Auto Enrolment Guide

Everything you need to know about auto enrolment, how it affects your employees and your responsibilities as a business.

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Contents

Welcome to our guide on Auto Enrolment. Here are the topics that we will be covering.

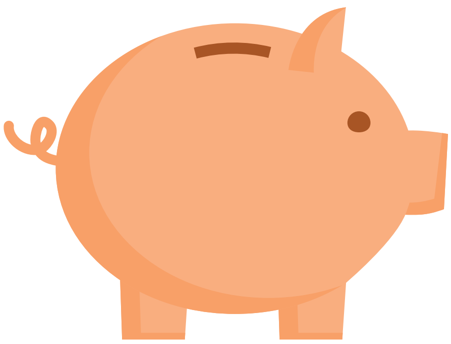
Introduction

Following on from the Pensions Act 2008, every employer in the UK must put certain staff into a workplace pension scheme and contribute towards it; this is called 'automatic enrolment.' Therefore, if you employ at least one person you are an employer and have certain legal duties.

There can be a great deal of confusion, especially for smaller employers, as to what is involved including the costs, the administration and the minimum level of contributions that need to be paid for employees. Running a scheme can incur a significant outlay - the ongoing cost of administering a scheme and the relentless employee communications can put a real strain on companies.

For employers who are trying to run a scheme themselves without adequate systems, the risk of making mistakes on contributions and getting bogged down in administration is putting an additional burden on businesses.

There is a lot to understand but we have gone through the auto enrolment process with many companies and can share with you your requirements and answer some of the most common questions.



What is auto enrolment?

Work Based Pensions have been one of the highest impacting shake-ups in the pension market for generations. Driven by demands of an aging population who have not been saving adequately for their retirement, the government has brought in pension reforms that now make it a requirement for companies to provide a pension scheme for certain members of their workforce.

All existing companies have now had their staging dates – we are not at a point where employers are re-enrolling their schemes at the three year anniversary date.

Why is it different to previous Stakeholder Pensions?

Under Auto Enrolment all qualifying employees must be auto-enrolled into a qualifying pension scheme and then opt out if they don't want to participate. Previously, employers only had to make available a stakeholder pension scheme.

In addition, both employers and employees are required to make mandatory pension contributions, totalling a minimum of 8% of relevant earnings.

Employer responsibilities

In a nutshell, you are responsible for:

- Providing a qualifying pension scheme for your workers
- Communicating all changes to these workers
- Advising those who are eligible that they have been enrolled and giving them the option to opt-out
- Automatically enrolling all eligible workers onto the scheme
- Making employer contributions to the pension
- Registering your scheme and details of those enrolled with the Pensions Regulator
- Processing any opt-in or opt-out requests
- Monitoring starters, leavers and any casual employees making sure you enrol them as required
- Re-enrolling employees every three years

Which employees does it apply to?

You may hear the term ‘worker’ rather than ‘employee.’ This is because ‘worker’ is a wider category than just employee and can include some contractors and agency workers. As a rule of thumb, if you have to pay the national minimum wage to someone, or they are working under an apprenticeship, they are classed as a worker.

Your workforce can be divided into three categories:

1) **Eligible job holders** - These are workers aged between 22 and the State Pension Age earning over £10,000. Job holders must be auto enrolled into a Qualifying Scheme.

2) **Non-eligible job holders** - This second group are workers that are aged between 16 and 74 who earn between £6,136 ad £10,000. These people can opt-in to a scheme if they choose and, if they do opt-in, the employer is obliged to make employer contributions.

3) **Entitled workers** - The last group are those workers aged between 16 and 74 who earn below £6,136. They can still opt-in to the scheme but the employer is not obliged to make any contributions.

Can my business opt-out?

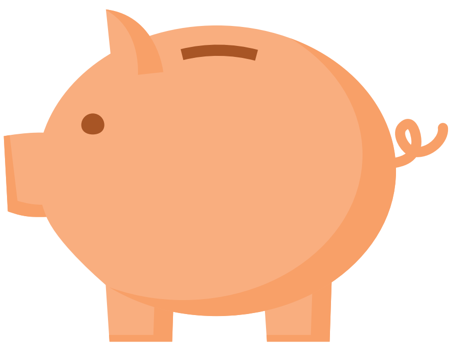
The simple answer is no. As a business you are required to enrol your employees on a qualifying scheme from the date your duties start.

You may hear terms such as ‘opting out’ but this relates to your employees. An employee can opt out of the scheme but this must be done within 1 month of qualifying as a member. If members do opt out they must be re-enrolled every three years (if they are still eligible) and then they must opt-out again if they still do not wish to participate.

One area that the legislation is very clear on is that companies cannot advise or persuade their employees to opt-out. The Pension Act contains a number of anti-inducement provisions which will be criminal offences and attract significant fines and/or imprisonment.

One of the main groups of employees who may decide to opt out are the lower paid. In practical terms an employee is required to make contributions of 5% of their income and for some people this is a reduction in their take-home pay that is too much.

In addition to the requirements to auto-enrol your employees, employers are banned from offering incentives to their workers to opt-out of an auto-enrolment pension. This includes refusing to employ someone because they want to join the company pension scheme. The regulator will consider using powers against employers where there is evidence of this behaviour and have set up a whistleblowing facility through which confidential reports of suspected non-compliance can be made.



If I am a new business when do my duties start?

Your duties as an employer begin from the date your first employee starts work for you. This is known as your duties start date.

Postponement

You can choose to delay working out who to put into a pension scheme for up to three months for some or all of your staff. This is known as postponement. You must write to your staff to tell them what you are doing and how automatic enrolment applies to them.

You can only postpone automatic enrolment from:

- Your duties start date
- A new member of staff's first working day – this could be useful to cover a probationary period or for seasonal, temporary or contract staff who will stop working for you within three months
- When an existing staff member meets the age and earnings criteria to be put into the pension scheme

Penalties for non compliance

The penalties for non-compliance are swift, harsh and quickly escalate. Failure to comply will result in statutory notices, penalties and fines.

If statutory notices are ignored, a £400 penalty will be imposed followed by an escalating daily fine of between £50 and £10,000 depending on the number of employees.

This table illustrates the escalating penalties that might be applied to employers for breaches of their auto-enrolment duties:

Number of employees	Daily Penalty
1-4	£50
5-49	£500
50-249	£2,500
250-499	5,000
500+	£10,000

For example, even a small business of 10 employees would face a penalty of £500 for every day they were non-compliant.

In addition, The Pensions Regulator can issue a civil penalty for cases who fail to make contributions and this is a financial penalty of up to £5,000 for individuals and £50,000 for organisations.

What will it cost?

From April 2019/20, the minimum contributions for schemes based on qualifying earnings will be 3% employer and 5% employee, giving a total minimum contribution of 8%.

In addition to the compulsory employer pension contributions there are other costs to factor in including additional payroll costs and the administration costs of managing the opt-ins and opt-outs. There are also communication costs and any fees for legal or financial advice you may need in setting up the scheme and process for your business.

One thing that has become apparent is that the number of ‘opt outs’ is not as high as many businesses thought. According to the Department of Works and Pensions in 2019, the average opt out rate was around 9%.

What are the minimum contribution rates?

From April 2019/20, if your scheme is based on qualifying earnings, minimum contributions will be as follows:

Employer Minimum Contribution	Staff Minimum Contribution	Total Minimum Contribution
3%	5%	8%

Qualifying earnings are those that fall within a set band - for the 2019/20 tax year this band of earnings is anything over £6,136 and up to and including £50,000. So an individual worker's qualifying earnings are their earnings that fall into this band.

Qualifying earnings include:

- Salary and allowances
- Fluctuating amounts such as overtime, commission and bonuses
- Statutory payments such as sick pay, maternity pay or paternity pay

However, an employer can choose a different definition of pensionable pay other than Qualifying Earnings. The minimum contributions vary depending on the pensionable pay definition and these are set out below:

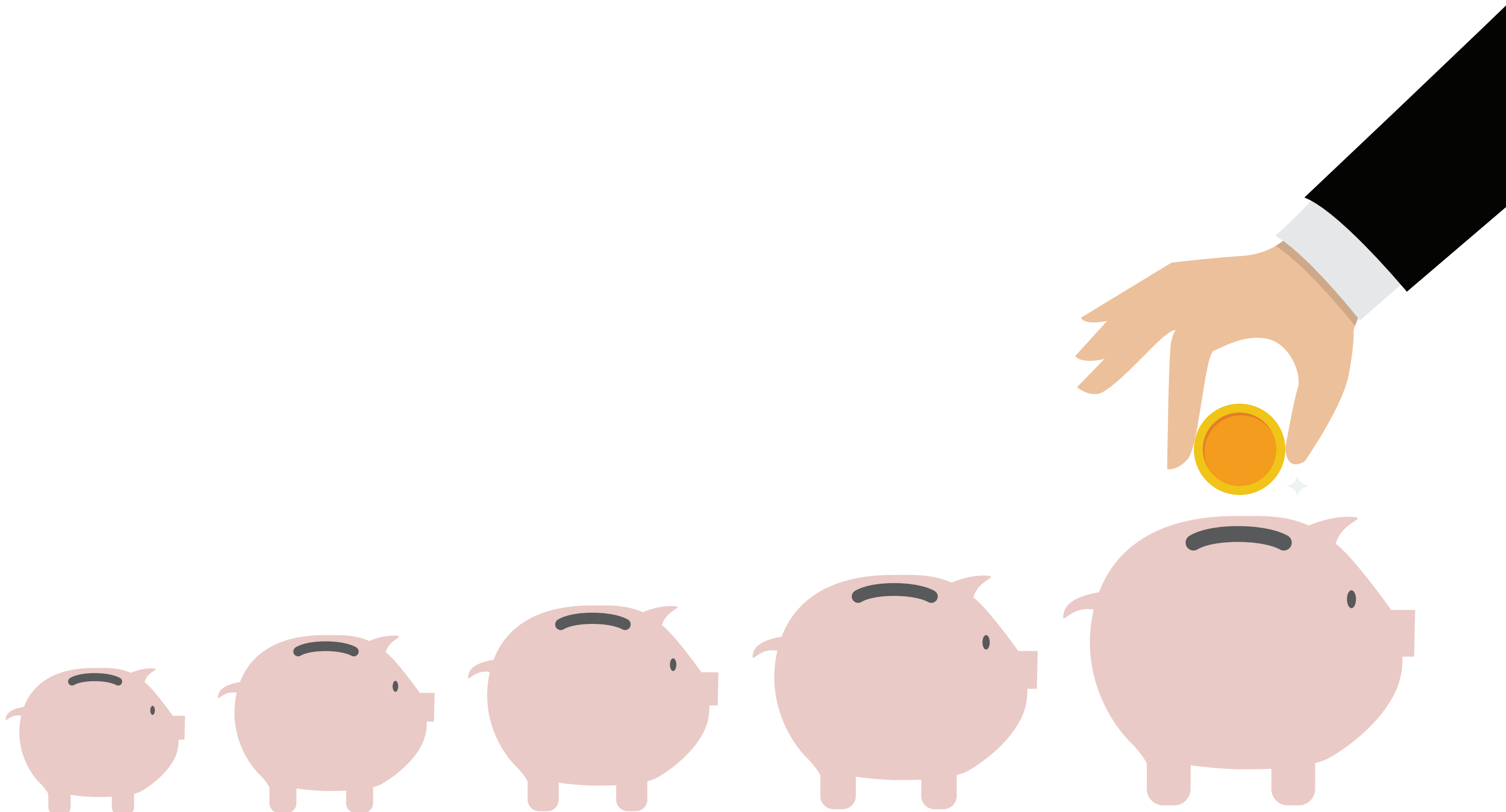
	Minimum Employer Contribution from April 2019	Minimum Employee Contribution from April 2019	Total Contribution from April 2019
Set 1 - pensionable salary is based on basic salary excluding bonus, overtime and commission.	4%	5%	9%
Set 2 - pensionable salary is based on Set 1. The total pensionable salary of all workers must be at least 85% of their total earnings. If the 85% is not met, other elements of pay (such as overtime) can be included.	3%	5%	8%
Set 3 - pensionable salary includes all earnings.	3%	4%	7%

What is pensionable salary?

Pensionable salary:

- Is the amount on which pension contributions are based.
- Must be at least equal to basic pay including statutory payments and holiday pay.
- Under Set 1 and potentially Set 2, can exclude allowances and fluctuating amounts such as overtime, commission and bonuses.

If an employer chooses one of the above Sets then the scheme will need to be certificated. A new certificate will need to be completed at the outset of the scheme and renewed every 18 months (or earlier if necessary.) The certificate needs to be signed by the employer and kept safely along with any evidence of work carried out to verify the certification. The Pensions Regulator can ask to see the certificate on demand and it must be kept for a minimum of six years after the certification period has ended.



How does tax relief and salary sacrifice work?

There are 3 different ways that your employee can contribute to the pension arrangement:

- Tax Relief at Source
- Net Pay Arrangement
- Salary Sacrifice/Salary Exchange

Tax Relief at Source

Contributions are taken from the net pay (after tax has been deducted) and then tax relief is automatically claimed from HMRC by the pension provider, adding the basic tax rate of 20% to the pension contribution. Therefore, for the minimum pension contribution of 5%, 4% is taken from the net pay and 1% is claimed from HMRC by the pension provider.

Regardless of the employee earnings, tax relief at the basic rate will always be added to the pension. Therefore if an employee is a non-tax payer they will still receive tax relief on their contributions. Higher and additional rate tax relief can be claimed from HMRC through self-assessment.

Net Pay Arrangement

Contributions are taken from the gross pay before tax, meaning full tax relief is given (including higher and additional rate tax.) Unlike Tax Relief at Source, if an employee is a non-tax payer no tax relief will be given.

Salary Sacrifice/Salary Exchange

The employee agrees to exchange part of their salary by an amount equal to their pension contribution. The employer than agrees to pay the total pension contribution.

Usually this means that both the employee and the employer pay less National Insurance contributions. Employers an pass the National Insurance savings back to the employee by increasing the contribution amount accordingly.

An employee's salary cannot be reduced below the National Minimum Wage.

What are my employer duties?

1) **Keep the workforce informed** - You must communicate to your workforce in writing with regards to changes that affect them such as postponement, enrolment or increases in contributions. This can be a printed letter or via email. Having communication processes and systems in place can ease the burden of initial and ongoing employee queries.

2) **Manage requests to join or leave the scheme** - If any members of staff ask to join the scheme, you must put them into the scheme within one month of receiving the request.

3) **Enrol and manage opt-in and opt-outs** - All eligible job holders must be enrolled on a qualifying scheme. You will need to implement any opt-ins from new employees as well as existing members of staff who become eligible. You therefore need to monitor your employee's age and earnings to determine whether they are eligible jobholders. You must put them into a pension scheme and write to them within six weeks from the day they meet the age and earnings criteria. Your staff can choose to leave your pension scheme after being put into one. If they do ask to leave within one month of being put into a scheme, this is known as opting out. If any of your staff opt out, you need to stop taking money out of their pay and arrange a full refund of what has been paid to date. This must happen within one month of their request.

4) **Maintain contributions** - Member contributions must be paid to the pension scheme by the 22nd day (or the 19th day if the payment is by cheque) of the month following deduction.

5) **Keep records** - You must keep records of how you have met your legal duties including the names and addresses of those who have been put into the pension scheme, details of when the contributions were paid into the scheme, requests to join or leave the scheme and your Pension Scheme Reference or Registry Number.

6) **Re-enrol the scheme and complete a Declaration of Compliance** - Every three years from your initial staging date, you will need to re-enrol any employees that have left the scheme. The Declaration of Compliance needs to be completed at the same time – this is completed online with the Pensions Regulator and lets them know how you have met your legal duties.

7) **Re-certify the scheme (if necessary)** - If your scheme doesn't use Qualifying Earnings as the basis of pensionable pay then you may need to certify your pension scheme. A new certificate needs to be produced every 18 months.

Are there exceptions?

There are some exceptions when it comes to auto-enrolment meaning that not all workers necessarily need to be enrolled onto the pension scheme.

Directors

A director with no contract of employment and who is formally appointed under the Companies Act 2006 (or anyone acting as a director in the sense of having a decision-making role in the corporate governance of the company, even if they have not been properly appointed) is exempt from auto-enrolment. A director is only classed as a worker for auto-enrolment purposes when:

- They have a contract of employment with the organisation
- At least one other person (who can be another director) also has a contract of employment with the organisation

Lifetime Allowance (LTA) Protection

LTA is the amount of pension benefit that an individual can build up within their pensions without triggering a tax charge. The LTA has dropped significantly over the years from £1.8 million in 2011/12 to £1.055 million in 2019/20. HMRC has allowed individuals to apply for LTA Protection which fixes the LTA at a certain level depending on the protection applied (i.e. Fixed Protection 2016 provided individuals with a protected LTA of £1.25 million.) The protection however can be lost if further pension contributions are made after the LTA Protection has been obtained.

If an employee has LTA Protection in place from HMRC and is enrolled onto the pension scheme, the protection may be lost if the individual does not opt out in time. Therefore, providing the necessary evidence has been obtained (i.e. the protection certificate from HMRC), it is not necessary to enrol the employee.

Leaving Service

Individuals who have handed in their notice or have been given a notice to terminate their employment (regardless of whether they are retiring, have been dismissed or have resigned) are exempt from auto enrolment. This does not apply to individuals on fixed term contracts.

Contact Us

How can Dataplan help you?

What has become apparent during the first few years of Auto Enrolment is the burden of the ongoing administration of schemes and the communications with employees. Your workforce is ever changing with starters, leavers and people moving in and out of the eligibility criteria so keeping on top of opt-ins and opt-outs plus the record keeping required can put a lot of strain on an already busy payroll function.

As an employer it is your responsibility to bear this burden and there is little support from the pension providers who expect contributions to be accurate.

How can we ease this burden?

Dataplan provide an integrated Auto Enrolment service alongside its payroll solution that:

- Assesses the workforce (entitled worker, eligible jobholder, non-eligible jobholder) each period
- Auto enrols employees when they become eligible
- Apply postponement where necessary
- Process any opt outs that you receive
- Process cessation of contributions
- Enrol any opt-ins
- Provides you with an employee status report each period
- Provides you with a schedule of contributions
- Uploads a file each period to your pension provider in a format agreed with them or provides you with the same

In addition we can:

- Provide communications for employees on your branded templates and employees can access them on our secure portal. Employees can be notified by email or even text message through our Apple and Android apps.
- Re-enrol the scheme and complete a Re-declaration of Compliance
- Provide a template certificate to enable you to re-certify the scheme (if necessary)

For more information about how Dataplan can help your business manage your pension scheme please call 03331 123456 or visit dataplanpayroll.co.uk