

## Automatic enrolment - what should trustees be doing?

A package of reforms took effect in October 2012, compelling employers for the first time to make pension contributions for more or less all their employees.

Whilst the new duties apply to employers rather than to trustees, the action which employers take to comply with their obligations may have implications for their pension schemes. Trustees should therefore be aware of the new regime and should be liaising with their scheme employer regarding the impact (if any) on their scheme.

For some schemes, such as defined benefit schemes which are closed to accrual, the new regime is unlikely to have an impact. However, the details of the new regime are not straightforward, and trustees should still contact their scheme employer to discuss the potential implications of automatic enrolment for the scheme.

The steps trustees should be taking are:

### 1. Contact the employer

Trustees should contact the scheme employer to establish:

- when the new duties will apply to the employer (automatic enrolment is being introduced over a period of several years, starting with the largest employers); and
- whether the employer has started preparing.

### 2. Assess the scheme

Trustees should discuss with the employer whether:

- the employer intends to use the scheme as a “qualifying scheme” for existing employees and, if so, whether the scheme satisfies the conditions for a qualifying scheme;
- the employer intends to use the scheme as an “automatic enrolment scheme” for new employees and, if so, whether the scheme satisfies the conditions for an automatic enrolment scheme; and

- if the scheme does not satisfy the qualifying/automatic enrolment scheme conditions, what changes will be necessary in order for it to satisfy the conditions.

### 3. Consider necessary scheme amendments

In addition to any changes necessary for the scheme to satisfy the qualifying/automatic enrolment scheme conditions, trustees should also consider whether other changes to the scheme are required.

Where changes to the scheme are required trustees should:

- consider whether they can agree to those changes, taking into account the scheme amendment power and their fiduciary duties; and
- liaise with the employer regarding any consultation requirements which would be triggered by the proposed changes.

Trustees should take such legal, actuarial and other advice as may be necessary.

### 4. Consider other necessary changes

If the employer intends to use the scheme as its automatic enrolment scheme, trustees should:

- where the scheme is a defined contribution or hybrid scheme, discuss with the employer what the most appropriate default investment option would be for the scheme/defined contribution section. The DWP has produced guidance on choosing the default investment option. Trustees should also consider whether any changes will be needed to the range of investment options in light of the post-automatic enrolment membership profile; and
- consider the changes necessary to the scheme’s administration systems and processes e.g. to deal with increased membership numbers; opting in and opting out processes; and the new record-keeping requirements.

## 5. Consider member communications

Trustees should:

- consider what member communications may be necessary – it is likely that communications can be handled by the employer as it is required to provide certain prescribed information to employees, but trustees should review the scheme-based content of such communications, and should consider whether any additional member communications are necessary; and
- consider whether separate communications to scheme members with enhanced or fixed protection should be made regarding the risk of losing such protection through automatic enrolment – trustees should ensure that any action they take in respect of such members cannot be considered to be an inducement on the part of the employer for the member to opt out or the provision of financial advice.

We have produced a guide summarising the main features of the automatic enrolment regime. If you would like a copy of this guide, or have a question in relation to automatic enrolment, please contact:

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