

Automatic enrolment

Commentary and analysis: April 2013 – March 2014



The Pensions
Regulator

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Foreword

Welcome to our second report on the impact of automatic enrolment and its role in increasing participation in workplace pension schemes.

The UK's pension landscape continues to change and the challenges associated with enabling more UK workers to save for retirement remain significant. The introduction of automatic enrolment, which will apply to all existing employers by February 2018 and new employers thereafter, has started to transform the UK's long-term saving culture on a previously unprecedented scale. The proportion of employees in a workplace pension scheme has risen for the first time since 2006.

I am pleased to report on the excellent progress that has been seen during 2013-2014, and at the time of publication we now have nearly 4 million individuals automatically enrolled into qualifying pension schemes and over 17,000 employers having successfully completed the declaration of compliance (registration) process with us.

This publication's main focus is the operation of automatic enrolment during the 2013-2014 financial year. It is primarily based on the information provided to us by employers when they complete their declaration of compliance and includes additional analysis and commentary, including the trends that are going to affect automatic enrolment in the year ahead.

This year we have seen the first use of our compliance and enforcement powers, resulting in near universal compliance among employers so far, but we do not underestimate the challenges that lie ahead. We will see 32,000 mainly medium-sized employers stage this year, which will represent a significant increase in volumes to date, and the pace will only quicken in terms of employer numbers thereafter.



Charles Counsell
Executive director, Automatic enrolment

Executive summary

Our duties

Employer duties under automatic enrolment began on 1 October 2012. Staging means that employers become subject to their new duties in order of size. The duties impacted all large employers (250 workers or more) by 1 February 2014. Medium employers (50 to 249 workers) will continue to reach their staging dates up until 1 March 2015, while small and micro employers (up to 49 workers) will become subject to the duties from 1 June 2015. Employers created after 1 April 2012 will be required to comply with their duties from 1 May 2017.

Automatic enrolment means every employer has a statutory duty to automatically enrol all workers who are aged between 22 and state pension age and earning more than £10,000 (referred to as 'eligible jobholders') into a suitable workplace pension scheme and make contributions. Contributions will increase until 1 October 2018 when they will be set at 8%, with a minimum of 3% from the employer.

Our role

Our role is to maximise employers' compliance with the employer duties relating to automatic enrolment. We must also ensure employers adhere to safeguards that protect workers. We help employers to comply primarily through education and enablement in preference to the need to exercise our enforcement powers. We support employer compliance through direct and indirect engagement with employers, advisers and providers. We do this via multiple channels, particularly our website.

Results so far

In 2013 the proportion of employees in a workplace pension scheme rose to 50%, the first increase since 2006. As at March 2014 we had also seen more than 3 million¹ eligible jobholders automatically enrolled into pension schemes since the start of automatic enrolment.

Levels of awareness and understanding among employers four months from their staging date have been high so far. Almost all employers staging between August 2013 and July 2014 were aware of the reforms (99%). Similarly, most (90%) of large and medium employers understood how to discharge their duties. This was also the case with the intermediaries who support employers.

¹ At the time of publication, this had risen to 3,861,000.

Employers confirm they have fulfilled their duties by completing a declaration of compliance. This was previously known as 'registration'. This change is as a result of behavioural research into smaller employers and the terms that they will most easily identify with, and our compliance experiences to date.

Since the first staging date on 1 July 2012 to 31 March 2014, 10,817 employers completed their declaration to confirm that they have complied with their duties², including 2,070 who brought forward their staging date.

4,590 employers elected to apply a postponement, the option available to employers to delay the assessment of their workers.

Employers who completed the declaration indicated their total workforce to be around 15,385,000, of which 3,241,000 (21%) were automatically enrolled³. 24% of these employers declared that they were using defined benefit (DB) or hybrid schemes for the purposes of automatic enrolment, with 72% declaring that they were using a defined contribution (DC) scheme.

56% of employers who chose DC trust-based schemes opted for a master trust.

Our interventions

We have undertaken a number of proactive drives to improve our understanding of the issues faced by employers and to detect and thereafter prevent compliance breaches. An example was our identification of over 2,800 employers who were at risk of breach due to their use of another employer's PAYE scheme.

Information received from a wide variety of sources, including whistleblowers, has led to 1,251 intelligence referrals for potential non-compliance. Following our risk assessment process, 785 cases were referred for investigation as potential breaches.

Over 99% of employers who completed their declaration did so without us needing to use our statutory powers. In total we made use of our formal powers on 18 occasions. Two employers who have been subject to the use of our powers have requested a review of our decisions. In both cases the review outcomes confirmed the original decisions. We have not yet had to make use of any of the criminal powers available to us.

²
At the time of publication, this had risen to 17,925.

³
Worker-related figures are rounded and subject to fluctuation.

Research among large employers by the Department for Work and Pensions (DWP) found that of those eligible jobholders that were automatically enrolled, the average opt-out rate was 9%, which represents a lower figure than anticipated and has led to a downward revision of the overall opt out rate from 30% to 15%.

DWP estimate that up to 9 million people will be newly saving, or saving more for their retirement as a result of automatic enrolment.

Introduction

Automatic enrolment

Automatic enrolment duties commenced in 2012 as part of a programme of pension reforms. Detailed background to its introduction can be found in last year's commentary and analysis⁴ and in the DWP's **Reinvigorating workplace pensions** report⁵.

The employer duties under automatic enrolment began on 1 October 2012 via a staged approach so that employers become subject to their duties in order of size, although employers are able to voluntarily bring forward their staging date. All large employers with 250 workers or more were subject to the duties by 1 February 2014. Duties for medium employers with 50 to 249 workers are effective from 1 April 2014 to 1 April 2015. Duties for small and micro employers with up to 49 workers commence from 1 June 2015. Newly created employers since the commencement of employer duties are assigned a staging date from 1 May 2017 onwards. Once they complete their declaration, all employers are required to complete a re-declaration every three years, confirming they have fully carried out their re-enrolment duties.

Employers now have a statutory duty to automatically enrol all eligible jobholders into a qualifying workplace pension scheme and make contributions. Broadly speaking this includes everyone aged between 22 and state pension age, working or ordinarily working in the UK and earning more than £10,000 (2014-2015 earnings threshold) unless they are already an active member of a qualifying scheme⁶. The option is available for automatically enrolled jobholders to opt out of a scheme.

Contributions are being phased in. Until 30 September 2017, the minimum total contribution rate will be 2% of a band of qualifying earnings, of which 1% must be contributed by the employer. From 1 October 2017, contributions will increase to a total of 5%, with a minimum of 2% from the employer. From 1 October 2018 contributions will increase to 8% of band earnings, with a minimum of 3% from the employer. Qualifying earnings are made up of specific components of pay including wages, salary and bonuses.

From April 2014 employers must complete their declaration with us within five months of their staging date (prior to this employers had a four month window to complete the process).

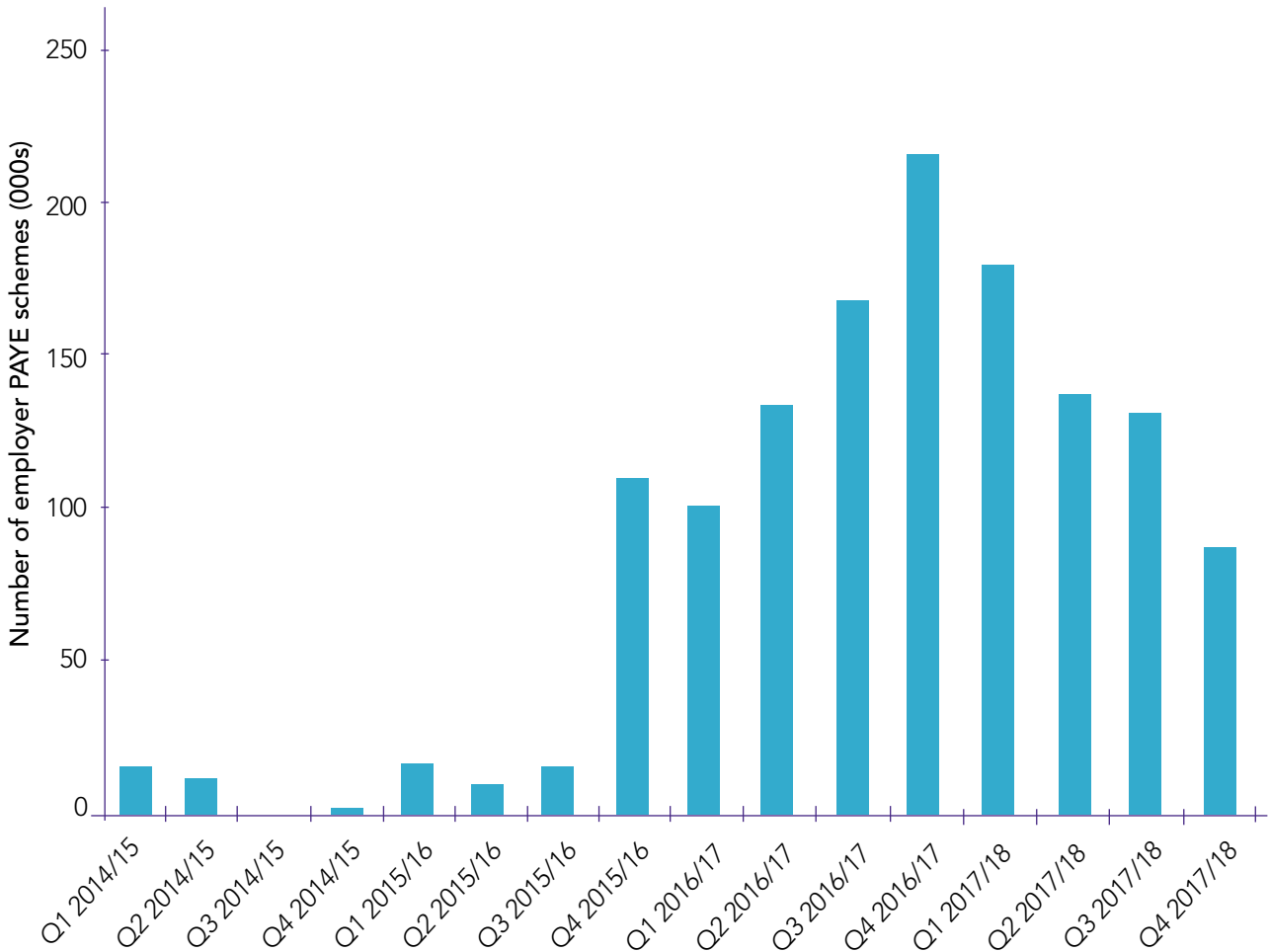
4
Automatic enrolment commentary and analysis 2013. Available at www.tpr.gov.uk/research

5
Available at www.gov.uk/government/publications/reinvigorating-workplace-pensions

6
More detailed guidance covering every aspect of automatic enrolment is available at www.tpr.gov.uk/detailed-guidance

Over the coming year (2014-2015) a further 32,000 mainly medium employers, will become subject to the duties (Figure 1)⁷. This represents a considerable increase from the 10,817 (mainly large) employers that have completed their declaration since the start of automatic enrolment. We recognise that there are considerable challenges over the next 12 months and beyond, particularly as we start to see employers for whom providing pension provision for their employees will be a new and previously untested process.

Figure 1: Staging volumes forecast by quarter



Source: HMRC PAYE data as at 1 April 2012

7
Employer staging
forecast, available at
www.tpr.gov.uk/help-clients-prepare

We are tasked with maximising employer compliance with their duties. We have a policy of education, enablement and enforcement to tackle both potential and actual non-compliance. Our approach is based on encouraging a proactive compliance culture among employers so that they are aware of and understand their obligations, comply with their legal duties and view non-compliance by other employers as unacceptable.

We provide educational materials and supporting tools to help employers, their advisers and suppliers prepare for automatic enrolment. We aim to help employers get automatic enrolment right in preference to using our enforcement powers. However, we view wilful non-compliance as unacceptable and where necessary will use our powers to ensure that employers comply with their duties.

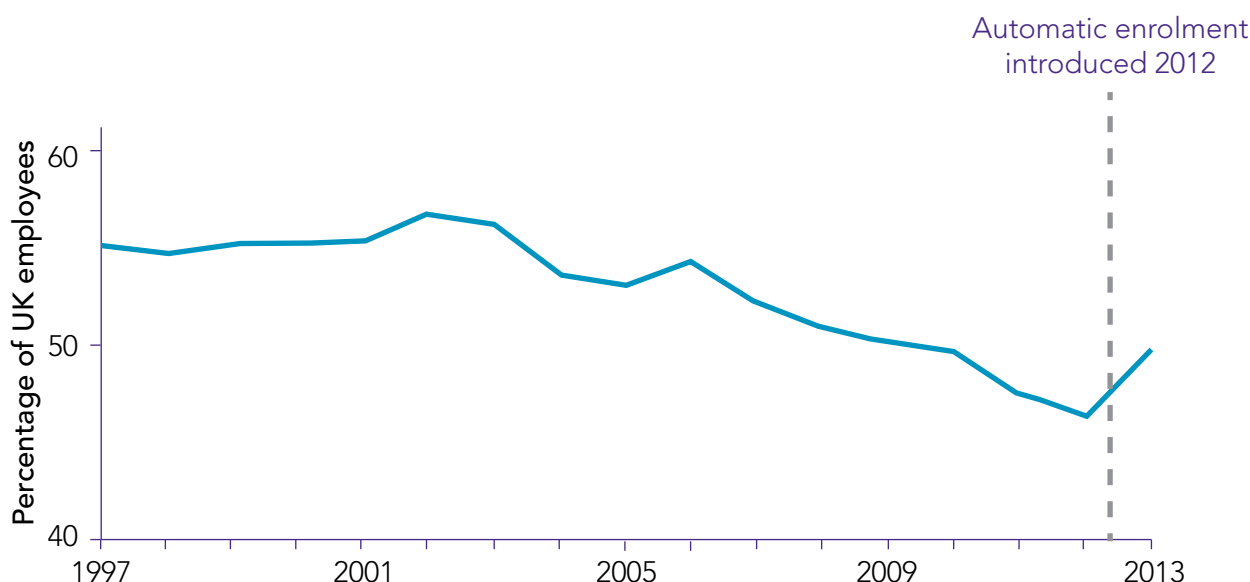
To support the wider pensions industry over the past year, we have set out our expectations of those who run workplace pension schemes by publishing:

- a strategy for regulating DC pension schemes⁸, which includes the publication of our DC quality features www.tpr.gov.uk/strategy
- the DC code of practice and regulatory guidance⁹ www.tpr.gov.uk/code13
- governance statement and scheme assessment templates for trustees to demonstrate the quality of their scheme¹⁰ www.tpr.gov.uk/quality-dc
- a thematic review of record-keeping¹¹ www.tpr.gov.uk/research
- the DB funding code of practice along with our annual funding statement and assessment of DB valuations and recovery plans¹² www.tpr.gov.uk/db-pensions
- DB scheme running cost research¹³ www.tpr.gov.uk/research
- a joint guide with the Financial Conduct Authority (FCA) on the regulation of workplace DC pensions¹⁴ www.tpr.gov.uk/partnerships
- regular updates to our detailed guidance, software test scripts and guides¹⁵ www.tpr.gov.uk/detailed-guidance
- in conjunction with the Institute of Chartered Accountants in England and Wales (ICAEW), a voluntary assurance framework that will enable trustees of master trusts to demonstrate to employers that their scheme is managed to a high standard¹⁶. www.tpr.gov.uk/dc-master-trusts

Trends affecting UK pensions

In 2013 the proportion of employees in a workplace pension scheme increased to 50%, the first increase since 2006¹⁷ (Figure 2). In April 2013 85% of public sector and 36% of private sector employees had a workplace pension¹⁸.

Figure 2: Proportion of all employees belonging to a workplace pension



Source: Office for National Statistics

By the end of March 2014, all large employers had reached their staging date. By the same date we had seen more than 3 million eligible jobholders automatically enrolled into pension schemes.

Implications

That a further 32,000 primarily medium employers will reach their staging date throughout 2014-2015 represents a significant increase on previous volumes. We will continue to provide strong support and develop targeted enablement tools to help employers comply with their duties.

The intent of the legislation is to arrest the decline in workplace pension savings participation. Indications are that the reforms are being successful at this stage but we remain mindful that the risks and issues facing medium, small and micro employers are different to those seen to date.

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In 1997, 55% of employees were members of a workplace pension scheme, falling to 47% in 2012, prior to the introduction of automatic enrolment.

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2013 Annual Survey of Hours and Earnings available at www.ons.gov.uk/ons/rel/ashes/annual-survey-of-hours-and-earnings-pension-tables/2013-provisional-results/stb--2013-annual-survey-of-hours-and-earnings--summary-of-pensions-results.html. The figures quoted from this research were collected in April 2013 when automatic enrolment had been running for six months and enrolment stood at 500,000.

Awareness and engagement

We report on the awareness and understanding of employers (and the intermediaries on whose support they may rely) of their automatic enrolment duties and the means we use to educate and enable them. Of particular note are the high levels of awareness (99%) and understanding (90%) of large and medium employers staging between August 2013 and July 2014 four months prior to their staging date and the steadily improving levels of awareness and understanding among small employers who will not ordinarily stage until 2015-2016.

Our activities

We support employer compliance by prompting them to achieve specific milestones during their preparations and by raising awareness and understanding of their responsibilities, through direct and indirect engagement, with them, advisers and providers. We do this via multiple channels and adapt our communication activities to make it as easy as possible for employers to comply with their duties.

In alignment with the Government's 'digital by default' strategy, our primary communications channel is our website. It contains focused areas dedicated to employers, intermediaries, pension professionals and individuals and provides access to a range of information including detailed guidance, information on selecting a pension scheme, a range of tools to support their planning needs and the declaration of compliance portal.

In 2013-2014 we received over 1.2 million unique visitors to the automatic enrolment web landing page, with over 190,000 unique browsers having used our staging tool and more than 100,000 creating an employer action plan.

We have issued over 115,000 letters to employers this year to ensure they are aware of what they need to do and by when to comply with their duties. As well as communications via post, employers receive a number of regular email communications highlighting key activities during their compliance journey; first contact with employers is made at least 12 months prior to their staging date.

Between 1 April 2013 and 31 March 2014 we received more than 55,000 automatic enrolment related enquiries.

Employer awareness and understanding

We regard employers as having awareness and understanding of the workplace pension reforms if they demonstrate sufficient knowledge of what the main requirements and implications are for them and about their legal requirements to proceed to plan for, and take action towards, compliance (Figure 3).

We monitor employer and intermediary awareness and understanding across the full staging profile via two tracking surveys¹⁹ each done on a six-monthly cycle. We further assess employer preparedness and understanding of how to discharge their duties through our monthly 'staging date' tracker (employers who are four months from their staging date).

Staging date tracker

Awareness and understanding of the duties was high among large and medium employers four months prior to their staging date, with almost all aware of their duties (99%) and most understanding what they need to do (90%).

Six monthly tracker

Awareness among medium employers who were six months or more away from their staging date was 94%, while awareness among small and micro employers was encouragingly high (Table 1). In contrast, understanding levels at the same point in time were notably lower across all employer sizes.

Although levels of awareness and understanding among small and micro employers are relatively low, direct communication activities to these groups will not begin prior to July 2014.

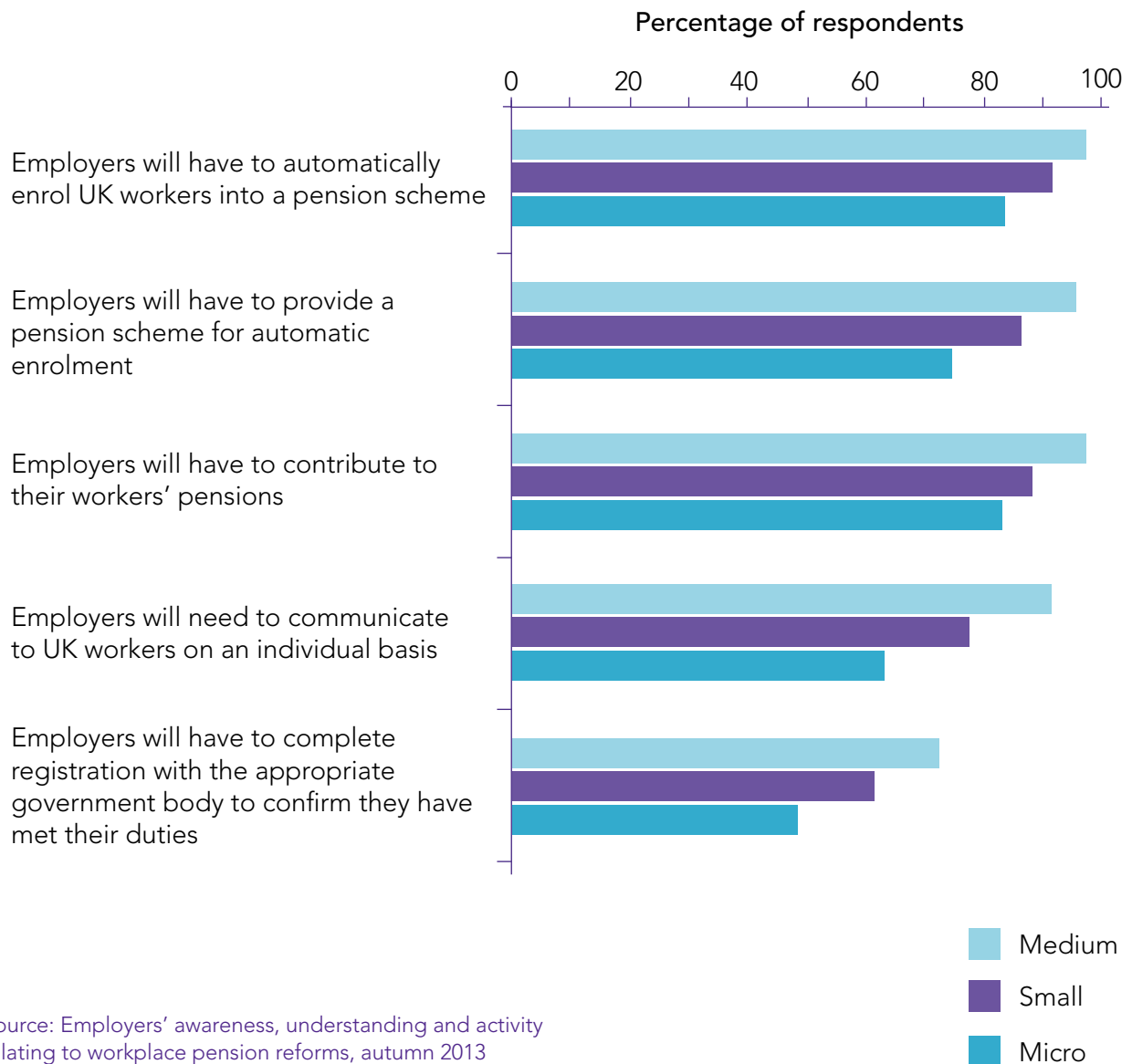
Table 1: Awareness and understanding among employers, autumn 2013 research

	Awareness	Understanding
Medium (50-249 employees)	94%	67%
Small (5-49 employees)	82%	50%
Micro (1-4 employees)	70%	35%

Source: Employers' awareness, understanding and activity relating to workplace pension reforms, autumn 2013

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www.tpr.gov.uk/research

Figure 3: Percentage of surveyed employers (medium, small and micro) who responded correctly to the questions used to gauge their awareness and understanding in autumn 2013



Source: Employers' awareness, understanding and activity relating to workplace pension reforms, autumn 2013

Intermediary awareness and understanding

Use and planned use of intermediaries remains high across all employers but the type of intermediaries being approached for support has changed from that seen with large employers. Significantly more medium employers have used, or plan to use, an accountant (+8%) than large employers, whilst fewer consulted, or planned to consult, a payroll administrator (-14%), a pension consultant (-15%) or a lawyer (-19%).

Autumn 2013 research among intermediaries indicated that:

- most payroll administrators were aware (99%) and understood (89%) the key employer duties
- most IFAs were aware (98%) and understood (96%) the key employer duties
- most accountants had high awareness (98%) but lower (80%) understanding of the key employer duties
- HR professionals and bookkeepers had high awareness (90% and 88%, respectively) but lower levels of understanding (64% and 59%, respectively) of the key employer duties.

Main implications and outcomes in this chapter

Nearly all large and medium employers have a high level of awareness and understanding and appear on target to be compliant with their duties.

Small and micro employers are less likely to have existing pension provision and, given our limited engagement so far with these employers, we are reassured by the levels of awareness and understanding among these groups to date; levels which will grow as we target our communications to this audience.

Intermediaries will play a key role in supporting and advising all sizes of employers in preparing to meet their duties. We will continue to work with them to ensure our messages are able to be transmitted through these bodies.

We will continue to develop our approach to raising awareness and understanding across the changing employer profile. For example, our decision to adapt our employer communications journey for small and micro employers so that targeted help commences from a 12 month lead-in time (rather than 18 months for large and medium employers) in response to the differences in scale and complexities faced by these employers.

While just over 28% of medium employers reported having taken no action six months prior to their staging date, only 4% of medium employers reported they had still not begun preparations at four months prior to their staging date. We will continue to encourage employers to act early in preparation for their duties to ensure they have sufficient time for implementation and help pre-empt potential capacity issues across the intermediary market.

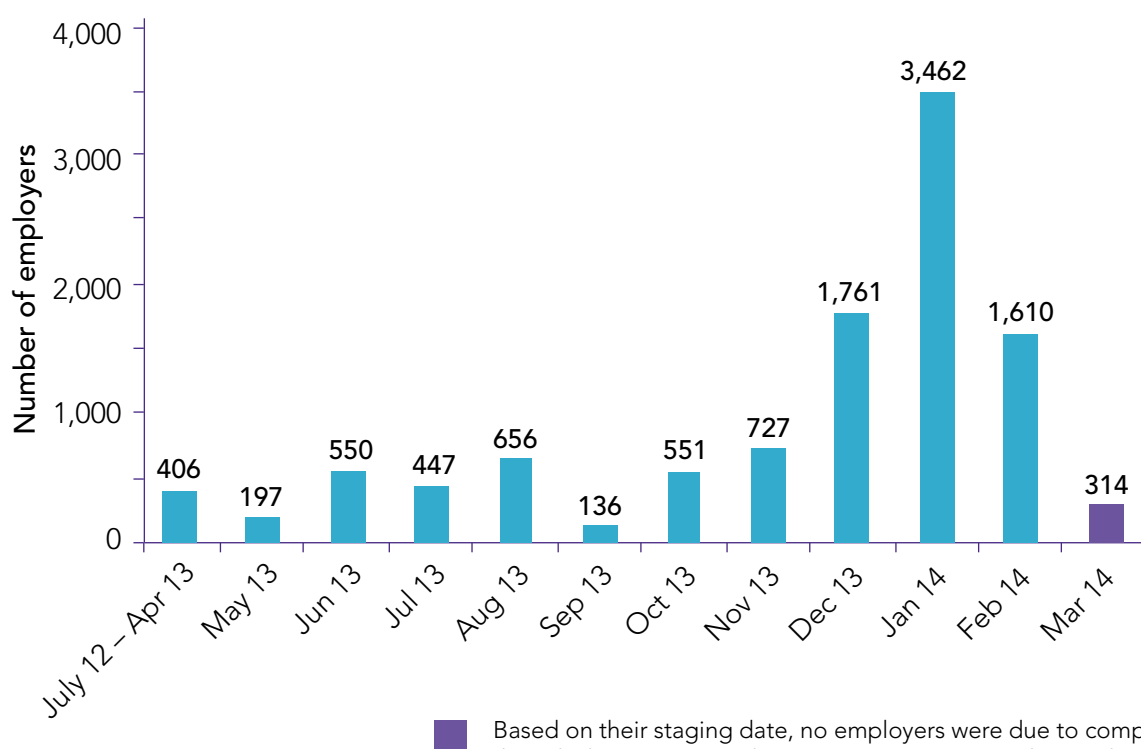
Completed declarations of compliance

This chapter reports on the declaration of compliance process to 31 March 2014. We detail the number of employers completing their declaration by month, the significant number of employers choosing to bring forward their staging dates (2,070), the public/private split, the number of employers using postponement (4,590) and the number of workers who have been automatically enrolled (3,241,000 or 21% of employers' total workforce²⁰). We also talk about our move away from the term registration to declaration of compliance.

Findings

Declaration of compliance is the process by which employers formally tell us that they have complied with their automatic enrolment duties. Since January 2014 employers have up to five months from their staging date to complete their declaration. Between 1 July 2012 to 31 March 2014, 10,817 employers completed the declaration (Figures 4 and 5).

Figure 4: View by month (2013-2014) of the number of employers that completed the declaration of compliance (registration)

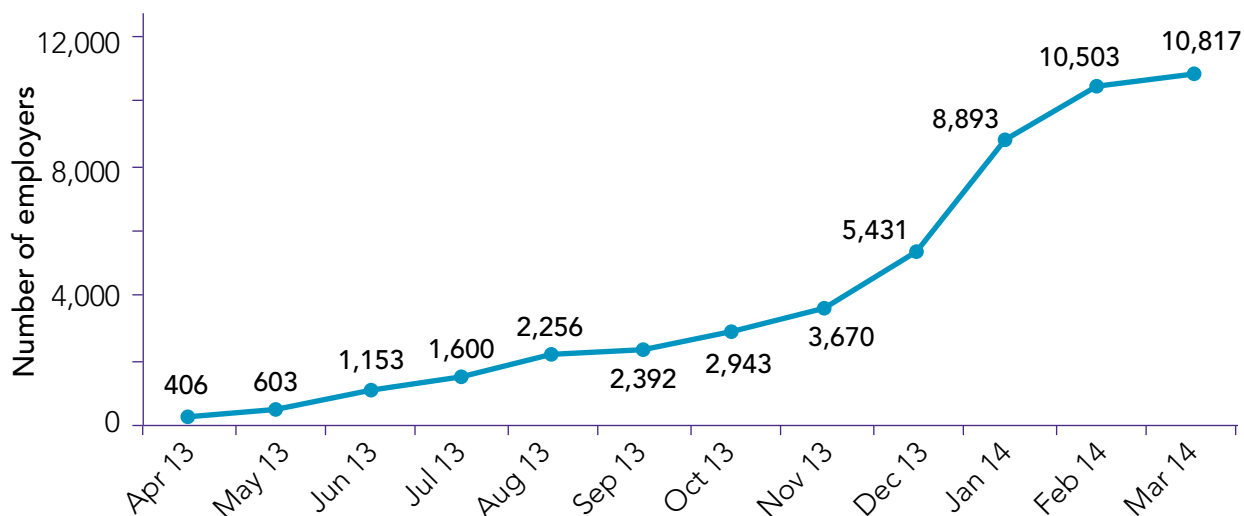


Source: The Pensions Regulator

Based on their staging date, no employers were due to complete their declaration in March 2014. We are reporting the number of declarations by month declared, rather than by staged month.

²⁰ Employers who have completed the declaration of compliance.

Figure 5: Cumulative view (2013-2014) of the number of employers that completed the declaration of compliance



Source: The Pensions Regulator

Based on the number of total workers that employers reported at the declaration, the split in the size of employers (who have completed their declaration) is large (70%), medium (16%), small (12%) and micro (2%).

Of the 10,817 employers who completed their declaration, 60% were in the private sector and 40% were public entities. 2,070 of these employers also brought forward their staging date. Reasons for this include:

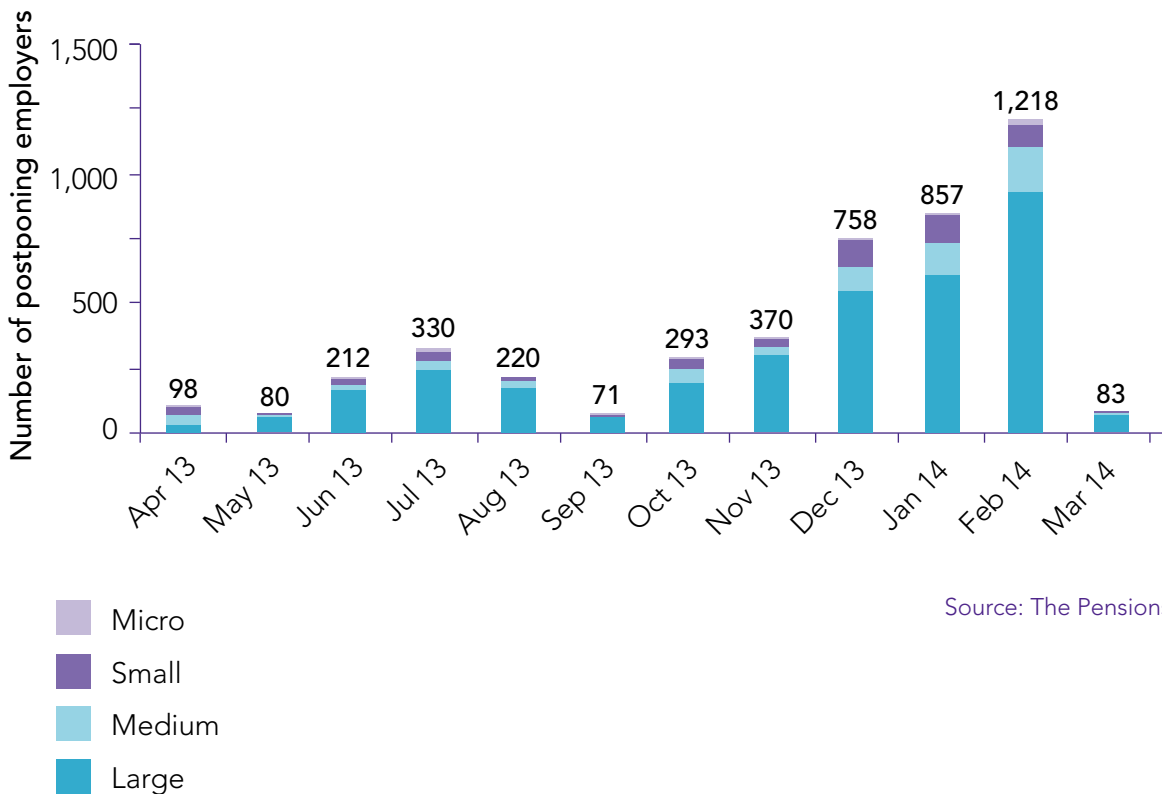
- employers being affiliated to a larger corporate entity (aligned to largest PAYE) with an earlier staging date
- to align to their financial reporting requirements
- as an opportunity to provide additional employee benefits.

Postponement

Employers have an option to delay the assessment of their workers (and therefore whichever employer duty that may apply) depending on the category of worker through the use of postponement²¹. This can be applied on certain specified dates for a period of up to three months, but an employer may choose to apply it over a lesser period.

Between April 2013 and March 2014, 4,590 employers applied postponement. Of these, 75% were large, 14% were medium, 10% were small and 1% were micro (Figure 6).

Figure 6: Employers choosing postponement



Source: The Pensions Regulator

²¹ Detailed guidance for employers – Postponement. Available at www.tpr.gov.uk/detailed-guidance

The option to postpone provides employers with flexibility to align the administration of the employer duties to their existing business and payroll processes; for example to:

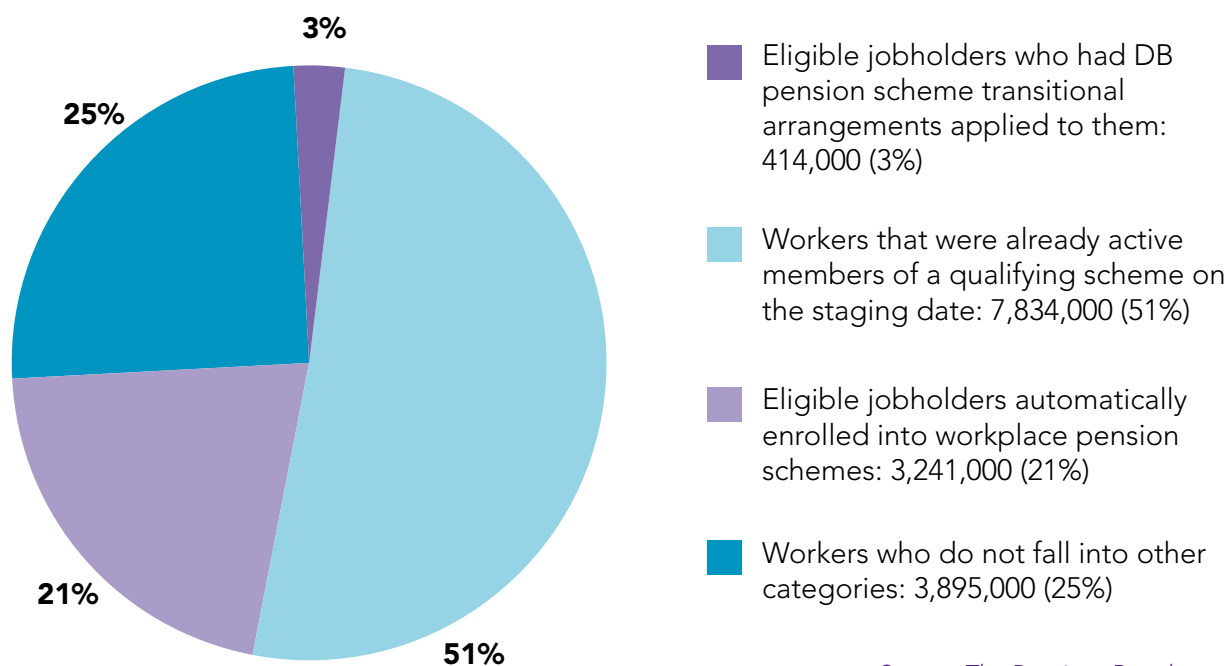
- automatically enrol groups of workers at different points in the three-month period
- align automatic enrolment with their existing payroll processes, eg to avoid calculation of contributions on part-period earnings, or to maximise the amount of the opt out period that falls before payroll is run
- smooth the process of the automatic enrolment duty in respect of workers with spikes in earnings, short-term contracts or those who will soon be ceasing employment
- facilitate contractual joining into a salary sacrifice arrangement
- fulfil a number of the different information duties for a worker in one go.

Employers with eligible jobholders who are entitled to membership of a DB scheme or the DB section of a hybrid scheme can apply a transitional period to any of their workers. These employers may therefore choose to delay automatic enrolment to September 2017. 841 employers reported that they had these arrangements in place when they completed their declaration. Any employer who applied the transitional period to a jobholder but is unable to give them scheme membership will need to automatically enrol that jobholder and backdate contributions to 19 December 2012, or their staging date if that is later.

Workforce

Up to the end of March 2014 employers have reported that their total workforce amounts to 15,385,000 workers (Figure 7).

Figure 7: Workforce (total number = 15,385,000) details provided by organisations that completed the declaration of compliance as at end of March 2014



Source: The Pensions Regulator

By the end of March 2014 a total of 3,241,000 eligible jobholders were reported as being automatically enrolled, 3,190,000 (98%) of which were employed by large organisations. 45,000 were employed by medium organisations and 6,000 by small and micros.

Whilst 3 million eligible workers have been automatically enrolled, more individuals are believed to be benefiting from workplace pensions as an indirect result of automatic enrolment. We know that some workers recorded as existing members of qualifying schemes is as a result of employers contractually enrolling their staff ahead of their staging date.

The number of workers who did not fall into any of the other categories (25%) includes individuals in a variety of circumstances including those under 22 or over state pension age, those not ordinarily working in the United Kingdom and those earning less than £10,000 (2014-2015 earnings terms).

Employers confirm that they have complied with their automatic enrolment duties when they complete the declaration of compliance process. As previously noted, feedback from employers led to a reconsideration of the terminology. We have introduced the term declaration of compliance to replace registration and ensure that the need for this confirmation is more readily understood.

Main implications and outcomes in this chapter

We are pleased to note that the flexibilities available to employers, in terms of their staging date, are being exercised:

- 2,070 of those that completed the declaration brought forward their automatic enrolment duties
- 4,590 elected to use postponement.

We are aware that some employers choose to use these flexibilities to align the commencement of their duties with existing business practices, eg the start of their financial year, where they have several employers in an organisation and want to align some or all of the smaller employers' staging dates with that of the largest. We anticipate that the use of these flexibilities, in particular postponement, will continue to be used by employers to help them comply with their duties to a comparable level in the year ahead.

The number of employers reaching staging date will increase to around 32,000 this year. The option afforded to employers to bring forward their duties staging date, and its bearing upon demand in the market, may have an impact upon the availability of intermediary support. Employers will wish to consider this possibility in their planning process for automatic enrolment.

Our move away from the term registration to declaration of compliance was prompted by evidence that employers did not understand the importance of registration, or where it fitted in the process. We expect this change to have a positive impact in supporting employers' understanding of the necessity of this requirement.

Pension schemes used for automatic enrolment

In this chapter we report on the different types of pension scheme used by employers to fulfil their automatic enrolment duties. Of particular note is the number of employers using DC schemes for automatic enrolment (72%), the proportion of eligible jobholders enrolled into DC schemes (82%) and the number of those eligible jobholders enrolled into master trusts (51%).

Schemes used

The majority (72%) of employers who have completed the declaration of compliance since the start of automatic enrolment on 1 July 2012 reported enrolling eligible jobholders into DC schemes with an even split between trust- and contract-based schemes being observed. 24% of declarations of compliance involved a DB or hybrid scheme (Table 2). This marks a change from that reported last year when the majority of schemes used by employers to comply with their duties were DB and hybrid schemes which was (in part) due to the prevalence of this type of scheme among the public sector and largest private sector employers.

Table 2: Pension scheme types and automatically enrolled eligible jobholders declared by employers as at 31 March 2014

	Scheme types reported in declarations of compliance (registrations)	Number of pension schemes	Number of eligible jobholders automatically enrolled
DB	1,388 (17%)	213 (19%)	311,500 (10%)
Hybrid	613 (7%)	195 (17%)	210,500 (6%)
DC (trust) ²²	3,020 (36%)	547 (49%)	1,623,500 (50%)
DC (contract)	3,017 (36%)	88 (8%)	1,028,500 (32%)
Unknown	316 (4%)	76 (7%)	67,000 (2%)
Total ²³	8,354 (100%)	1,119 (100%)	3,241,000 (100%)

Source: The Pensions Regulator

²² DC (trust) further broken down in Table 3.

²³ The number of pension schemes reported will be less than the number of declarations of compliance because only employers with automatically enrolled eligible jobholders have a requirement to supply details of their pension scheme.

There are a small number of schemes (4%) where insufficient details have to date been supplied to support the identification of a definitive scheme type. We are enhancing our validation processes to prevent this from happening in future.

The number of eligible jobholders represents the number reported by employers at the time they completed their declaration. This number will change over time as the workforce varies and employers complete re-declaration of compliance.

Over half (56%) the employers who completed the declaration by 31 March 2014 who reported using a DC trust-based scheme, chose to use a master trust scheme. Although there are only a relatively small number of master trust schemes, they are accounting for a large share of automatically enrolled jobholders (Table 3). This reinforces the importance of ensuring the quality of these schemes, and the voluntary assurance framework²⁴ will help trustees to evidence this.

Table 3: DC trust-based scheme usage as at 31 March 2014

	Master trusts	Non-master trust
Declarations of compliance (DC)	56%	44%
Eligible jobholders split	51%	49%
Declared scheme number split	8%	92%

Source: The Pensions Regulator

Main implications and outcomes in this chapter

The majority of employers (72%) that completed their declaration by the end of March 2014 used DC schemes to meet their automatic enrolment duties. We expect DC provision to dominate the automatic enrolment market. As such, our strategy for regulating DC pension schemes reflects the importance of their continuous good quality, not only in supporting automatic enrolment, but also in improving member outcomes.

The majority of automatically enrolled eligible jobholders whose employer has completed their declaration by the end of March 2014 became members of DC schemes (82%).

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www.tpr.gov.uk/dc-master-trusts

Master trusts are likely to become the prevailing form of DC trust-based provision. This tendency is liable to accelerate as medium and small employers become subject to their duties, emphasising the significance of this type of scheme as far as automatic enrolment is concerned both over the coming year and beyond. As such we see the voluntary assurance framework for the trustees of master trusts as an important tool to support their quality management.

Compliance and enforcement

This chapter reports on the compliance and enforcement activities undertaken between 1 April 2013 and 31 March 2014. We show how our approach to education and enablement is supporting compliance among employers. Of particular note are the numbers of intelligence referrals (1,251) and cases (785) we have opened, the level of employer compliance achieved without the use of our formal powers (99%) and the limited use we have had to make of our formal powers to date (18 occasions).

A number of case studies have been included, highlighting valuable lessons that will benefit employers through their automatic enrolment journey.

Findings

The Pensions Act 2008 gives us our statutory objective 'to maximise employer compliance' with automatic enrolment duties and employment safeguards. Our approach to maximising compliance is set out in our compliance and enforcement strategy and policy²⁵. We believe that most employers will want to meet their obligations and to do the right thing for their workers, and we are proactively educating and enabling employers who experience compliance issues in line with the principles of Better Regulation²⁶. Where appropriate we will use our powers to achieve compliance.

The Pensions Acts of 2004 and 2008 give us a range of formal powers to address non-compliance: those aimed at supporting our investigative activities, which include the ability to carry out inspections and to issue statutory notices, and a range of criminal powers which we have not yet had to use.

We adopt a proportionate, risk-based approach, targeting our resources where they will be most effective at maximising compliance.

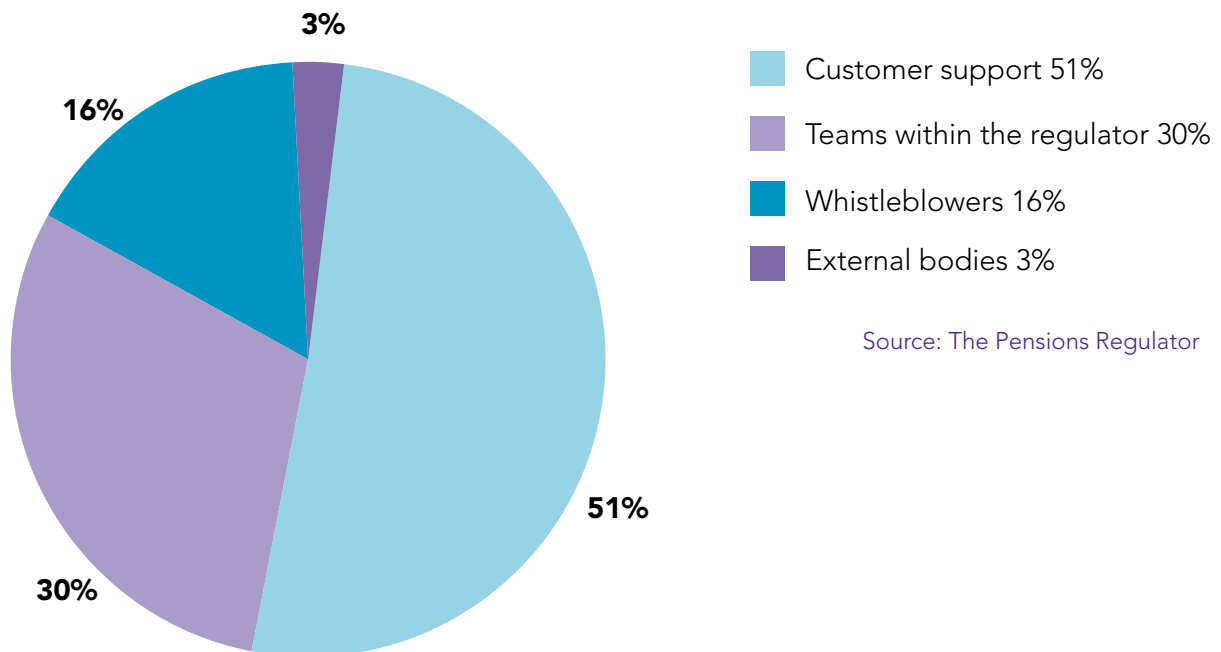
The information received through the intelligence channels that support our compliance work (Figure 8) has been used to initiate 1,251 intelligence referrals from 1 April 2013 to 31 March 2014. Intelligence referrals may be initiated in respect of anything that could indicate non-compliance.

25
[www.tpr.gov.uk/
strategy](http://www.tpr.gov.uk/strategy)

26
Legislative and
Regulatory Reform Act
2006.

Intelligence

Figure 8: The intelligence channels that support our compliance work



We undertake regular, intelligence-led, proactive drives into areas of compliance risk not only to improve our understanding and assessment of the potential threat of employer non-compliance, but to improve our ability to detect and prevent actual breaches (case study 1).

We also engage closely with pension providers and other intermediaries (eg advisers, payroll providers) to understand better the challenges these bodies face in supporting employer to comply with their duties.

We value the information we receive from whistleblowers very highly. Primary concerns expressed by whistleblowers are late/missing pension contributions (54%) or other forms of employer non-compliance (43%). Other concerns relate to scheme governance or allegations of inducement (3%).

Case study 1 – Proactive drive (schools)

The basis for our identification of employers stems from HMRC's PAYE records. However, this did not always identify where more than one employer made use of the same PAYE scheme.

Many voluntary-aided and foundation schools make use of local authority PAYE schemes, although workers were actually employed by the governing body of the school. Whilst the implementation of automatic enrolment has been undertaken consistently at the staging date by the local authorities, technically the schools, as separate employers, were committing a breach of the legislation as they had not completed individual declarations.

How we supported compliance:

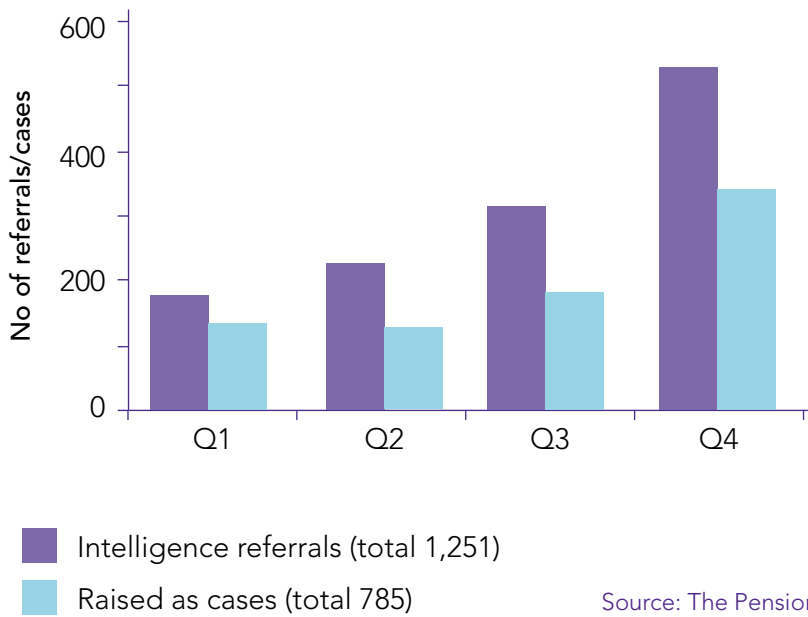
- We worked with the local authorities and schools to ensure the correct declarations were put in place
- We liaised with local authorities, urging them to communicate to their schools to that they need to complete a declaration of compliance on time.

Irrespective of sector, the key lesson for employers who share a PAYE scheme is that they have an individual responsibility to comply with the automatic enrolment duties and make a declaration of compliance.

Cases

Where there are grounds to believe that a breach of the employer duties or safeguards is about to, or may have occurred, the matter will be referred for investigation as a case. The number of intelligence referrals progressed as cases (Figure 9) has risen in line with the staging profile. The conversion rate from intelligence referral into case has remained broadly consistent throughout the year at about 63%.

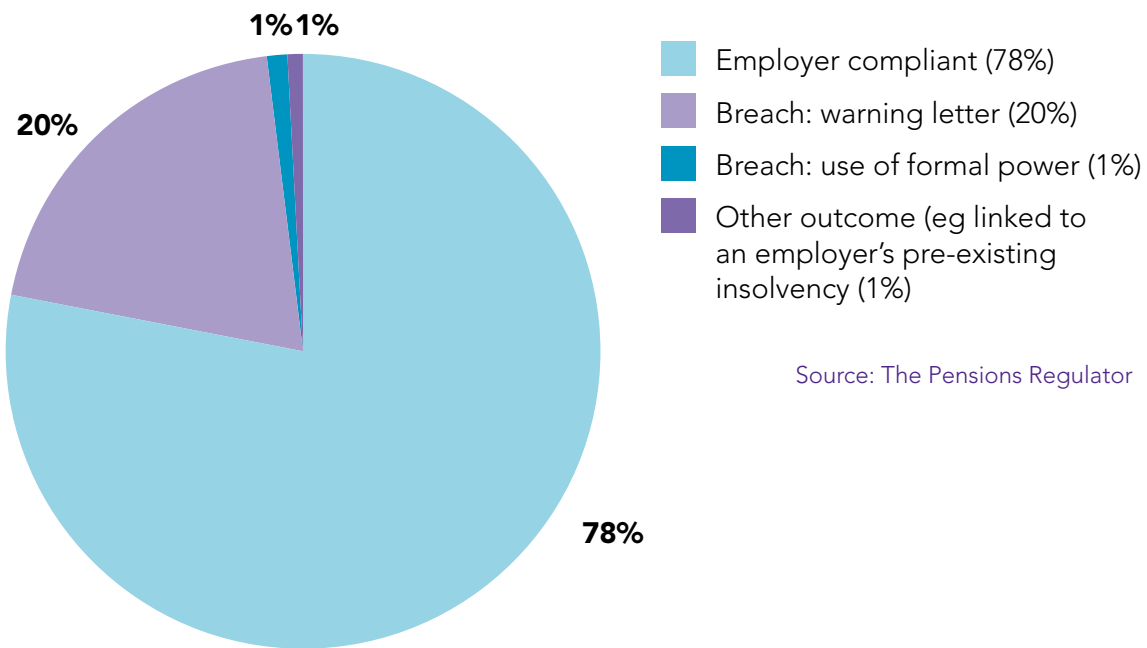
Figure 9: Intelligence referrals progressed as cases between 1 April 2013 and 31 March 2014



Closed cases

In 78% of closed cases no further actions were required following our initial contact. In 20% of closed cases the regulator issued a breach warning letter to the employer, outlining how they had risked becoming non-compliant. In less than 1% of closed cases it was necessary for us to use our formal powers and to issue a compliance notice to ensure the employer became compliant (Figure 10).

Figure 10: Outcomes of closed cases April 2013 to March 2014



Source: The Pensions Regulator

Use of formal powers

Up to the end March 2014, we have used our formal powers on 18 occasions in relation to 15 cases. We have issued 14 Compliance Notices (s35), one Unpaid Contributions Notice (s37), two Statutory Inspection Notices (s74) and one Statutory Demand (s72). Following the use of these powers, nine cases were resolved within one month, four cases within two months, one within three months, and one remains open. Over 99% of employers completed their declaration without the need for us to use our formal powers.

We have looked at the underlying causes that led to us using our formal powers to identify common themes. These include:

- organisational change relating to the closure/merger of entities and the treatment of their PAYE schemes
- organisations where there are multiple employers and not all complete declarations
- insufficient time and resource given to planning and preparation for the onset of the duties.

Employers who find themselves the subject of one of our statutory notices have the option to ask for a review of that decision. Two employers have asked for a review to date, and the decisions were confirmed in both cases.

Some employers have also found it helpful to access advisers for guidance and support in complying with their duties. Employers are also able to use the information and resources available on our website, as well as directly contact our customer support team.

Case study 2 – Clarity over staging dates

An employer contacted us regarding confusion over their staging date, believing it to be in 2014, when it was actually several months earlier in 2013. This was due to them not realising that their staging date would be the same as that of a larger organisation with whom they shared the PAYE scheme.

How we supported compliance:

- We explained the assignment of staging dates and agreed a detailed rectification plan to enable them to be able to complete their declaration of compliance
- We assisted them in developing a plan with their pension provider to backdate the missing contributions within a mutually acceptable timeframe, in this case, three months.

The key lessons for employers are that:

- Different rules around staging dates where an employer is affiliated to the PAYE of a larger organisation mean they may be required to stage with this company.
- If an employer misses their staging date, they may be required to backdate contributions for eligible jobholders to their staging date.

Case study 3 – Corporate governance and software testing

Through an investigation we identified that an employer had failed to enrol all eligible jobholders and was not paying the correct contributions in some instances.

This was due to:

- key members of staff involved in the automatic enrolment project ceasing employment at critical points in the timeline
- the bespoke payroll solution not having sufficient functionality for automatic enrolment requirements, and
- data quality issues being experienced when uploading employee information to the pension provider, which prevented active membership of the pension scheme being achieved.

How we supported compliance:

- We undertook a s74 inspection to investigate the payroll software and to engage directly with members of their automatic enrolment project team
- We sent a s37 Unpaid Contributions Notice
- We discussed and agreed with the employer the rectification plan they would put in place. This resulted in all outstanding contributions being paid and enrolment of eligible workers.

The key lessons for employers are:

- to ensure that payroll systems are well tested and have the correct requirements
- where possible, seek project team member continuity throughout implementation to check that automated processes/output meet their automatic enrolment needs.

Case study 4 – Early testing of payroll software

We were contacted by a whistleblower who advised us that their pension contributions were not reflected in their individual pension pot, according to the scheme provider.

On investigation, this was due to the employer's payroll software not forwarding information about the contributions collected to the provider in a data format that enabled the allocation of individual funds without manual data cleansing.

How we supported compliance:

- We contacted the employer to ensure they were aware of the failure and its extent
- We agreed the plan of rectification between the employer, the payroll software and pension provider to address the issue.

The key lessons for employers are:

- that early testing of payroll software is recommended, to allow sufficient time for any changes to be made and trialled to ensure it functions as required
- to ensure that software and exchange of data meets the needs of all partners.

Case study 5 – Declaration of compliance for employer subsidiaries

Through our compliance monitoring we identified an employer who had not made the declaration of compliance for one of their subsidiary companies.

This was due to the employer seeking to align staging dates for business efficiency reasons, but failing to allow sufficient time to gather the requisite information.

How we supported compliance:

- We contacted the employer to give them the opportunity to make their declarations
- We advised the employer that they were in danger of failing to comply with their duty to make their declarations and provided specific information to enable them to do so.

The key lesson is that employers and their subsidiaries wishing to align staging dates within a group structure need to work together to ensure they complete their declarations on time, as accountability for doing this falls on each individual employer.

Main implications and outcomes in this chapter

Compliance rates have been extremely high, with virtually all (99%) employers completing the declaration without the need for us to use our formal powers. What breaches there have been were mainly of a technical nature that were corrected following engagement with the employer. This has been a very welcome outcome this year, demonstrating the support for automatic enrolment among the 10,000+ employers that completed their declaration to March 2014.

We believe the high compliance rate achieved is testimony to the success to date of our preventative approach to achieve compliance. We will continue to undertake proactive compliance drives into identified areas of potential non-compliance.

Our direct level of support to those (primarily large) employers staging to date has been based on the proportionate use of our resources. The conversion rate we have seen, from employers staging to cases where we have actively engaged with the employer to support them in completing the declaration, is in part a result of the low volumes of employers. As the volume of employers subject to the automatic enrolment duties increases, it will become a greater challenge to maintain a similar level of direct support as the numbers of existing provisions and associated nuances grow; as such we anticipate an increase in our enforcement activities. The benefit of working so closely with employers to date means we are able to translate our practical learning from this experience into valuable knowledge that we can widely disseminate, both directly and through intermediaries, to employers via our communications channels.

Eligible jobholders choosing to opt out

This chapter reports some of the key findings from the DWP research into opt-outs including influencing factors and why an opt-out rate at 9-10% has been lower than expected by employers.

Opt-out

Automatic enrolment aims to maximise individual pension saving. The policy recognises that individual circumstances may vary and that the ultimate decision on how to save for retirement rests with the individual. Therefore, individuals who decide upon an alternative way to save for retirement may opt out.

The effect of this measure upon individuals is an area in which the DWP is the lead authority. The DWP has undertaken research to understand the experience of employers; large employers that staged by April 2013 and the individuals²⁷ who chose to opt out. This research, which spanned both the public and private sector, provided insights into the motivations behind opt-out decisions. Here we concentrate specifically upon the employer findings rather than individuals.

Opt-out rates

DWP research with large employers found that six out of ten individuals were already contractually enrolled and therefore did not have the right to opt out as defined under the Pensions Act 2008²⁸. Where contractual enrolment into a scheme is offered by an employer, it uses the employment contract as the worker's consent to being enrolled into a pension scheme and to deduct any contributions.

The DWP **Employers' pension provision survey 2013**²⁹ found that the average opt-out rate across the participating employers was 9-10%, which was in keeping with DWP's qualitative research among large employers³⁰ where the average opt-out rate was 9% and where most individual employers had an opt-out rate ranging from 5% to 15%. As a result DWP has revised its opt-out forecast from 30% to 15% for the lifetime of the automatic enrolment programme.

Influencing factors and reasons for workers opting out

From the evidence available, factors influencing opt-out levels were primarily employee age and where individuals had previously opted out of contractual enrolment arrangements with existing employers.

27
www.gov.uk/government/publications/automatic-enrolment-experiences-of-workers-who-have-opted-out-a-qualitative-research-study

28
Contractual versus automatic enrolment at www.tpr.gov.uk/pension-schemes

29
www.gov.uk/government/publications/employers-pension-provision-survey-2013-preliminary-findings
Full report will be published by DWP in 2014.

30
www.gov.uk/government/publications/automatic-enrolment-qualitative-research-with-large-employers-rr851

Forthcoming trends and challenges

In this chapter we look at some of the wider issues we see as likely to impact upon automatic enrolment, and the activities we plan to undertake in supporting employers and the pensions industry over the next 12 months. Also of note is the revision in the estimate of people newly saving or saving more into workplace pensions to around 9 million.

Legislation change

DWP estimates that around 8-9 million people will be newly saving or saving more into workplace pensions as a result of the workplace pensions reform and automatic enrolment.

They undertook a consultation³¹ on potential technical changes to automatic enrolment, the results of which were published in October 2013. As part of the implementation of the required changes, we are working to make the associated processes as straightforward as possible.

Charge capping is to be introduced by April 2015 under which a maximum charge of 0.75% per annum, of the funds under management for the default fund of qualifying pension schemes, will be set. The cap will cover costs and charges associated with the administration of the pension scheme and investment management costs (termed member-borne deductions) and will exclude transaction costs³².

31
[www.gov.uk/
government/
consultations/
workplace-pensions-
proposed-technical-
changes-to-automatic-
enrolment](http://www.gov.uk/government/consultations/workplace-pensions-proposed-technical-changes-to-automatic-enrolment)

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[www.gov.uk/
government/
consultations/better-
workplace-pensions-
a-consultation-on-
charging](http://www.gov.uk/government/consultations/better-workplace-pensions-a-consultation-on-charging)

Predicted changes in the support required by employers

We have seen the nature and scale of intermediary involvement change as the year has progressed and we believe the market will continue to evolve as the size of those employers staging shifts from large to medium. Larger employers were more likely to have their own in-house expertise and existing external advisers than the mediums. Our research suggests that 84% of medium employers have or intend to seek external guidance from an intermediary regarding the introduction of automatic enrolment³³. 75% of small employers either have or intend to look externally for support, a number we expect to increase as they near their staging dates in 2015 onwards³⁴. Although all intermediaries will continue to play an important role, 60% of surveyed medium employers yet to seek assistance intended to approach accountants, a number rising to 66% of small employers.

The growth in the number of employers needing to make pension arrangements may create challenges across the market as a whole as providers come under pressure to meet increasing demand. Equally other relevant service providers such as payroll software and payroll bureaux are liable to face similar pressure as the demand for their services rises. We encourage employers to select their scheme and payroll software by no later than six months ahead of their staging date. This will remain important to enable providers to deal with rising demand. Our research indicates that currently 65% of medium and 47% of small employers intended to commence engagement with intermediaries by no later the six month point³⁵.

As small and micro employers reach their staging dates, we anticipate the challenges they face to differ from those experienced by the primarily large employers that we have seen so far. One area where we expect to see variation is in the setting up and running of pension schemes. These employers are less likely to have in-house pension advisers to whom they can turn, and as a result, a larger proportion are likely to want to work with us to ensure they can comply with their duties.

As the volume of employers reaching their staging date increases and the profile of employers changes, we anticipate an increase in the need to use our formal powers. The importance of our educational and communication products in supporting employers to comply with their duties, in line with our strategy of 'educate, enable, enforce', cannot be underestimated.

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www.tpr.gov.uk/research

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Our previous research has shown that employers are more likely to seek external support as they get closer to their staging date.

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www.tpr.gov.uk/research

Our focus over the next 12 months

We will be working to deliver a range of activities, all of which are directly or indirectly linked to the successful ongoing delivery of automatic enrolment. These include:

- encouraging providers to make use of our new maintaining contributions portal to make the reporting of late contributions a straight forward process
- continuing our work to educate and enable by raising awareness of the duties among employers and the intermediaries they may rely upon. We will be updating our guidance on selecting a good quality pension scheme for automatic enrolment to make it more accessible for medium and smaller employers
- communicating to more than 150,000 employers that are forecast to stage in 2015-2016. We will continue to review and revise our communications to ensure they meet the needs of employers
- supporting the implementation of the minimum quality standards for all DC schemes, including those used for automatic enrolment, due to come into effect from April 2015. These cover key areas of governance, administration, costs/charges and investment, plus a new duty on the chair of trustees to report annually on how the quality standards are met in their scheme³⁶
- the introduction of defined ambition (collective DC) arrangements as announced in the Queen's speech. We shall be working with DWP to ensure these schemes can be used for automatic enrolment
- publishing a code of practice for public service pension schemes in autumn 2014 and providing a range of dedicated tools and guidance for the code³⁷. The effectiveness of this code and its implementation by employers is significant for automatic enrolment as 40% of the automatically enrolled eligible jobholders to date work within the public sector
- supporting the DWP in the development of the facility of pensions to follow members as they move between employers
- using intelligence to enhance our understanding of the issues faced by employers and intermediaries, developing cases where appropriate to tackle employers' failure to address their duties or the safeguards for workers rights. It is expected that due to the increasing volume of employers becoming subject to their duties, the workload of our compliance and enforcement team will increase which we anticipate will result in an increase of our necessary use of our formal powers particularly where we determine non-compliance to be wilful.

³⁶
www.gov.uk/government/consultations/better-workplace-pensions-a-consultation-on-charging

³⁷
www.tpr.gov.uk/plan

As we move into 2015-2016 we will see the first re-declarations of compliance, in line with the three yearly requirement for employers to reconfirm that they are complying with their duties. This will enable us to understand and further consider any employer issues regarding this process, to both smooth the employer journey and maximise compliance. We will see many of the eligible workers automatically enrolled for the second time. This marks another milestone in demonstrating the acceptance and adoption of automatic enrolment as business as usual by employers.

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Automatic enrolment

Commentary and analysis

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