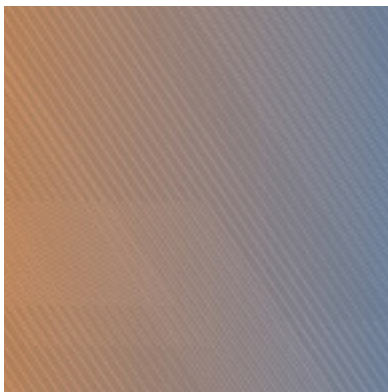


Auto-enrolment: are you aware of the non-compliance risks?



Statistics showed that by the end of December 2019, over 1.6 million employers had complied with the auto-enrolment legislation resulting in over 10.2 million employees being auto-enrolled into a compliant pension scheme. This is in addition to almost 11.7 million employees who were already members of a compliant pension scheme.¹

While The Pensions Regulator's (TPR's) role in enforcing the legislation has focused mainly on education and creating a positive culture of compliance, it is evident from the launch of 'short notice auto-enrolment inspections' in 2017, that TPR has taken a stricter and more proactive stance in recent years. TPR typically only gives a one week notice period for an inspection. Therefore, it is crucial that compliant processes are adopted by employers from the outset.

Enforcement activity

TPR also encourages employees (and the general public) to 'whistle blow' on employers who do not fulfil their auto-enrolment duties. While whistle blowing is not a new concept, TPR has taken significantly more action recently as a result of breaches in the auto-enrolment legislation.

Between 1 April 2018 and 31 March 2019, TPR received 6,963 disclosures as a result of whistle blowing (a significant increase compared to the 3,648 disclosures received up to 31 March 2018):

- Further action was taken in respect of 794 of these disclosures with the majority relating to failure to undertake certain auto-enrolment duties.
- In 196 of these instances a fine was issued by TPR.²

Up to 30 September 2019, TPR had issued just over 121,000 fines to employers for non-compliance:

- Approximately 8% of these fines (just under 10,000) were issued in the third quarter of 2019 itself.
- These figures do not include the 11,202 Compliance Notices that were issued in the same period which could lead to fines in the future.
- TPR reported a 42% increase in the use of their powers when comparing the third quarter of the 2019 to the second quarter of 2019.³

These statistics serve as timely reminders of the focus of TPR's enforcement measures. TPR will send out reminders, fines and, in cases of wilful failure to comply, this could lead to prosecution.

Common mistakes to avoid

While most employers do not wilfully disregard the auto-enrolment legislation, TPR has identified a number of reoccurring failings by employers:

- Insufficient information being provided to workers around auto-enrolment. While the majority of employers issued statutory letters within the required timescale, these letters often did not include mandatory disclosures on auto-enrolment.
- A lack of understanding around inducements to opt out of a pension scheme and what constitutes an inducement.
- Failure to comply with cyclic re-enrolment requirements.

If such breaches are discovered during an inspection, even if not deliberate, enforcement actions are likely to follow.

TPR can request evidence that an employer is compliant with the auto-enrolment legislation at any time so you should take steps to ensure that you are prepared.

¹Source: The Pensions Regulator: Declaration of compliance report January 2020

²Source: The Pensions Regulator: Whistle blowing disclosures website

³Source: The Pensions Regulator: Compliance and enforcement quarterly bulletin July - September 2019

Get in touch

If you would like to discuss us undertaking a pension review for you, please [contact](#) our Pension and Employee Benefits team in the first instance. The initial consultation will be free of charge and a fee will be agreed for any follow-up work.

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How we can help

We provide objective, independent guidance on pension auto-enrolment legislation, so you can ensure all your requirements are met. Whether you are a recently set up or a long established employer, the Pension and Employee Benefits specialists within the Buzzacott Financial Planning team can complete auto-enrolment health checks to help you maintain compliance.

Auto-enrolment review

We typically consider the following areas in the review of your auto-enrolment processes:

- management control;
- worker assessment;
- statutory communications;
- record-keeping;
- reporting requirements.

Our specialists can also conduct the review on particular areas of the auto-enrolment legislation according to your specific needs.

Our advice

For each of the above points, we provide:

- clarity on non-compliance and practical recommendations on how best to correct these;
- overview of risks involved with your current process and a recommendation on how best to mitigate these risks;
- suggestions for best practice.

We strive to keep things as simple as possible for you; following our review, we will provide a full report on our findings and we can arrange a follow-up meeting to discuss the action points.

Get in touch

For further information on our auto-enrolment review solutions, please [contact](#) our Pension and Employee Benefits team.

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Case study: auto-enrolment compliance review

A college in London was concerned about whether it was complying with auto-enrolment regulations. The headcount of the college, the two pension schemes on offer and the procedural differences between the two governing bodies all led to a very complex set-up with little transparency for senior management.

Our Pension and Employee Benefits team visited the college to have an informal discussion with the key personnel involved in the auto-enrolment process and also to conduct the detailed review. We suggested actions and areas of best practice to mitigate the risk.

Issue

The college had circa 200 staff and had staged for auto-enrolment purposes in May 2014. Staff members were offered two pension schemes: the Teachers' Pension Scheme for teaching staff, and the Local Government Pension Scheme for non-teaching staff. The review was carried out for the following reasons:

- The payroll process had been outsourced to a third party and the college had limited visibility on the overall process.
- The auto-enrolment process was not documented and key individuals and responsibilities had not been clearly defined.

Following the review, our team identified non-compliance in the following areas:

- statutory communications;
- process to opt out of the schemes;
- declaration of compliance.

The review also identified the lack of management controls in place within the college to manage the auto-enrolment processes, which could have had significant consequences in the future. If TPR had conducted a short notice inspection on the college, these non-compliant and best practice areas would have been highlighted with the potential for fines.

Solution

Following the visit, we produced a report to provide clarity for the client on areas of non-compliance. Our experts also suggested remedial action and areas of best practice to help the college mitigate the compliance risk.

Our advice enabled the college's management team and key personnel to become more knowledgeable on auto-enrolment compliance and implement the recommended changes. As a result the client had more coherent compliance process in place.

Assurance

At a later date, the college asked for a review of the changes that had been implemented to ensure compliance. Our team inspected documentation evidencing the changes and we contacted key staff members to ensure they had full understanding of the process.

After the follow-up review, our experts provided a report on how each area of non-compliance had been addressed and that compliance had been achieved.