



PENSIONS COMMITTEE 30 April 2013	

Subject Heading:	Automatic Enrolment legislation changes consultation
CMT Lead	Andrew Blake-Herbert
Report Author and contact details:	Contact: Karen Balam Designation: Transactional Manager Telephone: (01708) 432271 E-mail Address: Karen.balam@havering.gov.uk
Policy context:	Pensions Act 2008 and 2011.
Financial summary:	There are no financial implications in responding to the consultations.

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

The report is to seek the support of the Committee for the proposed responses on the consultation on proposed changes to the pension reform legislation covering automatic enrolment.

RECOMMENDATIONS

- 1 Members support the proposed responses to the consultation.

REPORT DETAIL

1 Background

- 1.1 Following the Government's acceptance of the Lord Hutton report on pensions reform, several initiatives have been instigated under Workplace Pensions Reform. The Pensions Regulator together with the Department of Work and Pensions are overseeing the changes to the Pensions Act 2011, which requires all employers to offer a pension scheme to their employees, to automatically enrol those who meet certain criteria on the employers staging date, monitor other employees to ascertain when they meet the set down criteria, and to re-enrol those who opt out of the scheme every 3 years.
- 1.2 The legislation is now being reviewed with a view to amendment and a consultation document has been issued, with a response date of 7 May 2013.
- 1.3 This Authority would want to make a response to the consultation, and members of the automatic enrolment working team have reviewed the document.
- 1.4 It should also be noted that the scope of the consultation is narrow and does not cover the breadth of changes that could be effective, such as the burdensome communications requirement for large employers. It is the intention of this council to include this observation in the response.
- 1.5 The proposed responses are given in Appendix A.

2 Scope of the Consultation

2.1 Amendment to current legislation

The consultation document included 10 proposed changes to the current legislation, highlighting the issues, the proposals and a set of questions following each proposed change topic.

The proposals were around redefining certain technical terms and time periods but also included the potential for easements for employers providing good pension schemes.

2.2 Proposed response

As the LGPS and Teachers Pension Scheme allow entry to all employees, it is proposed to respond to the relevant question on easement specifically, and merely comment on the remainder.

2.2.1 The response to the questions on introducing any amendments prior to April 2014 was considered with the conclusion reached that change introduced closely after the launch of automatic enrolment is not absorbed as easily as change introduced after a period of time. Therefore the response is not to make amendments prior to April 2014.

IMPLICATIONS AND RISKS

Financial implications and risks:

This area of work is an employer responsibility and cannot be met by the Pension Fund. The proposed changes do not incur any further changes to systems. Council resources could be saved if it is agreed that the Council can self certify that it meets all the obligations of automatic enrolment as a result of contractually enrolling all staff into the appropriate pension scheme.

Legal implications and risks:

The Pensions Act 2011 requires employers to register with the Pension Regulator and automatically enrol eligible employees into a qualifying pension scheme where they are not currently a member. This task then needs to be repeated every 3 years. This imposes significant administrative burdens on the London Borough of Havering and has financial implications. It is not known at this time if any changes to legislation would still require registration to still occur.

Failure to comply with the automatic enrolment regulations will expose the Council to the risk of fines imposed by the Pension Regulator.

Human Resources implications and risks:

There will continue to be ongoing changes and monitoring in processes and procedures to ensure that the Council meets the required legislation around automatic enrolment.

Equalities implications and risks:

Since the Amendment Regulations, October 2012, all non teaching employees have the right to join the LGPS. All non teaching employees with a contract of 3 months or more are already automatically enrolled in the LGPS. All non teaching employees with contracts of less than 3 months (including casuals) may now elect to join the LGPS.

BACKGROUND PAPERS

The Local Government Pension Scheme Regulations (various) and the Guidance notes issued with them.

Department of Work & Pensions Technical Changes to Automatic Enrolment – Public consultation on draft regulations and other propose changes.

APPENDIX A

Consultation questions

Q1 – Does the existing approach to Pay reference periods cause you any difficulties? If it does, can you explain how, if possible with specific examples?

R1 the existing approach does not cause us any difficulties.

Q2 – Will adding the proposed alternative method of determining a pay reference period to align with tax and NICS periods make assessing jobholder status more straightforward?

R2 We do not believe the proposed alternative will make assessing job holder status more straightforward but would welcome it as a more pragmatic approach.

Q3 – Should both the old and the new definitions of a pay reference period remain in force? If so for how long?

R3 No, it would be easier to have only 1 definition going forward.

Q4 – If we allow a period where both the old and new definitions of a pay reference period are in force, would it be useful to bring the new requirements as soon as possible.

R4 We do not support bringing changes in legislation forward from the proposed date of 1 April 2014.

Q5 – Does adopting the revised definition of a payroll reference period for assessing scheme quality remove any possible need for annual reconciliation?

R5 We assume that this is intended for schemes that are making the minimum payments required. As the schemes in place at this authority exceed the requirements, we cannot see that this makes any difference.

Q6 – Are there any potential difficulties with the proposed change you wish to highlight?

R6 Cannot comment. See R5

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Q7 – Is there any reason not to bring the revised definition of a payroll reference period for assessing scheme quality into force as soon as possible?

R7 We do not support bringing changes in legislation forward from the proposed date of 1 April 2014.

Q8 – Does extending the deadline for passing over employer contributions make administration easier?

R8 This is not an issue for this Council, and therefore it would not have any positive impact.

Q9 – Are there any risks associated with extending the deadline in this way?

R9 There could be a risk that not all contributions are paid over to the fund unless automation is in place. As this council has automation, this is not an issue.

Q10 – Is there any reason not to bring the change to contribution payment deadlines into force as soon as possible?

R10 We do not support bringing changes in legislation forward from the proposed date of 1 April 2014.

Q11 – Should there be a prescribed period under section 3(4) of the Pensions Act 2008 to turn off the automatic enrolment duty? Please set out the reasons for your view.

R11 It is this council's opinion that the existing approach of 12 months is absolutely right. If it were any shorter, it might give a negative impression to employees. Any longer, and the communications issue would need to be greater.

Q12 – If so, how long should that period be?

R12 See R11.

Q13 – Does the ongoing monitoring requirement limit how useful this would be as an easement?

R13 We do not believe so.

Q14 – Do the proposed changes on the form of opt out notices make it easier to design and use?

R14 Implementing the proposed changes will make no difference to using it, and changing design would not present us with any difficulty.

Q15 – Is there any reason not to bring the clarification on the form of opt out notices into force as soon as possible?

R15 We do not support bringing changes in legislation forward from the proposed date of 1 April 2014.

Q16 – Do you think extending the deadline from one month to six weeks strikes the right balance between the needs of employer and jobholders?

R16 This council believes that the change from 1 month to 6 weeks would make very little difference. So, if the time were to be extended, the DWP should consider at least 8 weeks.

Q17 – An extended joining window could cut across the disclosure requirements that are currently linked to a one month joining window. Would this cause administrative difficulties.

R17 The view is, if it cuts across the disclosure requirements, it would be unwise to change what is currently in place.

Q18 – Does the proposed amendment to the definition of appropriate age have the desired effect?

R18 If the proposed changes are implemented, this council believes they will achieve the desired effect.

Q19 – Does the proposed amendment to maximum service limit for lump sum schemes have the desired effect?

R19 This council cannot comment on this as the schemes in place do not include this facility.

Q20 - Does the proposed amendment to the revaluation requirement for certain lump sum schemes have the desired effect?

R20 This council cannot comment on this as the schemes in place do not include this facility.

Q21 – Is there any reason not to bring the changes to the test scheme requirements into force as soon as possible?

R21 We do not support bringing changes in legislation forward from the proposed date of 1 April 2014.

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Q22 – Are there categories or descriptions of worker for whom automatic enrolment is inappropriate? If yes, can you say who they are and why?

R22 This council cannot identify any further types of workers from those identified in the consultation document.

Q23 – Would it be a good idea to allow employers contractually enrolling all workers into an automatic enrolment qualifying scheme to be certified or to self-certify that they are meeting the policy objectives and therefore are exempt from the explicit employer duties?

R23 This council fully supports this proposal, and would welcome it.

Q24 – What would employers need to demonstrate, beyond contractual enrolment of all workers into an automatic enrolment qualifying scheme in order to be certified or allowed to self-certify?

R24 That regulations in respect of the pension schemes in place mirror the legislation requirement for automatic enrolment. It is the view of this council that what is currently in place do meet those requirements.

Q25 – For the purpose of automatic enrolment, is a quality requirement needed for DB schemes at all?

R25 This Council feels that this is irrelevant for the pension schemes in place for the employees of Local Government., and so will not comment further.

Q26 – Is there a simpler way of determining whether a DB scheme is "good enough" to be used for automatic enrolments?

R26 This Council agrees that there should be a method of measuring that a scheme does meet the criteria as a suitable scheme for automatic enrolment but would not recommend a method of doing so.

Additional Comments

This council would also like to comment that it is of the opinion that the scope of the consultation was narrower than it could have been.

Comments around the scale of communication (letters), and the information not given at registration are just a few of the items that could have been included.