



**The
Pensions
Regulator**

Making workplace pensions work

Automatic enrolment for advisers

Industry webinar

March 2023

Agenda

- **Automatic enrolment**
 - Determining eligibility, actions for opt in or out, postponement
 - **Re-enrolment**
 - Who needs to be re-enrolled, how to avoid common errors
 - **Calculating contributions**
 - Maternity, tax relief, salary sacrifice
 - **How we regulate**
 - Data-led monitoring, compliance and enforcement action
 - **Panel Q&A**
 - **Closing remarks**
- Andy Nicholls, TPR
- Mel Charles, TPR
- Andy Nicholls, TPR
- Mel Charles, TPR
- All
- Leah Heale, TPR

Key to icons



- Information



- Detailed guidance



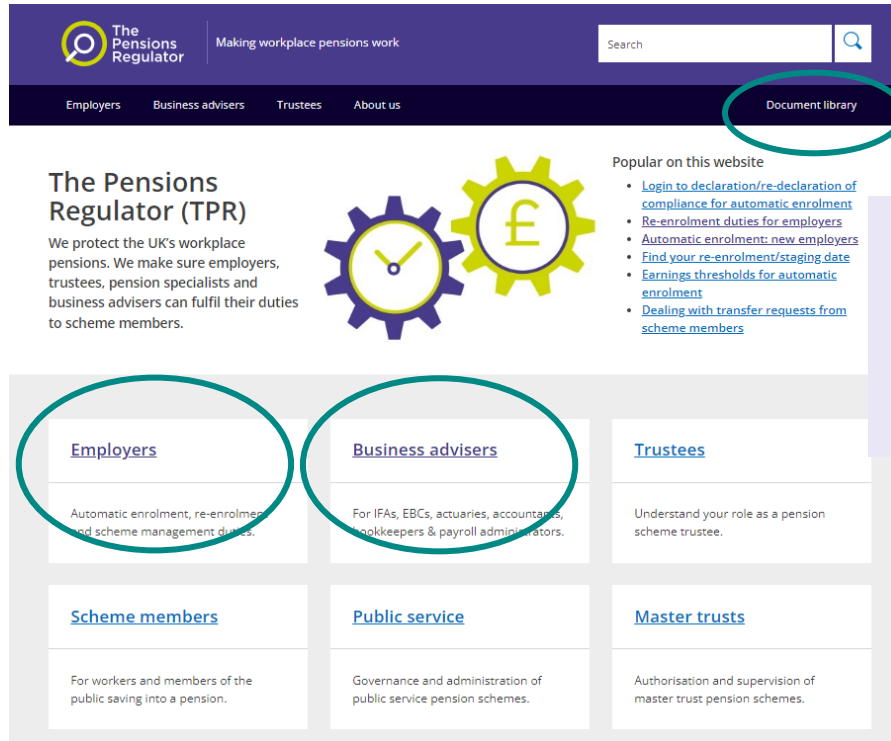
- Guidance



- Download



- Link



The Pensions Regulator (TPR) website header and navigation menu. The navigation menu includes: Employers, Business advisers, Trustees, About us, and Document library (circled in green). The main content area features the TPR logo and a search bar. Below the logo, there is a section titled "Popular on this website" with a list of links: [Login to declaration/re-declaration of compliance for automatic enrolment](#), [Re-enrolment duties for employers](#), [Automatic enrolment: new employers](#), [Find your re-enrolment/staging date](#), [Earnings thresholds for automatic enrolment](#), and [Dealing with transfer requests from scheme members](#). Below this, there is a grid of six categories: [Employers](#) (circled in green), [Business advisers](#) (circled in green), [Trustees](#), [Scheme members](#), [Public service](#), and [Master trusts](#). A callout box on the right points to the "Document library" link in the navigation menu, stating: "This is where you will find our detailed guidance".



This is where you will find our detailed guidance

Your services

- ✓ As an adviser, you can choose to offer to support or carry out none, some or all of the employer's duties on your client's behalf.
- ✓ Decide what services you will offer and what services you will not and inform your clients, ensuring all parties know which services or responsibilities are being carried out by whom.
- ✓ Stay informed about important deadlines, such as your client's re-enrolment date, by nominating yourself with TPR as an [additional contact](#) for automatic enrolment.

View the guide for business advisers on our website:

[Automatic enrolment guide for business advisers](#)

The guide includes a range of resources for advisers to help you support your clients with their automatic enrolment duties:

[Supporting resources](#)



Automatic enrolment - new employers

- A new employer's automatic enrolment duties begin from the start date of their first member of staff.
- This date is known as the employer's **duties start date**.
- From this date, new employers will need to:
 - ✓ **Assess their staff** based on their age and qualifying earnings to see if any need to be enrolled into a pension scheme.
 - ✓ **Choose a pension scheme** which meets the requirements for automatic enrolment.
 - ✓ **Write to all their staff** to explain how they are affected, such as having the right to join a scheme or that they have been automatically enrolled.
 - ✓ **Complete a declaration of compliance** using the TPR website within five months of their duties start date.



The '**duties start date**' is the start date of the employer's first member of staff. This term replaced 'staging date'.



Visit our website to view the step-by-step guide for employers: [Workplace pensions - employing staff for the first time](#)

To tell us you are not an employer

- **If an employer does not believe they are an employer because:**
 - it is a sole director company, with no other staff.
 - it is a company with more than one director, where no more than one director has an employment contract (and there are no other staff).
 - the company has ceased trading.
 - the company has gone into liquidation or has been dissolved.

Tell us by completing our online form.



- **This form is not for employers who:**
 - have no staff to enrol on their duties start date, or
 - for companies in administration or in non-terminal insolvency.



To tell us that an organisation or business has no automatic enrolment duties, visit our website: [How to tell us you're not an employer](#)

Who is included?

Staff may be subject to automatic enrolment if they are:

- aged 16 to 74 (inclusive), and
- work or ordinarily work in the UK*

Directors

Directors who are not employed by their company are exempt. Those that are employed are also exempt if there are no other staff. However, when there are other staff, then the employer can choose whether or not to enrol the employed directors.

*The Channel Isles and the Isle of Man are outside the UK



View the guidance for advisers on who is and isn't included: [Check who to automatically enrol in a workplace pension | The Pensions Regulator](#)

View the detailed guidance about assessing staff eligibility on our website: [Employer duties and defining the workforce - automatic enrolment detailed guidance for employers](#)



View the guidance for business advisers about directors on our website: [Director exemptions from automatic enrolment](#)

How and when to communicate to staff

- Communications must be direct (eg letter, email).
- At duties start date, need to communicate to all staff not already in an AE qualifying scheme.

Communication	Deadlines for communication
Right to opt in/join	Six weeks from first becoming an entitled worker or jobholder (if not already informed eg in employment contract).
Enrolment notifications (ie for automatic enrolment, re-enrolment and opt ins)	Six weeks from the enrolment date (eg before midnight of 12 May, if enrolment date is 1 April).
Postponement notices	Six weeks from the day after the start of postponement date (eg before midnight on 13 May, if postponement start date 1 April) Postponement notice to be issued every time a member of staff is postponed.



'Entitled worker' and 'eligible jobholder' are categories for staff based on age and earnings. Read the definitions in the detailed guidance on our website:
[The different types of worker](#)



Sample template letters are available to download from our website and in over 30 different languages:
[Write to your client's staff](#)

Postponement

- Postponement delays the duty of automatic enrolment and the need to assess and can be used:
 - ✓ at the employer's duties start date for any or all existing staff,
 - ✓ on the first day of employment for any new joiner after the duties start date,
 - ✓ and on the date a member of staff meets the criteria to be eligible.
- Each worker can be postponed from one day up to a maximum of three months.
- The employer must notify any postponed member of staff within **six weeks and a day** of the start of postponement.
- The member of staff has the right to opt in or join during **postponement**.
- Employer must assess on the last day of postponement and:
 - automatically enrol eligible staff, and
 - for those staff not eligible, monitor them **each** future pay period.
- Cannot be used at re-enrolment.



'Postponement' does not change or delay the duties start date or declaration of compliance deadline



View the guidance about postponement on our website.

Guidance for business advisers:
[Postponement](#)
Detailed guidance:
[Postponement – automatic enrolment guidance for employers](#)

Opting in, joining and opting out

- Entitled staff can request to join a scheme at any time.
- Non-eligible staff can opt in at any time
- Eligible staff can opt in during postponement or whilst awaiting re-enrolment.
- Members of staff who have been enrolled, re-enrolled or opted in have the right to opt out. If they choose to opt out, they will receive a full refund of any contributions paid.
- Processes for opting in, joining and opting out are explained in our online guidance.



View the detailed guidance about the opt in and joining process on our website:

[Opting in, joining and contractual enrolment - automatic enrolment detailed guidance for employers](#)

View the detailed guidance about opting out on our website:

[Opting out - automatic enrolment detailed guidance for employers](#)

TUPE

- Generally speaking, staff transferred in under the **TUPE** regulations should be considered as **new joiners** for any automatic enrolment duties that may arise (eg automatic enrolment, providing information etc) by the receiving company with any automatic enrolment history associated with the previous employer **not** carried forward to the new employer.
- Where TUPE applies, the employer must ensure that it is compliant with both TUPE regulations, as well as its legal obligations under the automatic enrolment regime. Employers should seek independent legal advice to ensure that they are compliant with both sets of legal obligations.



When a business changes owner, its employees may be protected under the Transfer of Undertakings (Protection of Employment) regulations (TUPE).



Visit the ACAS website for further information about TUPE:
[TUPE – employer advice](#)

Re-enrolment

Advisers,
are your clients
hiding from their
re-enrolment duties?

We will find out.



To view the more
detailed re-enrolment
webinar, go to our website:

[Automatic enrolment
webinar Feb 2022](#)

Re-enrolment – who to re-enrol

As at the re-enrolment date, staff will need to be assessed and (if eligible) automatically re-enrolled if:

1. they opted out or ceased membership of a qualifying scheme **more than 12 months** ago, or
2. they opted out or ceased membership of a qualifying scheme within the previous 12 months, and the employer chooses to automatically re-enrol them (ie the employer can choose **not** to do this), and
3. an exception is **not** applied, eg they are in their notice period, have HMRC tax protection for pension saving in place.

Please note: Postponement **cannot** be used at re-enrolment.



View the guidance for business advisers about re-enrolment and re-declaration on our website:
[Re-enrolment and re-declaration](#)



View the detailed guidance from paragraph 83 for Exceptions:
[Employer duties and defining the workforce - automatic enrolment detailed guidance for employers](#)

Avoiding common errors with automatic re-enrolment

- ✓ Ensure the nominated 'employer contact' and 'additional contact' details are up to date.
- ✓ Ensure you set clear parameters with your client, so each knows their roles and responsibilities.
- ✓ For multiple clients, it's worthwhile producing a schedule of your clients' re-enrolment dates.
- ✓ Check if the pension scheme(s) would require pro-ration.
- ✓ Check that your software or service provider supports re-enrolment and, if pro-ration **is** required, whether it can calculate this (or pick a date that avoids it).
- ✓ Identify categories of staff to whom exceptions could apply and the employer's policy on how these exceptions will be applied.



Don't miss important communications, check and update contact details, visit our website:

[Nominate a contact](#)

Avoiding common errors with automatic re-enrolment

continued...

- ✓ Confirm if the employer will include or exclude staff who opted out or ceased membership of a qualifying pension scheme **within 12 months** of the re-enrolment date.
- ✓ From the chosen re-enrolment date, the employer has **six weeks** to:
 - issue any staff communications (eg re-enrolment letters), and
 - ensure active membership of the pension is achieved.
- ✓ Complete re-declaration of compliance **within five months** of the 3rd anniversary of duties start date/previous re-enrolment date.

View the detailed guidance on re-enrolment on our website:

[Automatic re-enrolment: Putting workers back into pension scheme membership](#)



Maintaining contributions

An important part of an employer's ongoing duties is ensuring the correct calculation and deduction of employee and employer pensions contributions.

Late contributions

Important NOT to be late in paying contributions and sending the data files to the pension provider as they have a statutory duty to whistleblow to TPR if the employer has not paid **within 90 days** of the contribution due deadline. Failure to make the correct contributions can be costly. As well as the risk of financial penalty, employers may also need to backdate any missing contributions, so staff don't miss out.



View the guidance for employers on our website:

[Making contributions to your pension scheme](#)

Detailed guidance is available within the [codes of practice](#) on our website:

- [Code 05: Reporting late payment of contributions to occupational pension schemes](#)
- [Code 06: Reporting late payment of contributions to personal pension schemes](#)

Common errors

Maternity leave

- The correct calculation of employee and employer contributions during maternity leave.
- In simple terms:
 - The employee pays contributions on **actual pay** received.
 - The employer pays contributions based on the **pay the individual would be receiving if they were not on maternity leave.**



Visit the MoneyHelper website
for more information:

[Maternity and paternity leave
and your pension](#)

Disclaimer

The requirement for the employer to pay pension contributions on a worker's salary that would have been payable if they were not on maternity leave is in legislation that we do not have responsibility under and do not regulate, and so we've taken the time to research the requirement to be able to give you a view. You should note, however, that this is all we are able to do, express a view. Only the courts can give a definite interpretation of the law and in this case if an individual was of the view that their employer was not complying with the legislation their recourse would be the Employment Tribunal.

Common errors continued...

- Ensure the right tax relief method is being used for the pension scheme in place.
- The right elements of gross pay have been identified as **pensionable**.
- The right elements of gross pay have been identified as **qualifying earnings**.
- The correct **staff** and **employer** contribution percentages have been applied.
- Ensure letters issued to staff are correct and don't have **common mistakes** in them, such as out of date thresholds, or mandatory information missing like postponement end dates.



Find out the current levels of qualifying earnings in the employer guidance:

[Automatic enrolment earnings threshold](#)

For information about tax relief methods, view the guidance for business advisers on our website:

[What to consider when choosing a pension scheme](#)

Verify your letters against our letter template in the employer guidance on our website:

[Write to your staff](#)

How we regulate

- We are a risk-based and data-led organisation.
- We seek to educate and enable employers to help them comply.
- However, we can and do carry out enforcement action against employers who are getting it wrong
- We receive data from many sources, including Real Time Information (RTI) from HMRC, whistleblowers, pension providers, our own research, and other regulators.
- We carry out inspections, review business sectors and spot check employers.
- We will enforce against employers who are not carrying out their AE duties.



See our latest Compliance and Enforcement bulletin for more information:

[Compliance and enforcement bulletin January to June 2022 | The Pensions Regulator](#)

Case study

- As part of our spot checks, a large employer was inspected, and numerous errors were found. They had:
 - failed to redeclare on time,
 - undercalculated employee and employer contributions as bonus and overtime payments had not been set as pensionable, and
 - some individuals had not been re-enrolled.
- They ended up, due to delays in complying, paying:
 - £400 penalty notice,
 - £350,000 escalating penalty,
 - £100,000 in backdated contributions, both their own and the employee amounts, and
 - needed to show to us that their systems and processes are now working correctly.

What if an employer makes a mistake?

TPR's approach is that an employer should take reasonable steps to put the worker back in the **position they would have been in if the breach had not occurred**.

So, if an employer fails to enrol a worker from their staging date/duties start date, they should:

- enrol them, backdated to the original date, and let staff know what is happening
- pay any unpaid employer contributions
- employees to pay their backdated contributions unless the employer chooses to pay them (some pension schemes may allow member's backdated contributions to be paid in instalments)

What if an employer makes a mistake? continued...

If the employer does not complete the actions and remedies in the required timeframe, TPR can:

- require the employer to pay **both their own and employee** contributions and/or
- require **interest** to be added to outstanding contributions, and
- continued failure to comply may result in penalties and fines.



View the guidance for business advisers on our website:

[If my client doesn't comply or is late complying](#)

View information for employers on our website:

[Warnings, notices and payment of fines](#)



**The
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Making workplace pensions work

Panel Q&A

Please submit your questions...



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Making workplace pensions work

Please complete our evaluation