

# Consultation on workplace pension reforms: Qualitative research with small and medium-sized companies

by Andrew Wood, Marisa Robertson  
and Dominika Wintersgill

**Department for Work and Pensions**

**Research Report No 652**

# **Consultation on workplace pension reforms: Qualitative research with small and medium- sized companies**

**Andrew Wood, Marisa Robertson and Dominika Wintersgill**

A report of research carried out by RS Consulting on behalf of the Department for Work and Pensions

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# The Authors

**Andrew Wood**, Research Director, specialises in public policy and financial sector research, for both public and private sector clients. He has run several high-profile studies for the Department for Work and Pensions (DWP), covering different aspects of the pension reforms, retirement saving and decision-making, as well as deregulation. He read Modern and Medieval Languages at the University of Cambridge.

**Marisa Robertson**, Senior Research Executive, is a member of our public policy team, and focuses on pensions research and projects investigating the impact of central government policy on local authorities and individuals. She co-authored two recent studies into the pension industry's responses to the workplace pension reforms for DWP, and read European Studies at the University of Reading.

**Dominika Wintersgill**, Project Manager, has five years' experience of public policy research, including projects for HM Revenue & Customs, the Office for National Statistics, the Home Office and the Department for Culture, Media and Sport. She read Culture and Society at the London School of Economics and Cultural Studies with German at the University of East London.

# Abbreviations

|       |                                      |
|-------|--------------------------------------|
| DB    | Defined Benefit                      |
| DC    | Defined Contribution                 |
| DWP   | Department for Work and Pensions     |
| FD    | Financial Director                   |
| FSA   | Financial Services Authority         |
| GPP   | Group Personal Pension               |
| GSIPP | Group Self-Invested Personal Pension |
| HMRC  | HM Revenue & Customs                 |
| HR    | Human Resources                      |
| IFA   | Independent Financial Adviser        |
| NDPB  | Non-departmental Public Body         |
| NEST  | National Employment Savings Trust    |
| PADA  | Personal Accounts Delivery Authority |
| PAYE  | Pay As You Earn                      |
| RPI   | Retail Prices Index                  |
| SHP   | Stakeholder Pension                  |
| TPR   | The Pensions Regulator               |



# Glossary of terms

## 19-day rule

Current pension legislation requires that all employee pension contributions must be paid to the pension scheme no later than the 19th day of the month following the end of the month in which they were deducted. This is commonly known as the '19-day rule'.

## Automatic enrolment

Pension scheme enrolment technique whereby an employer automatically enrolls **eligible workers** in the **workplace pension** scheme without the employees having to make a separate application for membership. Employees are able to opt out of the scheme if they prefer.

## Certification of Defined Contribution schemes

To be able to use a **Defined Contribution** scheme after the **workplace pension reforms** are implemented, all workers who are enrolled, who do not decide to opt out, will have to receive contributions totalling at least eight per cent on a band of their total earnings, between around £5,035 and £33,500 per annum (in 2006/07 earnings terms). Many employers currently use a definition of pensionable pay that is different to this band of earnings method. As a result, the draft regulations consulted upon in September 2009 included a process called certification of Defined Contribution schemes.

|   |  |
|---|--|
| Defined Benefit (DB) scheme                       | An <b>occupational pension scheme</b> that provides benefits based on a formula involving how much a person is paid at retirement (or how much a person has been paid on average during their membership of the scheme) and the length of time they have been in the pension scheme.                                     |
| Defined Contribution (DC) scheme                  | An <b>occupational or personal pension scheme</b> that provides benefits based on how much has been paid into the scheme, the investment returns earned and how much pension this money will buy at retirement.  |
| Earnings  | In the context of the <b>workplace pension reforms</b> this refers to all sums payable to an employee in connection with their employment, including salary, commission, bonuses, overtime, sick pay, maternity pay and paternity pay.   |
| Eligible worker                                   | In the context of the <b>workplace pension reforms</b> this refers to those workers who will be <b>automatically enrolled</b> into a <b>qualifying workplace pension scheme</b> or <b>NEST</b> . This group includes employees aged between 22 and <b>State Pension age</b> , earning above approximately £5,000 a year. |
| Group Personal Pension (GPP)                      | An arrangement made for the employees of a particular employer, or for a group of self-employed individuals, to participate in a <b>personal pension</b> scheme on a grouped basis. This is not a single scheme; merely a collecting agreement.  |
| Group Self-Invested Personal Pension (group SIPP) | An arrangement made for the employees of a particular employer, or for a group of self-employed individuals, to participate in a <b>self-invested personal pension</b> scheme on a grouped basis.  |

|                                     |   |
|-------------------------------------|---|
| Group Stakeholder Pension (SHP)     | A <b>personal pension</b> that must meet certain legislative conditions including <b>annual management charges</b> of no more than 1.5 per cent. Employers with five or more employees who do not already offer a pension scheme must currently offer a group SHP scheme. These employers do not have to contribute to a group SHP but they must allow employees access to the scheme. SHPs will cease to be mandatory after the <b>workplace pension reforms</b> are introduced. |
| Independent Financial Adviser (IFA) | An adviser, or firm of advisers, that is in a position to review all the available products and companies in the market as the basis for recommendations to clients. All IFAs are regulated directly by the Financial Services Authority (FSA).   |
| Inducement                          | Under the <b>workplace pension reforms</b> it will be unlawful for employers to seek to influence employees' decisions about whether or not to opt out of a pension scheme. This is called inducement.  |
| Member                              | A person who has joined a pension scheme and who is entitled to benefits under it.  |
| Minimum employee contribution       | In the context of the <b>workplace pension reforms</b> this refers to the minimum amount that all <b>eligible workers</b> will need to pay into a <b>workplace pension scheme</b> if they do not opt out, unless the employer chooses to contribute more than the minimum. It will be phased in from 2012 to 2017, after which it will remain at four per cent of <b>qualifying earnings</b> .  |
| Minimum employer contribution       | In the context of the <b>workplace pension reforms</b> this refers to the minimum amount that all <b>qualifying employers</b> will be required to contribute to <b>eligible workers'</b> workplace pension schemes. It will be phased in from 2012 to 2017, after which it will remain at three per cent of <b>qualifying earnings</b> .  |

|   |  |
|---|--|
| <b>NEST (National Employment Savings Trust)</b> | A new national occupational pension scheme, formerly known as Personal Accounts, set up by the <b>Personal Accounts Delivery Authority (PADA)</b> . After the implementation of the <b>workplace pension reforms</b> , employers will be required to automatically enrol eligible employees into a qualifying <b>workplace pension</b> , of which NEST will be one option. NEST will be aimed at those people on low and moderate incomes, who do not have access to a good quality <b>workplace pension</b> . |
| <b>Non-departmental public body (NDPB)</b>      | A public body set up by Government to carry out work at arm's length from Ministers, although Ministers are ultimately responsible to Parliament for the activities of the bodies sponsored by their department.   |
| <b>Occupational pension scheme</b>              | A <b>trust-based workplace pension</b> arrangement that is set up by an employer to provide income in retirement for its employees. Although the employer is responsible for sponsoring the scheme, it is actually run by a board of <b>trustees</b> .   |
| <b>Pay As You Earn (PAYE)</b>                   | An amount collected by employers on behalf of the Government from employees as a provisional payment of income tax on the employee's earnings.   |
| <b>Pensions Act 2007</b>                        | The act introduced to Parliament in November 2006 that put into law reforms to the state pensions system, covering the <b>Basic State Pension</b> and the <b>State Second Pension</b> , and changed some of the qualifying conditions for both. In the context of the workplace pension reforms it created the Personal Accounts Delivery Authority to advise on the reform proposals.   |

|                                     |   |
|-------------------------------------|---|
| <b>Pensions Act 2008</b>            | The act introduced to Parliament in December 2007 to take forward measures aimed at encouraging greater private saving: from 2012, it proposes that a system of <b>automatic enrolment</b> , together with <b>minimum employer contributions</b> will provide access to a pension to all <b>eligible employees</b> between 22 and <b>State Pension age</b> , who are not currently enrolled in a <b>workplace pension</b> . The Act received Royal Assent in November 2008.   |
| <b>The Pensions Regulator (TPR)</b> | The UK regulator of <b>workplace pensions</b> . The <b>Pensions Act 2008</b> introduced new duties on employers and gave TPR a new objective to maximise compliance with the duties, and ensure safeguards that protect employees are adhered to.   |
| <b>Personal Accounts</b>            | An <b>NDPB</b> accountable to Parliament and reporting, through a Board, to the Secretary of State for the Department for Work and Pensions. Their role is to set up a national, trust-based pension scheme called <b>NEST</b> that will be aimed at those people on low and moderate incomes, who do not have access to a good quality <b>workplace pension</b> .  |
| <b>Personal pension</b>             | A <b>Defined Contribution</b> pension scheme purchased by an individual, from a pension <b>provider</b> such as a bank, life assurance company or building society. It is owned entirely by the individual, allowing them to continue to contribute to it if they move jobs. It is also known as a <b>contract-based pension</b> . A personal pension purchased through the employer is known as a <b>workplace personal pension</b> ; one purchased individually is known as an <b>individual personal pension</b> . |

|                          |  |
|--------------------------|--|
| Phasing                  | Under the <b>workplace pension reforms</b> , the minimum levels of employer and employee contribution will be phased in over time. In the first transitional period, total contributions must total at least two per cent with employers required to pay one per cent. In the second transitional period, total contributions must total at least five per cent with employers required to pay two per cent. And then from steady state the total contributions must total eight per cent with employers required to pay three per cent. |
| Postponement             | The <b>Pensions Act 2008</b> allows employers to postpone <b>automatic enrolment</b> of new employees for a certain period, if they operate a high quality scheme, providing an employer contribution of at least six per cent and a total contribution of at least 11 per cent (based on qualifying earnings).  |
| Provider                 | An organisation, usually a bank, life assurance company or building society, that sets up and administers a pension scheme on behalf of an individual or trust.  |
| Record-keeping           | Under the <b>workplace pension reforms</b> employers will be required to keep specific records on pensions and pension schemes and will need to be able to produce these for <b>The Pensions Regulator</b> on request.   |
| Registration             | One requirement of the <b>workplace pension reforms</b> is for all employers to register information on how they have met their duties, with <b>The Pensions Regulator</b> including what pension arrangements they have put in place and what action they have taken to enrol jobholders into pension saving. Employers were told that they will be required to register within nine weeks of their automatic enrolment start date.   |
| Retail Price Index (RPI) | A measure of UK inflation published monthly by the Office for National Statistics.   |

|                                       |  |
|---------------------------------------|--|
| Qualifying earnings                   | In the context of the <b>workplace pension reforms</b> this refers to the part of an individual's earnings on which contributions into a <b>qualifying workplace pension scheme</b> will be made. Contributions will be made on a band of <b>earnings</b> between around £5,000 and £33,500 a year at 2006/07 <b>earnings</b> levels, and will be increased in line with <b>earnings</b> .   |
| Qualifying employer                   | In the context of the <b>workplace pension reforms</b> this refers to employers that employ any <b>eligible employees</b> .  |
| Qualifying workplace pension          | In the context of the <b>workplace pension reforms</b> all <b>qualifying employers</b> must offer their <b>eligible employees</b> a qualifying workplace pension. This must fulfil the core requirements of <b>automatic enrolment</b> and a <b>minimum employer contribution</b> . If these are fulfilled, qualifying schemes can include an <b>occupational pension</b> such as <b>NEST</b> , or a <b>workplace personal pension</b> . |
| Self-Invested Personal Pension (SIPP) | A <b>personal pension</b> scheme under which the member has some freedom to control investments. The requirements governing SIPP are set out in the Personal Pension Schemes (Restriction on Discretion to Approve) (Permitted Investments) Regulations 2001.  |
| Staging                               | The employer duties under the <b>workplace pension reforms</b> will be staged in over a period of four years, from October 2012: companies will be assigned an <b>automatic enrolment</b> date during this time, known as their 'staging date'. The very largest companies will be assigned the earliest months for staging, and smallest companies the last.  |

|                                  |  |
|----------------------------------|--|
| State Pension age                | The state retirement pension is currently paid to people who reach the State Pension age of 65 for men and 60 for women and who fulfil the conditions of the National Insurance contributions. Under section 126 of the Pensions Act 1995, State Pension age will increase to 65 for women from 2010 to 2020. It will then increase from 65 to 68 for men and women by 2046. |
| Trustee                          | An individual or company appointed to hold assets for the beneficiaries of a trust-based pension scheme, in accordance with the provisions of the trust instrument, the legal document that sets up, governs or amends the scheme, and general provisions of trust law.  |
| Workplace pension                | Any pension scheme provided as part of an arrangement made for the employees of a particular employer.   |
| Workplace pension reforms        | The reforms introduced as part of the <b>Pensions Act 2008</b> : the measures in the Act include a duty on employers to <b>automatically enrol</b> all <b>eligible workers</b> into qualifying <b>workplace pension</b> provision from 2012 and to provide a <b>minimum employer contribution</b> towards the pension saving for those individuals who participate.          |
| Workplace personal pension (WPP) | A <b>personal pension</b> scheme that is purchased as part of an arrangement made for the employees of a particular employer. In this respect it contrasts with an <b>individual personal pension</b> . Workplace personal pensions include <b>GPPs</b> , <b>group SHPs</b> and <b>group self-invested personal pensions</b> .   |

# Summary

This research was designed to consult with employers with 500 employees or less about the draft regulations set out in *Workplace Pension Reform – Completing the picture*<sup>1</sup> and the impact they would have on their businesses.

## Policy background to the reforms

The Pensions Act 2008 sets out a series of measures aimed at encouraging wider participation in private pension saving. The aims of these reforms are to overcome the decision-making inertia that currently characterises many individuals' attitudes to pension saving and to make it easier for people to save for their retirement.

The measures in the Act include a duty on employers to automatically enrol all eligible jobholders into qualifying workplace pension provision from 2012 and to provide a minimum contribution towards the pension saving for those individuals who participate.

The final details of how the changes will be enacted were set out in regulations that were laid on 12 January 2010. The draft of these regulations was published for consultation on 24 September 2009.

As part of the public consultation the Department for Work and Pensions (DWP) had discussions with a wide range of stakeholders with an interest in the draft regulations. This research consulted with small and medium-sized employers.

## Research scope

The study consisted of focus groups and individual depth interviews with 66 private sector businesses of up to 500 employees:

- 10 focus groups, each lasting two hours, with 55 employers;
- 11 individual depth interviews with employers, each lasting one hour.

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<sup>1</sup> Department for Work and Pensions (2009). *Workplace Pension Reform – Completing the Picture: Consultation on Draft Regulations*.

The fieldwork took place in October 2009 across five locations – Birmingham, Bristol, Cardiff, Edinburgh and London.

## Research findings

### **Attitudes to the reforms**

Employers already knew of the workplace pension reforms' existence before the research, even if their knowledge of the shape of them was limited. Generally, the larger the employer, the higher their level of awareness and knowledge of the broad principles of the reforms.

Many employers recognised that there is a 'pensions crisis' that needs to be addressed. Those employers that were already paying contributions in excess of those required under the reforms were broadly in favour of the reforms. But many other employers, particularly those not currently paying any contributions, often felt resentful that they should be the mechanism for arranging pension provision, rather than the Government or the individual.

More specifically, many employers felt that it was unfair that the administrative and financial burden should fall upon them, as they would then have the administrative task of organising the scheme, or would need to pay someone to do the job for them, as well as having to find the money to provide contributions for their staff.

However, it was typically hard for employers to quantify the total amount of time they felt the regulations would require in terms of administrative effort. This was primarily because processing opt-outs and opt-ins was expected to require the greatest administrative effort, and the number of employees that would opt out was the greatest unknown.

### **Desire to use NEST (National Employment Savings Trust)**

Employers were typically unaware of the existence of NEST (National Employment Savings Trust) and the fact that they could use the scheme as a way of fulfilling their duties. Some of the larger companies had heard of the scheme, but overall, awareness was low.

Employers that currently offered a scheme, whether with or without employer contribution, typically thought that they would continue to use their existing scheme, rather than changing to a different provider such as NEST. The existing schemes already set up were, as far as they were concerned, running smoothly, and making an unnecessary change to a new provider would simply cost more time and paperwork.

The employers with no current pension provision, all of which had one to four employees, were typically unsure what scheme they would choose. Some thought that they might use NEST because it would save them from needing to find a provider themselves. Also, some felt that they lacked knowledge to make an

informed decision for their employees and were pleased that NEST seemed to be, as they saw it, 'endorsed' by the Government, as it took some decision-making responsibilities away from them.

## **Staging**

The employer duties under the workplace pension reforms will be staged in over a period of four years, from October 2012. The very largest companies will be assigned the earliest months for staging, and smallest companies the last.

Employers with no scheme in place, or with a scheme in place but making no contribution towards it, typically reacted positively to the fact that their date to begin automatic enrolment would be later than expected. For the companies in this research, this was at the time expected to be between 2014 and 2015. The general response from these companies was positive because they saw this as a delay in needing to pay contributions and so an effective financial saving for two to three years.

Generally, smaller companies also felt that having larger companies go through the process of automatic enrolment first would mean that possible teething problems would be ironed out by the time that it was the turn for smaller companies to be automatically enrolled.

Some companies that already contributed a minimum of three per cent towards their employees' pensions also appreciated the fact that they would be able to delay the administrative work associated with automatic enrolment if their staging date was later.

The 12-month notification of the staging date, followed by a three-month reminder, was generally seen as acceptable by most employers, as they felt that this was enough time to plan ahead and implement the reforms, although some of the larger employers did suggest that 18 months would be preferable, as they planned financially more than 12 months ahead.

## **Phasing**

The minimum levels of employer and employee contribution will be phased in from 2012 to 2017.

The smallest employers who did not contribute at all to their employees' pensions were generally in favour of the process of phasing. This was because overall they would prefer to pay as little as possible, for long as possible. There was some concern about the administrative issues of switching levels of contribution twice, but only very occasionally did the smallest employers state that they would start paying the full amount of contributions from the outset, so that they could avoid the administrative work associated with changing contribution levels twice.

## **Certification of Defined Contribution schemes**

The research consulted on a process called 'certification of Defined Contribution (DC) schemes' (hereafter referred to as 'certification'). The intent of this process was to allow employers that already offer more than the minimum contribution levels specified under the reforms to certify that they do this for all jobholders.

On close examination of the detail of the process, employers generally felt that some elements of certification were unclear. Most of the concerns were associated with possible unintentional mistakes that might result from lack of clarity in the rules. Choosing a selection of employees' records to check they were not paying less in contributions than they should was seen as the main source of ambiguity. Some employers were worried about how to choose the correct employees and how to avoid making any unintentional mistakes during this sampling process. They posed a number of questions including:

- What constituted a large enough sample?
- How to choose the correct sample?
- How to prevent others from abusing the sampling process?

## **Postponement**

Employers with schemes that provide an employer contribution of at least six per cent and a total contribution of at least 11 per cent (based on qualifying earnings) will be allowed to postpone automatic enrolment into high quality schemes by three months. This research consulted on a proposal that employers would not be able to postpone automatically enrolling any staff who are expected to be employed for less than three months.

These employers generally recognised why there was a requirement to treat short-term workers as an exception and enrol these immediately. None anticipated any difficulties in adhering to this requirement, although most of these small and medium-sized employers also pointed out that they had relatively few employees that fell into this category.

## **The 19-day rule**

Current pension legislation requires that all employee pension contributions must be paid to the pension scheme no later than the 19th day of the month following the end of the month in which they were deducted. The research consulted upon an alternative due date for new members of no later than the 19th day of the second month following the end of the month in which the employee was automatically enrolled into a pension scheme.

Generally, employers currently contributing to employees' pensions understood the 19-day rule, and were familiar with it already, because it was in line with current Pay As You Earn (PAYE) regulations. The option to delay contributions deducted during an initial period was sometimes seen as a minor advantage,

because if an employee were to delay opting out of a pension scheme for up to 30 days, employers would be able to avoid processing refunds of contributions from their provider, and the administrative effort that would be involved.

However, most employers said that they would be just as happy to pay all employees' contributions in the first month after deduction. This was essentially because they expected the issue of refunds of contributions to arise only rarely, because many employers expected employees to opt out very quickly, potentially during induction.

### **Registration and record-keeping**

One requirement of the workplace pension reforms is for all employers to register with The Pensions Regulator (TPR) information on how they have met their duties, including what pension arrangements they have put in place and what action they have taken to enrol jobholders into pension saving. Employers will also be required to keep specific records on pensions and pension schemes and will need to be able to produce these for TPR on request.

Generally, employers expected the registration process to be simple and easy to complete. Most employers said that the process of registering seemed to be roughly in line with other current requirements, in terms of supplying information to HM Revenue & Customs (HMRC) for their existing PAYE schemes, and thus it posed little extra administrative effort on their part.

Most employers viewed the record-keeping requirement as unproblematic and easy to comply with. Generally, employers expected to need to keep copies of relevant documentation as part of running a business anyway.

### **Compliance regulations**

There were three specific areas of draft compliance regulations that were consulted upon in this research:

- **Inducements:** It will be unlawful for employers to seek to influence employees' decisions about whether or not to opt out of a pension scheme. Generally, employers felt that the proposed 12-month period allowed for TPR's investigations was acceptable as a time limit, but many employers felt that allowing employees six months in which to launch a complaint was too long. In part, this was because many employers felt that the inducement rules were unclear and ambiguous, and were concerned that the definition of inducement might be left open to interpretation by employers and employees.

- **Failure to pay all contributions due:** In the event of an employer failing to comply with their duties it was proposed in the draft regulations that TPR have the ability to consider requiring the employer to pay both the employer and employee contributions outstanding where they remain unpaid beyond a proposed prescribed period of three months. Most employers perceived these rules to be too lenient. They pointed out that, once deducted, the pension contributions belonged to the employee and thus, should not be kept by the employer. Some believed that employers holding onto the contributions was fraudulent and felt that it should be treated as such.
- **Penalties for non-compliance:** The draft regulations proposed that if an employer is non-compliant with a particular aspect of the regulations, TPR may contact the employer informally. If they continue not to comply, they may issue a statutory compliance notice. After this, the possibility of a flat-rate fixed penalty of £500 for non-compliant employers was proposed. Escalating penalties will also be available to TPR for very serious or persistent non-compliance, although the size and nature of these was not discussed in the research. Generally, employers felt that the proposed fixed penalty of £500 for non-compliance with particular aspects of the regulations was too low, particularly given that it would be applied only after repeat warnings.

# 1 Introduction

This report provides the findings from a study conducted by the Department for Work and Pensions (DWP), to consult with employers with 500 employees or less about the draft regulations set out in *Workplace Pension Reform – completing the picture* and the impact they would have on their businesses. This is in response to the consultation document issued by the government on 24 September 2009.<sup>2</sup>

This chapter details the policy background to the study, outlining the reforms as detailed in the Pensions Act 2008. It also contains the research objectives and methodology, describes the draft regulations that we consulted upon and compares employers' overall responses to each area.

## 1.1 Policy background: the Pensions Act 2008

Current estimates suggest that approximately seven million people are not saving enough to deliver the pension income they are likely to want, or expect, in retirement.<sup>3</sup> There are a number of barriers that prevent people from making a decision to start saving, and these affect moderate to low earners in particular:<sup>4</sup>

- many have a poor understanding of pensions and the need to save;
- inertia can prevent people from saving even when they are aware of the need to do so;
- pension providers do not actively target this group because they struggle to recoup high, upfront selling costs.<sup>5</sup>

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<sup>2</sup> Department for Work and Pensions (2009). *Workplace Pension Reform – Completing the Picture: Consultation on Draft Regulations*.

<sup>3</sup> Department for Work and Pensions (2009). *Workplace Pension Reform – Completing the Picture: Executive Summary – Policy Narrative*.

<sup>4</sup> Department for Work and Pensions (2010). *Workplace Pension Reform Regulations – Impact Assessment*.

<sup>5</sup> Department for Work and Pensions (2007). Pensions Bill - Impact Assessment.

The Pensions Act 2008 sets out a series of measures aimed at encouraging wider participation in workplace pension saving. The aims of these reforms are to overcome the decision-making inertia that currently characterises many individuals' attitudes to pension saving and to make it easier for people to save for their retirement.

Certain details of the reforms had not been finalised at the time that the fieldwork for this study took place. However, the broad details of the requirements, as detailed below, were presented to participants for the purposes of this research in October and November 2009.

From 2012, employers will be required to automatically enrol all eligible jobholders into a qualifying workplace pension.

Employers will be free to choose the qualifying workplace pension scheme or schemes they wish to use to discharge this new duty upon them. There are a range of schemes that employers may decide to use, including products already available on the market. Some companies already have an existing scheme in place and employers may use their existing scheme providing it meets minimum quality levels.

The reforms require defined benefit and some hybrid schemes to meet a test of overall scheme quality; and defined contribution schemes and some hybrid schemes require a minimum contribution equivalent to eight per cent of qualifying earnings, of which at least three per cent must come from the employer.

Eligible jobholders will be those who are working in Great Britain, aged at least 22, have not yet reached State Pension Age, have gross total earnings of more than £5,035 (in 2006/07 earnings terms) and are not currently enrolled into a qualifying workplace pension scheme. 'Total earnings' will include all sums payable to an individual in connection with their employment, including salary, commission, bonuses, overtime, sick pay, maternity pay and paternity pay.

Individuals will be able to opt out of pension saving after they have been automatically enrolled. There will be a duty on employers to periodically re-enrol workers who have opted out or stopped saving into a qualifying scheme. In addition, workers who are not eligible for automatic enrolment can opt into the employer's pension scheme should they want to. Therefore:

- workers aged under 22 years old or over State Pension Age but below age 75, earning over £5,035 per year will be able to opt into the scheme, and receive an employer contribution;
- workers earning under £5,035 will be able to opt into the scheme but will not be eligible for the minimum employer contribution.

As part of the reforms The Pensions Regulator (TPR) will be given additional powers to ensure that employers comply with these new obligations.

The Pensions Act 2007 established the Personal Accounts Delivery Authority (PADA), as a time limited non-departmental public body (NDPB). PADA was given responsibility for providing assistance and advice to DWP on setting up the new pension scheme - NEST (National Employment Savings Trust). At the time the research was carried out, NEST was known as 'the personal accounts scheme' and PADA had not confirmed the name of the scheme or begun to publicise NEST.

### 1.1.1 Consultations on the reforms

The DWP conducted two separate consultations into the changes outlined in the Pensions Act. The first set of draft regulations was published for consultation in March 2009 and covered the following topics:

- the process for automatic enrolment;
- information to schemes;
- information to jobholders;
- deductions from pay;
- the process for opting out of a pension scheme;
- the process for refunding contributions after opt-out;
- postponement of automatic enrolment.

The Government's response to this earlier consultation was published on 24 September 2009.<sup>6</sup>

The second set of draft regulations was published for consultation on the same date: 24 September 2009. They covered:

- how the duties will be introduced to support smooth delivery and help employers adjust to the reforms. Duties will be staged in with employers brought into the duties by employer size, and minimum contributions will be phased in;
- elements of the employer duty requirements not covered in the consultation of March 2009, including pay reference periods, voluntary joining for individuals not eligible for automatic enrolment, re-enrolment of eligible individuals, and requirements on employers to maintain membership of a qualifying pension scheme;
- the quality requirements for pension schemes;
- the draft compliance regulations;
- further consultation as a result of proposals to change to the 19-day rule and changes to the provision to postpone automatic enrolment in relation to short-term workers.

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<sup>6</sup> Department for Work and Pensions (2009). *The pensions (automatic enrolment) regulations 2009 – Government response to the consultation.*

It is on the proposals set out in the second consultation that this research study focused.

## 1.2 Research objectives

As part of the public consultation DWP had discussions with a wide range of stakeholders with an interest in the draft regulations. These stakeholders were primarily large employers, interest groups representing large numbers of employers, groups representing the views of the pensions industry (pension providers and intermediaries), and also groups representing employees. DWP wanted to ensure that it also consulted with small and medium-sized employers, who will also be affected by the reforms.

Existing research evidence demonstrates that small employers are often less engaged with the issue of pension provision and pensions reform than larger employers. A qualitative research study was, therefore, considered to be the most effective way to engage with this group of employers: more specifically, a series of focus groups and depth interviews with small and medium-sized employers across a range of industry sectors and with a range of pension provision. This way, we were able to discuss in stages the wide-ranging and complex draft regulations in a manner that they could engage with.

In other consultation responses, employers are able to examine the legislation in detail in their own time, and responses are likely to be received by employers with the greatest degree of interest in the reforms. This research study, on the other hand recruited a range of different types of small and medium-sized employer, but not on the basis of how knowledgeable or interested they were in the reforms.

It was considered unrealistic to attempt to research all of the draft regulations in a two-hour focus group, or a one-hour individual depth interview, with employers who may not have been knowledgeable about the reforms. This research, therefore, differed from other consultation responses in that, to keep the discussions manageable, it focused on areas where DWP was most keen to obtain employer views directly.

In addition, the purpose of this research was not to report on the number of individuals or organisations holding a particular view or having a particular set of experiences, nor to provide statistical data relating to the frequency of views across the UK: it explored the full range of opinions in depth.

The opinions and predictions given by participants represent a snapshot in time: they were the views held by participants in October 2009. These opinions may have changed since the fieldwork took place, and may change again in the future.

## 1.3 Research methodology

The study was qualitative in nature, and consisted of focus groups and individual depth interviews with 66 private sector businesses of up to 500 employees:

- 10 focus groups, each lasting two hours, with 55 employers;
- 11 individual depth interviews with employers, each lasting one hour.

The fieldwork took place in October 2009 across five locations – Birmingham, Bristol, Cardiff, Edinburgh and London.

### 1.3.1 Sample structure

The sampling and recruitment plan was designed to achieve two things: firstly, we needed to ensure that the 66 employers reflected a spread of different sizes, levels of pension provision, industry sectors and geographic location. The mix that was achieved is shown in Table 1.1.

**Table 1.1 Number of employers included in the study, by location, size, pension provision and industry sector**

| Category  | Number of employers |
|---|---------------------|
| <b>Total</b>  | 66                  |
| <b>Location</b>   |                     |
| Birmingham  | 15                  |
| Bristol   | 15                  |
| Cardiff   | 9                   |
| Edinburgh   | 11                  |
| London  | 16                  |
| <b>Size</b>   |                     |
| 1-4 employees   | 18                  |
| 5-99 employees  | 28                  |
| 100-500 employees   | 20                  |
| <b>Pension provision (scheme offered to most employees)</b> |                     |
| No scheme   | 18                  |
| Scheme without employer contribution                        | 19                  |
| Scheme with employer contribution                           | 29                  |
| <b>Industry sector</b>                                      |                     |
| Agriculture/mining/manufacturing/construction               | 12                  |
| Wholesale/retail  | 6                   |
| Hotels/catering/transport                                   | 10                  |
| Property/business services                                  | 24                  |
| Other sectors   | 14                  |

Secondly, these employers were segmented appropriately, to ensure that employers within a single focus group shared common characteristics, and that employers

were only asked about issues that were relevant to them. More specifically, there were certain aspects of the reforms that were only relevant to employers currently paying particular contribution levels.<sup>7</sup>

Table 1.2 shows the total number of employers included in the study by size and level of pension provision.

**Table 1.2 Total number of employers included in the study, by size and level of pension provision**

|  | 1-4 | 5-99       | 100-500    |
|--|-----|------------|------------|
| <b>Focus groups</b>                            |     |            |            |
| No scheme at all                               | 16  | - (note 1) | - (note 1) |
| Scheme without employer contribution           | 1   | 19         | 4          |
| Scheme with any level of employer contribution | 1   | 2          | 12         |
| <b>Individual depth interviews</b>             |     |            |            |
| Employer contribution 3-5%                     | -   | 4          | 2          |
| Employer contribution 6%+                      | -   | 3          | 2          |

Note 1: Currently all employers with five employees of more are required to make a SHP available to qualifying employees if they do not already offer alternative provision.

### 1.3.2 The recruitment process

The recruitment team contacted employers by telephone at random using a publicly-available sample source and asked a standardised set of screening questions to confirm which of the employer groups they fell into.<sup>8</sup> This established whether or not an employer qualified for a particular focus group or individual depth interview.

Where employers qualified and were willing to participate, the recruitment team sent them an introductory letter from DWP, summary of topics to discuss, and a DWP information leaflet about the workplace pension reforms.<sup>9</sup> They were then invited to either a focus group or an individual depth interview at a central location. Employers were offered a small financial incentive to compensate them for their time and travel costs.

All participants were reassured that all information discussed in the interview would remain confidential to the RS Consulting research team and only be reported in aggregate form; it would not be attributed to specific individuals or organisations, either in presentations to DWP or in this final report.

<sup>7</sup> Descriptions of each of the regulations that we consulted upon can be found in the individual chapters.

<sup>8</sup> This screener is available at Section A.1 in the appendix of this report.

<sup>9</sup> The materials sent to participants are available in Sections A.2 to A.4 in the appendix of this report. The DWP information leaflet given to participants was:  
Department for Work and Pensions (2009). *Workplace pensions are changing*.

### 1.3.3 Fieldwork

Focus groups and individual depth interviews were conducted in mid-October 2009 with a senior individual within each company best placed to discuss employees' pension provision: this was typically the owner of very small organisations, or the Financial Director (FD) or Human Resources (HR) Director in other organisations.

The focus groups and individual depth interviews all followed the same broad structure. Because employers had different levels of understanding of the reforms prior to the research taking place, it was important that groups and interviews began with a general discussion about current pension provision and attitudes to the pension reforms, which included the elements already consulted upon in March 2009. While these areas did not form part of this consultation, it was necessary to devote around a quarter of the time available to this. As well as setting the scene for the discussion, it allowed employers the opportunity to express their views on the general aspects of the reforms before focusing on the detail.

After this, discussions focused on specific elements of the draft regulations that were published for consultation on 24 September 2009. A set of specially designed show cards was also given to participants, which explained the detail of the draft regulations.<sup>10</sup> The moderating and interviewing team showed participants each aspect of the draft regulations in turn during the focus groups and interviews, discussing their reactions to each one in detail, before moving on to the next.

### 1.3.4 Analysis and reporting

Video and digital audio recordings of all the focus groups and individual depth interviews were made for analysis purposes, with the explicit permission of all the participants. No participants declined permission. Each recording was also transcribed professionally. Recordings and transcriptions were scheduled to be destroyed after publication of this written report.

Focus groups were also observed by members of the research team and write-ups produced. Working closely together, the team analysed the results of the focus groups and individual depth interviews at an individual respondent level to produce an internal summary document identifying key emerging themes, provisional findings and hypotheses to test further.

In addition, a custom-made spreadsheet was produced, which allowed the team to collate and analyse the large quantities of data we collected. As well as facilitating data reduction, this allowed specific groups of participants' answers to questions to be analysed together and compared. It also helped the team to identify useful verbatim comments, illustrative examples and attributions, all of which were used to add colour and depth to this report.

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<sup>10</sup> The discussion guide is available in Section A.5 and the show cards in Section A.6 in the appendix of this report.

## 1.4 Framing employers' reactions to the draft regulations

This section summarises the eight areas of the draft regulations consulted upon in this research, and compares employers' overall responses to each area.

DWP selected a qualitative research approach for this element of the consultation, because previous research evidence had demonstrated that small employers are often less engaged with the issue of pension provision than larger employers.

This meant that employers' initial expectations of the pension reforms, before they were told about the detail, were typically that they were going to present a burden to their businesses. Employers that did not currently contribute to employees' pensions expected to be told about additional costs that they could not afford, particularly at a time of recession. Even those who felt they did comply anticipated additional regulatory burdens. Although some employers might have agreed with the reforms on the basis of improving individuals' saving for retirement, employers did not expect the reforms to be positive for their own businesses.

Many of the participants, therefore, came into the groups not positively disposed towards the reforms. Many of these preconceptions focused on elements of the reforms that had already been consulted upon in the March 2009 consultation, such as automatic enrolment, and the minimum employer contribution. To them, these were the important aspects of the reforms that were going to have the greatest impact upon them as employers.

The eight specific areas consulted upon in this research were, therefore, often seen as being of secondary importance. Nevertheless, the skill of the moderating team meant that, after discussing overall reactions to the reforms, we were able to 'park' the issues previously consulted upon, and focus on the following elements, which belonged to the September 2009 consultation.<sup>11</sup>

### 1.4.1 Staging

The employer duties under the workplace pension reforms will be staged in over a period of four years, from October 2012: companies will be assigned an automatic enrolment date during this time, known as their 'staging date'. The very largest companies will be assigned the earliest months for staging, and smallest companies the last.

Because employers had typically been unaware that there would be some considerable delay before they would need to start automatic enrolment, often assuming that they would need to automatically enrol their employees from the start of 2012, the news that they might not need to do this was very warmly received: often it was the one area looked upon by employers as 'good news'.

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<sup>11</sup> Fuller descriptions of each of the regulations that we consulted upon can be found in the individual chapters.

The regulations surrounding this area were generally seen as easy to understand, both from the point of view of when they would be staged in, and the detail surrounding when they would be notified of this.

### **1.4.2 Phasing**

The minimum levels of employer and employee contribution will be phased in. In the first transitional period, total contributions must total at least two per cent with employers required to pay one per cent. In the second transitional period, total contributions must total at least five per cent, with employers required to pay two per cent. And then from steady state the total contributions must total eight per cent with employers required to pay three per cent.

Although some employers appreciated phasing because it meant a saving in terms of contribution costs, it was not universally warmly received. This was largely because, for the first time, the detail of the reforms were starting to get complex for some participants. While many were happy simply to delay contributions, others were starting to consider administrative complexities that the process might entail, particularly regarding additional work and constant communication with staff.

### **1.4.3 Certification of DC schemes**

To be able to use a scheme after the workplace pension reforms are implemented, all workers who are enrolled who do not decide to opt out will have to receive contributions totalling at least eight per cent on a band of their total earnings, between around £5,035 and £33,500 per annum (in 2006/07 earnings terms).

Many employers currently use a definition of pensionable pay that is different to this band of earnings method. As a result, the Government consulted on a process called 'certification of DC schemes' (hereafter referred to as 'certification').

This was one of the most complex areas of regulation shown to these employers, and indeed, their reactions to it were largely negative. Fundamentally, this was because it was seen as turning a process that employers thought should be very easy, into something complicated and ambiguous. The degree of understanding of the process among employers was mixed, but even those who did understand it said it was too complicated, and left far too many decisions to the individual employer.

Following the analysis of responses to the consultation, the regulations on certification were dropped from the package of regulations introducing the reforms, to enable DWP to work with stakeholders in creating a more simplified certification model.

### **1.4.4 Postponement**

In most cases, employers will be required to enrol all eligible jobholders into a qualifying pension scheme either on the firm's staging date, or on the first day

that the individual's employment commences with that company. However, the Pensions Act 2008 provides for employers to postpone automatic enrolment into high quality schemes. High quality schemes were defined as pensions that provide an employer contribution of at least six per cent and a total contribution of at least 11 per cent (based on qualifying earnings). The proposed postponement period was three months.

Only employers currently offering high quality schemes to employees discussed postponement in this research. Because this was another area of the reforms seen as a positive 'easement' for certain employers, and also one that was easy to understand and often in line with current procedures, it was well received.

#### **1.4.5 Registration; record-keeping; the 19-day rule**

Three areas of the reforms that were discussed with employers were seen as of relatively minor importance, because they were largely in line with current practices.

One requirement of the workplace pension reforms is for all employers to register with TPR information on how they have met their duties, including what pension arrangements they have put in place and what action they have taken to enrol jobholders into pension saving. Employers will also be required to keep specific records on pensions and pension schemes and will need to be able to produce these for TPR on request. Regulations around the payment of contributions to the pension scheme (the 19-day rule) were also discussed.

Because employers felt that all of the draft regulations in these areas were the same as or very close to current regulations and practices, few had major issues with any of the areas. There was little confusion or discussion around either of these issues, and indeed relatively little time was spent discussing it.

#### **1.4.6 Compliance**

There were three specific areas of draft compliance regulations that were consulted upon in this research: inducements, failure to pay contributions over, and penalties for non-compliance .

Despite discussing potential penalties that employers might face, most of the draft regulations shown to employers were seen as relatively uncontentious, because they were seen as being in line with, or more lenient than, current HM Revenue & Customs (HMRC) regulations regarding income tax.

The only area that was seen as controversial, and discussed at length in the groups, was the issue of inducements. More specifically, employers were concerned about

the definition of 'seeking to influence employees' decisions about whether or not to opt out of a pension scheme'. Employers identified several situations that they felt might be ambiguous, and revealed real concerns about inadvertently getting caught out and fined, or even worse.

#### **1.4.7 Summary of employers' reactions**

The regulations that were seen to give opportunities for cost savings for employers, such as **staging** and **postponement**, tended to be most warmly received overall.

Otherwise, there was a general acceptance that the draft regulations would entail a certain amount of administrative effort for employers, and so proposed rules around **registration**, the **19-day rule** and **record-keeping** were widely accepted as part of the administration of running a business.

Regulation was seen to add to complexity of the process unnecessarily: specifically, **certification** (and certain aspects of phasing), were often heavily criticised by employers. This is partially because across all elements of reforms, there was a recurring desire for the regulations to be black and white, leaving no room for inadvertent non-compliance. Areas of legislation that left room for error, such as the sampling required in certification, often raised real concerns among employers.

For the same reasons, the rules surrounding **inducements** worried some employers because they were seen as seen as ambiguous, and an invitation for employees to begin unfounded grievance procedures.



## 2 Current pension provision and attitudes

To contextualise employers' opinions on the likely impact of the proposed pensions reform legislation, it is helpful to understand their current situation with regard to pension provision. This chapter examines current pension provision among the employers included in this research, and their reasons for offering, or not offering a pension. In addition, it briefly explores employers' wider attitudes towards pension provision in general.

### 2.1 Current pension provision

On the basis of previous research evidence, the employers that we interviewed were divided into three categories in terms of current pension provision for the majority of their staff:

- **Employers with no current pension provision** – all were companies with one to four employees. Currently only employers with five employees or more are required to make a pension available to employees, although after the implementation of the reforms all employers with any eligible jobholders will need to do so.
- **Employers that offered schemes with no employer contribution** – in this research such employers were generally in the five to 100 employee range, although some larger companies also fell into this category.
- **Employers that offered schemes with an employer contribution** – in this research such employers were generally organisations with 100 to 500 employees, but there were some smaller companies in this category.

In this section we examine the current provision and attitudes of employers within each of these three categories.

### 2.1.1 Employers with no current pension provision

In this research, none of the employers with one to four employees had any current pension provision. The absence of any legal requirement to offer a pension, the perceived cost of provision, and a reported lack of appetite for a pension among employees were seen as the principal reasons for not offering one.

Few employers had actively considered and then rejected the issue of pension provision: in most cases it had never been on the agenda. Many said that they saw pension provision as a benefit that should be offered by larger organisations, whereas others felt it was something that individuals should provide for themselves. Occasionally, employers did state that they would have liked to have offered something to their employees, but that they were struggling financially, particularly at the current time, as the economic climate was not currently in their favour.

Employers did not typically believe that their employees would value a pension, although when pressed on this issue, many admitted that they had not asked them formally. It was often an assumption based on what the employers thought that their employees' financial situations were.

*'Of my three employees, the one who is 21 is the one who ought to be looking at [starting a pension], but she lives on her own, completely skint. One is near retirement age, and the other one is a single mum who wants every penny that she can get.'*

(1-4 employees, no pension scheme)

On rare occasions, employers did state that they had wanted to provide a pension, and had even asked employees if they would be interested in such a benefit, albeit with no contribution, but there had been no appetite for take-up. Therefore, pension provision was never made available to the employees.

*'It has been suggested. It has been offered. I am quite willing to do the work, but they don't want it.'*

(1-4 employees, no pension scheme)

### 2.1.2 Employers that offer schemes with no employer contribution

The employers participating in this study that offered schemes with no employer contribution to the majority of their staff tended to be medium-sized, with five to 99 employees, although some were larger than this. Typically, the scheme offered was a group stakeholder pension (SHP), which they offered due to the legal requirement to do so, rather than because they wanted to provide for their employees in retirement.

*'The only thing I offer is something that came in by law, that you had to actually offer the employees. I think it's with Standard Life, but nobody has taken it up. I only did it because it was law.'*

(5-99 employees, pension scheme with no employer contribution)

Some employers offered contributions only to their most senior members of staff, usually through a different pension scheme such as a group self-invested personal pension (GSIPP), or had a legacy final salary scheme for their senior members, while the junior members received a SHP, with no contributions towards it.

Generally, these employers believed that the majority of their employees would not value pensions as a benefit and that they would rarely contribute to them, even if this meant that they would receive a contribution from the employer. Many employers had consulted with employees in reaching this view: for example by inviting independent financial advisers (IFAs) to their premises to present to their staff, following which there was little or no take-up.

*'They are more than happy for me to put a contribution in, but we said to them that what we were looking into was splitting contributions 50:50, and it was, "Get stuffed, I don't earn enough as it is!".'*

(5-99 employees, pension scheme with no employer contribution)

Although some employers did recognise a benefit for themselves as an employer in offering a contribution to their staff, in terms of morale and staff retention, for them this did not outweigh the financial cost of contributing towards their employees' pensions.

### **2.1.3 Employers that offer schemes with an employer contribution**

The employers participating in this study that offered schemes with an employer contribution tended to have between 100 to 500 employees, although some were smaller than this. The fact that they were willing to pay to offer their employees a contribution meant that they typically valued pension provision more highly, and they believed that this attitude was often mirrored by their staff. Generally, the largest employers interviewed saw pensions as a genuine and important part of their employee benefits package, albeit one benefit valued less highly by staff in comparison with most of the other elements of the benefits package.

Some of the largest employers were particularly committed to the idea that pension provision can be a useful recruitment and retention tool. These employers believed they were generous with their employer contributions, in order to be competitive in the job market, usually matching or even exceeding what they thought other companies were offering. They felt this in turn encouraged employees to contribute towards their own pension.

*'Contributions are three per cent employee with 17 per cent employer, or if they want to pay six per cent employee, it would be matched by 20 per cent employer. Around 80 per cent are eligible and hardly anyone opts out. We believe that a pension is a great benefit, and there is no feeling of "young people these days". They all recognise the importance of saving for retirement.'*

(100-500 employees, pension scheme with employer contribution)

The contribution levels paid varied depending upon a range of factors, most commonly seniority/ job role and length of service. Some employers paid an unconditional contribution, whereas others matched or exceeded the employee contribution. Some of the employers within this group also had legacy Defined Benefit (DB) schemes for senior members of staff, though none had a DB scheme that was still open to new members.

Employers often had a qualifying period in place, of at least a few months, before employees became eligible to receive an employer contribution. Typically this was to avoid paying into pension pots of members of staff who they believed were more likely to move on to another job after a short period of time. Some also felt that increasing benefits over time in this way would encourage employees to stay longer. Qualifying periods tended to differ from company to company, but generally ranged from a few months to a couple of years.

*'We do use it as a retention tool because we don't let people go on it straight away. They have to do a qualifying period and then we say, "If you get to six months, that is all your probation done, then we will invite you to join a pension scheme, and the company will match".'*

(5-99 employees, pension scheme with employer contribution)

## 2.2 Overall attitudes to workplace pension provision

Section 2.1 showed that employers' attitudes towards the role that the employer should play depended largely on the level of provision they offered employees already. Smaller employers that offered no provision currently were more likely to believe that the responsibility should be that of the individual, whereas larger employers currently paying a contribution were often more in favour of employer provision.

Alongside this, there were more personal views around pensions saving generally that did not appear to depend on the nature of the employer, but simply of the views of the individual concerned. Issues that were commonly raised by employers of all sizes and levels of pension provision included whether:

- a pension is the best means to save for retirement;
- it is appropriate for all employees to save for a pension.

The employers in the study typically recognised the fact that current levels of pension saving in the UK are not sufficient to support an ageing population, and that something should therefore be done for the future. Even so, many employers viewed pensions themselves sceptically, largely as a result of the variety of negative stories associated with pensions, most recently the recent large fall in value of the stock market. In some cases employers were able to give local examples of cases where many people at a particular employer, or in a particular industry, had suffered recently by losing not just their jobs, but much of their pension along with it. Some employers suggested that it could be a better idea to invest partially or wholly in other investments, such as property.

*'One of the managers did come to me and say, "I'm thinking about a pension". So I went through it with him. I said, "The best thing for you to do is invest it in property". If you've got money, look into something else.'*

(5-99 employees, pension scheme with employer contribution)

Most employers did, however, recognise that a pension was, in fact, a necessity for most, although, regardless of company size, different employers believed that pension saving was unsuitable for certain groups of staff. The three most commonly mentioned were:

- **Low-paid, transitory staff:** Many employers believed that because of the transitory nature of their staff, pensions would not be suitable for them, because they tended to move from job to job on a regular basis. Employers expected it to be difficult for them to pay into a pension, and so unlikely that they would want to do so. Moreover, employers were reluctant to contribute towards their pension, specifically because they were unlikely to stay with them for long periods

*'Not in the line we are in – catering. You train them for three months and you think everyone is happy and they are gone. They have moved onto another place.'*

(1-4 employees, no pension scheme)

- **Younger staff:** Many companies felt that younger employees were more likely not to want a pension and prefer money in their pocket instead, either because they could not afford to save, or simply because they currently had priorities other than pension saving. Employers' opinions differed about what constituted 'young', with views ranging from under-20s, to under-35s

*'The majority of our more senior managers are in their mid- to late 30s. Most of our [sales staff] are in their early to mid-20s, and in the early to mid-20s they don't think about pensions. What they are interested in, every single penny they get they want to spend. So they want nice suits. They want nice holidays. They want nice cars. So it is tougher with those.'*

(100-500 employees, pension scheme with employer contribution)

- **Older staff:** Occasionally employers thought that in fact their older employees were the least likely to be interested in pension saving, since many of them had non-pension-based arrangements in place.

*'It is the older ones that I find don't particularly feel that they need one. I think they feel they have got to such an age now that they prefer to just have their house as their future income.'*

(5-99 employees, pension scheme with employer contribution)



## 3 Attitudes toward the pension reforms

The purpose of this research study is to consult with small and medium-sized employers with regard to the proposed pension reform legislation. Nevertheless, it is also important to understand employers' wider opinions on the reforms overall, to contextualise these opinions. This chapter briefly explores employers' awareness of, and overall attitudes toward, the reforms. It also investigates their reactions to the NEST (National Employment Savings Trust),<sup>12</sup> and their likely willingness to use it to fulfil their duties under the reforms.<sup>13</sup>

### 3.1 Awareness of the reforms

The research was not designed to test participants' knowledge of the reforms, particularly as they were sent basic details in advance. Nevertheless, it was evident that there was some variation in employers' initial understanding of the reforms.

Most employers were aware of the fact that the workplace pension reforms existed before being informed about them for the research. However, employers' knowledge of details of the reforms varied considerably by company size; knowledge was generally very limited among the smallest companies and was typically much higher among the larger companies of up to 100 to 500 employees.

There was a minority of small employers that admitted they were completely unaware that the reforms were going to happen, until being informed about

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<sup>12</sup> At the time of the research the name of the scheme had not been finalised and was introduced to participants as 'the personal accounts scheme'.

<sup>13</sup> Several recent research studies for the Department for Work and Pensions (DWP) have examined expected employers' reactions to the reforms in detail, most recently:  
Thomas, A. and Philpin, C. (2009). *Understanding small employers' likely responses to the 2012 workplace pension reforms: Report of a qualitative study*.

them as part of the research. But otherwise, the smallest companies typically knew that pension reforms were due to take place, along with the very broad features of the reforms: most commonly this amounted to the fact that employers would have to automatically enrol their employees into a pension, and pay a minimum contribution. Not all knew the level of contribution, and not all knew the exact procedure for automatic enrolment.

Rarely some small employers admitted that they had assumed that **all** employees would have to join the scheme: in other words, that saving was compulsory for all. In other cases, small employers were occasionally unaware that an employee contribution was necessary to receive an employer contribution: in other words, that all employees could receive contributions from their employer unconditionally. It was difficult to measure how widespread either of these misapprehensions was however, because all employers had already been informed that they were not the case before the research.

Beyond this, the level of understanding about the reforms typically increased as the size of the company increased. The medium and large employers were generally aware of more of the detail of the reforms. The need to automatically enrol employees was generally known, as well as the option for them to opt out, and some employers knew of the level of minimum employer and employee contributions. Fundamental misunderstandings were less common, or at least, less commonly admitted by employers in these size categories.

Even the larger companies in this study usually had yet to start planning for the reforms, often because they saw them as too distant or lacking finalisation for them to plan effectively.

Some people were simply more knowledgeable about the reforms purely because of personal interest, and this tended not to be related to company size. This meant that even employers from smaller companies sometimes knew a reasonable amount of detail about the reforms.

*'I know that depending on age and salary level, the employer has to chip in three per cent tax-free, and eight per cent is what they should receive in the pot.'*

(5-99 employees, pension scheme with no employer contribution)

### **3.1.1 Sources of information used**

Many of the employers had heard about the reforms from a source close to them, such as their accountant.

*'I was aware, yes, primarily from our accountants. They come into our office and do our quarterly VAT returns, and I see them probably annually to sign our company accounts and go through outstanding issues. They mentioned it at the last meeting which was about six months ago.'*

(100-500 employees, pension scheme with employer contribution)

Other sources from which employers learnt of the reforms included:

- work colleagues or friends;
- professional advisers, such as independent financial advisers (IFAs) or book-keepers;
- pension provider's literature from their provider;
- newsletters, for example human resources and financial sector magazines;
- the HM Revenue & Customs (HMRC) website;
- trade publications and exhibitions.

*'I think I read about it in the national press and also I went to a trade exhibition. The DWP [Department for Work and Pensions] had a stand promoting the fact that in 2012 there would be these reforms coming.'*

(5-99 employees, pension scheme with employer contribution)

### 3.2 Attitudes toward the reforms

Many employers recognised that there is a 'pensions crisis' that needs to be addressed. Those employers that were already paying contributions in excess of those required under the reforms were broadly in favour of the reforms. But many other employers, particularly those not currently paying contributions, often felt resentful that they should be the mechanism for arranging pension provision, rather than the Government or the individual. In some cases, employers perceived that the Government's inability to organise state pension provision was what had led to employers having to shoulder the burden instead.

This was especially the case for small businesses who felt that they were struggling to survive, as the economic climate was not in their favour, and in addition the Government had put various other obligations on them, such as holiday pay rules.

*'I just find it very annoying that for a small company like mine, it is yet another thing that the Government are putting on us. It's another noose around our neck, and it's another way of really putting you under when you are struggling... Because the Government couldn't handle a pension scheme they passed it onto my shoulders.'*

(5-99 employees, pension scheme with no employer contribution)

More specifically, employers typically felt that it was unfair that the administrative and financial burden should fall upon them, as they would then have the administrative task of organising the scheme, or would need to pay someone to do the job for them, as well as having to find the money to provide contributions for their staff. These administrative burdens are discussed in more detail in Chapter 8.

*'I have got a lot of respect for my employees but it is not my responsibility to look after them. I give them a job. I pay their wages. Why should I have to do the Government's bidding? Why can't they look after themselves? I look after myself. I run a business.'*

(5-99 employees, pension scheme with no employer contribution)

In response to the fact that employers would have to organise pension provision for their staff, some questioned why pension provision could not instead be collected by increasing income tax or National Insurance contributions. Employers felt that these methods would be more straightforward to administer, and also would mean avoiding the implementation of a new system, which would save the employer from a financial and administrative burden. Some employers suggested that this approach was taken because directly taxing employees would not be popular.

*'It's a way for the Government to try and get out of [providing a larger state pension], rather than going to everybody who is employed and saying, "We are going to increase your tax, increase your National Insurance", which would not get them elected. If any party turned around and said, "To make sure you retire at 65 you need to be paying X amount more in tax or National Insurance," the voters would say, "You can forget that. I am not going to vote you in".'*

(1-4 employees, no pension scheme)

Some employers felt that the Government should not interfere at all, and instead the responsibility of saving for old age should be that of the individual, who should choose their own method of saving for retirement without the Government indicating which path they should take.

*'To me this is just Big Brother talking and I really do object. The assumption is by everybody that the pension scheme is the only saving scheme available to people, and with the history of pensions you mention them to people and they just don't want to know.'*

(5-99 employees, pension scheme with no employer contribution)

In addition, many smaller employers were concerned that their staff would ask questions concerning the reforms, which they felt that, as employers, they were not qualified to answer. Consequently, some were concerned as to what their roles would need to be in terms of advising their staff about the reforms.

### 3.3 Pension schemes likely to be used to fulfil employer duties

The Pensions Act 2007 established a non-departmental public body (NDPB) called the Personal Accounts Delivery Authority (PADA), which will be responsible for designing and introducing the infrastructure for NEST. At the time the research was carried out, NEST was known as the personal accounts scheme.

After the implementation of the reforms, employers will be required to automatically enrol eligible employees into a qualifying workplace pension scheme, of which NEST will be one option. Other qualifying schemes may include occupational pension schemes, group personal pensions (GPPs) or group stakeholder pensions (SHPs).

This section examines awareness of NEST, as well as which scheme employers are likely to use to meet their duties.

### 3.3.1 Awareness of and reactions to NEST

At the time the research was carried out PADA had not yet begun to publicise NEST, nor confirmed the naming of the scheme. Consequently, employers were typically unaware of the existence of the scheme, and the fact that they could use the scheme as a way of fulfilling their duties. Some of the larger companies had heard of the scheme, but overall, awareness was low.

Employers were informed that the scheme would be administered by PADA, a body set up by the Government. Once employers were informed of what NEST was, they generally raised questions regarding the Government's role in administering it and choosing where the money is invested.

Some employers, after hearing this information, were sceptical of PADA's ability to manage pensions successfully, as they lacked faith and trust in a body set up by the Government to manage the process better than the private sector. Conversely, however, many employers did feel that a scheme set up by the Government would at least be perceived to be stable and secure for individuals to invest in, perhaps even guaranteed. Most employers did realise that such a guarantee would not be in place, and that significant falls in value of individuals' pension funds would be possible. This was occasionally a concern for some employers not currently offering provision, who felt that they might be blamed by their employees for mis-selling or mis-advising them.

### 3.3.2 Employers' decision to use NEST compared to an existing pension provider

Employers' anticipated choice as to which pension scheme they would use after the introduction of the reforms primarily depended upon the type of pension provision that they already offered to their employees.

#### *Employers currently offering a scheme with employer contribution*

Employers that currently offered a scheme with employer contribution typically thought that they would continue to use their existing scheme, rather than changing to a different provider. They anticipated that they would stay with the same provider because the existing schemes already set up were, as far as they were concerned, running smoothly, and making an unnecessary change to a new provider would simply cost more time and paperwork. They often felt that their employees were used to the current scheme and provider.

*'We would probably just keep the GPP [group personal pension] scheme. It would probably be easier because we've got it up and running. Most of our staff have been here in excess of five years, and quite a bit has been paid in, so we would probably just keep it going.'*

(5-99 employees, pension scheme with employer contribution)

In addition, some employers' strong personal opinions influenced the choice they felt they might make with regard to pension schemes. In some cases, employers felt that a private scheme would be more trustworthy and reliable than a scheme administered by a public body.

*'I probably would because there are more likely more guarantees than anything the blinking Government put together, because the only thing that's guaranteed are their own pensions and nobody else's.'*

(5-99 employees, pension scheme with employer contribution)

Occasionally the employers that only offered a pension contribution to some of their employees suggested that they might use NEST for the staff that currently had no pension provision, rather than enrol them into the existing scheme. They thought that they might do this because these staff typically had not worked past a qualifying period, so they thought that there might be a risk that the employees could change jobs. Therefore, they felt that it would be easier to enrol these employees into NEST.

#### *Employers currently contributing to employees' schemes*

Even employers who had a scheme but made no contributions towards employees' pensions generally thought that they would continue to use their existing scheme. They felt that having introduced the scheme, usually an SHP in response to the SHP regulations, they might as well continue to use it. Most saw no clear reason to switch to NEST. There were some employers that stated that they might switch to NEST from the scheme that they already had in place. This tended to be the employers that had a greater degree of faith in a body set up by the Government to manage a pension scheme.

#### *Employers with no pension provision*

The employers with no current pension provision, all of which had one to four employees, were typically unsure what scheme they would choose. Some thought that they might use NEST because it would save them from needing to find a provider themselves. Also, some felt that they lacked knowledge to make an informed decision for their employees and were pleased that NEST seemed to be, as they saw it, 'endorsed' by the Government, as it took some decision-making responsibilities away from them. They felt this meant they would not have to take the blame if the funds were to underperform in the future.

*'I don't want that responsibility at all. I want some sort of guarantee that it is not going to come back and bite me later on, when things go crash like everything else the FSA [Financial Services Authority] have done in the past two or three years.'*

(1-4 employees, no pension scheme)

## 4 How the employer duties will be introduced

This chapter examines employers' responses to the way in which the employer duties will be introduced from 2012. More specifically, it will look at staging – the staggering of the dates when companies will be required to start automatic enrolment – and phasing – the gradual increase in the level of minimum employer and individual contributions.

### 4.1 Staging

The employer duties under the workplace pension reforms will be staged in over a period of four years, from October 2012: companies will be assigned an automatic enrolment date during this time, known as their 'staging date'. The very largest companies will be assigned the earliest months for staging, and smallest companies the last.<sup>14</sup>

Employers will be notified of their staging date 12 months beforehand. They will also be reminded of this date again three months in advance of the staging date.

If companies wish to introduce automatic enrolment earlier than their specified date, they may apply in writing to The Pensions Regulator (TPR) to do so, but will need to accompany the application with a notification that they have contacted a pension scheme and secured agreement with that scheme that it may be used by the employer to comply with the duties. Employers may not bring their staging date forward to before October 2012.

Because employers had typically been unaware that there would be some considerable delay before they would need to start automatic enrolment, often assuming that they would need to automatically enrol their employees from the

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<sup>14</sup> In this study, employers were told that companies were likely to be assigned an automatic enrolment date between October 2012 and September 2015, although the end date was subsequently changed to September 2016 in the 2009 Pre-Budget Report.

start of 2012, the news that they might not need to do this was very warmly received: often it was the one area looked upon by employers as 'good news'.

The regulations surrounding this area were generally seen as easy to understand, both from the point of view of when they would be staged in, and the detail surrounding when they would be notified of this.

#### **4.1.1 Overall reactions to staging**

Employers' attitudes towards staging tended to relate to two areas: most employers' initial reactions focused on the advantages of having a staging date later than 2012, as had been widely assumed. After consideration however, some employers considered the possible effect that the process of staging might have on industries in terms of competition between companies with differing staging dates. Both of these are explored below.

##### *Contribution costs*

Generally, employers' opinions on staging depended on what pension provision they currently had in place for their staff.

Employers with no scheme in place, or with a scheme in place but making no contribution towards it, typically reacted positively that their date to begin automatic enrolment would be later than expected. For the companies in this research, this was at the time expected to be between 2014 and 2015. The general response from these companies was positive because they saw this as a simple delay in needing to pay contributions; therefore, there would be an effective financial saving for two to three years.

Generally, smaller companies also felt that having larger companies go through the process of automatic enrolment first would mean that possible teething problems would be ironed out by the time that it was the turn for smaller companies to be automatically enrolled. This meant for them that the process might be smoother, with fewer problems.

*'Things may have changed in that time period because the larger companies will be the guinea pigs. It will be tried and tested on the larger companies.'*

(5-99 employees, pension scheme with employer contribution)

Some companies that already contributed a minimum of three per cent towards their employees' pensions also appreciated the fact that they would be able to delay the administrative work associated with automatic enrolment if their staging date was later.

Occasionally employers believed that the reforms might not happen at all, or could change considerably, or be cancelled by the time they were due to start automatic enrolment, particularly if there were to be a change in government. These employers felt that their later staging date might therefore mean that they would never actually need to begin automatic enrolment.

### *Competition*

The process of staging did, however, raise some issues surrounding competition between the companies that would be staged at different times.

There was some concern that smaller companies could be at a financial advantage because they would not be required to automatically enrol staff as early as larger companies would. In some industries, for example the building trade, employers questioned how staging might affect market dynamics. Mid-sized organisations would have to increase their tender prices because of the reforms, but they might be undercut by smaller employers who do not yet have to automatically enrol staff.

*'You have got some companies – big, medium – having to implement this in 2012, and smaller companies two or three years later, they are just changing the entire nature of competition in any industry. It's three per cent cost you are talking here, and that is a lot of money. Some companies are operating on a three per cent margin.'*

(5-99 employees, pension scheme with no employer contribution)

More rarely, some smaller companies had the opposite concern: that the largest employers might be able to attract staff away from their own companies during the period before their own staging date because they offered better pension provision.

*'Financially the later the better, but you are going to lose staff because they are going to go to a company that is offering [a pension]....'*

(1-4 employees, no pension scheme)

However, when questioned whether they felt this offset the financial benefits of a later enrolment date, they usually said it did not. In other words, they would not apply to start automatic enrolment earlier because of it, although on rare occasions employers suggested that one start date for all would be a better idea.

#### **4.1.2 Reactions to proposed notification periods**

Employers will be notified of their staging date 12 months beforehand. They will also be reminded of this date again three months beforehand. This approach was generally seen as acceptable by most employers, as they felt that this was enough time to plan ahead and implement the reforms.

However, some larger employers stated that notification earlier than 12 months would be helpful in order to help them plan, with some of these employers suggesting that 18 months' notification prior to the staging date would be most helpful. Very occasionally employers requested that their first notification should arrive several years earlier than the planned staging date, as they tended to budget and plan several years ahead.

Conversely however, smaller employers occasionally stated that they might actually ignore the first notification letter, as they saw 12 months as quite far off in the future from their proposed staging date, with very little that could be done to plan that far in advance.

Many employers thought that a three-month notification period would be useful as this would serve as a timely second reminder, and would leave enough time to implement the reforms. Especially in the case of the smallest employees, they found this adequate notice, and some thought that they would leave implementing the reforms until later than the first notification.

However, particularly the larger employers often thought that either an earlier second notification would be better, or there should be none at all, as they thought that most of their work in preparation for the reforms would be done by that point.

#### **4.1.3 Information required 12 months ahead**

Many employers stated that for their first notification, at 12 months before their staging date, they would need separate information for both themselves and their employees. Information that was requested for employers included:

- step-by-step information on the entire process, to enable them to start planning from that moment, without having to wait for more information at a later date;
- detailed timelines with key dates;
- information regarding software updates to accounting software packages, that could be used to allow them to process the changes;
- information on how, and what, to communicate to employees;
- standardised opt-in and opt-out forms.

*'The step by step process, this is how you do it. It needs to be a belt and braces.'*

(5-99 employees, pension scheme with employer contribution)

Many employers felt that information for their employees would be needed as they had reservations about advising them themselves. Employers suggested that information for employees should include:

- information on the reforms and clear instructions of what would happen;
- the financial cost of enrolment to them;
- the benefits of enrolment to them;
- projected values of the final pension sum, so that they could get an idea of how much money they should expect in their pension pot, if they were to pay a certain amount for a certain amount of years;
- case studies to exemplify how the reforms work;

- explanations of opt-in and opt-out processes, so that there is no confusion for employees or employers.

*'Unless the Government provides an adviser representing them to come into your company to train someone, I wouldn't want to try and explain the ins and outs of it to our guys. I wouldn't want to because I don't know enough about it.'*

(5-99 employees, pension scheme with no employer contribution)

All of this information for the employers and employees was requested in simple, plain English with no jargon.

#### **4.1.4 Information required three months ahead**

Documents that employers requested three months ahead included:

- notification of penalties for non-compliance;
- information of software available to aid with implementing the reforms, such as updates to accounting software packages;
- a helpline for employers who have read both their packs and would like clarification of some points;
- a pack for employees, if not yet supplied;
- for smaller employers, clear, unavoidable reminder letters, for example a red letter.

#### **4.1.5 Preferred information format**

Generally, employers felt that the information received prior to their staging date should be in either an electronic or a paper-based format, or for some, a combination of the two. Some employers stated a preference for paper-based information as they found it the easiest format to read, especially the smallest employers. Some of the employers requesting paper information stated that if the information came in electronic format most people would print out the information anyway, and so providing information on paper would be the better option.

Other employers believed that an electronic format for the information provided in the run-up to their staging date would be best for them, as then they could access the information at their own convenience, and also it would reduce the amount of paper produced, so not to generate waste. Some of these employers stated that this format would be easier to use, especially if an interactive element could be added to the information, such as a checklist or calculation tool.

*'That is the sort of thing that should be opt in because 90 per cent of the things you send out, chopping down trees willy-nilly will be thrown in the bin. So for people who want the full pack with all the information and can't download it, let them opt in. Please don't automatically send a pack through because we pay for that pack and it goes into the bin.'*

(100-500 employees, pension scheme with employer contribution)

Some employers suggested other formats or methods of delivery for the information, often to complement either the paper or electronic information packs. These suggestions included:

- online video instructions such as those provided by HM Revenue & Customs (HMRC);
- workshops that Department for Work and Pensions (DWP) and employers could attend;
- a website with personalised login;
- freephone helpline numbers;
- standardised forms such as for opting out;
- information packs to pass on to employees containing information such as case studies; or
- a general programme of advertisements to make the general public aware.

#### **4.1.6 Preferred staging month and date**

Employers were asked their preference regarding the month in the year to start automatic enrolment. Generally, employers had no strong preference for a specific month in which automatic enrolment should begin, but many employers did give examples of dates when automatic enrolment would be most convenient for their personal circumstances:

- the start of their company's own financial year;
- the start of the tax year (April 6th);
- the start of the calendar year;
- avoiding particularly busy periods, such as summer holidays and Christmas.

Employers were also asked their preference for three possible staging dates within the month. The options were:

- the first of the month regardless of the day on which that falls;
- the first working day of the month; or
- the first Friday of the month.

There was no strong preference for any of these options, and some employers stated that whichever date they received, they would just accept it.

*'The point is, whatever the date happens to be, and whatever time of the month, the heavyweight work will have to be done beforehand anyway.'*

(100-500 employees, pension scheme with employer contribution)

### 4.1.7 Desire to bring forward staging

Employers were presented with the option of requesting an earlier staging date. Most felt that they would not want to bring forward their date for automatic enrolment, as they would end up paying out money earlier than they would have to.

However, some could see why some employers would want to do this, especially larger companies, for reasons of staff retention or recruitment. Competitors might have an earlier staging date and so appear more attractive to potential employees, and so companies might want to bring forward their staging date for 'defensive' reasons.

Occasionally, employers suggested that they would consider requesting an earlier staging date, for example four to six months earlier, so that the staging date would fit with their own financial year, for example, and reduce the administrative burden. But the financial cost of earlier enrolment would have to be weighed against the administrative costs associated with changing their automatic enrolment date.

*'If it was a case of two or three months to fall in line we probably would bring it forward. If they gave us a date nine months ahead of our financial year then we might say, "We will live with that".'*

(5-99 employees, pension scheme with no employer contributions)

Only on very rare occasions did employers say that they would bring forward their staging date to provide a benefit to their staff, so that they could be automatically enrolled into a pension earlier than was asked of the employer.

## 4.2 Phasing

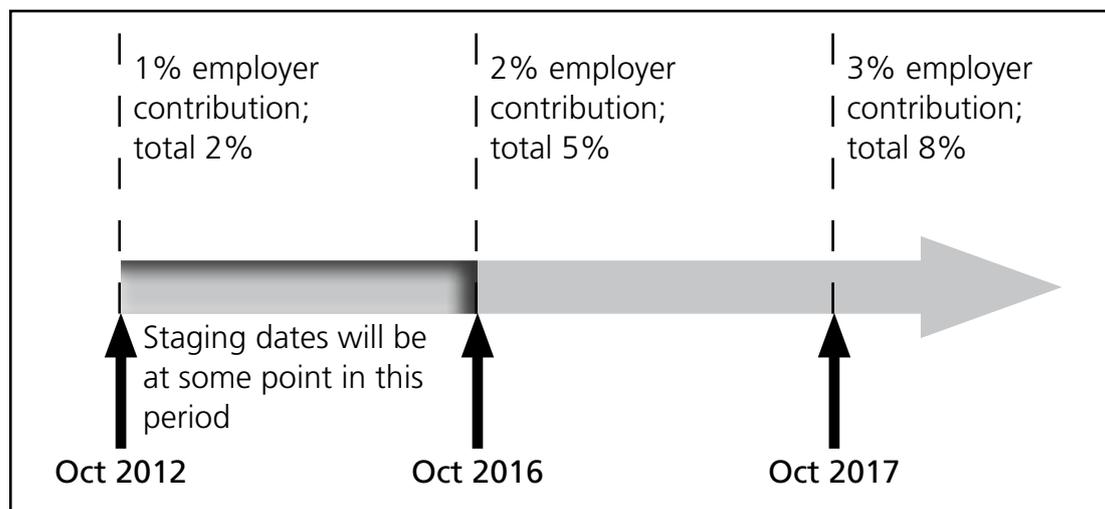
The minimum levels of employer and employee contribution will be phased in. In the first transitional period, total contributions must total at least two per cent with employers required to pay one per cent. In the second transitional period, total contributions must total at least five per cent, with employers required to pay two per cent. And then from steady state the total contributions must total eight per cent with employers required to pay three per cent. The remaining contributions making up the total will comprise the workers' contributions plus tax relief.

This is demonstrated in Figure 4.1.<sup>15</sup>

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<sup>15</sup> The dates shown here were finalised in the 2009 Pre-Budget Report. In the September 2009 consultation, the draft regulations proposed the dates of October 2012, October 2015 and October 2016 respectively.

**Figure 4.1 The phasing in of the minimum employer and employee contributions**



Employers' reactions to phasing were related to three areas: the financial and administrative issues that employers envisaged might be created; the impact of phasing on individuals' saving; and the fairness of the process of phasing, in terms of how it affects differently sized companies.

#### 4.2.1 Financial and administrative issues

The smallest employers who did not contribute at all to their employees' pensions were generally in favour of the process of phasing. This was because overall they would prefer to pay as little as possible, for long as possible, as they appreciated the financial benefit of not having to pay full contributions until October 2016<sup>16</sup>, rather than from the outset. There was some concern about the administrative issues of switching levels of contribution twice, but only very occasionally did the smallest employers state that they would start paying the full amount of contributions from the outset, so that they could avoid the administrative work associated with changing contribution levels twice. Many expected computer packages such as Sage to do the work for them, and that the increase would simply be automated.

Many other employers, regardless of their size and contribution amounts, did express general concerns with regard to the process of phasing. Some mentioned that the process was becoming too complicated, as they would have to make several changes over a period of years, which would most likely require additional administrative work and constant communication with staff.

Others were concerned about the administrative impact of switching from one per cent to two per cent, possibly within a matter of months, which itself would require communication with employees, changes in processes and documents and time in order to make the changes.

<sup>16</sup> In the 2009 Pre-Budget Report this date was further extended to October 2017.

### 4.2.2 Impact on saving

Some employers pointed out that the lower initial levels of contribution in the first years could result in more employees joining, because the initial employee contributions would not be viewed as so high as to deter saving. Some employers, who had hoped that many employees would opt out of the scheme, therefore did not view phasing favourably – they felt they would suffer financially because their employees might not be deterred from enrolling, as they might have been, had they been obliged to pay a four per cent contribution immediately.

Conversely, but quite rarely, some employers believed that such a low initial overall contribution would offer little perceived value in terms of the final pension pot. After consideration of the policy, they felt that some of their employees might see the sum contributed as not generating an amount worth contributing to. Consequently, employers occasionally thought that for some of their employees the process of phasing could actually act as a discouragement to save.

### 4.2.3 Perceived fairness of phasing

Because the majority of the smallest organisations will receive a staging date in 2015 through to 2016, it is possible that they will only have a few months when their minimum employer contribution is one per cent, before this increases to two per cent in October 2016. Conversely, the largest employers might have at least a year or longer paying the minimum total contributions of just one per cent.

Some smaller employers saw it as unfair that they had such a short period when they only needed to pay the lower level of contribution, and that if the system of phasing were to truly benefit all employers equally, then the phasing date should be set relative to the staging date, rather than being a fixed date for all.

*'I think it is slightly unfair. I would have thought that it would be phased from the date you have to start. In other words, we wouldn't start paying [the ultimate level of contributions until two years after we are staged in], otherwise what is the point of phasing?'*

(1-4 employees, no pension scheme)



## 5 Maintaining existing good pension provision

Employers will be able to choose what pension scheme they use to meet the duties they face under the reforms, provided the scheme meets the necessary quality test as set out in the Pensions Act and regulations. This could be an occupational pension scheme, a group personal pension (GPP), a group stakeholder pension (SHP), or the NEST (National Employment Savings Trust)<sup>17</sup>.

Chapter 3 showed that employers' anticipated choice as to which pension scheme they would use after the introduction of the reforms primarily depended upon the type of pension provision that they already offered to their employees. Employers that currently offered a scheme with an employer contribution typically thought that they would continue to use their existing scheme, rather than changing to a different provider. Even employers who had a scheme but made no current contribution towards employees' pensions generally thought that they would continue to use their existing scheme.

If employers do wish to continue to use their existing Defined Contribution (DC) scheme, they will need to demonstrate that their existing scheme meets the requirements of the regulations. In the draft consultation, this process was known as 'certification'. Under certain circumstances, employers with good levels of existing pension provision will also be allowed to delay automatically enrolling new employees until they have been at their organisation for three months. This is called postponement.

This chapter explores reactions to the draft regulations around certification of DC schemes and postponement.

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<sup>17</sup> At the time of the research the name of the scheme had not been finalised and was introduced to participants as 'the personal accounts scheme'.

## 5.1 Certification of Defined Contribution schemes

To be able to use a scheme after the workplace pension reforms are implemented, all workers who are enrolled who do not decide to opt out will have to receive contributions totalling at least eight per cent on a band of their total earnings, between around £5,035 and £33,500 per annum (in 2005/06 earnings terms).

Many employers currently use a definition of pensionable pay that is different to this band of earnings method. As a result, the Government consulted on a process called 'certification of DC schemes' (hereafter referred to as 'certification').

The intent of this process was to allow employers that already offer more than the minimum contribution levels specified under the reforms to certify that they do this for all jobholders, even if they actually calculate their contributions on a different definition of pensionable pay to that proposed by the reforms – for example, based on gross earnings only, without overtime or bonus. This would enable employers avoiding having to make changes to scheme rules and payroll systems.

### *The certification process*

The certification process on which the Government consulted would require employers to make an assessment of whether their scheme will satisfy the quality requirements, in other words, ensure that all eligible employees receive the correct contribution levels. Employers who were confident that their schemes were on course to meet the relevant quality requirements could certify that this is the case. This certificate would last for up to 12 months.

At the end of the period the employer would need to assure themselves within three months that the scheme has met the minimum requirements. To do this they might need to check a sample of individual employees' records to ensure that all have met the requirement. The extent to which this checking of individual records was required would be a matter of judgement for the employer. The employer might choose to check:

- different categories of jobholder with different remuneration structures; or
- within a specific category of jobholders that they believe to be at risk of falling short of the quality requirements, for example, non-permanent staff.

Any sample would need to be large enough, and sufficiently representative of the workforce, to give a reasonable indication of the extent to which the test has been met.

### *Permitted shortfalls*

The Government consulted on the possibility that there might be some tolerance in the legislation regarding meeting the required minimum contributions. The regulations on any permitted shortfalls are yet to be finalised – they may specify that all workers must meet the requirement, with no exceptions, alternatively, they may specify that a scheme will be deemed to be non-compliant, only if:

- any individual has a shortfall greater than five per cent of the minimum contributions: this would mean receiving less than 7.6 per cent rather than eight per cent;
- more than ten per cent of staff experience any shortfall;
- any individual has a shortfall more than once in a 24 month period.

Certification was seen as relevant to employers that wished to maintain their existing good pension provision. Consequently certification was only discussed with employers that currently paid an employer contribution. In addition, certain aspects of the certification process were of particular relevance to employers that currently pay an employer contribution close to the minimum stipulated under the reforms. A number of employers that paid contributions of between three and five per cent were therefore specifically recruited to individual depth interviews.

This was one of the most complex areas of regulation shown to these employers, and indeed, their reactions to it were largely negative. Fundamentally, this was because it was seen as turning a process that employers thought should be very easy, into something complicated and ambiguous. The degree of understanding of the process among employers was mixed, but even those who did understand it said it was too complicated, and left far too many decisions to the individual employer.

Following the analysis of responses to the consultation, the regulations on certification were dropped from the package of regulations introducing the reforms, to enable the Department for Work and Pensions (DWP) to work with stakeholders in creating a more simplified certification model.

### **5.1.1 Desire to use certification**

Employers that already had pension schemes in place and paid contributions were explained the certification process. Their desire to go through the certification process generally depended on whether they were: employers who

- already matched the minimum contributions for all staff;
- matched the minimum contributions for some employees;
- did not match the minimum contributions for any staff.

The approaches of each group are examined below.

#### *Employers that already matched the minimum contributions for all staff*

Typically this group of employers planned to continue using their existing schemes. In most cases these employers calculated existing contributions in a different way to that proposed under the reforms, often based on gross salary only.

Generally, these employers preferred to continue using their current calculation methods because they did not want to change the existing employee benefits packages in place. They believed that employees valued their current packages,

of which the pension was an essential part. Employers believed that staff were very comfortable with the existing methods of pension calculation, which in some cases had been in operation for many years.

Some employers expected that any change in the staff benefits package could cause potential employee confusion or even dissatisfaction. Additionally, some employers expected that the new calculation method might even reduce the pension contribution in certain cases and this, again, would have been an assumed cause of employee dissatisfaction. Occasionally, contributing employers who exceeded the suggested minimum pointed out that:

- the contribution levels are in line with what they can afford as an employer, and these would not be changed, even if the employer was legally permitted to cut down on current pension provision;
- pension is seen as a great benefit by the employees and as an effective retention tool for the employer. This means that reducing contributions or changing calculation methods might have a negative impact on both employee and employer.

Furthermore, most employers in this group did not want to go through the administration processes associated with changing the basis for calculating pension contributions. Some employers had already established specific processes for pension calculation, including building relevant spreadsheets and training appropriate staff. They felt that changing contributions would mean changing the systems they already had built over the years and were comfortable with, as well as having to re-train staff responsible for running these systems. Occasionally, some employers believed that changing the way the pension is calculated would mean needing to change employee contracts, which would cause an additional administrative burden.

A preference for schemes already in place meant that most employers in this group would have to go through the certification process. Their first reactions were typically that, as they already met the minimum requirements, the certification process would be fairly easy and not particularly time-consuming. They expected the certification process to be a simple process of checking their current levels of pension provision and making some adjustments. Employers assumed that the Government or the pension providers would give them tools to help them check whether they comply. They estimated that the process of certification could require anything from a couple of hours to a few days.

*'I don't think it's a big process because we already have a scheme in place, and we're just checking that everybody who is eligible is in, and everybody who is eligible but not in has given us whatever documentation to opt out.'*

(100-500 employees, pension scheme with no employer contribution)

*Employers who match the minimum contributions for some employees*

For the employers in this group only a proportion of the staff already met the minimum requirements under the reforms. In many cases employers in this group offered pensions to permanent staff only, but under the new legislation would need to start enrolling all staff, including temporary and part-time workers, into a pension scheme. Also, some employers in this group paid variable salaries, which depended on commission or overtime. This meant that under the new legislation they would need to make sure minimum contributions were at least eight per cent on a band of total, rather than basic, earnings – these employers would have to start including commissions and other variable salary elements in their pension calculations.

This group of employers was divided in terms of their likelihood of switching to a different calculation method. Some planned to continue with their existing methods and use the same method for newly eligible staff. These employers considered the certification process to be as easy as adding an additional formula on a spreadsheet already used for calculating salaries and pensions. On the other hand, other employers did intend to change the basis for calculations from basic salary to total salary, and adjust contributions levels, in order to match the required minimum.

*'At the moment I have to do a spreadsheet that works out their wages, and then works out percentages, and what somebody has paid on top, so I imagine the spreadsheets I have set up will actually save me time doing this now, because I have already set this system up and I just change the percentages.'*

(5-99 employees, pension scheme with employer contribution)

Typically, employers with a considerable proportion of staff currently not eligible for pensions, or employers with staff being paid variable salaries, felt that the certification process would require a lot of administrative effort. Employers for whom total salaries were based on commission were worried that the calculation of pension as a percentage of total salary would be both complex and time-consuming. Occasionally employers were worried that the calculations would be obstructed by high staff turnover – expecting that it would be difficult to keep on top of the ever-changing numbers of employees and their pension contributions, in addition to variable salaries for each employee.

*'It completely destroys what you have set up yourself doesn't it? My pension scheme is two years and it's basic salary. We contribute and they contribute and done. Now you have to go through a load of hoops and do what they are saying. It is confusing and complicated.'*

(5-99 employees, pension scheme with employer contribution)

Some of these employers said that they would consider switching their calculation method, as this would help them to avoid going through complex sampling processes and allow for greater accuracy in calculation.

*Employers who do not match the minimum contributions for any staff*

Employers with no staff meeting the minimum contribution requirements typically planned to switch the calculation method to a band of total earnings, as this seemed to offer the easiest option from the administrative point of view. Typically these employers did not contribute sufficient employee pensions, so they thought it would be easier to start contributing using the methods defined in the legislation. Some recognised that this was also the only way to calculate the minimum possible contribution necessary.

**5.1.2 Reactions to the certification procedure**

On closer examination of the detail of certification, employers who were prepared to go ahead with the process generally felt that some elements of the process were unclear. Most of the concerns were associated with possible unintentional mistakes that might result from lack of clarity in the rules. Sampling (choosing a selection of employees' records to check they were not paying less in contributions than they should) was seen as the main source of ambiguity. Some employers were worried about how to choose the correct employees and how to avoid making any unintentional mistakes during this sampling process. Employers posed a number of questions regarding the sampling process.

*What constituted a large enough sample?*

Some employers were not clear on what percentage of all staff would constitute a large enough sample. They questioned the Government's approach of giving employers the responsibility of deciding which and how many employee records should be audited, in order to comply with the new rules. Many employers felt that only checking all employee records could possibly ensure compliance. Others had a preference for a clearly-defined sample size, either expressed as a percentage of all staff or a fixed number.

*'What is large enough to one person may not be enough to another person.'*

(100-500 employees, pension scheme with employer contribution)

*How to choose the correct sample?*

Typically employers felt unsure how to choose a relevant selection of staff records. Occasionally they were concerned that they might unintentionally select employees who matched the required minimum, but leave out employees who fall below it. They were worried about making such inadvertent mistakes in their sampling processes and thus risking non-compliance.

*'Somebody comes along and does a spot check and picks the wrong person who you actually missed, but it's still a representative sample, but it just so happens you have missed someone and have to pay penalties.'*

(100-500 employees, pension scheme with employer contribution)

Again, many employers suggested that looking at all employee records would avoid the issue of how to choose the correct sample.

#### *How to prevent others from abusing the sampling process?*

Occasionally employers saw self-certification as a regulation that is open to individuals' interpretation, which might not just result in accidental, but also intentional non-compliance. They suggested that allowing employers only to check a selection of employee records would open up possibilities for abuse. Employers suggested that certain employers might want to purposely check only a selection of records that they know match the minimum requirement, and leave out any employee records that they know fall below the minimum.

#### *Suggestions of alternative approaches*

Having expressed a number of concerns, many employers suggested alternative approaches to ensuring that minimum requirements had been met. Most employers assumed that the calculation would be an automatic process, performed in Excel or in specialist payroll software such as Sage. This would mean that the automatic calculation could be performed on even a large number of employee records in a short amount of time. In turn, this would mean that employers could easily check all employee records rather than just a selection.

Assuming this was the case, employers suggested that it should be obligatory for employers to check all records in order to certify. Some employers suggested that they would check all employee records even if only a selective check is permitted, just to ensure compliance and safeguard their business from any potential penalties. Some employers felt that stricter rules such as checking all employee records would prevent other employers from abusing the system.

### **5.1.3 Support and information that employers expect to receive during certification**

Generally, employers expected to be aided in the certification process, primarily by software tools, to make sure the certification process was compliant. Most employers assumed that they would receive specialist tools to facilitate the process and some employers were also expecting that pensions advisers or accountants to be able to assist with the certification process. Expected tools included:

- specialist software (for example, Sage or HM Revenue & Customs software). This software was expected to have added functions to accommodate any legislation changes;
- tools provided for free, including online checklists or CD-ROM; some expected a calculator tool to be available online

*'It would be easier if there is a form or something to download on the internet, which you can just print off or even do online: that would be less time-consuming.'*

(5-99 employees, pension scheme with employer contribution)

Some employers expected other sources of professional help might be available:

- pensions providers were expected to have checklists and other expert tools, which would help with assuring compliance with the certification process;
- accountancy firms were also expected to have the know-how and expert tools on offer;
- occasionally employers expected professional advisers (e.g. Independent financial advisers (IFAs)) to visit their companies and lead the preparation and certification process, thus ensuring compliance.

Most employers believed that, assuming the rules can be made clear-cut enough and the above help provided, ensuring that the minimum contributions were being met would be a fairly quick, automated process.

#### **5.1.4 Reactions to permitted shortfalls**

Most employers questioned the idea of allowing proposed shortfalls at all. They typically saw these, alongside the sample selection process, as another element adding to the overall lack of clarity surrounding the certification process.

Most employers believed that, in general, no shortfalls should be permitted, and they themselves did not expect to fall below the standards. Employers believed that pensions policy should be applicable to all employers and that all employers should be bound by the same rules. Most employers expressed a view that ensuring correct contributions are being paid is a simple process and therefore there is no need to allow shortfalls. Occasionally employers pointed out that there were no shortfalls allowed in the current tax rules and expressed surprise over the relative perceived lenience of the proposed pension rules.

*'I think if the policy is eight per cent then it is eight per cent. I think you need to make it black and white.'*

(100-500 employees, pension scheme with employer contribution)

Occasionally employers pointed out that employees would in any case be monitoring the contributions levels themselves, and they would be expecting these to be at least eight per cent. Employers felt that allowing shortfalls in some cases would have been confusing, not just for employers, but also employees.

Some employers suggested that the permitted shortfalls might also allow possible 'system abuse'. Occasionally employers expressed a concern that allowing shortfalls would allow certain employers to regularly operate at the bottom boundary of the permitted shortfalls, thus making profit out of employee money.

Very rarely, there were some employers that felt that in cases of fluctuating total earnings, some occasional shortfalls might occur, and these employers therefore welcomed some lenience in terms of minimum contributions. More commonly, employers suggested that some tolerance should be exercised in practice, but this leniency should not be advertised. Or alternatively, it should only be shown

in special cases, such as if a company is experiencing financial trouble, or if a genuine, unintentional mistake has been made during the calculation process.

*'I would say that I would not advertise that any of these permitted shortfalls exist, but in the case that you do an inspection and somebody is within the permitted shortfalls, then they are not going to be liable to any kind of punishment for that.'*

(100-500 employees, pension scheme with employer contribution)

## 5.2 Postponement

In most cases, employers will be required to enrol all eligible jobholders into a qualifying pension scheme either on the firm's staging date, or on the first day that the individual's employment commences with that company. However, the Pensions Act 2008 provides for employers to postpone automatic enrolment into high quality schemes. High quality schemes were defined as pensions that provide an employer contribution of at least six per cent and a total contribution of at least 11 per cent (based on qualifying earnings). The proposed postponement period was three months.<sup>18</sup> Only employers currently offering high quality schemes to employees discussed postponement in this research.

The draft regulations published for consultation on 24 September 2009 included a new proposal, which stated that these employers would not be able to postpone automatically enrolling any staff who are expected to be employed for less than three months, ensuring that individuals would not miss out on pension saving through repeated postponement in short-term contracts.

### 5.2.1 Overall reactions to postponement

Most of the employers that were already offering high quality pension schemes found the idea of postponement sensible and easy to understand. They felt that defining a high quality scheme as a scheme that offered at least 11 per cent contribution was reasonable and acceptable.

Occasionally employers expressed surprise that postponement would be allowed at all. They felt it contradicted the ethos of automatic enrolment. Nevertheless, even these employers were favourable to the idea, and saw it as a useful easement.

### 5.2.2 Desire among qualifying employers to use postponement

Employers' desire to take advantage of delaying automatic enrolment for up to three months depended on current pension provision and existing enrolment procedures.

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<sup>18</sup> Defined Benefit (DB) schemes that meet a specific test of overall scheme quality, referred to as the 'test scheme standard', will also qualify, although such schemes were not included as part of this research.

*Employers currently aligning pension provision with probation period*

Some employers meeting these requirements already operated a three-month employment probation period, during which employees were not yet eligible for employer contributions. In these cases they only enrolled staff into the pension scheme after the successful completion of the probation period. These employers thought that the postponement option was a good idea, and most expressed a desire to take advantage of it. They typically saw two advantages:

- **Administrative:** these employers felt that postponement would help avoid any additional administration required if an employee decided to leave during the probation period, or if an employee was unsuccessful in securing a permanent position
- **Financial:** for some, postponement meant that there would be no additional financial burden of paying an extra three months of pension contributions

These employers generally recognised why there was a requirement to treat short-term workers as an exception and enrol these immediately. None anticipated any difficulties in adhering to this requirement, although most of these small and medium-sized employers also pointed out that they had relatively few employees who fell into this category.

Occasionally employers operated a six-month probation period, but were prepared to cut it down to three months in order to adjust to the postponement rule. Employers felt that reducing the probation period would not be particularly problematic, as long as it was not to drop below three months.

*Employers currently enrolling staff immediately*

This group of employers said that they were unlikely to delay automatic enrolment as it would not fit with their current procedures. Employers felt that postponement would not be fair towards any new employees joining the company, although they did recognise postponement as an acceptable concession for other employers as a straightforward way for them to continue operating their current procedures.

*'Obviously we want to save money but I think that from an employee's perspective they wouldn't appreciate that.'*

(100-500 employees, pension scheme with employer contribution)

## 6 Administrative requirements of the reforms

This chapter explores employers' reactions to three areas of administrative requirements consulted upon as part of the draft regulations: registration, record-keeping and the procedures for paying over contributions to the provider.

### 6.1 Registration

One requirement of the workplace pension reforms is for all employers to register with The Pensions Regulator (TPR) information on how they have met their duties, including what pension arrangements they have put in place and what action they have taken to enrol jobholders into pension saving. Employers were told that they will be required to register within nine weeks of their automatic enrolment start date, and provide:

- full contact details of the company and the individual providing the information;
- number of workers in the Pay As You Earn (PAYE) scheme, including non-permanent staff;
- details of the pension scheme or schemes being used to meet the employer's obligations;
- number of workers who have been automatically enrolled in to the pension scheme;
- number of those workers who have opted in, and the number who have opted out;
- number of workers deemed not to qualify for automatic enrolment and the reasons for that.

Every three years employers will be required to re-enrol workers who have previously opted out. All employers will be required to re-register every three years, usually shortly after re-enrolment.

### 6.1.1 Reactions to timeframe for initial registration and information requested

Generally employers expected the registration process to be simple and easy to complete. Most employers said that the process of registering seemed to be roughly in line with other current requirements, in terms of supplying information to HM Revenue & Customs (HMRC) for their existing PAYE schemes, and thus it posed little extra administrative effort on their part.

*'I don't think it would be difficult at all. You've got all this information to hand anyway on the PAYE scheme, so that is fine.'*

(100-500 employees, pension scheme with employer contribution)

Most employers felt nine weeks gave them enough time to gather all the relevant information. There were occasionally separate concerns around the time it might take to process opt-outs (see Section 8.2), but these were not seen by employers as problems specifically related to the process of registration. Generally employers assumed that as they already would have been informed about the date they will need to comply with the regulations, they would probably have started preparations earlier anyway. As a result, the nine-week deadline seemed reasonable to most employers. Employers expected that most of the information required would be readily available within their organisation, and in order to register they would just need to compile it in one file or form.

Some even thought that the registration process would in fact take much less than the nine weeks to complete because most of the information was already readily available to them, and they expected to be able to pull the information together in a few hours. Overall, employers felt that the information they were required to provide was reasonable, and the majority of employers who already had pension provision in place said that they had this information already at hand.

Typically employers assumed that they would be aided by specialist software or professional advisers in the registration process. They expected the software to include modules specifically designed to help with the registration process. Some planned to outsource the registration process to accountants already used for payroll.

*'If it's in with all the software then it should be fairly straightforward. It's a repeat process.'*

(5-99 employees, pension scheme with no employer contribution)

Some employers suggested that there should be forms or templates provided to aid the registration process – these were envisaged either in paper or electronic forms.

*'I would like to think one of our advisers would be able to give us a template that we would complete in a very short period of time and that would be it.'*

(5-99 employees, pension scheme with employer contribution)

Very rarely, small employers were concerned that they could register incorrectly and face fines. They felt that the process was complicated and required specialist knowledge, and thus they would be required to seek outside help from an accountant or a payroll professional. These employers thought that the registration process would have a direct cost impact for them, as they would be required to pay for professional help.

Also rarely, employers pointed out that other Government departments such as HMRC were already in possession of some of the information that was requested during registration, and that all data regarding employees and their salaries and pensions should be stored online centrally on a Government-owned server, to which employers would input all relevant data.

### 6.1.2 Reactions to timeframe for re-enrolment

Most employers saw the requirement to re-enrol employees as being reasonable, both in terms of timeframe and the level of paperwork required.

Usually employers felt that the re-enrolment timeframe offered a good balance of encouraging active employee membership while reducing the administrative burden placed on employers. They recognised that staff circumstances might change over time, and believed it would be beneficial for employees to be periodically re-enrolled.

*'Yes, because they are three years older and perhaps their priorities have changed. Somebody that is 23 or 24 isn't thinking about it, and then they are 27 and they've got a boyfriend and maybe they're looking to get engaged. I think that would be probably quite a good thing.'*

(100-500 employees, pension scheme with employer contribution)

Rarely, employers suggested that re-enrolment should be more frequent, with some proposing a yearly re-enrolment to ensure that employees are not missing out on the opportunity to pay into a pension unnecessarily.

*'I don't think three years is perhaps frequent enough. I think it should probably be more frequent because three years is quite a long time in terms of pensions and income and lost income to their pension.'*

(100-500 employees, pension scheme with employer contribution)

Occasionally employers assumed that they would be automatically reminded to re-enrol employees by the relevant Government department. They expected to be sent relevant reminders either by post or by email.

## 6.2 Record-keeping

Employers will also be required to keep specific records on pensions and pension schemes and will need to be able to produce these for TPR on request. These records will include:

- the name of each scheme used – the name and address of the pension provider and the employer pension scheme reference;
- where an employer has certified that their pension scheme meets the relevant qualifying criteria, a copy of the certificate and any subsequent determinations as to its validity;
- information relating to the enrolment process, including the enrolment of eligible jobholders and the processing of opt-outs and opt-ins, as well as copies of the individual requests to opt in or opt out;
- information relating to contributions paid including gross earnings, details and dates of employer and employee contributions payable.

### 6.2.1 Views on record-keeping

Most employers viewed the record-keeping requirement as unproblematic and easy to comply with. Generally employers expected to need to keep copies of relevant documentation as part of running a business anyway. Most had also consented to the six-year retention period as it was perceived to be in line with current tax rules. Very rarely employers raised questions as to whether records should need to be kept for employees who had left the company, or died in service.

Most were familiar with relevant procedures as they were required to keep a variety of other, often tax-related, records. Employers simply planned to add any necessary information to these in order to comply.

*'Once you've set a system up, continuing with it is going to be very straightforward.'*

(1-4 employees, no pension scheme)

Employers thought that only the opt-out and opt-in forms would be the additional item that they would need to keep, beyond what they currently kept. Most were happy to keep copies of all opt-out and opt-in forms, which were expected to act as a defence tool against any unjustified employee action (see Section 7.1 for more details).

However, some employers did expect record-keeping to take up a substantial amount of time, particularly for companies with high staff turnover, and expected to need input from a professional, such as an accountant. Rarely, small employers with a large number of temporary and short-term staff were concerned with having to find space to accommodate the additional records.

Occasionally employers suggested that specialist tools should be provided to help with record-keeping. These should include spreadsheets and record-keeping sheets that would be filled in by the employer; this would ensure that all necessary records are kept in a manner within the rules.

## 6.3 The 19-day rule

Current pension legislation requires that all employee pension contributions must be paid to the pension scheme no later than the 19th day of the month following the end of the month in which they were deducted. This is commonly known as the '19-day rule'. The Government is proposing an alternative due date for employee contributions deducted for the period from the date the employee is automatically enrolled up to the end of the opt-out period. These contributions would be payable no later than the 19th day of the second month following the end of the month in which the employee was automatically enrolled into a pension scheme.

The reforms legislation allows 30 days for a new employee to opt out of a pension scheme without losing contributions. Under the current rules, if an employee does take close to 30 days to opt out, and the first month's contributions have already been deducted and paid over to the scheme before they opt out, the employer would have to apply to the provider or scheme to have the contributions refunded back. If the alternative due date is implemented, the employer would not need to apply for a refund from the provider or scheme, because the contributions would not yet have been paid over.

Although these regulations will be relevant to all employers, their implications were expected to be best understood by employers that currently pay contributions. The topic was therefore only discussed in this research with employers currently paying contributions.

### 6.3.1 Overall reactions to the 19-day rule

The 19-day rule was discussed only with employers that currently paid contributions to their employees. Generally these employers understood the 19-day rule, and were familiar with it already, because it was in line with current PAYE regulations.

*'That all matches with all the National Insurance, PAYE, everything.'*

(5-99 employees, pension scheme with employer contribution)

Rarely employers thought the time period was too long and expected the contributions to be paid into pension funds on the same day as they were deducted from the employees' salaries.

### 6.3.2 Preferred arrangements for payment of employees' first month contributions

Employers were asked which of the two possible scenarios they preferred. In most cases employers preferred the alternative due date, in which employees' contributions deducted from the automatic enrolment date up to the end of the opt-out period can be delayed until the 19th day of the second month following the month of automatic enrolment, although this preference was only marginal in most cases. The option to delay contributions deducted during an initial period

was often seen as advantageous, because employers would be able to avoid processing refunds of contributions, and the administrative effort that would be involved. Some felt this might be time-consuming, particularly those with non-permanent staff.

*'For a lot of the temporary employees you are going to be talking about a very small amount of money, but it's just the amount of time in actually sorting all of that out, on your payroll system, going through your accounting system and then through the banking system. You have got three separate processes to go through. I would imagine it would be really frustrating.'*

(5-99 employees, pension scheme with employer contribution)

Others were concerned that providers would delay processing refunds or even charge an administration fee for this service, if an employee opted out after a payment had been made to the pension provider.

*'Whatever you will have paid over, that pension provider is going to take a fee to get that money back off them, which basically is probably going to wipe out most of whatever it was anyway.'*

(5-99 employees, pension scheme with employer contribution)

Rarely, employers saw any issue in having to process new employees' contributions in a different way to existing employees' contributions, as employers felt that this would be an automated process and governed by the relevant payroll software.

In reality however, most employers also said that they would be prepared to accept the current 19-day rule as well, where all employees' contributions must be paid in the first month after deduction. This was essentially because they expected the issue of refunds of contributions to arise only rarely, because many employers expected employees to opt out very quickly, potentially during induction. Others said that they had low staff turnover and did not expect to be faced with many opt-outs or refunds.

Employers did not typically perceive any risk associated with holding on to employee contributions for an additional month, although very rarely employers felt that there could be a possibility for other employers to use the proposed alternative due date to their advantage, and seek to profit from it.

*'It is impossible. I don't know what my staff are going to say. But if [they did opt out] then logistically it is a nightmare. How long have you got to wait to get the money back and is the money going back to me or is the money going back to the employee? Someone has got to be chasing it up. You can never get through to anybody. No. You don't want to be going that route really.'*

(100-500 employees, pension scheme with employer contribution)

# 7 Compliance regulations

This chapter explores the three specific areas of draft compliance regulations that were consulted upon in this research: inducements, failure to pay contributions over, and penalties.

## 7.1 Inducements

It will be unlawful for employers to seek to influence employees' decisions about whether or not to opt out of a pension scheme. This is called inducement. In the draft regulations it was proposed that an employee could register a complaint with The Pensions Regulator (TPR) regarding inducement up to six months after the event and that TPR could look back over 12 months when carrying out its own proactive investigations of inducements where an employee complaint had not been received.

### 7.1.1 Reactions to proposed time limits

Generally employers felt that the proposed 12-month period allowed for TPR's investigations was acceptable as a time limit. Some employers suggested that they would have expected this period to be much longer, based on their experience with HM Revenue & Customs (HMRC) and their rules.

*'The Inland Revenue can go back five or six years. In fact, if they really want to do it and they think you have been diddling them they can go back as long as they deem physically possible.'*

(5-99 employees, pension scheme with no employer contribution)

Generally employers felt that allowing employees six months in which to launch a complaint was too long. Some felt that permitting such a long period of time for grievances might result in a general increase in unfounded grievance procedures. Employers suggested that if an employee had a reason for filing a complaint than they should do so immediately after the incident. They felt that dealing with complaints, whether unfounded or not, was a lengthy and costly process which they would like to avoid.

*'Six months seems a long time for the employee to complain. Why wouldn't they complain straight away?'*

(5-99 employees, pension scheme with no employer contribution)

### **7.1.2 Reactions to proposed regulation regarding inducement**

Employers were all very keen to stress that they would not themselves seek to influence their staff by suggesting they opt out. However, they recognised that there would be a need to prevent inducement and stop other employers from effectively denying workers access to pensions. Very rarely employers suggested strict fines should be imposed in case of inducement and suggested that a whistle-blowing channel should be made available.

However, generally employers felt that the inducement rules were unclear and ambiguous. Employers thought that the draft regulations left a number of questions unanswered:

*What is inducement?*

Employers said that the definition of inducement might be left open to interpretation by employers and employees. Some questioned whether the following scenarios would be classified as inducement, for example:

- Talking to a future employee during the recruitment phase about pensions, and checking whether potential employees were interested in a pension, or were already paying into a pension.
- Offering two alternative benefits packages where one package shows a salary with pension contributions deducted and one package shows a higher salary without the pension contributions.
- Asking any new employees to make a decision regarding pension during the first few days of employment.
- Sending opt-out forms with an employee contract, prior to starting employment.

*'It depends what you call inducement. Who is going to judge whether saying to somebody, "You are interested in this job. Fill out this sheet. The salary there is whatever..." Is that inducement?'*

(100-500 employees, pension scheme with employer contribution)

Some employers also wondered who would be responsible for providing the relevant forms and suggested that having standardised versions of the relevant opt-out forms would help to reduce some of the ambiguity. Generally employers had a preference for clearly-defined rules that could be further clarified by the use of standardised forms.

### *How to communicate with employees regarding opt-out procedures?*

Sometimes employers said they expected their employees to want to talk to them about the reforms. In such cases, employers wondered where the boundary between informing employees of their rights and influencing employees' decisions might lie. Employers believed that staff would need to be informed about the opt-out process and suggested that it was unclear who would be responsible for that – would the responsibility lie with the employer, the Government or the pension provider?

Employers anticipated that they would be asked by their staff to explain the reforms. In particular, they expected to be queried regarding the impact the reforms would have on employees themselves and their income. Some employers had already experienced this during the stakeholder pension (SHP) set up and were expecting to be asked similar questions regarding the way pensions are calculated and administered after the workplace pension reforms are implemented. In some cases, employers planned to start the employee talks up to six months prior to automatic enrolment due date.

*'Surely there has got to be an element of discussion between you and your employees, so a general discussion where you can say, "You've got a choice here. You can either opt into this scheme in which case there won't be any pay rises, or you can opt out of it".'*

(1-4 employees, no pension scheme)

Rarely employers suggested that any form of contact with an employee on the subject of opting out might be interpreted as inducement. In such cases, employers were unsure how they would approach the implementation of the reforms in regard to communication with staff – some employers were suggesting all communication should be done by a third party such as a pension provider or a Government representative. They felt that by leaving all the responsibility at their end, they were open to making unintentional mistakes and being penalised. Employers were concerned that what they might see simply as discussing the reforms might be interpreted by TPR as inducement, hence the desire for very clear-cut rules.

*'I think it is a cheek that they are asking us to administer this anyway and then fine us if we are not doing it correctly.'*

(1-4 employees, no pension scheme)

### *How to prevent inducement rules being used by employees to their own advantage?*

Some employers felt that lack of clarity in the inducement rules could potentially lead to unfounded action from employees. Occasionally employers felt that the inducement rules could be an invitation for employees to begin unfounded grievance procedures. Some suggested that unhappy employees could use the six-month window to file a complaint as an act of revenge on an employer they were

unhappy with, or go ahead with a complaint in a case of dismissal or redundancy simply because they might want to get back at an employer.<sup>19</sup>

*'I don't think it's reasonable at all because if somebody leaves because they have got an issue at work they could use that as another aspect of trying to gain some compensation from an employer... It just gives ammunition to employees.'*

(5-99 employees, pension scheme with employer contribution)

Many employers felt they needed some protection against unfounded grievances and felt that the current proposition was too ambiguous to offer this. They felt that employees had been given too much time to file a complaint.

*'A nightmare because you might get somebody who during that six months gets made redundant or gets sacked for something, and then they just think, "Oh well, I can't stand my boss. I am going to lie." I think it will lead to a huge amount of tribunal cases. It is somebody's word against another. How are you ever going to prove it?'*

(100-500 employees, pension scheme with employer contribution)

### 7.1.3 Proposed solutions

Occasionally employers suggested solutions to perceived problems with the draft regulations. These included:

- a standardised form for opt-outs, which would include employee confirmation that the decision to opt out was their own and that they were given all relevant information regarding pensions;
- the government could provide employees with enough information to avoid employers taking on responsibility of explaining the opt-out process;
- shortening the window of opportunity for the employee to file a complaint;
- aligning the rules with regulations already in place for pay and tax grievances.

## 7.2 Failure to pay all contributions due

In the event of an employer failing to comply with their duties it was proposed in the draft regulations that TPR have the ability to consider requiring the employer to pay both the employer and employee contributions outstanding where they remain unpaid beyond a proposed prescribed period of three months.<sup>20</sup> It was also

<sup>19</sup> In fact, the six-month time limit within which a complaint may be made to TPR to permit enforcement action does not have any bearing on the time limit (generally three months) within which a case such as this can be taken to an employment tribunal.

<sup>20</sup> This discretionary power is also available to TPR if an employer fails to enrol employees resulting in unpaid contributions, however in this study it was only consulted upon in the context of failure to pay contributions following deduction of employee contributions from salary.

proposed that TPR have the discretionary power to require the payment of interest on unpaid contributions calculated at 4.9 per cent plus the current Retail Prices Index (RPI). The additional amount is intended to compensate the employee for the loss of investment growth for the period of the delay.

### 7.2.1 Reactions to the prescribed period of three months

Generally employers agreed that regulations should be in place to prevent and punish employers who do not adhere to pensions legislation. Most employers in fact perceived the rules on failures to pay contributions over to be too lenient. They pointed out that, once deducted, the pension contributions belonged to the employee and thus should not be kept by the employer. Some perceived employers holding onto the contributions as fraudulent and felt that it should be treated as such.

*'It isn't your money at the end of the day. Once you have worked out that figure, it should be gone. It is no longer yours anyway.'*

(5-99 employees, pension scheme with no employer contribution)

Occasionally employers suggested that the proposed rules could be open to abuse by other employers. They imagined that because of the delay period, other employers might consistently withhold contributions for up three months and draw profits from the withheld funds, but not face any penalties.<sup>21</sup>

Occasionally employers contrasted the proposed rules with current Pay As You Earn (PAYE) rules and pointed out that the latter seemed much stricter. Employers had a general preference for aligning the pension regulations with other regulations they were already familiar with.

*'You are reprimanded quite badly for not paying your tax on time!'*

(5-99 employees, pension scheme with employer contribution)

Very rarely employers felt that some tolerance should be allowed in cases where a company was in financial trouble, and where withholding the pension contributions might improve the cash flow situation.

### 7.2.2 Reactions to proposed interest rate

Generally employers considered the proposed interest rate of 4.9 per cent plus RPI as reasonable compensation to the employee. They felt employees should be compensated if their contributions are not paid over to the pensions provider in time.

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<sup>21</sup> The Government has subsequently highlighted the fact that this provision is not intended to allow for a period of grace for an employer to pay over contributions, but rather a way of encouraging employer compliance with paying contributions on time, with a suitable measure of protection for a worker where this does not happen.

*'Again, it is fairer, because if you've failed to pay it, people have paid you from their salary, their contribution, so you should be paying that over plus your own.'*

(100-500 employees, pension scheme with employer contribution)

Some employers felt that the interest rate should be higher, to act as a disincentive for employers to abuse the system.

*'You miss one month and you get a call. You miss two months and they are banging on your door. With income tax and National Insurance, when you take it off your employees and don't pay it over, suddenly you're out of business. Now we're talking about pensions here, it's affecting individuals. Definitely stronger.'*

(100-500 employees, pension scheme with employer contribution)

### 7.3 Penalties for non-compliance

The draft regulations proposed that if an employer is non-compliant with a particular aspect of the regulations, TPR may contact the employer informally. If they continue not to comply, they may issue a statutory compliance notice. After this, the possibility of a flat-rate fixed penalty of £500 for non-compliant employers was proposed. Escalating penalties will also be available to TPR for very serious or persistent non-compliance, although the size and nature of these was not discussed in the research.<sup>22</sup>

Generally employers felt that the proposed flat-rate fixed penalty of £500 was too low, particularly given that it would be applied only after repeat warnings. Employers expressed surprise, as they perceived the fine to be disproportionately low in relation to the perceived seriousness of the offence.

*'It should be more than that. Going back to our final salary scheme, if that was late you could have had a penalty of £10,000. So people will make sure that they don't fall into that catchment area. Scare them. We pay a monthly advance so we can't be late. £500 is nothing, even for a company like ours, so they should make it a lot more. They should put another nought on the end.'*

(5-99 employees, pension scheme with employer contribution)

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<sup>22</sup> The proposed escalating penalty levels are based on the total amount of unpaid contributions that a non-compliant employer could owe over a two-year period, equating to the following:

- one to four workers: £50 per day;
- five to 49 workers: £500 per day;
- 50 to 249 workers: £2,500 per day;
- 250 to 499 workers: £5,000 per day;
- 500 or more workers: £10,000 per day.

Sometimes employers suggested that the fines should be relative to the number of employees in the company. They felt that while for the smallest companies this level of fine would be high and prohibitive, the same fine imposed on the large corporations, employing often thousands of staff, would not be nearly sufficient. Employers felt that for larger companies the fine should be much higher, otherwise it might act as incentive not to comply. Employers suggested that for the largest companies, a fine of £500 was much lower than the combined contributions for all staff.

*'Playing Devil's Advocate here, if you are paying over £500,000 into a scheme and you get a £500 penalty and you need that cash for that month, then pay it the month after.'*

(100-500 employees, pension scheme with employer contribution)

Some employers felt that the fines should be more in line with current tax rules, which were much stricter and therefore more effective in preventing employers from intentional non-compliance. Very rarely employers felt that the penalty for serious non-compliance should not just be financial, but also should result in a prison sentence where relevant. Some felt that a custodial sentence would in fact be more in line with current tax rules.<sup>23</sup>

Occasionally employers felt that some tolerance should be allowed, in terms of penalising employers to account for companies that were in financial trouble or had made a genuine mistake. Therefore, employers welcomed the idea of TPR contacting companies informally first. They felt this would allow any misunderstandings or mistakes to be eradicated before fines were imposed.

*'We are all human beings at the end of the day, and there has to be an allowance for human error, and there could be a legitimate reason. There could be a bereavement. There could be a personal situation, an illness or something, so why penalise on a one-off situation?'*

(5-99 employees, pension scheme with no employer contribution)

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<sup>23</sup> In fact the final regulations do allow for the possibility of custodial sentences in certain cases where there has been wilful non-compliance.



# 8 How employers expect to deal with the administrative requirements

This final chapter examines how employers expect to deal with the administrative requirements that they will face. Whereas Chapters 4 to 7 focused on how they expected to approach the specific aspects of administration associated with the proposed requirements, this chapter explores the impact of the workplace pension reforms overall.

It first of all looks at employers' readiness to implement the new requirements, and then examines administration of the opt-out process, and the reforms overall. Finally, it examines approaches that employers suggested they might take in order to avoid the extra costs associated with the reforms.

## 8.1 Readiness to implement the new requirements

Employers' readiness to deal with the administration associated with the proposed requirements essentially depended on the level of pension provision they currently offered.

Employers that were not currently offering a scheme at all – mainly those with fewer than five employees – will have to introduce a pension scheme for the first time. Employers offering schemes with no employer contribution will have to adjust the running of their scheme to match the new rules. Employers already contributing will often need to make the fewest procedural changes.

The confidence of employers, in each of these three groups, in implementing the reforms is detailed below.

### 8.1.1 Employers with no current pension provision

Small employers with no current pension provision varied in their expected ability to handle the implementation of the reforms. This tended to be related to the financial literacy of the employer in question.

#### *Small employers with relatively low financial literacy*

The small employers with the lowest levels of financial literacy were those that found it most difficult to assess how they would handle the reforms. Often these employers in this group were individuals that had simply decided to start a business using a personal skill, such as hairdressing or carpentry, but had limited business experience prior to setting up their own company.

As they had not needed to go through the process of setting up a stakeholder pension (SHP), they typically had no real frame of reference with regard to the work required in setting up and running a pension scheme. Consequently, they often did not feel confident in dealing with the administrative side of the reforms.

Sometimes employers in this group already felt overwhelmed with the amount of administration they faced in their day-to-day work. They worried that the reforms would mean a substantial additional strain on them.

*'We have got the National Insurance to sort out... We have got the wages to sort out... We have got the Inland Revenue, Customs & Excise. We have got PAYE [Pay As Your Earn]. It's just an absolute minefield for me. I was never equipped to do this kind of thing. My maths isn't brilliant and I find it all a bit of a struggle.'*

(1-4 employees, no pension scheme)

#### *Small employers with relatively high financial literacy*

Generally employers in this group had had some previous business experience, often gathered while working in a corporate environment. They used that experience and expertise to set up their own business.

Generally small employers in this category had some financial and business knowledge, which meant they felt more confident in their own ability to handle the reforms. Employers often expected that they would be able to adjust their payroll processes to include their payment of pension contributions.

*'The payroll is going to be tweaked to accommodate it, isn't it? I wouldn't think it's going to be a big administrative function, especially with companies the size of what we are all talking about. I don't think that is going to be a big issue.'*

(1-4 employees, no pension scheme)

### 8.1.2 Employers that offer schemes with no employer contribution

Employers who did not offer any contributions, but had set up SHP schemes in the past, were typically fairly confident in their ability to implement the reforms. They generally had practical experience of setting up a pension scheme and communicating with staff regarding pensions. Employers expected to apply this knowledge and experience during the implementation of the reforms. However, this group of employers was concerned with what additional administrative burden might be created.

Generally these employers felt that they had the relevant skill sets and tools available to them to be able to cope with the reforms. Some employers had dedicated staff who already operated payroll. They expected these staff would be able to take on the additional tasks. These staff were often familiar with specialist payroll software packages such as Sage or Pegasus, which were expected to deal with the payment of contributions automatically.

*'I don't think it would be difficult for us to implement this. We have got a Sage system set up in accounts. We pay the taxes straight off the computer.'*

(5-99 employees, pension scheme with no employer contribution)

Some employers already outsourced payroll to external suppliers. They expected these suppliers to contact them with all the relevant information and then take on some or all of the preparation and implementation.

*'There would be a payroll bureau that would do it and I am sure they would pass on an admin cost to us.'*

(5-99 employees, pension scheme with no employer contribution)

### 8.1.3 Employers that offer schemes with an employer contribution

Employers that were already contributing to employees' pensions felt confident in their ability to implement the reforms. As these employers were already paying into pension funds, typically they already had established processes for dealing with pensions administration, and often had dedicated staff responsible for pensions and payroll. Employers who were already contributing felt they had a number of people and tools in place to take on the pension reforms. These included:

- dedicated payroll staff familiar with specialist payroll software such as Sage;
- experience of already running a pension scheme and contributing to it;
- several processes in place ensuring pension schemes are run smoothly;
- having the use of advisers or external accountants running payroll and pensions

*'We offer a pension scheme so we're geared up to accept people enrolling into that scheme and taking up the fairly generous offer. I think it is more a case of just being on the ball and maybe being a bit sharper.'*

(5-99 employees, pension scheme with employer contribution)

## 8.2 Administration of the opt-out process

The most significant change to the administrative procedures of employers was expected to be the switch to automatic enrolment, and the need for employees to opt out of the scheme if they do not wish to be a member, rather than opt in. Most employers expected that the processing of opt-outs and opt-ins would be the element of the reforms that would take up the greatest amount of administrative time and effort. This was particularly true of employers who had significant numbers of part-time or temporary staff, and who were concerned about the administrative burden of having to manage and process large numbers of opt-outs each year, placing a considerable administrative burden on them.

*'It's a waste of time. I know for a fact I will put them in, I will set this up, and it will cost me money to set it all up, and as soon as it's up and running they will turn around and say, "When can we opt out?".'*

(1-4 employees, no pension scheme)

Some employers were concerned that they were unable to predict the number of employees that might want to opt out or opt in, and therefore they were unable to predict how much time would be needed to process the opt-outs or opt-ins. Some expected this to take up a considerable amount of administrative and management time.

Many employers expected to require considerable amounts of management time to communicate with employees regarding the pension reforms in general and the opt-out process in particular. Employers with high staff turnover or employing a large number of temporary staff were particularly worried about having to manage and keep on top of the opt-out and opt-in forms.

In some cases employers thought that staff might want to keep opting in and out of the pension scheme depending on their financial situation. They therefore expected to be continually processing the opt-out forms and repeatedly communicating with their employees regarding these. In reality, this will not be the case, since the proposed reforms legislation will restrict employees' opting in or out of a scheme to no more than once per year.

*'What would happen if one of your employees came into a bit of money and he decided he wanted to up his contribution into his pension because you can do that and then next week he says, "I don't want to pay that into my pension this week"? Then you have got an admin problem.'*

(1-4 employees, no pension scheme)

Occasionally employers pointed out that the number of workers opting out might depend on how the reforms are communicated, not just by the Government but by the employer too. Some suggested that employees could be persuaded to opt out or remain in the scheme depending on how the advantages are communicated. Some questioned what would be permitted in terms of communicating the opt-out option to staff, and what might be classified as inducement (see Section 7.1 for further details).

### 8.3 Overall administrative impact of the pension reforms

Overall the employers could be divided into three groups in terms of the administrative impact of the reforms:

- employers with no current pension provision and no current payroll support (greatest impact);
- employers that need to adjust their current schemes and small companies outsourcing payroll (medium impact);
- employers already matching or exceeding minimum contributions (smallest impact).

#### 8.3.1 Employers with no current pension provision and no current payroll support

Small employers with no current pension provision or payroll support expected the reforms to place a large burden on them as employers, requiring them to take on additional work themselves or be forced to pay someone else for taking on the work.

These employers cited their lack of experience with pensions as one of the main reasons for expecting such a large administrative burden. As well as needing to gain the knowledge necessary to set up a scheme, they would have to go through an unfamiliar setup process, and subsequently administer it. Overall, they predicted that the setup and running of the scheme would take a substantial amount of time.

Some employers were worried that they would be unable to cope with this additional work and responsibility as they were unable to afford external help and would have to take it on themselves. Others expected that they would need to outsource the pension setup as well as the pension administration, to make sure they were compliant and avoid penalties.

*'To us it means direct costs, which at a time when we are not making money is not wonderful to hear. Then there are the indirect costs as well. Our person who is a self-employed book-keeper, obviously her costs will go up because she will be the one who will be doing this. I am sure there will be costs involved in initially setting it up where you have to get an IFA [Independent Financial Adviser] to come in and advise you on what is going to be the best pension to go for. I'm sure it would be £500 to have somebody come in and advise you on what is best.'*

(1-4 employees, no pension scheme)

Many employers felt that they would need to communicate the changes to their employees, but again, they were worried that they did not possess the necessary knowhow to be able to effectively and accurately convey the reforms to their staff, as well as the fact that the management of the communication would take time out of their already busy schedules.

The concern about making inadvertent mistakes and risking penalties for non-compliance was highest in this group.

*'I am frightened of doing things wrong and having penalties imposed on me. I tend to let the accountant do everything now because the penalties are so high, and because I don't trust myself.'*

(1-4 employees, no pension scheme)

### **8.3.2 Employers that need to adjust their current schemes and small companies outsourcing payroll**

Employers that had set up pension schemes already were typically fairly confident in their ability to implement the reforms. Small employers who already outsourced their payroll also tended to feel relatively confident in their ability to cope with the reforms. Nonetheless, both groups of employers were concerned about the administrative impact of the reforms and the possible increase in paperwork they might experience.

Some employers expected that the staff responsible for payroll would have to take on additional work, or if payroll were outsourced, that this cost would increase. Others expected to have to employ an accountant to help with the registration process.

Many employers believed that the administrative burden would simply add to that experienced recently in relation to the changes in employment law. Some gave examples of changes such as the minimum wage, paternity leave, VAT, sickness and holiday pay, the working hours directive and immigration regulations.

### **8.3.3 Employers already matching or exceeding minimum contributions**

Employers that already contributed to employees' pensions typically already had processes in place for dealing with pensions administration, which they would need to adjust in order to comply. Therefore, they did not expect the reforms to have a significant adverse administrative impact.

*'I think once our current scheme is set to meet the criteria then I don't think it's a big problem. I don't think it is a big job at all.'*

(5-99 employees, pension scheme with employer contribution)

Nevertheless, employers in this group predicted some administrative effort would be required:

- many felt that they would need to spend time during the setup process, including certification and registration, and they expected that this would take anything between a few hours to a few days of work;
- most expected that they would need to put time aside to communicate the reforms to their employees;

- some also planned to add additional fields to the payroll software and their internal payroll spreadsheets;
- some also expected to need to add opt-out and opt-in records to employee files and process these accordingly;
- some expected that they would need to purchase additional modules for their payroll software.

Some employers in this group expected to be guided by their current advisers during these processes. They felt that pension providers, accountants and even software providers would contact them with services tailored to deal with the pension reforms.

Although employers were unable to predict accurately the amount of time would be needed to implement the reforms, they expected to be able to handle them.

*'I don't think it's going to be too big. It's going to be a change for us and we'll have to get our heads around it and work with it, and look at the options of what is available and best practice for where we want to go. There's going to be a bit of work involved but I think once it's up and running and we've got everything pretty smooth, I don't see too many issues going forward.'*

(5-99 employees, pension scheme with employer contribution)

## 8.4 Dealing with possible additional contribution costs

Most employers anticipated additional administration and contribution costs as a result of automatic enrolment and the required minimum employer contributions. Some employers anticipated ways that they might look to compensate for this extra cost. Some of the suggested approaches included:

- potentially introducing a pay freeze or cuts to offset the additional cost of pension contributions;
- increasing the cost of their services or products as a way of passing on the cost of the reforms to their customers;
- adjusting how staff commission is calculated to compensate for the additional cost;
- reducing the number of staff in order to reduce the cost of salaries and pension contributions;
- simply accepting lower profits.

Occasionally employers, prior to being explained the inducement rules (see Section 7.1) suggested other types of preventive action that they might consider taking, or imagined other employers might take, as a result of the new requirements. These included:

- offering a pay rise as an incentive to opt out;
- offering a one-off bonus as a payment for opting out;
- communicating the benefits of opting out during first day of employment;
- including details on how to opt out in new employee induction packs;
- discussing pension provision during recruitment.

*'If you have got two prospective candidates coming for a job and one has got a pension and one doesn't, well I will go for the person who doesn't want a pension.'*

(1-4 employees, no pension scheme)

Some employers said they might consider making changes to the structure of their workforce as a result of the introduction of the reforms. These included:

- instead of employing full-time staff who would qualify for a pension contribution, recruit a number of part-time staff who would earn below the qualifying minimum. For example, replacing one employee with a salary of £10,000 per annum with two employees each earning £5,000 per annum;
- asking current staff to become self-employed sub-contractors;
- seeking to employ non-British nationals instead of British nationals, as the former might be more likely to opt out of a pension scheme.

*'We will start taking on a lot more who just work for a couple of hours a week so they won't hit the £5,000 mark. I think that's what it would boil down to in catering.'*

(1-4 employees, no pension scheme)

# Appendix

## Materials used in conducting the research

### A.1 Screener

#### **Introduction for Switchboard/Gatekeeper**

Please could I speak to...

**1-4 employees:** the owner of your company?

**5-99 employees:** your Finance Director?

**100-500 employees:** your Pensions Manager or a senior Finance Manager with responsibility for pension arrangements in your company? If not: In that case, could I please speak to your Finance Director?

**If positions do not exist:** In that case, could I speak to the most senior person responsible for pension arrangements or employee salaries and benefits in general?

**If asked:** My name is ... and I am calling you from RS Consulting on behalf of the Department for Work and Pensions. The DWP is currently conducting research to help them understand how best to design the detailed implementation of the forthcoming workplace pensions reforms.

**If necessary, offer to send letter from DWP, either by post or email. Confirm contact details and send. Continue discussion now if possible.**

### **Introduction for potential respondent**

My name is ... and I am calling you from RS Consulting who have been commissioned by the Department for Work and Pensions.

The DWP is currently conducting research to help them understand the practical effects the forthcoming workplace pension reforms will have on different employers. Under the reforms, starting from 2012 employers will need to automatically enrol all eligible workers into a qualifying workplace pension scheme, and provide a minimum employer contribution to the pensions of all employees who remain opted-in.

The research will help DWP draw up the detailed regulations linked to the reforms, in ways that will make the processes straightforward for companies. It will be conducted through a programme of confidential focus groups with small and medium-sized employers across the country.

Can I confirm that you would be responsible for or involved in deciding how the company would handle these new obligations?

**If so:** I am calling to find out whether your organisation would be willing to participate in this research by attending a two-hour group discussion with other, similar employers. As thanks for contributing, we are offering

**1 to 4 employees:** £60 as a 'thank-you'

**5 to 99 employees:** £70 as a 'thank-you'

**100 to 500 employees:** £80 as a 'thank-you'

Do you mind if I ask you some brief questions about your organisation? This will help us to ensure that we have participants in the research with a range of perspectives.

**If reassurance on confidentiality requested:** Anything you tell us during the course of the research will be treated in confidence. It will not be passed back to DWP in any way that could identify you personally, or your organisation. We will not tell DWP which organisations participated in this research.

**If necessary, offer to send letter from DWP, either by post or email. Confirm contact details and send. Continue discussion now if possible.**

## Screening

1 How many employees does your company have in total in the UK?

|                      |   |   |
|----------------------|---|---|
| 1 to 4 employees     | 1 | Ask Q2 or Thank and close depending on group or groups for which recruiting     |
| 5 to 99 employees    | 2 | Skip to Q3 or Thank and close depending on group or groups for which recruiting |
| 100 to 500 employees | 3 | Skip to Q3 or Thank and close depending on group or groups for which recruiting |
| Over 500             | 4 | Thank and close   |
| <i>Cannot say</i>    | 5 | Thank and close   |

Only ask if company has 1 to 4 employees:

2 Are all of your employees directors of the company?

|                   |   |                 |
|-------------------|---|-----------------|
| Yes               | 1 | Thank and close |
| No                | 2 | Continue        |
| <i>Cannot say</i> | 3 | Thank and close |

3 Our records say that this is a [industry sector] business. Is this correct?

|                                       |   |                              |
|---------------------------------------|---|------------------------------|
| Yes                                   | 1 | Continue                     |
| No: what would be the correct sector? | 2 | Record sector _____ Continue |
| <i>Cannot say</i>                     | 3 | Thank and close              |

Close for all financial sector businesses

4 Does your company offer a pension scheme to any of its employees?

|                    |   |  |                  |                     |
|--------------------|---|--|------------------|---------------------|
| If recruiting for: |   | 1 – 4 employees                            | 5 – 99 employees | 100 – 500 employees |
| Yes                | 1 | Continue                                   | Continue         | Continue            |
| No                 | 2 | Can only qualify for Subgroup A. Skip to 7 | Thank and close  | Thank and close     |
| <i>Cannot say</i>  | 3 | Thank and close                            | Thank and close  | Thank and close     |

5 Which of these types of UK pension schemes does your company offer?  
**Multicode possible – continue if code 2, 4 or 5 is coded. If neither coded, thank and close**

|   |   |          |
|---|---|----------|
| A Defined Benefit (Final Salary) occupational pension scheme  | 1 |          |
| A Defined Contribution (Money Purchase) occupational pension scheme   | 2 | Continue |
| A hybrid occupational pension scheme<br>( <b>IF NECESSARY:</b> A hybrid scheme will include elements of defined benefit and Defined Contribution) | 3 |          |
| A group personal pension  | 4 | Continue |
| A stakeholder pension   | 5 | Continue |

**2, 4 or 5 must be coded, otherwise thank and close**

6 Does your company offer to contribute to the pensions of ..... :

**If 1 – 4 employees** ..... any employees

**If 5 – 500 employees** ..... employees other than Directors or Senior Management

|     |   | If 1 – 4 employees | If 5 – 99 employees | If 100 – 500 employees |
|-----|---|--------------------|---------------------|------------------------|
| Yes | 1 | Subgroup B         | Subgroup D          | Subgroup F             |
| No  | 2 |                    | Subgroup C          | Subgroup E             |

7 For each of the following types of staff, in a typical year would you have none, a few or more than a few...?

|  | None | A few [if unclear: less than 10% of employees] | More than a few |
|--|------|--|-----------------|
| Temporary or short-term workers (less than 3 months)                                     |      |  |                 |
| Agency staff   |      |  |                 |
| Staff with variable earnings, for example those on commission or who work variable hours |      |  |                 |

## Recruitment

**If not recruiting:** I am sorry to say that you actually fall outside of the range of companies that we need to recruit as part of this study. **Apologize for taking up respondent's time. If asked, explain that report is likely to be available in early-2010 from the research publications section of the DWP website. Thank and close.**

**If recruiting:** We would very much like to invite [company] to a group discussion as part of this study. The group would take no longer than two hours, and would involve four or five other similarly sized companies. After the discussion we will give you personally

**1 to 4 employees:** £60 as a 'thank-you'

**5 to 99 employees:** £70 as a 'thank-you'

**100 to 500 employees:** £80 as a 'thank-you'

Would you be available to attend a group?

LOCATION:

DATE:

TIME:

I will send you now some more information on the areas we hope to cover in the research along with a short leaflet containing further information on the forthcoming pension reforms and how they will affect employers. We don't expect you to be an expert on the reforms, but we would be very grateful if you could read and familiarise yourself with the information we send you before coming to the group. Is this ok? **Only recruit if respondent is happy to commit to participate in full.**

**Confirm contact details.**

**Respondent name:** \_\_\_\_\_

**Email address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Read reassurance on confidentiality:** Along with the RS project team, members of the DWP research team may also observe the group. I can assure you that anything you tell us during the course of the research will be treated in confidence. It will not be reported to anybody outside of the room, or in the final report, in any way that could identify you personally, or your organisation.

We will not tell any other members of DWP which organisations participated in this research.

The group will be video recorded for our analysis purposes, but this recording will be destroyed at the end of the project.

DWP will publish the findings of the study as a report in due course, but this report will not contain any information identifying you or your company.

**Ensure that respondent is clear on this, and allow them to ask any questions.**

**Confirm that you will send them:**

- Confirmation of the time and location of the group
- An introductory letter from DWP (if not already sent)
- A letter from RS Consulting, describing the group topics
- A leaflet about the reforms

**8 If paying an employer contribution.** May I ask you one final question?

8a You told me that you are paying employer contributions? Approximately what is the average employer's contribution that you pay – as a percentage of wages or salary?

8b And what is the average contribution paid by employees – again as a percentage of wages or salary?

|                                      | % of wages/ salary |
|--------------------------------------|--------------------|
| Average <b>employer</b> contribution |                    |
| Average <b>employee</b> contribution |                    |

## A.2 Introductory letter

**DWP** Department for  
Work and Pensions

Employer & Industry Research Team  
Workplace Pension Reform Strategy Division  
Department for Work and Pensions  
7th Floor Caxton House  
Tothill Street  
London SW1H 9NA

Tel: xxxx xxx xxxx

Email: xxxxxxxxxxxxxxxxxxxxxxxxxxxx

[DATE]

Dear [NAME]

The Department for Work and Pensions (DWP) is conducting an important research study with employers throughout the UK. We have commissioned RS Consulting, an independent research agency, to carry out this work on our behalf, which will consist of a series of focus groups and interviews.

### **What is the research about?**

Workplace pensions are changing. From 2012, employers will be required to automatically enrol all eligible jobholders into a qualifying workplace pension and to make a minimum contribution into it. The new regulations are known as the workplace pension reforms.

### **Why are we writing to you?**

The DWP is conducting confidential focus groups with a range of employers across the UK, and would like to include [COMPANY] in one of these focus groups. As thanks for contributing, we are offering [£60/£70/£80] cash.

The purpose of the research is to understand how the new regulations will impact upon different employers. This information will be used to help inform ongoing policy decisions around the reforms.

### **What happens to the information collected?**

Along with the RS project team, members of the DWP research team may also observe the group. However, I can assure you that anything you tell us during the course of the research will be treated in confidence. It will not be reported to anybody outside of the room in any way that could identify you personally, or your organisation. We will not tell any other colleagues at DWP which organisations participated in this research.

The group will be video recorded for the analysis purposes of RS Consulting, but this recording will be destroyed at the end of the project.

DWP has a commitment to publish the research it commissions and so findings will be published as a report in due course. This report will not contain any information identifying you or your company.

### **What happens next?**

A representative of RS Consulting will already have called you to ask you to take part in a focus group. It is estimated that the group will take up to two hours.

If you would like any further information about this project please contact xxxxxxxxxxxx at RS Consulting on xxx xxxx xxxx (between 9am and 5pm Monday to Friday) or by email at xxxxxxxxxxxxxxxxx.

Alternatively, if you would like to discuss anything further in relation to the research, please do not hesitate to get in touch with me.

We thank you once again for your help.

Yours sincerely

xxxxxxx xxxxxxxxx

Pensions Cross-cutting Analysis Division

Department for Work and Pensions

direct line: xxx xxxx xxxx

### A.3 Letter to employers with 5+ employees



RS Consulting Ltd  
 Priory House  
 8 Battersea Park Road  
 London  
 SW8 4BG

tel +44 (0)20 7627 7700  
 fax +44 (0)20 7627 7701  
 A Cello business  
 Registered in England No. 2786279  
 Priory House, 8 Battersea Park Road,  
 London SW8 4BG VAT No. GB 808 0326 88

[DATE]

Dear [NAME]

#### **Department for Work and Pensions – Research into the Pension Reforms**

Thank you very much for offering to participate in this research study for the Department for Work and Pensions, focussing on the workplace pension reforms. Please find enclosed a short leaflet on what the reforms will mean to companies such as yours. We would be very grateful if you would read this before you participate.

We will be providing you with further information about the reforms when you attend and would welcome your views on the reforms as a whole and how they might impact on your company. However, we are also keen to focus on a few particular aspects of the reforms which may affect you. These are:

- What you think about the staging in the new system over three years, and the phasing in of the level of contributions
- What you think of the processes you will have to go through if you already operate a pension scheme that you plan to continue to use
- Your views on the proposed system for passing over all pension contributions from your company to the pension provider
- How suitable you feel are:
  - ♦ the planned arrangements for you to register your scheme
  - ♦ the records you will be required to keep
  - ♦ the processes for periodic automatic re-enrolment of employees who have opted out
  - ♦ the anticipated enforcement arrangements and levels of potential penalties for non-compliance

We do not expect you to be an expert on the forthcoming pension reforms and recognise that as an organisation you are unlikely to have yet considered these topics in any detail. That is fine. In the discussion we will not be expecting you to know exactly how you will handle any of the issues mentioned above. We are simply interested in what your priorities are as an organisation and how, at this stage, you think you may approach the new requirements.

Thank you again for your help in this important research. Please feel free to contact me if you would like to know more.

Yours sincerely,

xxxxxx xxxxxxxx

Senior Research Executive

direct line: xxx xxxx xxxx

## A.4 'Letter to employers with 1-4 employees



RS Consulting Ltd  
 Priory House  
 8 Battersea Park Road  
 London  
 SW8 4BG

tel +44 (0)20 7627 7700  
 fax +44 (0)20 7627 7701  
 A Cello business  
 Registered in England No. 2786279  
 Priory House, 8 Battersea Park Road,  
 London SW8 4BG VAT No. GB 808 0326 88

[DATE]

Dear [NAME]

### **Department for Work and Pensions – Research into the Pension Reforms**

Thank you very much for offering to participate in this research study for the Department for Work and Pensions, focussing on the workplace pension reforms. Please find enclosed a short leaflet on what the reforms will mean to companies such as yours. We would be very grateful if you would read this before you participate.

We will be providing you with further information about the reforms when you attend and would welcome your views on the reforms as a whole and how they might impact on your company. However, we are also keen to focus on a few particular aspects of the reforms which may affect you. These are:

- What you think about the staging in the new system over three years, and the phasing in of the level of contributions
- Your views on the proposed system for passing over all pension contributions from your company to the pension provider
- How suitable you feel are:
  - ♦ the planned arrangements for you to register your scheme
  - ♦ the records you will be required to keep
  - ♦ the processes for periodic automatic re-enrolment of employees who have opted out
  - ♦ the anticipated enforcement arrangements and levels of potential penalties for non-compliance

We do not expect you to be an expert on the forthcoming pension reforms and recognise that as an organisation you are unlikely to have yet considered these topics in any detail. That is fine. In the discussion we will not be expecting you to know exactly how you will handle any of the issues mentioned above. We are simply interested in what your priorities are as an organisation and how, at this stage, you think you may approach the new requirements.

Thank you again for your help in this important research. Please feel free to contact me if you would like to know more.

Yours sincerely,

xxxxxx xxxxxxxx

Senior Research Executive

direct line: xxx xxxx xxxx

## A.5 Focus group discussion guide

### 1 Introduction – do not video record

Thank you very much for coming along this evening. My name is Kate Anderson and this is my colleague Andrew Wood. We work for RS Consulting, an independent market research company.

We are working on behalf of the Department for Work and Pensions, conducting research to understand how employers such as yourselves might approach the new requirements that will be introduced from 2012. It will be used to influence policy about the implementation of the reforms.

Before we start the discussion I would like to go over some background and a few ground rules.

- The discussion this evening will last no longer than two hours
- Want full and honest participation from everyone – no right or wrong answers
- Please don't treat this simply as an opportunity to tell me your views. It is also a chance to discuss these topics with others in the room so please do respond to each other. However could I ask you not to all talk at the same time because it will be impossible to follow the conversation
- My colleague [Marisa/Dominika], from RS Consulting is observing the group. I can assure you that anything you tell us tonight will be treated in confidence. It will not be reported to anybody outside of the room in any way that could identify you personally, or your organisation. We will not tell any members of DWP which organisations participated in this research. DWP will publish the findings of the study as a report in due course, but this report will not contain any information identifying any of you or your companies
- You should all have been informed that our discussion today will be video recorded. This is just an aid for us so we don't have to slow down the discussion to make detailed notes. It would be difficult for me to remember everything that we will be discussing today. We won't start recording until we have completed our introductions, and the tapes won't be passed to anyone outside of the research team, and they will be destroyed when our project is complete. Before we start the discussion I would like to check that this is OK with everyone here (if any objections to taping invite respondent to leave the discussion).
- Finally, I would like to reassure you that we won't ask for any company financial information. We are simply interested in your current thoughts on how your company might respond to the reforms as they are introduced
- Does anyone have any questions before we begin?

## 2 Participant introductions – do not video record (5 mins)

- Now that I have introduced myself, I would like each of you to introduce yourself to the rest of the group. We'll go round the table and if each of you could tell me
  - Your name
  - What your company does and your role in it
  - Number of employees in your company in the UK

**If necessary:** If your organisation is part of a larger group of companies, please only consider your own organisation in our discussion tonight.

- And are you all responsible for decisions regarding employee benefits such as pensions?
- Now we have completed our introductions we can begin video recording.
- Begin video recording.
- As we have quite a lot of different topics to cover, I'll show you tonight's agenda.  
**Show flipchart with relevant topics listed:**

| Flipchart entry   | Verbal explanation  |
|---|---|
| Current pension provision   | First of all we will look at which of you currently make any pension provision for employees.   |
| The pensions reforms – what will they mean for you?                           | As you know, most of our discussion tonight focuses on the pensions reforms.<br>In the first part of our discussion we will look at the key elements of the reforms. This is an area that the Government has already consulted on very widely with employers, but we'd still like to understand what you think the reforms will mean for your organisation and your employees.<br>Most of our discussion will then focus upon these specific areas of the reforms. These are areas that the DWP is really looking for your reactions to, to try to understand the processes and procedures you might need to go through as an employer when the reforms are introduced. |
| How to certify that your current scheme meets the requirements of the reforms | If you want to continue to use your current scheme after 2012, you might need to use a process called 'certification'.  |
| Staging – when your organisation needs to begin automatic enrolment           | In this section we will look at the date that your organization will need to begin automatic enrolment.   |
| The phasing of contribution levels from 2012 to 2016                          | The amounts that employers and employees will need to contribute will be phased in over time.   |
| Passing over employee contributions to your pension provider                  | We will then examine in more detail at when you as an employer will need to pass employee contributions over to the provider.   |
| Registration and record keeping   | Then we will look at certain specific requirements on registration and record-keeping.  |
| Payment failures and penalties  | And lastly some of the penalties that are proposed for employers that do not comply.  |

That is quite a packed agenda to discuss before [8:00/10:30], and so we will need to try to keep the discussion focused on each relevant subject.

But this really will be your chance to tell DWP: are all these processes easy for you to implement? Are they too onerous? Are they time-consuming? What might make them easier?

### **3 Current pension provision (15 mins)**

Before we discuss the upcoming pension reforms, I would like to understand a bit more about whether you currently make any pension provision for employees.

**Up to 4 employees:** You are all from companies with fewer than five employees so, as the law stands currently, you are under no obligation to offer a pension scheme.

All:

- Generally, what are your views on company pension schemes as a benefit for employees?
  - ♦ Who thinks they are important/not important? And why?
  - ♦ What do you feel your employees think of pensions, and whether employers should offer them?

**Up to 4 employees:**

- Who here is from a company that has no pension provision? .....
  - ♦ Has it ever been considered?
    - Why not? *Or* Why did you decide not to introduce a scheme?

All:

- What about those of you who do have pension arrangements? **For those with any provision:**
  - ♦ What type of pension provision do you have?
    - one scheme or more than one?
    - what type(s) of scheme – stakeholder; GPP; occupational DB/ DC scheme?
  - ♦ Approximately how many of your staff are eligible to join each – what type of staff?
    - What about non-permanent staff?
  - ♦ Approximately how many have joined – what type of staff?
  - ♦ Why has your company decided to operate this pension scheme?
- For those with any provision:

- Are there any groups of staff to whom you pay a contribution? **If so:**
  - ♦ Who is eligible for the contribution? *Number and type of staff*
  - ♦ How much do you contribute?
  - ♦ Do employees have to contribute to receive this? How much?
  - ♦ How important is it to offer an employer contribution for these staff?
- Are there any groups of staff to whom you **don't** pay a contribution? **If so:**
  - ♦ What are reasons for this?
  - ♦ Has it ever been considered for this group?
    - Why not? *Or* Why did you decide not to contribute?

#### **4 Attitudes to pension reforms (15 mins)**

Now I'd like to look at the upcoming pension reforms.

**Check that respondents were clear on the information about the workplace pension reforms they were given in the leaflet. Any questions?**

- Were you aware of the pension reforms, before we contacted you about this research? **If so:**
  - ♦ Where was the information received from?
  - ♦ Have you talked to anybody about the reforms? Who?

Andrew will show you a summary of the key elements of the reforms and some background information on the new Personal Accounts pension scheme. **Hand out and explain Showcards 1 and 2.**

***Andrew: write up topline thoughts throughout section on flipchart.***

- What do you think the reforms will mean for your own organisation? Why? How large an impact will these have on your business?
- Overall, do you think you will make changes as a result of the reforms? What changes do you think you will make?
- Do you know what type or types of pension scheme you will offer your employees after 2012?
  - ♦ **If yes:** What scheme(s)? (current scheme/personal accounts/other). Why?
  - ♦ **If no:** How would you go about deciding this?
- How do you expect your employees will react? Why?
  - ♦ Do you expect the employees that you automatically enrol to remain opted-in or will they choose to opt out? Why?

Summarise topline thoughts on flip chart.

- Are there any other overall reactions that we should report back to DWP?
- Now I'd like to move the conversation on, away from the general aspects of the reforms, and into some specific areas that the DWP is looking to consult on.

## 5 Certification (25 mins):

To be able to use an existing scheme after 2012, you might need to use a process called 'certification'.

- Would you like to use your existing pension scheme after the pensions reforms are implemented?
- On what basis do you currently calculate the pension contributions that are due? As a percentage of basic salary? Total earnings including commission, overtime or bonuses?

Hand out and explain Showcard 3a.

- Is it likely that you would calculate contributions on earnings in a different way to the earnings band laid down in the reforms?

If so:

- If you decided to use or enhance your existing scheme, or to introduce a new one, would you be happy to use this process of certification?
- What administrative processes would you have to complete to do this?
- Overall, how workable does the process of 'certification' sound for your company?
  - ♦ What resources do you imagine you would need to use – e.g. *in-house vs. bought-in (from whom?)* **Probe in depth**
  - ♦ How much time do you think the process might take?
  - ♦ How might it work for non-permanent staff?
  - ♦ What might be a better alternative?

Hand out and explain Showcard 3b (permitted shortfalls).

- What do you think of the permitted shortfalls that are described on the showcard? Are they clear? Are they reasonable? What would be the practical implications for you?
- Based on this description, are you clear on all of the steps of the process?
  - ♦ Overall are the guidelines clear enough, or would you prefer the requirements to be spelt out more definitively?
- Would checking a sample of your employees' records be an appropriate way to assess whether your organisation is compliant?
- Does the whole process make you more or less likely to use your own existing scheme? Why?

## 6 Staging (20 mins)

DWP is planning to introduce the reforms gradually. Companies will be given different deadlines as to when they must start automatic enrolment – this is called **staging**.

Hand out and explain Showcard 4.

- Every company will be assigned a specific month between October 2012 and September 2015, when they must start automatic enrolment.
  - ♦ The largest companies will be staged in the earliest, with smaller companies staged in later on.
- What do you think of this plan?
- What advantages can you see for your company? And what are the disadvantages?

Employers will be notified of their start date for automatic enrolment 12 months and again 3 months before their deadline.

- What do you think of this?
  - ♦ Is it suitable for your company?
  - ♦ Would any other schedule be better?
- What information would you expect to receive about the processes involved 12 months before?
  - ♦ What would expect to do in preparation for your staging date, 12 months before?
- And what information would you like to receive 3 months before?
  - ♦ And what would expect to do 3 months before?
- Do you currently operate more than one PAYE scheme?

**If so:** If you are operating more than one PAYE scheme for your employees, your will need to ensure that you start automatic enrolment for all of your PAYE schemes at the same time, and that all of them comply with the regulations.

- How would this work for you in practice? What would it involve? Do you foresee any issues?

Companies will be told a specific month in which they will have to start automatic enrolment. The Government still needs to decide **when** in the month the start dates should be set.

- Is there a specific month in the year when it would be best for you to start? Which? Why?

- Which do you prefer of the following options:
  - ♦ 1st of the month regardless of the day on which that falls
  - ♦ 1st working day of the month
  - ♦ 1st Friday of the month
- Overall would you prefer one of the above or something else? Why?
- It might be that some companies would like to introduce automatic enrolment earlier than this. If so, companies would need to apply to The Pensions Regulator to do so, and only if they can demonstrate that they can meet their obligations. It cannot be guaranteed that requests will always will be granted.
- Are there any reasons why you feel you might bring forward your staging date?
  - ♦ Why or why not?
- If any other companies in your sector were to enrol their staff sooner, can you see any implications for you as a company?

## 7 Phasing (20 mins)

- Another way is which DWP is planning to introduce the reforms gradually, is through **phasing**.
- The amounts to be contributed by employers and employees will also be **phased** in.
- This means that between 2012 and September 2016, employers and employees will be allowed, if they wish, to contribute less than the eventual minimum requirements.
- Hand out and explain Showcard 5.
- Would phasing be helpful to you as a company?
- Do you expect that your company will phase in the employer contributions in this way?
  - ♦ **If not:** What will you do? How will this work?
  - ♦ **If so:** how will this work for you in practice?
    - What will you need to do?
    - What would be involved in this process? How much time will it take? **Probe re: payroll/ software/ outsourcing**
- Do you expect your employees to phase in their contributions?
  - ♦ **If so:** how will this work for you in practice?

## 8 19-day rule (15 mins)

The next topic I would like to discuss relates to what you will be required to do to pass employee contributions over to the pension provider.

The basic rule will be that all contributions must be paid to the provider no later than the **19th day of the month following the month in which they were deducted** – which is in line with current requirements for pension schemes. For example, if you pay your employees on the last Friday in October, the corresponding contributions will need to be paid to the provider by 19 November.

- How do you react to that – does it seem reasonable?
- How will it fit in with your current payroll and other administration?
- Do you see any problems with it?
- Would you be happy for this '19-day rule' to apply to employees in the month that they are automatically enrolled? Can you foresee any issues?

There has been some discussion about how well this will work around the point of automatic enrolment. If employees who are automatically enrolled choose to opt-out within the permitted one month, then the employer will need to give refunds to the employee, and possibly receive a refund from the pension scheme, which would create additional work for them.

To respond to this, DWP is considering offering an exception for the first month's contributions for all employees as they are automatically enrolled.

For the first month only, the contributions would be payable no later than the **19th day of the second month following**, rather than the first. So, if the employee's first salary payment is the last Friday in October, the corresponding contributions will need to be paid to the provider by 19 December.

This would permit employers to retain all contributions until the end of the opt-out period, avoiding any need to receive refunds from the pension provider.

- If such an option were included in the regulations do you expect that you would make use of it?
  - ♦ Why/Why not?
  - ♦ Do you expect you would face many refunds?
- How easy would it be for you to operate? What would you have to do? How long is this likely to take, in addition to what you already do? Will it be easy to implement the new date?
- Overall then, which do you think would be easiest for you?:
  - ♦ Scenario 1: You pay all your employees' contributions on the 19th day of the **first** month, and possibly have to process refunds if they opt out
  - ♦ Scenario 2: You pay existing employees' contributions on the 19th day of the **first** month, and new employees' contributions on the 19th day of the **second** month

If companies did retain each employee's initial contributions for an extra month, they would be holding more contributions as cash prior to passing them to the appropriate pension scheme.

- Do you see this as a potential risk? Who is it a risk to? Why?
- **If seen as a risk to the employee:** Do you think any regulations should be in place to protect employees against the risk of losing their contributions?

## 9 Overview of other administrative arrangements (45 mins)

Lastly, I would like to get your views on a few specific regulations that DWP are proposing.

### 9a. *Inducement*

It will be illegal for employers to seek to influence employees to decide to opt out. This is called **inducement**. This could be, for example, offering staff a pay rise in return for their opting out.

It is proposed that an employee can register a complaint regarding inducement up to six months after the event. The Pensions Regulator can look back over 12 months when investigating inducements, even where a complaint has not been received.

- What do you think of this?
- Are these reasonable limits or should The Pensions Regulator be able to take compliance action over a longer period, if it uncovers evidence of a breach?

### 9b. *Registration*

First of all I'd like to look at **registration**. Please have a read of the processes you will have to go through to register your schemes.

#### Hand out and explain Showcard 6.

- Does 9 weeks to inform the Regulator of this information seem feasible? Reasonable?
- Does the information requested seem reasonable? Is there any that appears unnecessary?
  - ♦ How difficult/costly do you envisage it will be to provide?
  - ♦ How do you imagine you would handle this?
- Does re-registration and re-automatic enrolment every three years seem reasonable?
- Do you think it balances...
  - ♦ the wish to encourage active membership by employees,
  - ♦ the need to give the regulator ability to monitor compliance,
  - ♦ and the wish to minimise the burden on employers?

### 9c. *Record-keeping*

Next, I'd like to look at **record-keeping**. Please have a read of the records you will need to keep and provide to the Regulator on request.

#### Hand out and explain Showcard 7.

- In general, does the proposed set of record-keeping requirements seem reasonable?
  - ♦ Will there be particular difficulties in maintaining these records? Why is that?
  - ♦ Are there any that are in your view unnecessary? Why?
- Do you think this will involve more or less effort and resource than you need at the moment? Why?
- Are there records other than those set out here that you think should be included? Which and why?
- In general, records will be required to be kept for six years. Does that seem appropriate/reasonable?

### 9d. *Payment failures*

Now, I would like to take a look at the action that The Pensions Regulator might take in the event of **payment failures** by the employer.

- If payment of contributions is 3 months late – or longer – it is proposed that The Pensions Regulator can require the employer to pay both the employer and employee contributions at their own expense immediately.
- Does a 3-month delay before The Pensions Regulator can take enforcement action strike the right balance between protecting the savings of individuals and not having a disproportionate impact on employers? Why do you say that?
- If The Pensions Regulator requires an employer to calculate and pay interest on late contributions, that will be calculated at 4.9% + RPI. The 4.9% is intended to compensate the employee for the loss of capital gain for the period of delay.
- Do you think this sounds fair?
- If not, what would be a better approach?

### 9e. *Penalties*

If an employer is non-compliant with the regulations, The Pensions Regulator may contact the employer informally. If they continue not to comply, they may issue a statutory compliance notice. After this, a flat-rate fixed **penalty** of £500 for non-compliant employers is proposed. Escalating penalties will also be available to The Pensions Regulator for very serious or persistent non-compliance.

- Does the proposed £500 level of fixed penalty seem proportionate? Why/why not?

## 10 Postponement (10 mins)

The final issue we would like to look at today is that of **postponement**.

This can be used only by very high quality schemes – ones providing an employer's contribution of at least 6% and a total contribution (employer and employee combined) of at least 11%.

If they choose to, these schemes can postpone automatically enrolling staff for up to 3 months after they become eligible.

However, they cannot postpone automatically enrolling staff who are expected to be employed for less than 3 months – since such employees could be in danger of never qualifying if they regularly stay with individual employers for short periods.

- What do you think of the idea of postponement?
  - ♦ Is it reasonable that very high quality schemes should be allowed this concession?
  - ♦ Do you feel the eligibility criteria are at the right level - or should all schemes be able to use postponement in this way?
  - ♦ Do you think you would use it if you qualified? Why is that? How would it work for you in practice?
  - ♦ Is it reasonable that employers cannot postpone automatically enrolling staff who are expected to be employed for less than 3 months? Would this impact on you? In what way? **Probe in depth**

## 11 Information sources

Now I am interested what sources of information you might want access to.

- How might you go about finding out more about... **Read out relevant sections only**
  - ♦ The process of certification
  - ♦ Beginning automatic enrolment
  - ♦ Phasing in contributions
  - ♦ Registration and record-keeping
- **In each case:** Do you envisage you might access this information electronically? Via the post?

## 12 Final wrap-up review

Thank you all very much for participating in such an in-depth discussion.

Now that we have looked in some detail at aspects of how the reforms will be implemented, I am interested in:

- What, if anything, has surprised you? Why is that?
- And what do you now think of the reforms? How will you set about introducing them – enthusiastically; negatively? Will it be a big deal or a small thing? Why is that?
  - ♦ How do you think you might set about meeting your obligations?
    - Own scheme vs. Personal Accounts
    - Will you go to advisers – who will be your ‘first port of call’?
    - How do you expect to be able to meet the record-keeping; information provision and accounting requirements?
- Thinking about all of the elements we have discussed, how big a job do you expect it to be – in terms of cost and management effort?

Many thanks for your help this evening. Everything you have said will help DWP take decisions on the detailed design of its regulations in the light of a good understanding of the impact different decisions may have on employers like you.

- In that context, are there any final comments that you would like to make?

**THANK AGAIN AND CLOSE**

## A.6 Show cards

### Showcard 1: Pension Reforms – Summary of key elements

Employers will have to automatically enrol into a pension scheme all workers who are:

- aged 22 to State Pension age (currently 65 for men and 60 for women);
- earning at least c.£5,000 a year in a single job, or the weekly or monthly equivalent;
- not already in a qualifying scheme.

This will include part-time workers; short-term/temporary workers and agency workers who meet the criteria. Workers who are automatically enrolled can opt out.

All those automatically enrolled, who do not opt out, will have to receive contributions totalling at least 8% of their salary on earnings between c.£5,000 to c.£33,000.

- At least 3% of the contribution will have to come from the employer. Employees will have to contribute at least 4%; and 1% will come in tax relief. Below are some examples

| Employee earnings per annum | Approximate minimum employer contribution per annum | Approximate minimum employee contribution per annum |
|-----------------------------|---|---|
| £10,000                     | £150  | £200  |
| £15,000                     | £300  | £400  |
| £20,000                     | £450  | £600  |
| £30,000                     | £750  | £1,000  |
| £33,000 or more             | £840  | £1,120  |

In order to meet their obligations, employers will be able to use any scheme that meets the standard. This could be:

- an occupational pension scheme, including the new personal accounts scheme; or
- a Workplace Personal Pension, which could be a Group Personal Pension scheme (GPP), a Stakeholder Pension (SHP) or a Group Self Invested Personal Pension (GSIPP).

Employers will also have to:

- automatically re-enrol every three years any qualifying workers who have previously opted out;
- enrol, and pay a contribution to, anyone earning over c.£5,000, and between 16 and 22 or older than the State Pension age, who chooses to opt in;
- provide access to a pension, but not pay a contribution, to a worker paid below c.£5,000 who asks to be put into a scheme.

## Showcard 2: Personal accounts scheme

Employers may already have their own workplace pension scheme, which meets the new government standards. For those employers who do not have such a scheme or do not wish to enrol their workers into their existing scheme, the government will be setting up a new scheme currently known as the personal accounts scheme. It will work in a similar way to the workplace pension schemes we have already discussed.

For example, it will require the same minimum employer and total contributions as any other workplace pension scheme, and individuals can opt out following automatic enrolment if they do not wish to remain saving.

### Key features of the personal accounts scheme

- The personal accounts scheme will be run by a trustee organisation, whose primary aim is to ensure that the pension scheme is run in the best interests of its members, rather than profits for shareholders.
- A maximum of £3,600 a year (in 2005 earnings terms) can be put into this scheme for each member.
- Transfers of other pension funds into personal accounts, or out of personal accounts into other pension funds, will not be possible (except in some limited circumstances).

Individuals can remain contributing into their personal accounts pension scheme even if they move employers. If their new employer also uses this scheme, they can continue receiving contributions from their new employer and can continue to make their own contributions. If their new employer does not use the personal accounts scheme (or if they become self-employed or are not working) they can continue if they wish to make their own contributions into the scheme.

## Showcard 3: Certification

To be able to use a scheme after 2012, all employees that are enrolled who do not decide to opt out will have to receive contributions totalling at least 8% on a band of their total earnings, between about £5,000 and £33,000 in today's terms. If you decided to use a definition of pensionable pay that was different to this band of earnings you may choose to use a process called 'certification'. This process will allow employers that offer good pension provision to **certify** that their schemes are on track to provide the minimum contributions for all jobholders – even if they actually calculate their contributions on a different basis to that proposed by the reform – for example, as a monthly lump sum or as a percentage of all earnings. This will avoid employers having to make changes to scheme rules and payroll systems.

**To achieve this:**

- employers will need to make an assessment of whether their scheme will satisfy the quality requirements;
- employers who are confident that their schemes are on course to meet the relevant quality requirements can certify that this is the case;
- the certificate will last for up to 12 months;
- at the end of the period the employer must assure themselves within 3 months that the scheme has met the minimum requirements. To do this they may need to check a sample of individual employees' records to ensure that all have met the requirement;
- the extent to which the checking of individual records is required is a matter of judgement for the employer. The employer may choose to:
  - ♦ check different categories of jobholder with different remuneration structures; or
  - ♦ check within a specific category of jobholders that they believe to be at risk of falling short of the quality requirements, for example, non-permanent staff.

Any sample needs to be large enough, and sufficiently representative of the workforce, to give a reasonable indication of the extent to which the test has been met. It may not be necessary to sample individuals if it is very clear that all will meet the requirement. For example, if the employer pays an 8% contribution on total earnings for all members.

**Permitted shortfalls:**

Regulations on permitted shortfalls are yet to be finalised, but they may specify that a scheme will be deemed to have failed the test, **only if**:

- any individual has a shortfall greater than 5% of the minimum contributions (i.e. receives less than 7.6%, not 8%); and/or
- more than 10% of staff experience any shortfall; and/or
- any individual has a shortfall more than once in a 24 month period.

### Showcard 3a: Certification

To be able to use a scheme after 2012, all employees that are enrolled who do not decide to opt out will have to receive contributions totalling at least 8% on a band of their total earnings, between about £5,000 and £33,000 in today's terms. If you decided to use a definition of pensionable pay that was different to this band of earnings you may choose to use a process called 'certification'. This process will allow employers that offer good pension provision to **certify** that their schemes are on track to provide the minimum contributions for all jobholders – even if they actually calculate their contributions on a different basis to that proposed by the reform – for example, as a monthly lump sum or as a percentage of all earnings. This will avoid employers having to make changes to scheme rules and payroll systems.

#### To achieve this:

- employers will need to make an assessment of whether their scheme will satisfy the quality requirements;
- employers who are confident that their schemes are on course to meet the relevant quality requirements can certify that this is the case;
- the certificate will last for up to 12 months;
- at the end of the period the employer must assure themselves within 3 months that the scheme has met the minimum requirements. To do this they may need to check a sample of individual employees' records to ensure that all have met the requirement;
- the extent to which the checking of individual records is required is a matter of judgement for the employer. The employer may choose to:
  - ♦ check different categories of jobholder with different remuneration structures; or
  - ♦ check within a specific category of jobholders that they believe to be at risk of falling short of the quality requirements, for example, non-permanent staff

Any sample needs to be large enough, and sufficiently representative of the workforce, to give a reasonable indication of the extent to which the test has been met. It may not be necessary to sample individuals if it is very clear that all will meet the requirement. For example, if the employer pays an 8% contribution on total earnings for all members.

**Showcard 3b: Permitted shortfalls**

Regulations on permitted shortfalls are yet to be finalised. They may specify that **all** workers must meet the requirement, with no exceptions.

Alternatively, they may specify that a scheme will be deemed to be non-compliant, only if:

- any individual has a shortfall greater than 5% of the minimum contributions (i.e. receives less than 7.6%, not 8%); and/or
- more than 10% of staff experience any shortfall; and/or
- any individual has a shortfall more than once in a 24-month period.

**Showcard 4: Staging**

DWP is planning to introduce the reforms gradually. Companies will be given different deadlines as to when they must start automatic enrolment – this is called staging.

**The process:**

- Every company will be assigned a specific month between October 2012 and September 2015, when they must start automatic enrolment.
- The largest companies will be staged in the earliest, with smaller companies staged in later on.

**Notification:**

- Employers will be notified of their start date for automatic enrolment 12 months and again 3 months before their deadline.

**The start date:**

- Companies will be told a specific month in which they will have to start automatic enrolment. The Government still needs to decide when in the month the start dates should be set.

**Starting automatic enrolment early:**

- It might be that some companies would like to introduce automatic enrolment earlier than this. If so, companies would need to apply to The Pensions Regulator to do so, and only if they can demonstrate that they can meet their obligations. It cannot be guaranteed that requests will always will be granted.

### Showcard 5: Phasing

From October 2012 to September 2015:

Regardless of when in the period an employer is first required to meet their new obligations (their staging date), during all of this period.

- Employers will be required to contribute a minimum of 1% of earnings between c.£5,000 and c.£33,000.
- Total contributions (including tax relief) will need to be at least 2% – so, if an employer is contributing 1% then the employee will need to be putting in 1% (including tax relief).

From October 2015 to September 2016:

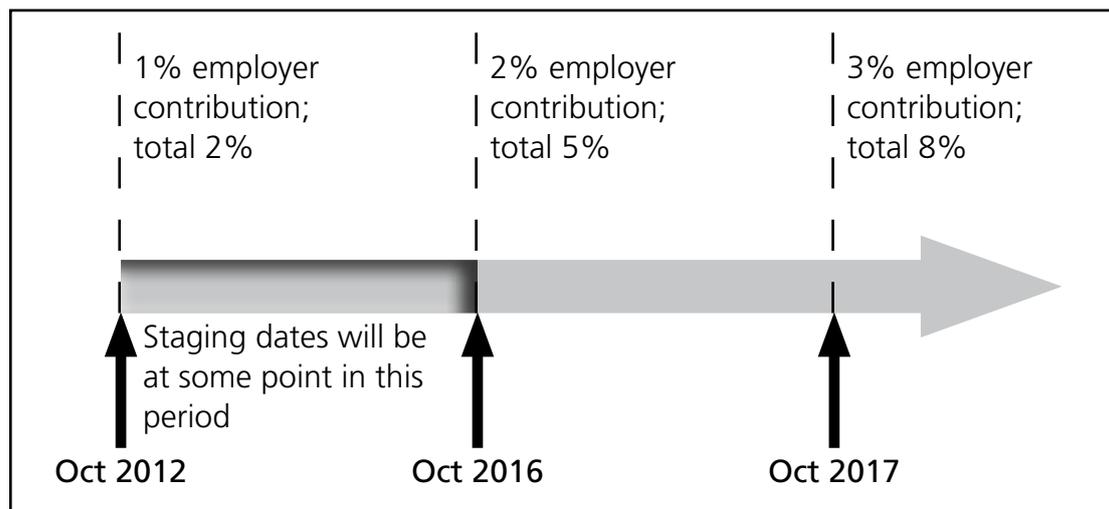
During this further transitional period:

- Employers will be required to contribute a minimum of 2% of earnings between c.£5,000 and c.£33,000.
- Total contributions (including tax relief) will need to be at least 5% – so, if an employer is contributing 2% then the employee will need to be putting in 3% (including tax relief).

From October 2016:

The final amounts will apply: employers will be required to contribute a minimum of 3%, and total contributions will need to be at least 8% (including tax relief).

In all cases, employers can decide to contribute more if they wish.



## Showcard 6: Registration

### Information employers will need to provide on registration:

During implementation employers need to register what they have done to meet their duties no more than 9 weeks after the date that their automatic enrolment duty is staged in.

New employers will need to register within 3 months of the date that PAYE income is first due for any employee.

The employer must inform The Pensions Regulator for each of its PAYE schemes of the:

- full contact details of the company and the individual providing the information;
- number of workers in the PAYE scheme, including non-permanent staff;
- details of the pension scheme or schemes being used to meet the employers obligations (including provider name and address and scheme reference number);
- number of workers that have been automatically enrolled in to the scheme/ each scheme;
- number of those workers who have been opted in and the number who have opted out;
- number of workers deemed not to qualify for automatic enrolment and the reasons for that (including the numbers already saving in a qualifying scheme).

### The re-registration process:

Re-registration and re-enrolment of employees who had opted out will also be required every three years. At this point, **all** employers, including those with no workers that need to be re-enrolled, will need to:

- confirm and/or amend the contact and scheme information as given at initial registration;
- report on numbers of opted-out employees who had been automatically enrolled, how many of them had been enrolled into each scheme, remained in membership, or opted out again;
- provide the number of workers already in a qualifying scheme and reasons why any other employees were not automatically enrolled.

### **Showcard 7: Record-keeping**

Employers will need to be able to produce records in a way that links them to each pension scheme they are using and to provide them to The Pensions Regulator on request. These records will include:

- the name of each scheme used; the name and address of the pension provider (where appropriate) and the employer pension scheme reference;
- where an employer has certified that their pension scheme meets the relevant qualifying criteria, a copy of the certificate and any subsequent determinations as to its validity;
- information relating to the enrolment process, including:
  - ♦ the enrolment of eligible jobholders, including non-permanent staff;
  - ♦ the processing of opt-outs and opt-ins (including joining notices from jobholders and workers who are not eligible for automatic enrolment but who wish to become scheme members);
  - ♦ copies of individual requests to opt in;
  - ♦ copies of individual requests to opt out;
- information relating to contributions paid, including for each scheme member including:
  - ♦ gross earnings in each relevant pay period;
  - ♦ employer and employee contributions payable;
  - ♦ amounts due in each pay period and amounts actually paid if different;
  - ♦ date on which contributions were paid to the scheme.

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This report presents the findings from a qualitative research project carried out by consultants RS Consulting for the Pensions Client Directorate (PCD). The research was undertaken to improve understanding of the possible impact of the proposed workplace pension reform regulations on medium and small employers.

The research consulted with 66 private sector businesses of up to 500 employees and consisted of ten focus groups and 11 individual depth interviews. The research looked at general attitudes toward the reforms and some of the more detailed aspects of the proposed regulations.

If you would like to know more about DWP research, please contact:  
Paul Noakes, Commercial Support and Knowledge Management Team,  
3rd Floor, Caxton House, Tothill Street, London SW1H 9NA

<http://research.dwp.gov.uk/asd/asd5/rrs-index.asp>