Pensions - Automatic enrolment and election staff

Introduction

The issue of automatic enrolment for election staff is causing concern for some of our members, largely because of confusion and/or the lack of specific guidance from the relevant authorities. The Association has been asked to prepare some guidance for members but, as we are not pension experts, we are unable to issue authoritative advice.

In addition, it is not possible for us to seek an expert’s opinion because processes within local authorities differ and it is not our role or appropriate for us to contradict any arrangements that may have already been agreed. This paper is issued as a guide only and final advice should be sought, as suggested, from your own pension specialists.

The new requirements

Workplace pensions’ law has changed significantly and it is now a legal requirement of all employers to have systems in place to automatically enrol eligible workers into a pension scheme at a specific time known as the ‘staging date’.

Employers have been advised of a ‘staging date’ for a scheme to be in place and automatic enrolment will apply to all employers. As such, internal arrangements to assess workers will need to be established. The new rules apply to all employees including casual staff such as those employed at election time. These people may already be members of another pension scheme, such as that used by a local authority if they are current employees or in receipt of a workplace pension from a previous employer. However, if they qualify for automatic enrolment while working for the Returning Officer in any capacity, the Returning Officer is legally obliged to enrol them into the scheme which has been chosen.

Full details of eligibility can be found on the Pension Regulator’s website – www.thepensionsregulator.gov.uk . The Regulator has recently launched a new guide to auto enrolment and we have provided a link to that guide on the Association’s website. We would suggest that you download this to see if this helps you further.

Current position

The arrangements for auto enrolment and the support within local authorities is varying with some members having full support and cooperation of the pension teams. For others, there appears to be a distinct matter of separation. Unfortunately, this is a matter which must be resolved internally.

Some advice from London authorities

The following is an email thread that occurred in the London Borough of Bexley which may hold some useful information.

“Please see below from our tax advisors. I’m not sure if you have managed to obtain any information from either the Electoral Commission or other colleagues, but the view below is that we will need to apply. This means that we will need to write to workers before the staging date and advise them of our assessment of their status

We can operate postponement once we stage, but in order to do this we will need to ensure that communications which are sent to workers clearly define that the engagement for Electoral duties is...
of a casual nature with no mutuality of obligation. If we are unable to do this then we will need to source and administer an auto enrolment scheme.”

(from HR to ESM)

“We have seen a number of discussions with the Pensions Regulator in relation to this matter and the general consensus of advice is that Auto Enrolment would apply to Election Workers, subject to the possible exceptions below.

Firstly, the easiest thing to consider is whether the election payments are over the respective earnings triggers:

<table>
<thead>
<tr>
<th>Pay reference period (PRP)</th>
<th>Lower level of qualifying earnings</th>
<th>The earnings trigger for automatic enrolment</th>
</tr>
</thead>
<tbody>
<tr>
<td>One week</td>
<td>£111.00</td>
<td>£192.00</td>
</tr>
<tr>
<td>Fortnight</td>
<td>£222.00</td>
<td>£384.00</td>
</tr>
<tr>
<td>Four weeks</td>
<td>£444.00</td>
<td>£768.00</td>
</tr>
<tr>
<td>One month</td>
<td>£481.00</td>
<td>£833.00</td>
</tr>
<tr>
<td>One quarter</td>
<td>£1,443.00</td>
<td>£2,499.00</td>
</tr>
<tr>
<td>Bi-annual</td>
<td>£2,886.00</td>
<td>£4,998.00</td>
</tr>
<tr>
<td>Annual</td>
<td>£5,772.00</td>
<td>£10,000.00</td>
</tr>
</tbody>
</table>

If the payments made are in excess of the earnings trigger, then you can still consider the postponement option as you referred to in your email. As you are probably aware, postponement may be used for a period of between one day and 3 months maximum and, of course, Auto Enrolment won’t apply if the worker is not employed by the Council (or Returning Officer) at the end of the postponement period.

The guidance issued by the Pensions Regulator in April 2015 relating to Postponement and Pay Reference Periods still supports this view. “

(From pensions team to HR)

“I have been trying to engage with the Pensions Regulator over the last few weeks with regards to their communication advising that Bexley must operate AE for this group from next April.

I have been trying to point out that these people are not employees in the normal sense, they are required to be engaged by the returning officer to undertake election duties and are paid separately from the Local Authority payroll- they are also not subject to National Insurance.

I’ve hit a brick wall!- has anyone else raised this ?- obviously we can apply AE and we will just postpone on the basis that there is no mutuality of obligation for the “casual” engagement but my general feeling is that they are office holders and therefore AE doesn’t apply.

Any advice gratefully received as always.”

(From HR to pensions team)

Some more advice from another London authority follows:-
“Firstly to check with your authorities pension people whether the RO can join the LGPS - if they say no then Nest scheme is what we need to look at. If people Google Nest pensions you get lots of information. My payroll said that I should have started and put something in place for RO for February 2016. My pension man in my authority has been very helpful and so make them your first point of call as they might advise you differently but then at least you are doing what your authority pension advisor’s say you should do!

NEST is a pension scheme set up by the government mainly to help employers with automatic enrolment. Between 2012 and 2018, employers must automatically enrol most of their workers in a workplace pension scheme and pay in contributions on your behalf. Your employer chooses the scheme but it must meet minimum standards. Many employers are likely to choose NEST. Employees can 'opt out' and leave the scheme, but only after they have been automatically made a member.”

Finally, a suggested form of words to be issued to staff employed on election duties was submitted by Portsmouth City Council’s payroll manager to the Head of Industry Liaison at the Pensions Regulator’s office and the following has been agreed by that office:

“Workplace pensions and electoral duties

Please note that you are unlikely to be able to join a workplace pension for your election duties for the following reasons.

As an employer, our election worker automatic enrolment duties effectively commenced on the staging date of 1st February 2016. However, as we had no election workers on this date, there was no need to communicate with you until you commenced employment.

We are now, as allowed by law, postponing automatic enrolment until 1 July 2016, by which time you will no longer be working for us and so you will not be enrolled into a pension.

If you are aged between 16 and 74, you do have the right to ask to join a pension now, but as the duration of your engagement on election duties is expected to be less than a week, it will not be possible to arrange this before your employment ceases.

If you are engaged on postal vote election work and the engagement exceptionally extends to a period of a week (or greater than a week), and you ask to join a workplace pension, you may be able to put money into the pension directly from your pay each month and the government may also contribute through tax relief. If you earn £486 a month or more when you ask to join, we are obliged to make a contribution to your pension.

To join the scheme, now or in the future, tell us in writing by sending a letter which has to be signed by you. Or if you send us an email, please include the phrase, ‘I confirm I personally submitted this notice to join a workplace pension scheme.’

However, if you do ask to join a pension, in practice this is unlikely to result in pension scheme membership or any contributions being made, as:

- you would not be due to be enrolled into a pension until the beginning of the following month at the earliest, at which point you may no longer be engaged on election duties;
- and we would not enrol anyone who is in their notice period.
More information on pensions and saving for later life can be found on [www.gov.uk/workplace-pensions](http://www.gov.uk/workplace-pensions)

### Conclusion

There is obviously still some confusion in some authorities but matters must move forward to make decisions as to how this will be handled in your own local authority. It is clear that, regardless of any confusion, arrangements must be in place by your given staging date. The best source of advice as to what needs to be done in preparation should be sourced from within your own pensions team. Further information can be found: