recorded under your PAYE scheme as at 1 April 2012. Even if your workforce reduced or increased after this date, then the staging date will remain the same. Should a merger have occurred after 1 April 2012, then the staging date is determined by the largest PAYE scheme of the merged entities.

Employers are able to bring their staging date forward (if they want to align it with other key operational dates) but they must notify the Pensions Regulator. Once you have made this decision, you cannot reverse the decision. Employers are NOT able to delay their staging date.

Choosing a qualifying workplace pension scheme:

Which pension scheme should you choose?

For those employers who already provide a pension scheme for some or all of their workers, the decision must be made whether they want to continue using this pension scheme to meet their duties for existing members (and how they will adapt this existing scheme if required). Employers must also decide how they plan to meet all of their new automatic enrolment responsibilities.

In order to make this decision, employers must fully understand the criteria for both the qualifying scheme and the automatic enrolment scheme and then be satisfied that their existing pension scheme meets (or can be amended to meet) these criteria.

Do not assume that as you have an existing workplace pension scheme that it will be Auto-Enrolment compliant.

An employer can certify that their scheme is a qualifying pension scheme for Auto-Enrolment if it passes any of the alternative quality tests based on the schemes usual pensionable pay definition.

Those employers without an existing pension provision will need to put an automatic enrolment scheme or a qualifying scheme in place with effect from their relevant staging date when the duties begin to apply.

In order to be an automatic enrolment scheme, there are three requirements that a pension scheme must meet:

- Automatic enrolment criteria
- Qualifying criteria
- Minimum requirements

The three requirements above are relatively complicated and it is essential that employers get this right. For more information about the requirements of an eligible pension scheme you are strongly urged to contact Mitchell Charlesworth Wealth Management's Pensions and Investments department on tel: 0151 255 2300 or email: autoenrolment@mitchellcharlesworth.co.uk

What is a 'Qualifying Pension Scheme'?

A qualifying pension scheme can be used by an employer to meet the new requirements as long as the scheme is a registered pension scheme that meets certain quality standards. It must be noted that these quality standards vary depending on the type of pension scheme involved, as follows:

Standard quality test

From April 2019, in order to meet the standard quality test, a total minimum contribution of 8% of qualifying earnings (£5,876 - £45,000 in 2017/18, including an employer contribution of at least 3%) will be needed in each relevant pay reference period.

The table below outlines how the minimum contribution is being phased in gradually:

Contribution Phasing Period*	Minimum gross employer contribution as a percentage of qualifying earnings**	Minimum gross total contribution as a percentage of qualifying earnings (any shortfall between the level of employer contribution and the minimum total contribution must be paid by the employee)**
Employer's staging date - 5th April 2018	1%	2%
6th April 2018 - 5th April 2019	3%	5%
6th April 2019 Onwards	5%	8%

*Changes subject to Parliamentary approval

**Qualifying earnings for 2017/18 are £5,876 - £45,000

Alternative quality tests

An employer's existing scheme can certify that their scheme is a qualifying scheme if it passes any of the following alternative quality tests based on the scheme's usual pensionable pay definition:

	Pensionable Pay	Minimum Employer Contribution	Minimum Total Contribution (Gross)
Option 1	Basic pay	4%	9%
Option 2	At least 85% of total pay	3%	8%
Option 3	Total pay	3%	7%

Phasing-in

Like the standard quality test, the minimum contributions under these alternative quality tests will be phased-in in the run up to April 2019:

Option 1: Only 'basic' pay is pensionable

	Contribution Phasing Period*	Minimum Employer Contribution	Minimum Total Contribution (Gross)
Phase 1	Staging date - 5th April 2018	2%	3%
Phase 2	6th April 2018 - 5th April 2019	3%	6%
Phase 3	6th April 2019 Onwards	4%	9%

Option 2: At least 85% of total pay is pensionable

	Contribution Phasing Period*	Minimum Employer Contribution	Minimum Total Contribution (Gross)
Phase 1	Staging date - 5th April 2018	1%	2%
Phase 2	6th April 2018 - 5th April 2019	2%	5%
Phase 3	6th April 2019 Onwards	3%	8%

Option 3: Total pay is pensionable

	Contribution Phasing Period *	Minimum Employer Contribution	Minimum Total Contribution (Gross)
Phase 1	Staging date - 5th April 2018	1%	2%
Phase 2	6th April 2018 - 5th April 2019	2%	5%
Phase 3	6th April 2019 Onwards	3%	7%

*Changes subject to Parliamentary approval

The Automatic Enrolment process - an employer's duties

Putting the theory into practice:

Once an employer has determined that there is a duty to auto-enrol an eligible jobholder, the law sets out a number of steps that employers must take to enrol these jobholders into an Auto-Enrolment scheme.

There is also a time limit for completing the Auto-Enrolment process known as the 'joining window'. This 'joining window' is the one-month period before the eligible jobholder's Auto-Enrolment date, during which the employer must have:

- Made arrangements to achieve active membership for the eligible jobholder, effective from their Auto-Enrolment date
- Given the eligible jobholder any relevant enrolment information
- Given information to the pension scheme about the eligible jobholder
- Kept all necessary records of this enrolment process

On-going responsibilities:

Once an employee has enrolled onto a pension scheme, the employer must still continue to:

- Pay necessary contributions
- Calculate, deduct and pay the employee's contributions
- Manage any opt-out process should the jobholder decide to leave the scheme
- Keep records of the contributions made

Waiting periods:

Employers are able to operate a waiting period of up to 3 months before auto-enrolling their employees. In order to do this you must give your employees a deferral notice within a week of the start of the deferral period. Employers can choose to use different waiting periods for different employees. A typical reason for an employer to use a waiting period is to align enrolment with payroll dates in order to minimise administrative burdens. If you have a larger workforce, you may also choose to stagger the enrolment process.

Opting in / joining process:

Those employees who earn over £10,000 (per annum) and are aged between 22 and state pension age (eligible jobholders) must be auto-enrolled into a qualifying pension scheme with effect from the automatic enrolment date. Employers must make the arrangements by which this Auto-Enrolment process takes place.

Those jobholders earning between £5,876 and £10,000 (non-eligible jobholders) can choose to opt-in to the Auto-Enrolment scheme. This is done by providing the employer with an 'opt-in' notice. Once this notice has been received, the employer must follow the same process as for the Auto-Enrolment of eligible jobholders.

Those jobholders who earn less than £5,876 (entitled jobholders) can exercise their right to join by giving the employer a 'joining notice'. Once the employer receives this notice they must make arrangements for that employee to become a member of a pension scheme - however this does not need to be an Auto-Enrolment scheme or even a qualifying scheme.

Importantly, a worker may exercise his/her right to join a pension scheme many months, or even years after an employer has issued this employer with their right. At this point, it is vital to keep good

records of the opt-in/join request and then decide what category of jobholder is making the request. This will determine which scheme the jobholder is entered into and what steps you take.

Opting out process:

Whilst it is compulsory for an employer to auto-enrol eligible jobholders, on-going membership of the scheme is not compulsory for the jobholder. Eligible jobholders may choose to opt out after they have been auto-enrolled but can then opt back in to the scheme at any time.

Employers must make sure that they have the right processes in place in order to deal efficiently with opt-out requests. Employers must check whether the opt-out notice is valid, notify the pension scheme of the desire to opt-out, ensure that the pension deductions and contributions are stopped and refund any contributions to the jobholder.

Employee re-enrolment:

Should an employee choose to stop being an active member of a qualifying pension scheme (by opting out), then they must periodically go through an automatic re-enrolment exercise every 3 years.

Protecting your Workers' Rights:

The Workplace Pension Reforms also state various duties and safeguards that employers must adhere to in order to protect the rights of individuals. These duties exist before a worker starts employment at a company and also once a jobholder is enrolled into a pension scheme.

Ensuring workers remain in a qualifying scheme:

Importantly, unless a jobholder is already a member of another qualifying pension scheme at your place of work or unless they explicitly ask to leave the scheme (opting-out) then the employer must not take, or fail to take any action that results in either:

- i. The scheme within which that jobholder is an active member ceasing to be a qualifying scheme,
or...
- ii. The jobholder ceasing to be an active member of a qualifying scheme

Inducements:

There are also several safeguards in place to stop employers from inducing their employees to:

- i. Opt out without becoming an active member of a qualifying scheme on the jobholder's respective Auto-Enrolment date.
- ii. Cease to be an active member of a pension scheme without becoming an active member of another scheme.

These safeguards have been put in place to ensure that employers do not attempt to induce their employees to opt out of a qualifying scheme. However, the intention is not to prohibit employers from offering flexible benefits packages or to stop employees from choosing the make-up of any flexible benefits. Crucially, an entitled jobholder should only make the decision to opt out or leave their current pension scheme of their own free will and without any influence from their employer.

Recruitment conduct:

Employers should note that under no circumstances should they attempt to deter job applicants or screen out job applicants based on their potential pension scheme membership.

Keeping sufficient records and information requirements:

All information given to relevant parties throughout the Auto-Enrolment process must be given in writing. Simply directing your eligible jobholder to a website or phone number for information is not acceptable. Whilst an independent financial adviser or benefit consultant can send the relevant information, it is always the employer's responsibility to ensure that this information is correct, complete and on time.

Under the workplace pension reforms, there are also several employers' duties regarding what records must be kept. Whilst ensuring that employers are complying with all their duties, the records will also help employers to avoid/resolve disputes with employees and also check what contributions have been made to the pension scheme.

Record relates to:	What record must be kept?	How long it must be kept?
Jobholders and workers who become members	Name, National Insurance number, Date of birth, Gross Earnings in each relevant pay reference period, the contributions payable in each relevant pay reference period by an employer to the scheme, and the amount payable. This includes contributions due on the employer's behalf and deductions made from earnings. The date contributions were made to the scheme.	6 Years
Additional information for jobholders only	Automatic enrolment date, opt-in notice (original format), and the contributions to which the jobholder is entitled under the scheme (this demonstrates that the scheme used is a qualifying scheme)	
	Opt-out notice (original format)	4 Years
Additional information for workers only	Date with effect from which the worker became an active member. Joining notice (original format)	6 Years
All workers for whom the employer has used postponement	Name, National Insurance number (where one exists) and date the notice was sent to the worker	

Penalty regime:

Doing nothing is not an option. The Pensions Regulator is responsible for educating employers and ensuring that all employers meet their legal obligations with regards to the Workplace Pension Reforms. Those employers who continually fail to meet their obligations are likely to face substantial fines and, in the worst cases, imprisonment.

Full details regarding the penalty regime can be found on the Pensions Regulator website: www.thepensionsregulator.gov.uk/docs/pensions-reform-compliance-and-enforcement-strategy.pdf

i. Fixed penalty notices (FPNs):

These may be issued when there has been a failure to comply with a statutory notice or there is sufficient evidence that a breach has been committed. The FPN is for a fixed amount of money (£400) which needs to be paid within a specified period. If the employer fails to pay a financial penalty and remedy the breach, in certain circumstances the regulator may consider further action in relation to wilful non-compliance which may ultimately lead to prosecution.

ii. Escalating penalty notices (EPNs):

These may be issued when there has been a failure to comply with a statutory notice. The regulator may issue escalating penalties at a prescribed daily rate, ranging between £50 and £10,000 (dependent on the number of persons the employer has). Should an employer fail to pay a financial penalty and remedy the breach, in certain circumstances the regulator may consider further action in relation to wilful non-compliance which may ultimately lead to prosecution.

The table below illustrates the prescribed daily rate of escalating penalties that may be issued by the Pensions Regulator if an employer fails to comply:

Number of persons employed	Prescribed daily rate
1-4	£50
5-49	£500
50-249	£2,500
250-499	£5,000
500 or more	£10,000

Mitchell Charlesworth Auto-Enrolment Services - a unified solution

More information about the Auto-Enrolment services offered by Mitchell Charlesworth to help you meet your obligations can be found in the guide: "Mitchell Charlesworth Auto-Enrolment Services - A Unified Solution for Employers".

Contact details for further advice:

Contact Mitchell Charlesworth's Pensions and Investments division for further advice regarding your pension scheme obligations and Auto-Enrolment.

For advice regarding the administration of Auto-Enrolment and your payroll requirements, contact Mitchell Charlesworth payroll services.

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