

ADVICE NOTE: Auto enrolment

Essential information for Councillors, Local Councils and Clerks

Significant changes to workplace pensions have taken place and following a number of queries from councillors, clerks, county associations and county branches; NALC and SLCC have agreed to issue this information note to emphasize the importance of Council's understanding the implications of this change.

This guidance should be read in conjunction with the relevant NALC Legal Topic Notes (LTN 34 and 79) obtainable from your County Association or the NALC website and the SLCC advice notes on pensions and gratuities from the SLCC Members Advice Library

The law on workplace pensions has changed. Every employer with at least one member of staff now has new duties.

Staff who meet certain criteria must be put into a pension scheme and the employer (and employee) must make contributions into the scheme, unless the employee opts out. This is called automatic enrolment. It's called this because it's automatic for eligible employees – they don't have to do anything to be enrolled into the employer's pension scheme. Employees can opt out but this only lasts for 3 years and they will be automatically enrolled unless they opt out again. It's not automatic for a council and its councillors. They have a legal duty to take steps to make sure they comply with the new law.

The law requires employers to provide a workplace pension for eligible staff.

However if the employer does not have any eligible jobholders but has one member of staff who is a non-eligible jobholder, the position is that the council would employ one person but would not be obliged to provide a workplace pension. This

does not need to be a difficult process, but there are some steps councils can take now to make sure they are ready.

This document highlights the key points for Local Councils and for their Clerks:

1) *ALL* councils will have to do something

The vast majority of councils are employers and so have legal duties to their employees. The Pensions Regulator will contact all employers with the information they need. But to do this they need correct contact details for each council. To make sure you receive this information you can update your council's contact details at:

<https://forms.thepensionsregulator.gov.uk/workplacepensionsreform/nominate.aspx?Campaign=019ecr-18-12-6-3-Letters>

Even if all of your council's staff are not eligible for auto enrolment, your council will still need to confirm with the Pensions Regulator that it has complied with its duties to its employees by a certain date.

2) Find out the key dates that affect you and your council

All councils should check their staging date with the Pensions Regulator at

<http://www.thepensionsregulator.gov.uk/employers/tools/staging-date.aspx>

The staging date will vary across councils, it is based on each council's PAYE reference number, so you must check the staging date that is for your specific council. All employers will receive notification of their staging date 12 months in advance.

There is a helpful tool for making an action plan in the run up to your council's staging date, so that you can break the task into more manageable pieces at:

<http://www.thepensionsregulator.gov.uk/employers/planning-for-automatic-enrolment.aspx>

3) Assess how it affects your Council

Work out which employees it affects, if any. Different rules apply for different employees. Employees have a choice to opt out if they so wish, but a Council cannot induce an employee to opt out or not appoint someone because they will not opt out.

Which employees are covered and how?			
Annual earnings (2015-16 values)	Age		
	16-21	22-state pension age	State pension age -74
£5,824 or below	Has a right to join a pension scheme (ie if an employee asks, an employer must provide a pension scheme for that employee, but the employer is not obliged to make employer contributions into the scheme for employees in this category)		
Over £5,824 to £10,000	Has a right to opt in (ie if the employee asks you must put them into your automatic enrolment scheme and make regular contributions)		
Over £10,000	Has a right to opt in (as above)	Automatically enrol (ie an employer must put	Has a right to opt in (as above)

		<p>employees in this category into the employer's automatic enrolment pension scheme and must make employer contributions into the scheme for them. But individual employees may choose to opt out)</p>	
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If the Council has no employees that must be automatically enrolled and all other employees indicate that they do not wish to opt in, then the Council needs to notify the Pensions Regulator of this and put in place a process to review the situation when circumstances change, for example when a new employee starts or an existing employee's pay reaches the threshold.

4) Identifying a “qualifying” scheme

Employers cannot simply enrol their employees in any sort of pension scheme. They need to comply with certain conditions and have good quality standards. There are

two basic types of pension scheme, defined benefit schemes (DB) and defined contribution schemes (DC).

DB schemes provide pensions that are based on some sort of formula, normally linked to pensionable pay. There used to be a large number of these, often based on final salary prior to retirement, but the rising costs of such schemes, as a result of increasing life expectancy, means that they are now much rarer. As employee contributions to these schemes tend to be fixed, additional costs resulting from paying more pension because people are living longer fall on the employer, hence their decreasing popularity. The LGPS is a defined benefit scheme, although it is no longer based on final salary but on career average salary.

DC schemes on the other hand simply accumulate contributions, from employees and employers, invest them (and any associated tax reliefs) and then use the final amount to provide whatever level of benefit can be afforded.

Councils can consider schemes other than LGPS. The Department for Communities and Local Government's view (with which NALC & SLCC agree) is that "the duty automatically to enrol eligible jobholders into a qualifying workplace pension scheme applies to local councils and that separate regulations are not needed for councils to comply with the duty. The introduction of auto enrolment will allow councils who are considering whether to provide pensions to their staff, to have a more affordable pension scheme than the LGPS."

5) Contributions

Employers affected must make sure that both they and their employees make at least the minimum contributions into their chosen scheme as set out on the Pensions Regulator website. Employers deduct staff contributions. These contributions are a percentage of an individual's "qualifying earnings".

‘Qualifying earnings’ are either:

- the amount earned before tax between £5,824 and £41,865 a year; or
- the entire salary or wages before tax.

The employer chooses how to work out the qualifying earnings.

Minimum Employee Contribution	Minimum Employer Contribution	Government Contribution
0.8% of qualifying earnings rising to 4% by 2018	1% of qualifying earnings rising to 3% by 2018	0.2% of qualifying earnings rising to 1% by 2018

6) Seek advice

How NALC and your CALC and SLCC can help:

- Member councils can access NALC’s Legal Topic Note:
- Member councils have access to NALC’s legal advice service.
- SLCC members have access to the SLCC Advisory Service and Advice Library.
- SLCC and your County Association may be able to advise Clerks and Councils on practical steps and general guidance.
- NALC, CALCs and SLCC **cannot** offer financial advice or comment on what pension is best for your council. Please see below for how to find independent financial advice.

The Pensions Regulator

- The Pensions Regulator is the UK regulator of work-based pension schemes. Their statutory objectives are set out in legislation and include promoting and improving understanding of the good administration of work-based pensions to protect member benefits.
- Any council can contact the Pensions Regulator directly. Their contact details can be found at <http://www.thepensionsregulator.gov.uk/contact-us.aspx>

Your relevant Local Government Pension Scheme (LGPS) administering authority will be able to provide advice on the LGPS.

Get Independent financial advice

- Making a decision about pensions is a significant long term financial commitment for councils and employees.
- In seeking independent financial advice then you should always check that the adviser is authorised to provide financial advice. You can check this on the Financial Conduct Authorities' Register at <http://www.fca.org.uk/register/>
- If you deal with an unauthorised firm you will **not** be covered by the Financial Ombudsman Service or Financial Services Compensation Scheme if things go wrong.
- There is likely to be a charge for independent financial advice.