



The SPP member research series:

# Simplifying Automatic Enrolment

The new decade offers an important opportunity for savers but also presents a useful juncture to revisit the critical challenge of how to further our collective ambition of securing adequate living standards in retirement. Automatic enrolment has been a success and we believe that the latest data when published will support existing anecdotal evidence that increases in contributions both in April 2018 and April 2019 have not undermined progress.

As part of its research series, the Society of Pension Professionals (SPP) has taken this opportunity to share some ideas for simplifying and improving automatic enrolment. These ideas have come out of internal discussions within the SPP, and a short survey of our membership on the subject. These have been free discussions within the SPP with no attribution to any specific person or corporate members.

## Our key suggestions to simplify and improve auto-enrolment are:

### 1. Removing the age criterion

Our membership survey showed that four-fifths (80%) favoured removing the minimum age criterion while two-thirds believed automatic enrolment should be extended to all employees up to age 75. Everyone can of course still opt out.

### 2. Use the pay in the previous pay period to determine eligibility for enrolment

More than four-fifths (85%) in our membership survey support this proposal, under which eligible jobholders could be enrolled and start active membership based on prior period earnings if that works for an employer. This is a known quantity and is therefore easier to manage.

### 3. Opt-out window should be extendable by up to three months after enrolment

Three fifths (63%) of those who responded to our membership survey believe that employers should be allowed to accept opt-out elections up to three months after enrolment.

### 4. Greater freedom to select cyclical re-enrolment date

Over four-fifths (83%) of our membership responding to our survey support allowing employers the freedom to choose any cyclical re-enrolment date they wish so long as it is no

more than three years and three months since the previous one. In our view the low rates of opt-out weakens the case for rigidity in this area. Allowing certificates given under DC certification to run for up to the next cyclical re-enrolment date would also allow currently separate processes aligned.

### 5. Discretion for employers to statutorily enrol any employee they wish

Over seven-tenths of respondents (74%) to our survey believe that this should be allowed. Currently many employers overlay a contractual enrolment process on top of the auto-enrolment process, so they don't have to separate out those on low earnings or under a certain age, but this introduces unnecessary complexity.

### 6. No enrolment notice or opt-out at the point of a TUPE transfer

There was overwhelming support for this suggestion from our survey with fewer than one in ten (6%) opposed to the idea. Any employees being TUPE'd would maintain any qualifying pension scheme membership, with non-members included within the receiving employer's re-enrolment process.

*(continued overleaf)*

**7. Modernise the administration of death benefit and other payments**

Moving away from paper-based evidence towards electronic means was almost universally supported by our specialist respondents. It would be reasonable to extend this desire to all other forms of identification proof required.

**8. Increases to contribution requirements no later than PLSA's 2030 timetable**

Over four-fifths of respondents (84%) to our survey believe minimum employer contributions should increase over time from 3% to 6% of earnings. We note a sudden increase will likely result in a backlash, but believe the current requirements are unlikely to generate satisfactory outcomes for many.

Our findings and suggestions are explained in further detail in the remainder of this paper.

## Findings and suggestions to simplify and improve auto-enrolment

### 1. Removing the age criteria

Currently a key element of automatic enrolment is that employees are assessed for inclusion in the process by their age. This involves excluding employees under 16 and over 75 completely, and only automatically enrolling those between 22 and State Pension Age (SPA). This generates complex ongoing monitoring requirements for employers, and critically reduces the number of individuals who could be saving for retirement. In 2005 the Pension Commission's Second Report first outlined the rationale for this approach:

Auto-enrolling young people working part time whilst still in school, higher or further education is likely to result in high levels of opt-out and large numbers of small value accounts, both of which will tend to increase average administration costs... It may also tend to create a habit of opting-out which then prevails at later ages.

Likewise, the upper ages reflected a time before the introductions of the 'Freedom and Choice' retirement flexibilities pension flexibilities and where building up a small pension fund prior to retirement was likely to be much as a hindrance as a help, hence the decision not to auto-enrol those over SPA.

However, legislation and experience has moved matters on:

- Now small pots can be taken easily and form a useful employer-funded and tax-efficient savings vehicle, so that the rationale of the upper age limit greatly diminishes or even disappears.
- The age bands were thought to reduce opt-outs and as such decrease administration, but in practice they increase administration for employers significantly as age data is a key additional item of data that processes must be built around. Work is created in recording age and SPA data and in assessing the various age transition points.

- Many different employees now have different SPAs and these rise in line with legislation.
- Many employers now adopt contractual enrolment to remove such complications, but this process does not remove the underlying automatic enrolment requirements, which leads to additional complexity in having to run these processes in the background (e.g. continually assessing those aged under 22 who have opted-out of contractual enrolment).
- The current approach fundamentally reduces the amount that both the young and the old save for retirement. Those younger than 22 in particular might benefit from starting saving earlier if they choose not to opt out. This has been acknowledged by the Current 2017 Auto-enrolment review proposal to move the automatic enrolment age from 22 to age 18.

### Our suggestion

We suggest that removing the age criterion would be a key simplification. Our membership survey showed that four-fifths (80%) favoured removing the minimum age criterion while two-thirds (68%) believed automatic enrolment should be extended to all employees up to age 75. The value is:

- Removing the age criterion would go some way to simplify the assessment process for employers and providers.
- It is aligned with the current proposal to reduce the automatic enrolment age to 18.
- Opt-out rates for automatic enrolment have generally been low, suggesting young people may not opt-out as initially envisaged.
- Any late saving for older people is still useful and still augments their benefits productively as flexi-access drawdown and uncrystallised funds pension lump sums are now option to take benefits.

## **2. Use the pay in the previous pay period to determine eligibility for enrolment**

A key data component of the assessment process for automatic enrolment is the level of a jobholder's relevant earnings that are payable in the relevant pay reference period. This is one of the most complex pieces of legislation in the whole automatic enrolment regime.

A jobholder's earnings payable in a pay reference period may not be known until the end of that pay reference period, yet the duties operate on those jobholders from the assessment date, which is often the first day of the pay reference period. Contributions may be payable for that period and this puts a strain on payroll functions because payroll timescales are so tight that many practical problems arise where current earnings are used.

A workaround sometimes suggested is to postpone automatic enrolment until a later mid-point / end-point in a pay reference period so that no contributions are payable for that period but only from the following period.

### **Our suggestion**

More than four-fifths (85%) in our membership survey support simplifying the process by allowing employers to use the pay in the previous pay period (e.g. the previous month's or week's figure) to determine eligibility for enrolment. Under this proposal, eligible jobholders could be enrolled and start active membership based on prior period earnings if that works for an employer. This is a known quantity and is therefore easier to manage.

## **3. Opt-out window should be extendable by up to three months after enrolment**

The right to opt out is widely supported both generally and by pensions specialists because it protects those whose circumstances mean that pension saving is not appropriate and means individuals feel they have greater ownership of their situation.

However, the legislation on opt outs is complex and prescriptive, with many 'hurdles' to clear to enable a successful opt out. Specifically, these involve time period constraints and opting-out arrangements.

### **Our suggestion**

Three fifths (63%) of those who responded to our membership survey believe that employers should be allowed to accept opt-out elections up to three months after enrolment.

We think that to consolidate the valuable right to opt out that the opt-out window should be extendable by up to three months after enrolment. That said, careful consideration must be given to any increased administrative burden this may cause providers and third-party administrators, but the overriding flexibility should be for savers. There may also be a cost saving in terms of not having to manage very small DC pots created by cessations of active membership just after the one month opt-out window. The standard one-month period would be available for providers and/or employers to operate if it is not practical or cost effective to allow a different period.

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#### **4. Greater freedom to select cyclical re-enrolment date**

Cyclical re-enrolment dates are limited to a six-month window. The legislation on re-enrolment is in some way still detailed and restrictive in that:

- Re-enrolment dates are linked to each specific employer; where there are different employers in an overall group it may not be possible to synchronise easily their re-enrolment dates.
- Re-enrolment dates are linked to a set three-year cycle that now seems too programmed as automatic enrolment is well bedded. The largest employers have already gone through more than one cycle, but remain restricted based on dates determined a decade ago.
- The timing may still not be flexible enough for corporate events like potential sale or purchase of a business.

#### **Our suggestion**

Over four-fifths (83%) of our specialists responding to our survey support allowing employers the freedom to choose any cyclical re-enrolment date they wish so long as it is no more than three years and three months since the previous one. In our view the low rates of opt-out weakens the case for rigidity in this area.

We think that a further gain for simplification may be achieved by allowing certification of DC contribution structures to run up to the next cyclical re-enrolment date (instead of their current maximum of 18 months). This would allow the two processes to be linked into one seamless one. This idea is supported by over three-quarters of our respondents.

Given that cyclical re-enrolment is linked to the employer's duty to re-declare compliance to the Pensions Regulator there is also the opportunity to improve governance on this point.

#### **5. Discretion for employers to statutorily enrol any employee they wish**

As is noted in suggestion 1 we are conscious that a significant number of employers now operate contractual enrolment as a joining method for pension schemes – i.e. individuals are joined through their contract of employment before the auto-enrolment process starts. Although some of these arrangements will pre-date automatic enrolment, we believe many were established to avoid the various complexities and administration work associated with assessing the workforce under the automatic enrolment legislation (treating staff differently, recording and monitoring age and earnings data against various thresholds).

However, contractual enrolment is not as simple to operate as many employers believe as it does not replace automatic enrolment. Employers still must re-enrol those who are not members of a qualifying scheme as set out in legislation, and in particular some employees have to be monitored on an ongoing basis even if they have already opted out (as they haven't opted out of auto-enrolment specifically. Savers also have no automatic opt-out rights (albeit cooling off periods may apply), which they benefit from under automatic enrolment. Unless communication is clear, savers may be impacted negatively by being contractually enrolled (e.g. loss of fixed protection). This is a risk with automatic enrolment too, but the communication process for the latter is generally subject to greater consideration.

#### **Our suggestion**

- We believe employers should be allowed discretion to statutorily enrol any employee they wish even if current age and earnings criteria are not met. Over seven-tenths of respondents to our survey believe that this should be allowed.
- Employees could always opt out if such an enrolment was not suitable and it would avoid complications around contractual enrolment practices.
- What matters is not the distinction between contractually enrolled and statutorily auto-enrolled but simply that jobholders are enrolled under the most suitable and robust processes available.

## **6. No enrolment notice or opt-out at the point of a TUPE transfer**

In general, the interactions of the TUPE and auto-enrolment legislation are poorly understood and lead to confusion for no real benefit for scheme members or employers.

The Pensions Regulator's Detailed Guidance (No.2) states that the new employer has to assess the worker with effect from the transfer date and, where appropriate, automatically enrol them. In effect, they are treated as a new joiner for that employer.

There is also the further issue of employees who opted out with one employer being moved in an intra-group transfer to another employer within the same group. Legislation provides that jobholders who opted out in the last 12 months are not subject to the automatic enrolment duties, but it is not clear if this still applies where the opt-out/cessation occurred with a different employer within the same group.

### **Our suggestion**

We believe that, for TUPE transfers and intra-group employer switches where membership is a continuation of the existing active basis, no enrolment notice, or opt-out period is needed at the point of the TUPE transfer (but that employers could issue these if they wanted to). Any employees being TUPE'd would maintain any qualifying pension scheme membership, with non-members included within the receiving employer's re-enrolment process.

There was overwhelming support for this suggestion from our survey with fewer than one in ten (6%) opposed to the idea.

## **7. Modernise the administration of death benefit and other payments**

Legislation is restrictive in the context of the means by which an individual is required to provide proof of their identity, or in the case of deceased individuals, provision of their death certificates. Currently, in an age of increased digitalisation, proofs must be in paper form. Whilst security is paramount, this can delay processes and electronic checks are used in other similar scenarios.

### **Our suggestion**

The simplification of the administration of death benefit payments was almost universally supported by our specialist respondents. It would be reasonable to extend this desire to all other forms of identification proof required.

We think that permitting the use of the Government Gateway, and other means of electronic checks, would provide good simplification and greatly reduce the administration burden of requesting, verifying, and returning paper forms of identification. Benefits, particularly ease of data provision, would also be enjoyed by relatives of deceased scheme members during difficult times.

## **8. Increases to contribution requirements no later than PLSA's 2030 timetable**

Auto-enrolment has been a great success story as far as increasing the quantity of active pension savers in the country. However, we have not yet seen what quality of retirement outcomes auto-enrolment will lead to. There is consensus in the industry that 8% total contribution (on whatever measure of earnings) is too low to secure financial adequacy in retirement. For example, the PLSA's "Hitting the Target" paper from July 2018 calls for total contributions to be raised to 12% from 2025 to 2030 and, in the past the ACA has called for contributions to be increased to 16% of earnings.

### **Our suggestion**

Over four-fifths (84%) of respondents to our survey believe minimum employer contributions should increase over time from 3% to 6% of earnings. If the existing required total contribution moved up by the same amount, then this would result in a headline contribution rate of 11% (split 6% employer and 5% employee). In fact, we believe that the Government could go beyond this to the 12% (split 6%/6%) called for by the PLSA and for that to still be accepted by businesses and savers..

However, we do recognise that there is likely to be a backlash if further increases are introduced too rapidly so we would propose that the change is implemented over a few years but no later than PLSA's timetable of introducing it by 2030.

We believe that one option of managing any cost impact would be to introduce it for new employees from one date and then allow employers discretion as to when (and in what stages) to move their existing workforce up to the improved basis but subject to a final backstop date.

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## Conclusion

The new decade offers an important and critical opportunity to take the steps necessary to help secure adequate living standards in retirement. We believe that the proposals outlined above would simplify and improve auto-enrolment, and we would encourage DWP to consider these ideas as part of any ongoing or periodic review of auto-enrolment.

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