Pensions Talk, September 2013

Auto-enrolment round-up

Average opt out rates – 9%

A report recently issued by the Department of Work and Pensions has identified the employee opt out rates to be between 5% and 15% with an average opt out rate of 9%. The report includes a sample of 50 employers with staging dates between October 2012 and April 2013, taken from The Pension Regulator's records.

In October 2012, the first employers started to comply with the requirements regarding auto-enrolment and workplace pensions. Under the legislation, all eligible employees must be automatically enrolled into a qualifying pension scheme unless they are already members of a scheme which meets the Government standards. However, once enrolled employees who do not wish to be members of the pension scheme have one calendar month in which they can opt out. If they opt out within this period, they will be treated as if they were never a member of the pension scheme. The recent report from the Department of Work and Pensions examines some of the opt out statistics obtained to date.

The figures are based on a sample of 50 employers who have reached their staging date and therefore complied with the legislation. Of these 50, 42 were able to supply detailed opt out data on some 1.9 million employees. The remaining eight employers provided estimates on the opt out levels. Most of these employers reported an opt out rate of between 5% and 15% of employees who were automatically enrolled with the average opt out rate being approximately 9%. The statistics also show that opt out rates were higher amongst those aged 50 and above. However other factors such as gender, salary and whether the employee worked full or part time do not seem to have had an impact.

The average 9% opt out rate is significantly lower than most commentators expected. Prior to the introduction of auto-enrolment, many anticipated opt out rates to be in the region of 20%. The statistics provided are from a sample portion of the employers who have already auto-enrolled their employees. The employers considered for this report are large employers with employee numbers ranging from 6,000 to 120,000. The characteristics of these employers may therefore be very different from small to medium sized employers. What also needs to be considered is this report only looks at those employees who opted out during the one month opt-out window and does not consider those who have ceased membership of the pension outside of this period. Whilst there is some data on this, to date this is limited.

However what this does show is that the inertia that kept employees from joining pensions, appears likewise keeping them from opting out. It is also interesting to note that higher opt out levels have been recorded amongst older employees. This could perhaps be due to greater awareness of pensions amongst this age group.

What can we learn from employers who have already staged?

With the number of employers completing the auto-enrolment process increasing each month, The Pensions Regulator has published some useful case studies from a selection of employers to consider the key pitfalls and considerations with regards to the auto-enrolment process. Unsurprisingly the key messages that are coming across from these are as follows:

- **Plan early**. Allow yourself enough time to complete the process. As a guide we would recommend a lead in time of at least 18 months. In our opinion, trying to manage the process in less than six months would not be feasible.
- **Focus on systems**. With the many complications within the auto-enrolment rules it is vital that you have an adequate system in place that will help you meet your duties under auto-enrolment. Automating as much as possible will keep things simple. However, it is also equally important to ensure that any systems you use dovetail with your current payroll and HR systems. Allowing adequate time to explore this is essential.
- **Communicate with employees**. Whilst the legislation requires a certain amount of statutory communications for employees, it is also important that you communicate with employees in advance of your staging date to ensure that they are aware of the changes and how they will impact on them.
- **Quality of data**. Whilst good systems will assess your employees and help you ensure you meet your duties, the output from these will only be as good as the data that goes into them. Make sure that your data is clean, up to date and accurate.

The above isn't rocket science but it cannot be underestimated how important it is to get these things right to ensure that auto-enrolment has as little impact on your business as possible.

TPR takes action against auto-enrolment non-compliance

Recent reports show that as of 31st March 2013, The Pensions Regulator has opened 89 investigations into potential non-compliance with the auto-enrolment legislation, with 38 warning letters issued to employers for minor breaches in the regulations. This month has also seen the Regulator issue its first compliance notice to an employer who has failed to meet its auto-enrolment duties.

Between October 2012 and July 2013, approximately 1,100 employers have reached their staging dates which effectively determine the date at which they will need to comply with the auto-enrolment legislation. Of these approximately 8% are facing scrutiny regarding potential non-compliance.

The 89 investigations mainly related to employer readiness, such as communicating with employees with regards to auto-enrolment. The warning letters issued notify employers of potential breaches and gives them time to put things right, or to take steps to prevent them happening again. In these cases The Pensions

Regulator did not use its powers to compel compliance. However on 12th August the first non-compliance notice was issued to an unnamed employer. The Pensions Regulator has refused to provide further information on the case or the extent of the non-compliance citing that this would prejudice “the effective conduct of public affairs”.

Whilst the majority of the cases of potential non-compliance have been dealt with via direct communication rather than enforcing compliance, The Pensions Regulator is clearly willing to pursue employers who fail to comply with the legislation. Of perhaps greater concern is that the employers under scrutiny here are the larger employers who are likely to have access to legal advice, pension advice and resources to dedicate time to these issues. If these employers are already failing, what will the position be for smaller employers without access to such resources?

NEST restrictions lifted

The Government has now announced that with effect from 2017, the restrictions current applying to NEST (National Employment Savings Trust) will be removed.

NEST was established specifically to help employers meet their duties under auto-enrolment legislation. NEST is a low cost, multi-employer pension scheme which was specifically designed for employees on low to middle incomes. When it was first introduced there were a number of restrictions imposed. The restrictions place a cap on the maximum contributions that can be paid in (which for the 2013/14 tax year are £4,500 per annum per member in total) and also prevent any transfers in or out.

Initially these restrictions were put in place to ensure that NEST did not disrupt the existing pensions market and it was envisaged that NEST would operate as a vehicle for the low to middle income earners where employers may be unable to obtain terms from traditional pension providers. However, with NOW Pensions and B&CE moving into this market also, it was felt that these restrictions put NEST in an uncompetitive position. Lifting the restrictions means that NEST are now able to compete on a level playing field with other providers in this market place.

“Pot follows member” rules announced

The Department of Work and Pensions has now published details of the rules governing what happens to an employee’s pension pot once they leave an employer.

Under auto-enrolment legislation, employers will need to automatically enrol all eligible employees into a qualifying workplace pension. Whilst employees can opt out after they are enrolled, statistics have shown that the number of employees exercising this option are low. This means that the number of people with pension pots will increase significantly over the years. Concerns have been raised that this may result in a large number of “small pots” where an employee is enrolled into his or her employer’s pension scheme but then changes employment after a few months or years.

To counter this, proposals have been put in place for small pots to “follow” the member. This process means that, once introduced, when a member is automatically enrolled into their new employer’s pension arrangement, the provider will need to check a central register to see if the member has a “small pot” sitting in another auto-enrolment pension scheme. Small in this respect will be defined as pots with a fund value of less than £10,000. If it is identified that the member does have a “small pot” an automatic transfer process will take place. The member will have the right to opt out of this process, but if they do not, the money will automatically be transferred across to the member’s new pension pot.

Whilst in theory this is a good idea as there are far too many “lost” pensions, there are a number of criticisms to this approach. Firstly, whilst there are requirements on qualifying pensions with regards to the contribution levels paid into them, there are currently no restrictions on the annual management charges that can be applied to such pensions. This may mean that a member is having their pension automatically transferred from a scheme with a low charge to one with a much higher charge. Although the member can opt out of the process, it is unlikely that members will understand the implications of these charges or be able to access advice at a reasonable cost within the timeframes specified.

The new system also places further administration on pension providers. This is likely to increase their operating costs which will ultimately be passed down to the end consumer in one way or another. The new system is also fairly complicated and adds yet another automatic/opting out scenario.

One Pension Consultancy LLP

Reading	*Southampton*	*Birmingham*
Sunfield Business Park	*2 Venture Rd*	*Aspect Court*
New Mill Rd	*Chilworth*	*4 Temple Row*
Finchampstead	*Southampton*	*Birmingham*
Berks	*SO16 7NP*	*B2 5HG*
RG40 4QT		
0118 9734420	*02380 762590*	*0121 222 2552*