

## A practical guide to pensions for local councils

*The law on workplace pensions has changed for all employers, doing nothing is not an option*

- The government wants to encourage people to save for their retirement. Therefore local councils, as employers, have a new legal duty to automatically enrol certain members of staff into a pension scheme and make contributions towards it. They also have to tell staff about the scheme and allow other staff to join if they request to do so.
- By law local councils **must** implement an administration procedure and **may** need to implement a pension scheme, or at least have a process in place to implement a suitable one in a timely manner when required (\*see page 3).

***The changes to the law on workplace pensions apply to all employers, even if there is only one part time member of staff.***

As independent bodies every parish and town council that is an employer:

- May need to put a qualifying pension scheme in place, or at least have a process in place for implementing a suitable one in a timely manner when required (\*see page 3).
- Must issue statutory worker communications within prescribed timescales
- Must monitor workers on an ongoing basis for changes in age and earnings
- Must register compliance with the Pensions Regulator and keep appropriate records

Factors such as the size of the council, level of precept, number of current workers, age of current workers, whether or not the workers are currently in a pension scheme, whether or not the current workers want to be part of a pension scheme are not relevant. Every employer must comply with the above duties regardless of these factors.

- Gloucestershire ALC suggests that each council appoints a working group of a small number of councillors and the most senior employee. The purpose of this body of knowledge will be to generate information and options for the council to make informed decisions and take

appropriate action, to ensure that it is compliant with workplace pension legislation. As with all matters relating to terms and conditions of employment, the council, as the employer, should satisfy itself that it is making informed decisions, taking into account the interests of the council, the employees and the tax payer. The choices made will have ongoing financial implications for the council.

**The Pensions Regulator gives guidance to employers, including local councils, on what is expected of them:**

<http://www.thepensionsregulator.gov.uk/employers.aspx>

<http://www.thepensionsregulator.gov.uk/employers/your-step-by-step-guide-to-automatic-enrolment.aspx>

- The new employer duties for workplace pensions begin on each local council’s ‘staging date’ but it is important that each council starts to prepare before this date and complete key tasks before the staging date, after and on an ongoing basis:

<b>12 months before staging date</b>	Know your staging date
	↓
<b>9 months before staging date</b>	Provide a point of contact to Pensions Regulator
	↓
	Check who you need to enrol
	↓
<b>6 months before staging date</b>	Create an action plan
	↓
	Work out costs to add to budget
	↓
<b>Staging date &amp; beyond</b>	Check your records & payroll processes
	↓
<b>Staging date &amp; beyond</b>	Choose a pension scheme (or check existing one)
	↓
	Assess and auto enrol staff
	↓
	Write to your staff
<b>Staging date &amp; beyond</b>	↓
	Understand your ongoing employer duties
	↓
<b>Staging date &amp; beyond</b>	Complete your declaration of compliance for Pensions Regulator

- Non-compliance with the new workplace pension duties by a local council may result in enforcement by the Pensions Regulator, from informal action to statutory notices through to penalty notices (fixed penalty notice of £400, with an escalating penalty notice of £50 per day for employers with 1-4 workers). Local councils must act lawfully but may also wish to use this as an opportunity to review the benefits package that they offer their staff and make decisions in a planned way.
- The introduction of the legislation means that local councils can choose a qualifying pension scheme, which will allow them to have a more affordable scheme than the Local Government Pension Scheme (LGPS), if they so wish. The Council should take independent financial advice when considering their options.

***The Pension Regulator has compiled a useful FAQ on its website:***

<http://www.thepensionsregulator.gov.uk/automatic-enrolment-enquiries.aspx?j=1992496&e=alice.maher@tpr.gov.uk&l=957 HTML&u=60843383&mid=6130807&jb=0&j=1999216&e=clerk@bartonstacey.com&l=957 HTML&u=61078285&mid=6130807&jb=0#s15639>

- An important point to also note is that since January 2012 local councils do not have the discretion to pay a retirement gratuity to staff. The Government's view is that local councils may still fulfil any extant (existing) contractual obligations which relate to the payment of gratuities. Local councils are advised to contact Gloucestershire ALC for advice on this matter before making a gratuity payment.

**\* One of the most relevant and significant questions that many local councils will ask is "Does our council need to set up a pension scheme if it does not have any members of staff that are eligible for automatic enrolment?"**

- If at the council's staging date it does not have any members of staff to be automatically enrolled, there is no need to have a pension scheme set up. However, while the council may not have any staff to automatically enrol at the staging date, they can still ask to join a pension scheme. If this happens, the council will need to set a scheme up at this point. While there is no time limit to establish a scheme, all contributions must be effective from the due date, i.e. 1st of month after the request is made. In addition to this, a local council will have the ongoing duty to assess its staff each pay period i.e. each time a member of staff is paid. If as a result of this

assessment it is found that a member of staff has become eligible for automatic enrolment due to an increase in age or pay, the council must automatically enrol this member of staff into a qualifying pension scheme. It is for these reasons that it is suggested in this guide that local council 'may need to put a qualifying pension scheme in place, or at least have a process in place for implementing a suitable one in a timely manner when required.'

## Step by step guide for local councils (Important information to support your working group)

### 12 MONTHS BEFORE YOUR COUNCIL'S STAGING DATE

#### 1. KNOW YOUR COUNCIL'S STAGING DATE

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

- Your 'staging date' is date the council's employer duties for workplace pensions begin. The council must have done all of its preparation **before** this date.
- To find out your council's staging date visit: [www.tpr.gov.uk/staging-date](http://www.tpr.gov.uk/staging-date) (you will need the council's PAYE reference). If the council doesn't pay its staff through a PAYE scheme, its staging date will be 1 April 2017.
- Alternatively, approximately 12 months before your council's staging date you should receive the first letter from the Pensions Regulator, which will let you know your staging date.

#### 2. PROVIDE A POINT OF CONTACT

<http://www.thepensionsregulator.gov.uk/employers/provide-a-point-of-contact.aspx>

- Each local council, as the employing body, is responsible for complying with the changes to workplace pension legislation.
- When the Pensions Regulator writes to the council, it will ask you to confirm a 'primary contact' and if you so wish, 'secondary contact'. The Pensions Regulator will send information and guidance to these contacts once confirmed. Gloucestershire ALC suggests that the most senior employee in the council and a nominated councillor (on the pension working party) are provided as contacts. To provide details of the contacts (or update details) to the Pension's Regulator go to: <https://automation.thepensionsregulator.gov.uk/Nomination>.

### 9 MONTHS BEFORE YOUR COUNCIL'S STAGING DATE

#### 3. CHECK WHO YOU NEED TO ENROL

<http://www.thepensionsregulator.gov.uk/employers/check-who-you-need-to-enrol.aspx>

- At this stage the council will need to do a quick review to understand its duties in relation to each member of staff.

- Under the new workplace pension legislation it is not just ‘employees’ that have rights; it is ‘workers’. The Pension Regulator states that a worker is defined as any individual who:
  - works under a contract of employment, or
  - has a contract to perform work or services personally and is not undertaking the work as part of their own business (‘contract of services’)

These are people that are on the council’s payroll. If you are unsure whether or not someone is a ‘worker’ for workplace pension purposes, you should seek advice. It is likely that a local council will have at least one employee: <http://www.hmrc.gov.uk/manuals/eimanual/eim67300.htm>.

- There are three different categories of workers to consider. You will need to:
  - work out who it is likely you’ll need to automatically enrol into a **qualifying** pension scheme (**eligible jobholders**)
  - work out who will be able to choose to opt in to a **qualifying** pension scheme (**non eligible job holders**)
  - work out who will have a right to join a pension scheme (**entitled workers**)

To do this you will need to know the age and salary of every member of staff.

- **Eligible job holders** that are auto enrolled can opt out of the pension scheme but if they do so, they must be re-enrolled every three years. Local councils, as employers, must not try to influence workers to opt out of a pension scheme.

Monthly gross earnings (2015/16)	Age		
	16 – 21	22 – State Pension Age	State Pension Age - 74
£486 and below	<b>ENTITLED WORKER</b> (If they ask you to, you must provide a pension scheme for them, but you don’t have to pay contributions)		
Over £486 up to £833	<b>NON ELIGIBLE JOB HOLDER</b> (If they ask to be put into a pension scheme, you must put them in your <b>qualifying</b> pension scheme and pay regular contributions)		
Over £833	<b>NON ELIGIBLE JOB HOLDER</b> (If they ask to be put into a pension scheme, you must put them in your <b>qualifying</b> pension scheme and pay regular contributions)	<b>ELIGIBLE JOBHOLDER</b> (You must put these members of staff in your automatic enrolment pension scheme and pay regular contributions. You don’t need to ask their permission)	<b>NON ELIGIBLE JOB HOLDER</b> If they ask to be put into a pension scheme, you must put them in your <b>qualifying</b> pension scheme and pay regular contributions

#### 4. CREATE AN INITIAL ACTION PLAN

<http://www.thepensionsregulator.gov.uk/employers/create-your-action-plan.aspx>

- Every local council, as an employer, will have some workplace pension duties, even if current members of staff are not eligible for auto enrolment. It is therefore important that your council understands these and starts to prepare for them as early as possible. Leaving it to the last minute could be more costly and complex, therefore making plans early is key.
- For a template planner visit: [www.tpr.gov.uk/planner](http://www.tpr.gov.uk/planner).
- As part of the plan, your council may wish to consider if it requires support from external parties, for example independent workplace pension consultants or payroll service providers.

#### 5. WORKING OUT YOUR COSTS

<http://www.thepensionsregulator.gov.uk/employers/work-out-your-costs.aspx>

- Financial planning is a very important part of the process and needs to be done in advance so that costs can be budgeted for and included in the precept. Setting up the scheme, payroll costs, independent advice all need to be budgeted for in addition to the regular contributions that your council may pay into the pension scheme for eligible staff. To calculate statutory contributions visit: [www.tpr.gov.uk/calculate](http://www.tpr.gov.uk/calculate).
- The table below shows the minimum amounts your council must contribute for eligible staff, although your council may choose to make the contribution rates higher. If your council uses the LGPS as its pension scheme the contribution rates will be considerably higher for the council as an employer.

Date	Employer minimum contribution	Total minimum contribution
Before 30/09/17	1%	2% (including 1% staff contribution)
01/10/17 – 30/09/18	2%	5% (including 3% staff contribution)
01/10/18 onwards	3%	8% (including 5% staff contribution)

## 6 MONTHS BEFORE YOUR COUNCIL'S STAGING DATE

### 6. CHECK YOUR RECORDS & PAYROLL PROCESSES

<http://www.thepensionsregulator.gov.uk/employers/check-your-records-and-payroll-process.aspx>

- It is essential that you ensure your staff records are correct and up to date. These must be kept up to date following the council's staging date.
- Payroll software can simplify the process and support the council to comply with its workplace pension duties. However, payroll software can be expensive for individual councils to purchase; therefore your council may wish to use a payroll service provider that uses payroll software that is workplace pension compliant. If you decide to use a provider, remember that complying with the workplace pension legislation is still the council's responsibility.

**If the council fails to complete its workplace pension duties, it could be fined.**

- If your council does not want to purchase payroll software or use a payroll service provider you can find out information about what your council can do if it doesn't have payroll software that is compatible with workplace pension duties here: <http://www.thepensionsregulator.gov.uk/employers/what-if-i-dont-have-payroll-software-that-is-compatible-with-automatic-enrolment.aspx>. If the council wants to administer payroll in house it needs to consider the cost of additional staff hours, it also needs to consider the risks of not automating the process.
- For the list of tasks payroll software will need to be able to carry out to be fully compliant with workplace pension duties click here: <http://www.thepensionsregulator.gov.uk/employers/does-my-payroll-software-fully-support-automatic-enrolment.aspx>

### 7. CHOOSING A PENSION SCHEME (OR CHECKING EXISTING ONE)\*

<http://www.thepensionsregulator.gov.uk/employers/choose-a-pension-scheme-or-check-your-existing-one.aspx>

- The Local Government Pension Scheme (LGPS) is a qualifying pension scheme under workplace pension legislation. However, local councils are now able to administer and make contributions to other pensions schemes (as long as they meet the requirements of workplace pension legislation). Therefore, local councils may wish to look into other more affordable options.



- For more information on the different types of pension schemes and some of the providers visit: <http://www.thepensionsregulator.gov.uk/employers/finding-a-provider.aspx>.
- As well as making an informed choice about the pension scheme, the council will also need to consider practical issues such as how the scheme administration fits in with the council's payroll process or software. Therefore the council needs to allow plenty of time to make the right choice (approximately 6 months before staging date). Your pension scheme provider will need certain information about the staff you are enrolling so it can set up membership of the scheme for them. Your council needs to make sure it knows what this information is and the format your chosen scheme would like it in.
- As a small employer your staff will probably have heard of automatic enrolment however, if you haven't done so already, it would be a good idea at this point to provide them with information specifically from the council. For more information about how to do this visit: <http://www.thepensionsregulator.gov.uk/employers/raising-awareness-about-automatic-enrolment.aspx>.

## 8. ASSESSING & ENROLLING YOUR STAFF

<http://www.thepensionsregulator.gov.uk/employers/assess-and-enrol-your-staff.aspx>

- At this point your council's payroll process/system and pension scheme should have been set up and tested (\*see page 3).
- With everything in place, your council must now carry out a formal assessment of its staff to work out its duties regarding each of them. Once this has been done, the council must ensure that eligible staff (if any) are automatically enrolled by sending its pension scheme provider the information it needs to make them active members of the scheme. The council has six weeks from its staging date to do this. The council needs to make sure that:
  - Any member of staff who is eligible for automatic enrolment is enrolled into the council's qualifying pension scheme.
  - Any member of staff who is eligible to opt into the council's qualifying pension scheme is given the opportunity to do so.
  - Any member of staff who is eligible to join a scheme is given the opportunity to do so
- If the council hasn't started already, it may wish to begin its declaration of compliance at this stage.

## 9. WRITE TO YOUR STAFF

<http://www.thepensionsregulator.gov.uk/employers/write-to-your-staff.aspx>

- The council must write to each staff member after its staging date to tell them how the changes to workplace pension legislation applies to them and explain their rights. The council must write to staff who:
  - are being automatically enrolled explaining what the council has done and provide details of the pension scheme it has chosen for them.
  - have a right to opt in to qualifying pension scheme explaining how workplace pension legislation applies to them.
  - have a right to join a pension scheme explaining how workplace pension legislation applies to them.
- This must be done in writing and within six weeks of the council's staging date. The Pensions Regulator provides letter templates to help you do this: <http://www.thepensionsregulator.gov.uk/employers/write-to-your-staff.aspx>. Alternatively payroll software may be able to generate these letters for you.
- The council can choose to postpone automatic enrolment for up to 3 months. The council must write to its staff to tell them it is postponing automatic enrolment for them. One of the times a local council, as an employer, may choose to use postponement is at its staging date. The Pension Regulator provides more information regarding this: <http://www.thepensionsregulator.gov.uk/employers/postponement.aspx>. Defining whether your council is going to use postponement and when is an area that an independent consultant may be able to help you with.

## 10. YOUR ONGOING AUTOMATIC ENROLMENT DUTIES

<http://www.thepensionsregulator.gov.uk/employers/Your-ongoing-automatic-enrolment-duties.aspx>

- From your council's staging date, workplace pension duties are an ongoing responsibility. Outlined below are some of the main responsibilities that your council must comply with:
- **Keep records**  
Your council must keep records of how it has complied with its workplace pension duties, including:
  - the names and addresses of those it has enrolled
  - records that show when contributions were paid
  - any opt-in and opt-out requests
  - its pension scheme reference or registry number

- any information it sends to its pension provider

The council must keep these records for six years and opt-out notices for four years.

- **Monitor staff**

The council must monitor the ages and earnings of its staff (including new starters) each pay period, i.e. every pay day, to see if anyone has changed eligibility categories. If a member of staff who wasn't eligible for auto enrolment at the council's staging date has since become eligible, the council must enrol and write to them within six weeks from the day they become eligible. This may happen due to an increase in age or an increase in pay due to a pay rise or variable payments such as overtime pay.

- **Manage opt out requests**

If any of the council's staff choose to opt out within one month of being enrolled, the council needs to stop deductions of contributions and arrange a full refund of what has been paid to date. This must happen within one month of their request.

**If the council fails to complete its ongoing automatic enrolment duties, it could be fined.**

## 11. COMPLETING YOUR DECLARATION OF COMPLIANCE FOR THE PENSIONS REGULATOR

<http://www.thepensionsregulator.gov.uk/employers/complete-your-declaration-of-compliance.aspx>

- After the council's staging date it must complete its declaration of compliance online. This declaration lets the Pensions Regulator know that your council has met its workplace pension duties. Before going to the Pensions Regulator website, you need to ensure that you have all of the relevant information to hand.
- Even if your council hasn't had to enrol anyone (but had staff on its staging date), it still needs to complete its declaration to tell the Pension Regulator this.
- Although you have five months from the council's staging date to complete its declaration, this shouldn't be left to the last minute as completing the declaration is a legal duty and, if you fail to complete it within five months, your council could be fined.
- To complete the council's declaration go to: <https://www.autoenrol.tpr.gov.uk/>.
- For resources to support you in completing the declaration go to: <http://www.thepensionsregulator.gov.uk/employers/complete-your-declaration-of-compliance.aspx>

***Workplace pension duties are not a one off, local councils as employers have ongoing duties, which should become 'business as usual' like real-time PAYE. Each local council will need to assess its staff each pay period i.e. each time a member of staff is paid and will need to complete the automatic enrolment process every three years. This is known as automatic re-enrolment. The council will have to complete a re-declaration every three years as part of this process.***

This document has been provided by LCPD on behalf of Gloucestershire ALC. LCPD are an employment and HR consultancy with a difference – we specialise in working with parish and town councils and understand the unique position they are in. Through our qualified consultant and network of partners, we can provide a full range of affordable and effective employment and HR services that can help you reduce risk, increase compliance and get the best out of your people. Our services cover all stages of the employment lifecycle from recruitment and selection through to leaving the organisation.