

TECHNICAL BRIEFING NOTE

Workplace pension reform – auto-enrolling employees into qualifying pension schemes

This information is intended for HR professionals, pension trustees and individuals responsible for decision making on corporate pension schemes, and must not be relied upon by anyone else.

What is auto-enrolment under workplace pension reform?

At the core of the government's workplace pension reforms is a requirement for employers to automatically include certain employees in a qualifying pension scheme within a strict timescale without the employee having to:

- provide any information; or
- make any choices.

This is known as **auto-enrolment**. The auto-enrolment rules mean, for example, that these employees cannot be required to:

- apply to join the pension scheme; or
- choose their contribution level; or
- decide how their contributions are invested.

Eligible jobholders can opt-out of being auto-enrolled but, if they do, they will periodically go through an automatic re-enrolment process.

When do employees have to be auto-enrolled into a pension scheme under workplace pension reform?

Employers must normally auto-enrol any eligible jobholders into a qualifying pension scheme within **one month** of their auto-enrolment date (unless they are already members of such a pension scheme). Despite this one month enrolment window, the employee's scheme membership must actually be backdated to the auto-enrolment date itself.

The auto-enrolment date is normally:

- The employer's staging date for any employees who are eligible jobholders when the new employer duties first take effect; or
- The date on which an employee first becomes an eligible jobholder (or opts-in to auto-enrolment) for any employees who attain that status after the staging date.

Waiting periods

Employers can choose to operate a waiting period of up to three months before auto-enrolling their employees. But if they do, jobholders must be told that they can opt-in during this period to benefit from an employer pension contribution sooner.

Employee opt-outs

If employees opt-out of auto-enrolment, the employer must periodically go through an automatic re-enrolment exercise.

Can employees opt-out of being auto-enrolled into a pension scheme under workplace pension reform?

An eligible jobholder can opt out of being auto-enrolled (or automatically re-enrolled) into a qualifying pension scheme by giving their employer a valid opt-out notice. If an employee opts-out, they may not be allowed to [opt-in](#) again immediately if they change their mind.

Obtaining an opt-out notice

The pension scheme administrator must tell the employee about their right to opt-out of auto-enrolment, and how to get an opt-out form, as part of their enrolment information.

To help stop employers from encouraging employees to opt-out of a qualifying pension scheme to keep costs down, only the pension scheme administrator can supply opt-out forms to members. An employer can only supply an opt-out form to an employee where it acts as the scheme administrator under an occupational pension scheme.

Timescales for giving an opt-out notice

An employee must give their employer an opt-out notice within **one month** of the later of the dates on which they:

- became an active member of the pension scheme; or
- were told that they had been, or would be, auto-enrolled (or re-enrolled) into the pension scheme.

The employer must tell the pension scheme administrator if they receive a valid opt-out notice from an employee. The administrator must then treat the employee as if they had not joined the pension scheme on that occasion.

If an employer receives an invalid opt-out notice, they must tell the employee why it is invalid and the normal one month opt-out deadline is extended to six weeks.

Contribution refunds

Where an employee gives their employer a valid opt-out notice on time, any contributions paid to the pension scheme by or for them on the basis that they had become an active

member of the scheme on that occasion must be refunded by the employer (less any tax relief received, where appropriate).

The refund must normally be paid to the employee within one month of the opt-out notice being received, unless the employer's payroll arrangements have already closed in which case it must be paid by the end of the next pay reference period.

Leaving the pension scheme in other circumstances

Employees always have the right to withdraw from a qualifying pension scheme if they don't want to be a member and, in some circumstances, may have to leave the scheme (for example, if they change jobs or emigrate). In such circumstances, the normal pension early leaver rules apply and they and their employer won't have the automatic right to a contribution refund that applies during the one month opt-out window.

When do employees have to be automatically re-enrolled into a pension scheme under workplace pension reform?

Where an employee opts-out of being auto-enrolled into a qualifying pension scheme, their employer must normally carry out a periodic exercise to automatically re-enrol them.

The employer can choose any **automatic re-enrolment date** up to three months either side of the third anniversary of the employer's staging date. Subsequent automatic re-enrolments will have to take place up to three months either side of the third anniversary of the previous automatic re-enrolment date.

Exemption for recent opt-outs

The exception to this rule is that jobholders who have opted-out in the previous 12 months are exempt from automatic re-enrolment.

Early re-enrolment

There are three sets of circumstances where automatic re-enrolment into a qualifying pension scheme must take place earlier than the usual three yearly exercise:

- If a worker regains eligible jobholder status, having previously lost it temporarily (for example, because they stopped having qualifying earnings), they must be re-enrolled immediately from that date; or
- Where the actions of another party (such as the employer or scheme administrator) mean that either the scheme stops being a qualifying pension scheme or the employee's membership ends, they must be re-enrolled from the next day.

Can employees voluntarily opt-in to a pension scheme under workplace pension reform?

Jobholders aged under 22 or over State Pension age, or earning less than the basic income tax personal allowance, do not have to be auto-enrolled into a qualifying pension scheme - unless they voluntarily opt-in to the auto-enrolment process.

Similarly, if an employer chooses to operate a waiting period, jobholders can opt-in during this period.

- Employers must tell such employees about their right to opt-in to a qualifying pension scheme, and how to give a valid opt-in notice, within a month of them becoming a jobholder.
- Those who give a valid opt-in notice to the employer must then be treated as eligible jobholders and auto-enrolled into the scheme from the start of the next pay reference period (or the subsequent one if the employer's payroll arrangements have already closed for the next period).

Such employees who opt-in to their employer's chosen qualifying pension scheme can opt-out again under the usual rules if they change their minds.

Similarly, workers who would be jobholders if they had qualifying earnings have a right to join a registered pension scheme. However, this doesn't have to be a qualifying pension scheme and there is no requirement for the employer to contribute to it.

- Again employers must tell such employees about their right to join a pension scheme, and how to give a valid joining notice, within a month of them becoming a worker.
- Those who want to join, and give a valid joining notice to the employer, must then be included in a pension scheme which they can contribute to by payroll deduction.

Employees who have previously opted-out

If an employee submits an opt-in or joining notice to their employer after previously opting-out, the employer does not have to act on it until a year has passed since their opt-out date.

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