A guide for employers, HR, payroll and employee benefits professionals

Implementing auto enrolment

This is an important document. Please keep it safe for future reference.

Contents

Introduction

We know that implementing your auto enrolment duties can be complex. Not only do the auto enrolment regulations define different types of worker, they also define when workers must be assessed and even the date on which they are enrolled into the pension scheme. This can create significant complications and expense for those managing payroll and HR. This practical guide has been designed to support your implementation process.

Next steps
Please share this guide with the key people in your business who will be impacted by auto enrolment.

Using this guide as a tool, answer the questions in section 1 so that we can help you manage a successful implementation.

Section 1: Key questions to answer

We need you to answer the following questions before we can implement auto enrolment with you.

Scheme design

- Will you use your existing scheme structure (pensionable salary and contribution rates) for your auto enrolment population?
- If not, will you be using a starter tier and an upgrade tier? What would the scheme structure look like?
- If you are considering enrolling everybody you may want to read appendix IV on contractual enrolment.
- If you are considering using salary sacrifice you may want to read appendix VI on this subject.

Payroll processing

- Will your payroll systems or provider carry out the eligibility assessment for you?
- Will it calculate the relevant date for employees going into the pension scheme?
- Will it tell you which employees need to receive communications about auto enrolment?
- How long will that assessment take and will it leave you enough time to provide the communication to the employee?
- Will you use calendar pay reference periods or tax pay reference periods?

Waiting periods

- Can your payroll systems or provider carry out eligible jobholder postponement?
- Can it align postponement to the end or start of a pay reference period?
- Will you choose the standard three-month waiting period or choose a shorter period?
- Can your payroll system or provider issue waiting period notices for you or will you need to do them yourself?

New entrants

- Can your payroll system or provider produce the joiner information that we need? Can your system provide this information to us in the timescales required?

Opting out

- When do you want us to send opt-out information to you?
- Which email address should we send opt-outs to?
- What support will your payroll system provide for recording opt-outs?
- If you are considering a trust-based pension scheme you may want to refer to appendix VII on entitled workers and trust-based schemes.

Contribution processing and refunds

- Will you be sending us the contributions immediately after deduction from pay, or will you wait until the end of the opt-out period before doing that? You may want to refer to appendix V on contribution easement.
- Can your payroll system provide the information we need for contribution processing?
- When do you want us to send opt-out refunds to you?
- Which email address should we send the breakdown of that refund to?

Section 2: Supporting the customer journey

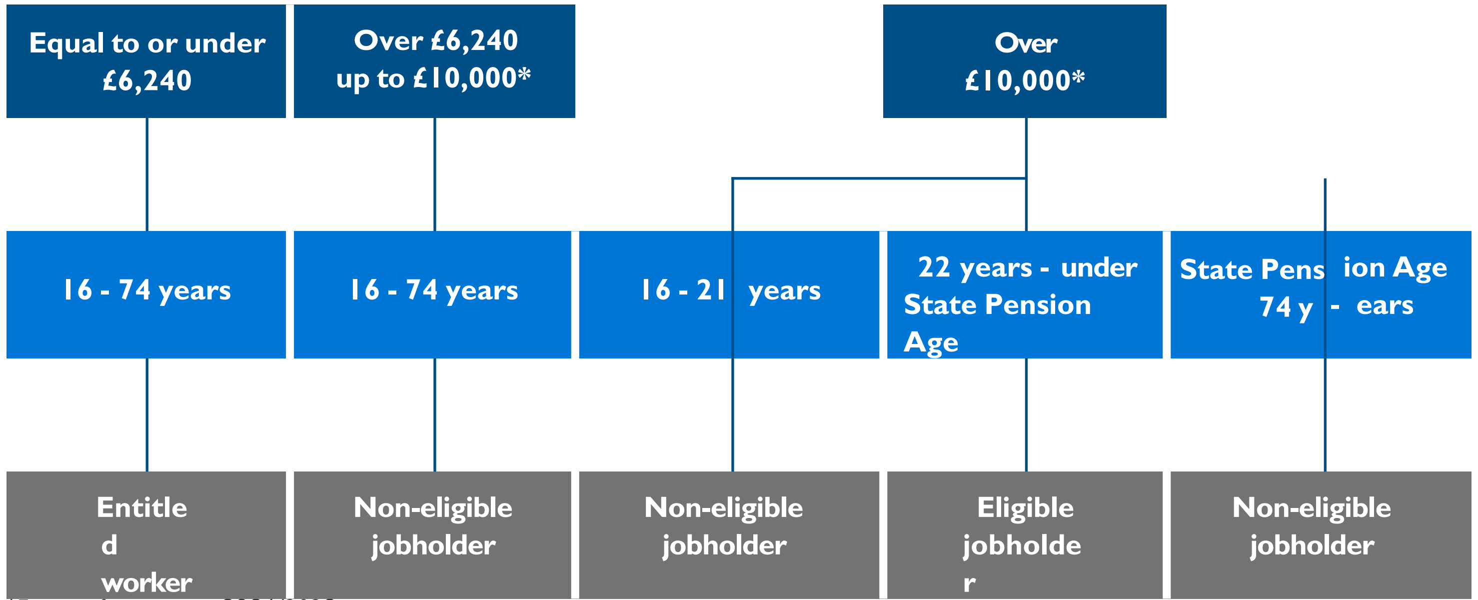
We've illustrated below how we can support you throughout your journey.

	1. Communications		2. Eligibility and waiting period (if applicable)		3. Pre enrolment and joining		4. Enrolment and joining	
Step	**Scheme announcement**	**Promoting auto enrolment and the pension scheme**	**Assessing eligibility**	**Providing eligibilty communications**	**Disclosure documents**	**Opting in and electing to join**	**Enrolling employees**	**Post-sales communications**
Who will do this?	**Employer** We can provide example communications to support you	**Employer** We can provide promotional materials to support you	**Employer** We can provide this service for you if you don't have an alternative solution	**Employer** We can provide example communications to support you	**Legal & General** We will provide this documentation to employees through the pension scheme website	**Employer** You will need to provide us with details of these employees	**Employer** We can provide the enrolment information to employees on your behalf	**Legal & General** We will provide the membership certificate and any other post-sales information to members who choose to remain in the scheme

	5. Opting out		6. After the opt out period		
Step	**Opt out**	**Confirmation of opt-out**	**Manage Your Account**	**Annual pension benefit statement**	**Ongoing promotion**
Who will do this?	**Legal & General** We will provide WorkSave Choice, our online opt-out function. We will also provide paper opt-out forms if employees request them	**Legal & General** We will provide a confirmation email to those who opt out of the pension scheme through WorkSave Choice	**Legal & General** We will provide members of the pension scheme with access to Manage Your Account so they can track their pension	**Legal & General** Every year we will provide members of the pension scheme with a pension benefit statement	**Legal & General** We can provide further promotional and educational material to support members of the pension scheme

Assessing workers

The auto enrolment regulations require employers to classify their workers according to the following table.



*Figures for tax year 2021/2022

Employer responsibilities:

- **Eligible jobholders** – On becoming eligible, these employees need to be automatically enrolled into your company pension scheme within one month, unless you're operating a waiting period, in which case you can enrol them up to three months later. Additionally you must also allow employees to opt in early during the waiting period if they want to.

  You'll need to make a minimum contribution on top of theirs if they choose to stay in the pension scheme.
- **Non-eligible jobholders** – These employees need to apply to join the pension scheme, either by writing to you or by completing an opt-in notice. You must then follow the same process to enrol them as you would for eligible jobholders.

  If this group of employees do opt in, you'll need to make a minimum contribution on top of theirs.
- **Entitled workers** – These employees can choose to join the pension scheme, either by writing to you or by completing a joining notice. You must then make arrangements for them to join a pension scheme. You don't have to use the same pension scheme that you use for your eligible and non-eligible jobholders.

  If this group of employees apply to join your company pension scheme, you don't need to contribute.

Key fact

It's what you actually pay and when you actually pay it

A company has two payrolls that run monthly. Both payrolls run on the 20th of each month with pay landing in employee bank accounts on or around the 25th of the month. The pay reference period for both of them is the calendar month.

Payroll A is on a current basis. This means that the amount paid is based on work expected to be done this month.

However, it includes overtime due from the last month.

Payroll B is in arrears but also includes an element of commission. Commission paid this month is based on a rolling quarterly average of sales completed in the previous three months.

What pay do you take into account when assessing the worker status?

You can ignore all the complications – it's very easy. It's the total actual earnings calculated on the 20th of the month.

An important point to remember here is that eligibility assessment is always based on total qualifying earnings regardless of how pensionable earnings are defined.

Busting the myths

I'll just put everybody into the pension scheme and then I can forget about auto enrolment.

This sounds very seductive but let's dig a little deeper.

Steve was an eligible jobholder when he joined the company and was automatically put into the pension scheme. He decided not to remain a member and told payroll he wanted to leave the scheme.

He was also an eligible jobholder the following month. His employer must now auto enrol him into a pension scheme and provide him with opt-out rights. Why?

The auto enrolment regulations specify what you must tell an employee about auto enrolment and when. In this case, because Steve didn't receive the right communications when he was put into the pension scheme, the duties fell back on to his employer.

Even if Steve opts out he will need to be re-enrolled back into the scheme every three years due to the re-enrolment regulations.

You cannot avoid changing your communications as a result of auto enrolment.

Suzy was an entitled worker when she joined the company so was not automatically put into the pension scheme. She initially chose to 'opt in' to the scheme but then changed her mind and decided not to stay in. A couple of months later she got a pay-rise which means she is now an eligible jobholder. Her employer must now auto enrol her into a pension scheme. Why?

The only workers that can be excluded from eligibility assessment are those who were an eligible jobholder for at least one pay reference period while they were a member of the scheme.

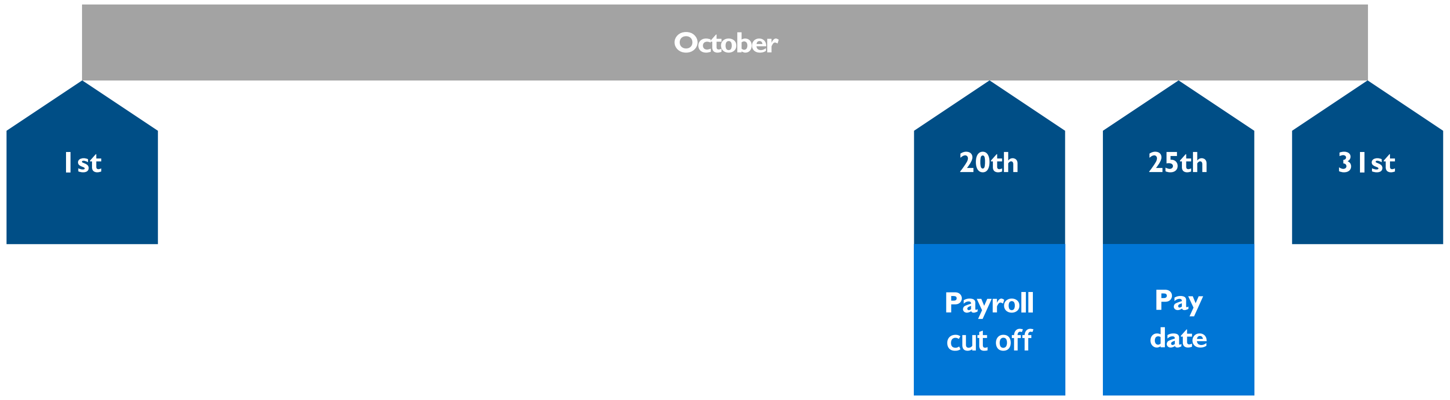
You cannot avoid the requirement to assess your workforce each and every pay reference period.

Section 3: A case study

Eligibility assessment and monitoring.

The auto enrolment regulations state that a worker's status in any given pay reference period is based on their total pay in that period regardless of when the pay is in respect of. We believe the term 'qualifying earnings' could usefully have been renamed 'qualifying pay' to emphasise this point. This approach provides a simple answer to our previous question but does have some consequences. Let's start by meeting Sally.

Sally manages the payroll processing for ACME. She's planning the work that will be needed when ACME implements its auto enrolment duties from 1 October. ACME only has one calendar monthly payroll.



Sally knows that employees need to be assessed for eligibility based on what they actually get paid during the pay reference period – regardless of what period the pay is in relation to. So the eligibility calculation has to be based on the amount that will be paid on 25 October. The problem is that ACME has a significant minority of variably paid workers so Sally won't actually know how much they will be paid until at least the payroll cut off on 20 October.

Like most companies, ACME runs a couple of dummy payroll runs after payroll cut off to make sure that the final payroll run is based on clean data. Sally is working out how she is going to fit in the eligibility calculation around the already crowded few days between cut off and pay date. She decides to get a cup of coffee while she thinks about it.

This is a key challenge for payroll. You will only know for sure who is an eligible jobholder at your final trial run immediately before the actual run. For those eligible jobholders you will then need to make the first pension deduction from the actual run.

How this applies to you will depend on how tight your payroll cycle is. In our experience payroll professionals are under constant pressure to shorten the cycle and the time between the final trial run and the actual run can be 24 hours or less. If you have weekly payrolls then you're already aware how busy things are and how slick your processes need to be.

Top tip

Pay reference periods are similar enough to pay periods to feel comfortable but just different enough to trip up the unwary. You can also choose between calendar periods or tax periods.

We'd recommend that payroll professionals refer to appendix 1 to make sure they understand the differences.

It's while the coffee is brewing that the penny drops. If Sally only knows who is going to be auto enrolled into the scheme around 24 October and the pension contributions will be deducted on 25 October, employees may well see a deduction from their pay before they even know they've been enrolled into the pension scheme!

Sally decides she needs to have a word with her colleague Joe who looks after employee communications and relations.

Auto enrolment relies on inertia to get employees to act in their own best interests. However, this practical effect on employees' experience of auto enrolment is not often appreciated. This is because the auto enrolment date is normally the start of the pay reference period, meaning employee membership starts from the beginning of the period and a full period's pension contribution is then due, which must be deducted immediately.

Later that morning Sally catches up with Joe and explains her worries.

Joe has an additional concern. He has to get enrolment packs to the employees within six weeks of 1 October. Sally thinks she can get the list of auto enrolled employees to him by 24 October. This means he only has 18 days to get the enrolment packs out.

Joe and Sally agree that they need to talk to Peter, the Finance Director, quickly.

Here is another challenge to be aware of. Because the payroll cut-off may be quite late in the pay reference period it reduces the window you have to notify employees. Remember, you must notify employees that they've been enrolled within six weeks of their enrolment date. And their enrolment date is normally the start of the pay reference period.

After lunch Sally and Joe catch up with Peter to explain what they've discovered. Peter looks thoughtful for a minute and then asks how many people are expected to opt out once they've been auto enrolled. The truth is nobody really knows until they go through auto enrolment themselves.

Sally suddenly realises that she could have lots of refunds to deal with. Her initial plan was to refund contributions on receipt of the opt-out form. She's now thinking that she will have to run them as adjustments to the next payroll run.

Peter is also wondering about the cash flow and accounting implications. He knows that the regulations allow the employer to hold onto the initial contributions. This may help with cash-flow but it does mean that Sally will need additional processes to store and account for the held contributions.

More issues here. Once you've deducted the contribution from the employee's pay you have to be able to manage the refunds for those employees who opt out.

It's always been possible that an employee who has joined a group personal pension or stakeholder pension plan could change their mind. This would result in payroll having to 'unwind' the deduction of contributions. However, it was quite rare. Auto enrolment on the other hand will make this situation far more common and any previous processes will need to be made much more robust. Particular attention should be paid to the financial accounting and auditing side of things. You should also consider quality controls on payroll adjustments.

Peter has also picked up on Sally's plans for the eligibility check. If each employee is automatically enrolled into the pension scheme as soon as they are an eligible jobholder then this will mean many more members of the pension scheme than ACME had planned for.

All it takes is for an employee to do overtime or to get a bonus in one month and they will permanently be a pension scheme member from then on (known as accidental jobholders). This has significant implications for the cost of the pension scheme.

Peter is absolutely right here. Only carrying out a single eligibility check could mean that the pension scheme costs far more than you expected. In addition, it also puts short-term workers into the pension scheme who may only work for you for a month or two – or even for just a week if you have a weekly payroll.

Consider a part-time worker earning £6,600 pa (£550 pm).

This is less than 75% of the auto enrolment threshold for 2021/2022 of £10,000 pa. This worker gets paid an annual bonus of 5% in March, which means their total earnings for the March pay reference period are £880 (£550 normal pay + £330 bonus). £880 is more than the monthly auto enrolment threshold of £833, they are therefore an eligible jobholder in March and must be auto enrolled into the pension scheme. This is despite the fact that their total annual earnings of £6,930 are still less than the £10,000 auto enrolment threshold.

Waiting periods and postponement

The regulations permit postponement in the following situations:

- On the date a new employee starts working for the company and
- When an existing employee becomes an eligible jobholder.

Postponement moves an employee's assessment date to a new date, which can be any date up to three months after their original assessment date. If they are an eligible jobholder at the new date then they must be enrolled into the pension scheme immediately.

If they are not an eligible jobholder at that date they will be considered during ongoing assessment.

There is no obligation to use postponement but it is very effective at avoiding accidental jobholders and short-term workers being enrolled into the pension scheme. If using postponement, it doesn't have to be applied to everybody – for example, it is perfectly valid to apply postponement but only for eligible jobholders.

Finally, if postponement is used, any employee whose relevant date has been postponed must be issued with a postponement notice within six weeks of their original assessment date. This notice must state what the new deferred assessment date is and the fact the employees can opt in during the waiting period.

Let's look at a practical example of how eligible jobholder postponement works:

At ACME the following people are classified as eligible jobholders:

- Arthur works part-time and wouldn't normally be an eligible jobholder but this month he worked overtime to cover for a colleague who was on holiday;
- Stuart is a newly hired temporary worker who will only be with ACME for two weeks but he has triggered as an eligible jobholder;
- Jenny turned 22 part way through the month and is now an eligible jobholder; and
- There are many other employees who are also eligible jobholders and would normally be so. ACME can put all of the eligible jobholders into a waiting period.

At the end of the waiting period they are then re-assessed:

- Arthur's pay at the end of the waiting period is back to normal and he is not an eligible jobholder – he doesn't have to be auto enrolled at this time;
- Stuart no longer works for ACME so is not an eligible jobholder – he doesn't have to be auto enrolled at this time;
- Jenny still earns enough at the end of the waiting period to be an eligible jobholder so she must now be auto enrolled; and
- The other workers are still eligible jobholders and must now also be auto enrolled.

Notice that ACME only used postponement for eligible jobholders and the same approach can be taken for the assessments during each pay reference period. Each time an existing employee or a new hire triggers as an eligible jobholder they can be put into a waiting period and assessed again at the end of the waiting period. If they are still an eligible jobholder, in they go – otherwise they will be considered during ongoing assessment. (Note that while an employee is in a waiting period, eligibility assessment is suspended).

It looks like Sally has the answer to Peter's question about deferment and now understands the implications for her payroll processing. She now needs to crunch the numbers on potential savings.

Why not postpone new hires?

While this is a good idea in theory, our experience is that it's very difficult to make it work in practice.

Firstly, postponement applies from the employee's start date. You have one month from that date to issue the employee with a postponement notice. The problem arises when an employee is hired after payroll cut off but before the payroll has run. They won't appear in the payroll data until more than a month after their start date. This means you can't use the normal payroll cycle to drive the employee communications and still comply with the rules.

One way around this would be for line managers to calculate the postponement period and enter that date onto a postponement notice which they give to the employee as part of the hire process. However, this has the potential to conflict with the postponement period calculated by payroll which would be a problem.

Secondly, our experience shows that line managers are not always good at providing the employment start date to payroll. Sometimes it's not provided at all and other times it is corrected at a later date. If you're using new hire postponement then this date must be accurate the first time as payroll will need it to calculate postponement correctly. The risk here is that payroll postpones the employee for more than three months, which is against the rules.

Top tip

Keep it simple.

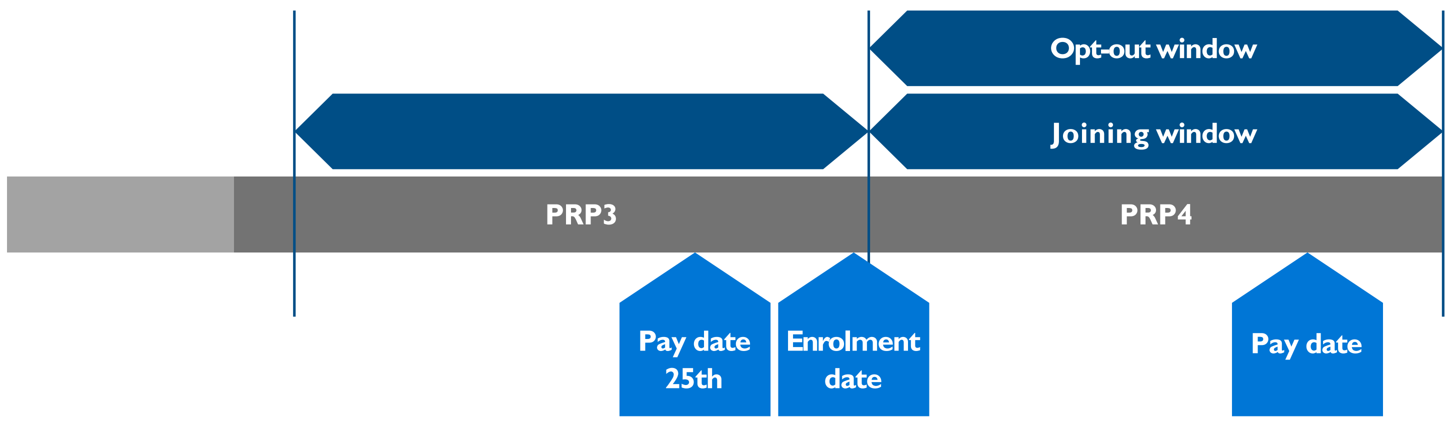
Most employers will benefit from using postponement when an employee becomes an eligible jobholder. Once you have this business process in place there is no additional benefit in using postponement at new hire date.

If a newly hired employee is an eligible jobholder then they will be postponed – if they aren't then there is no problem.

The hidden gem of postponement

One of the hidden advantages of using postponement is that it means we can address many of the problems that Sally and Joe are struggling with. It all boils down to aligning the end of the waiting period to the last day of a pay reference period.

When ACME postponed their eligible jobholders, they aligned the postponement period to end on the last day of pay reference period three instead of the first day of pay reference period four. Why?



Contributions do not have to be paid until PRP4 for employees who are auto enrolled part way through PRP3. This has a number of important benefits:

- Sally can now work out who needs to be auto enrolled after she has run the payroll;
- This makes her life significantly easier and reduces the risk of payroll being impacted by the eligibility assessment;
- Joe has six weeks to get the enrolment packs to employees as he will know who is going to be auto enrolled before the joining window starts;
- Employees have an opportunity to opt out before the first deduction is made from their pay on the 25th of PRP4;
- This will reduce the number of refunds that Sally needs to process.

Note any eligible jobholders that are newly postponed in PRP3 must still receive a postponement notice within six weeks of the start of PRP3.

Our WorkSave Select eligibility assessment service will align to the end of a PRP by default. However, if you aren't using WorkSave Select and your solution can't align postponement periods to the end of a PRP please refer to appendix III.

Communications

Whilst Sally has been working through the postponement issue, Joe has been thinking about employee communications. So far he's come up with the following list of communications that are required under the auto enrolment regulations:

Communication	Comments
A. Regulation 2 notice	This is the enrolment notification that must be provided to new members of an auto enrolment scheme. It must be provided no later than six weeks after the employee's relevant date.
B. Regulation 21 notice	This is a notification to non-eligible jobholders/entitled workers about their right to opt in/join the pension scheme. It must be provided no later than six weeks after the right first becomes available.
C. Section 4(2) notice	This is a waiting period notice to an employee where postponement is being used for new hires. It must be provided no later than six weeks after the hiring date.
D. Section 4(3) notice	This is a waiting period notice to an existing employee who becomes an eligible jobholder for the first time. It must be provided no later than six weeks after the employee's original relevant date.
E. Regulation 27 notice	This is a notification where the employer is using the transitional period for Defined Benefit and hybrid schemes.

Now, one of these (E. Regulation 27 notice) is a one-off communication that can be handled as a standalone exercise. However, the others are an ongoing communication requirement and Joe is trying to work out how he can build all these communications into their existing HR processes. He's worried both about missing a communication and about getting the communications out within the timescales.

Joe starts off with the regulation 2 notice which is fairly simple. Every time an employee joins the pension scheme they should get this communication. Legal & General will be handling this communication so it's one he doesn't need to worry about.

He's a bit confused about the regulation 21 notice though. It looks like an employee could become an entitled worker and get told that they can join the pension scheme but that no employer contributions are payable. Later they may become a non-eligible jobholder and then get told they can opt in to the pension scheme with an employer contribution. If they then go back to being an entitled worker there doesn't seem to be any communication to tell them that they aren't entitled to an employer contribution anymore.

The only way Joe can work this through is if he sends a communication every time an employee changes classification which seems a bit excessive.

The trick with these communications is to understand that there is nothing preventing you from sending out the communication before the employee becomes an entitled worker or non-eligible jobholder. You can use a single, generic communication that covers the regulation 21 notice, together with any other information about the pension scheme you want to include. This can then be given to all new hires and all employees (including those who are in the pension scheme). You don't need to do any assessment of your workforce before sending this out, and once you've done it there are no further communications required unless, and until, the employee becomes an eligible jobholder.

You can use our template for this communication. It's important to remember that this communication does not put employees into a waiting period yet (see previous section) so it's not what The Pensions Regulator refers to as a General Notice A or B. You can think of it as a General Notice A but without the postponement notice.

Joe has now moved on to the waiting period notices. From what he can see, the information that needs to be on the three different notices is the same. He calls Sally to see what she thinks.

Sally runs Joe through her investigations about waiting periods and this simplifies things for Joe. Only eligible jobholders will be put into a waiting period. So, provided he can issue the waiting period notice within six weeks of the start of the waiting period then he's compliant with the regulations.

This is another advantage of using the waiting period approach outlined in the previous section. If you only put employees into a waiting period once they become eligible jobholders you only have one deadline to worry about.

Top tip

Employees only have one month to opt out once they've been sent the enrolment pack. If the enrolment pack is sent to the wrong address there is no extension to the opt-out period.

You can use the waiting period notice to ask employees to check that their details are correct before the enrolment pack is sent – this will help with auto enrolment and also with your other payroll/ HR work.

ACME doesn't have a defined benefit scheme so Joe can ignore the regulation 27 notice.

The communication requirements for auto enrolment can appear daunting at first. However, with smart design you can boil them down to only three:

- A generic scheme announcement (communication B) issued to all new hires as part of hiring and all employees;
- A waiting period notice (communications C and D) issued to eligible jobholders who are put into a waiting period; and
- An enrolment pack (communication A) issued to anybody who goes into the pension scheme – we will issue this for you so you don't need to worry about this one.

We can provide you with templates for all of these communications.

Scheme design

Having sorted out their individual areas, Sally and Joe get together to think about scheme design. This is the last piece of the jigsaw they will need to run the numbers for Peter to approve.

ACME's existing pension scheme uses basic pay as the definition of pensionable salary. Contribution rates are 5% from the employee and 5% from the employer. The simplest scheme design option is to automatically enrol employees on the existing scheme basis. However, this will cost more than the minimum auto enrolment basis.

A second option is that employees will be auto enrolled on a basis that uses Qualifying Earnings as the definition of pensionable pay. The total minimum contribution is 8% of qualifying earnings, with employers contributing at least 3% and the employee making up the rest.

Sally and Joe are struggling to get these two bases to co-exist.

This will be a fundamental decision you'll need to make. If you're happy with the cost of your existing scheme basis then things can be quite simple. However, if you need more cost control then there are a couple of things you'll need to think about. Levelling down contributions for existing pension scheme members to the minimum auto enrolment basis is possible but has obvious risks to employee relations and would also reduce the level of their potential income in retirement.

Another area to consider is what you will do for entitled workers. By definition an entitled worker has no qualifying earnings, so offering them the chance to join a scheme where pensionable earnings are defined as qualifying earnings is of no use.

After some further thought Sally thinks she's got the solution for option two.

Eligible jobholders will be auto enrolled with the minimum contributions of qualifying earnings. Assuming that they stay in the pension scheme they can choose to 'trade up' to the 10% total contribution of basic pay.

Jobholders who choose to opt in or entitled workers who ask to join can choose which basis to join on. This offers a usable option for entitled workers as well as a choice for employees without upsetting the existing members of the pension scheme.

Joe agrees that this is a workable compromise.

This is a common approach we have seen with those of our customers who are looking to control costs. You can position it as 'basic' and 'premium', 'foundation' and 'extra' or whichever words you want to use.

Thinking about opt-ins and joiners has prompted Sally to investigate this area a bit further.

If Sally understands it correctly when she receives a request to join the scheme she should check to see what type of worker the employee is at the point the request is received. If they are a jobholder then the opt-in process is defined in the regulations. The employee should be opted in to the pension scheme from the start of the next pay reference period in which they are still a jobholder.

This seems to say that an employee who was a jobholder at the time the form was submitted but then fell back permanently to being an entitled worker never gets put into the pension scheme!

Strange as it may seem, this is exactly what the regulations say and is an anomaly that we have pointed out to the regulators. It also places an additional burden on your processing because you may not know whether the employee is a jobholder or not until after the payroll has been processed for that month.

A common solution to this problem is to ignore this distinction between jobholders and entitled workers and to simply put the employee into the pension scheme on their requested basis, from the start of the next pay reference period. This way you are going above and beyond the requirements of the regulations and can ignore the anomaly.

Summary

We've looked at four main areas:

- Assessing workers
- Waiting periods
- Communications
- Scheme design

Assessing workers

- We noted that worker classification is based on **what** you actually pay and **when** you actually pay it, not when the pay is earned.
- We saw that you often don't know this until the point you run payroll – which puts a lot of pressure on your payroll processing.
- We looked at the challenges of getting the enrolment pack to the employee within the six weeks joining window.
- We saw the importance of having robust processes for handling opt-out refunds.
- Finally we looked at the problem of 'accidental jobholders' and short-term workers.

Waiting periods

- We started this section by looking at how waiting periods can solve the problem of 'accidental jobholders' and short-term workers.
- We noted that, if you use a waiting period, you have to issue a waiting period notice within six weeks of the original relevant date.
- We found that the simplest way of using waiting periods was to wait until an employee became an eligible jobholder before using them. This way you only need a single business process.
- We also looked at the 'hidden gem' of aligning to the end of a PRP and how this approach solves many of the problems in the previous section.

Communications

- We started by looking at the six different notices required by the regulations.
- We looked at how a single, generic scheme announcement can remove the need to communicate every time an employee becomes a jobholder or entitled worker.
- We saw how this same communication can be issued to all new hires and to all employees.
- We looked at the waiting period notices and when they should be issued – we also pointed out that this is an ideal time to get an up-to-date address for the employee.
- We summarised by showing that, with smart design, you can radically reduce both the number and frequency of communications.

Scheme design

- We started this section by looking at the cost implications of what basis to use for auto enrolled employees.
- We noted that if you use a lower basis for new auto enrolees then you need to find a way for this to co-exist with your current scheme design.
- A common way of managing the co-existence is to auto enrol employees on the lower basis but allow them to trade up or join at the higher basis.
- We saw how this can provide a suitable scheme design for all employees (including entitled workers).
- We finished off by looking at how you can simplify the handling of opt-in and join requests.

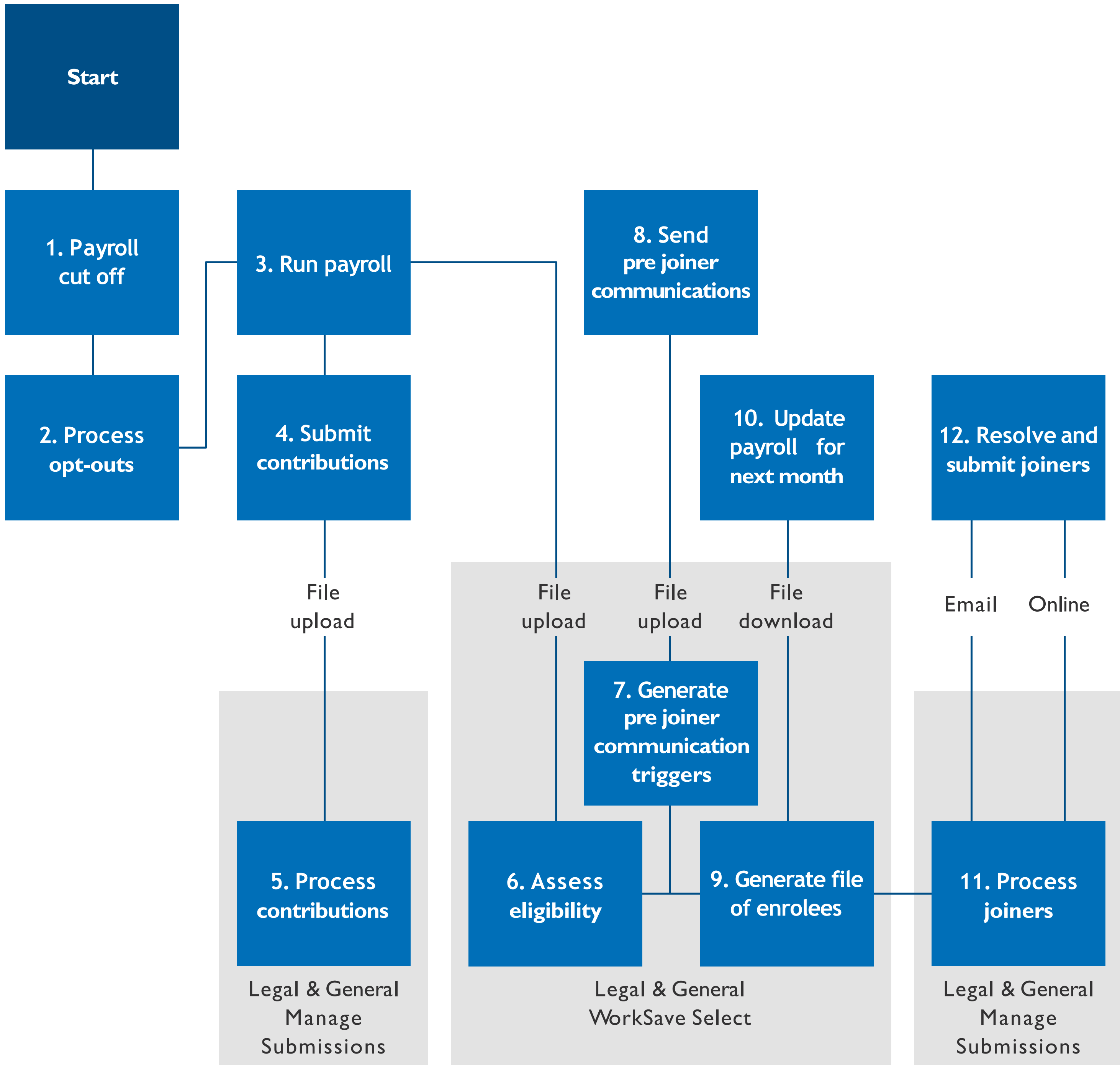
Pulling it all together

Now it's time to pull all the different strands together. What follows is a series of process maps that set out, at a high level, what you need to do to take advantage of the approaches we've discussed in the previous sections. We recommend working through these process maps alongside your actual payroll cycles and existing processes to identify what needs to change in more detail.

Section 4: High level processes

The following process assumes you are aligning postponement periods to the end of the pay reference period. If you are aligning to the start of a pay reference period please refer to appendix III instead. This process also assumes you are using our WorkSave Select eligibility assessment service. If you are using another solution then it will need to do broadly the same things at the same time as shown here.

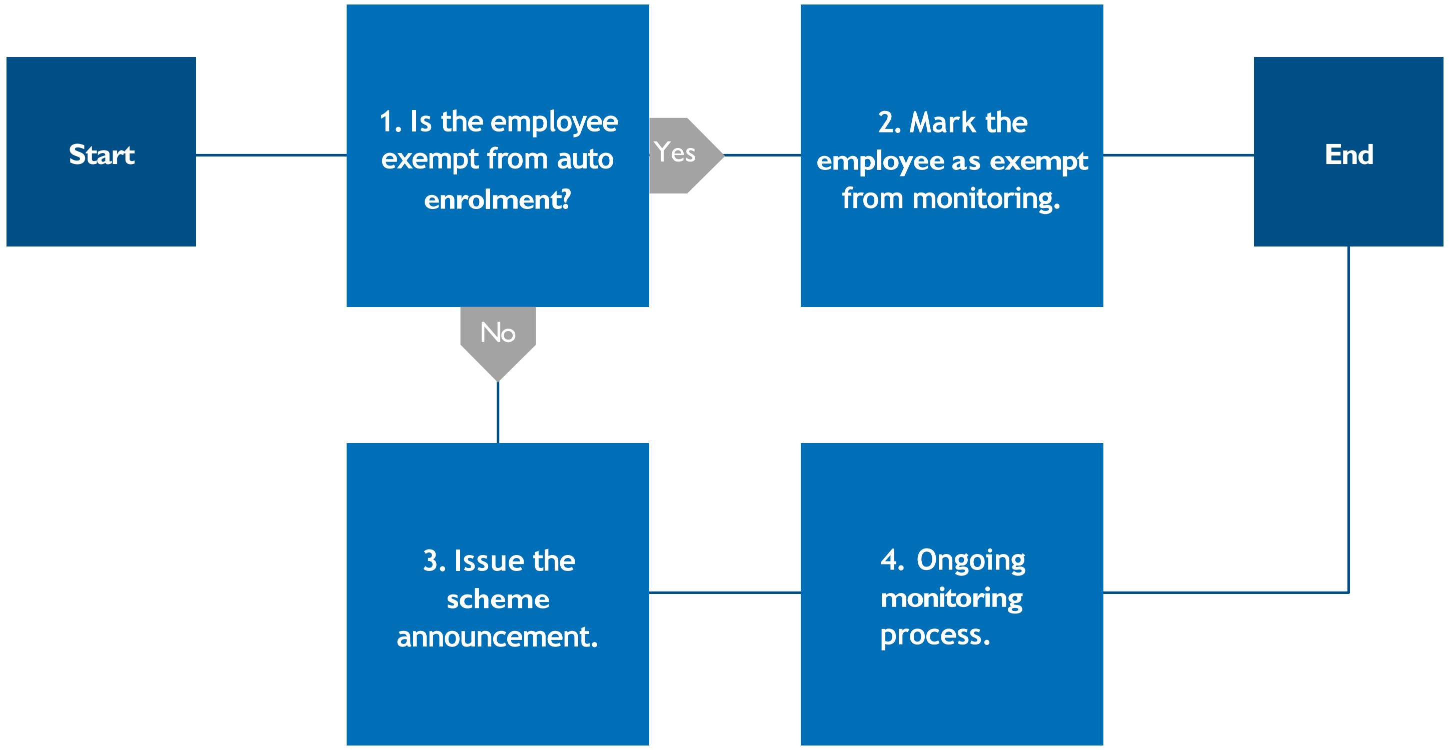
Payroll process



Step	Note
1 Payroll cut off	This
2 Process opt-outs	The r This We w agree
3 Run payroll	Once
4 Submit contributions	After be up
5 Process contributions	Mana befor
6 Assess eligibility	Once Our V and v
7 Generate pre-joiner communication triggers	Worl will b can u file. T beca files t
8 Send pre-joiner communications	Using sent
9 Generate file of enrolees	If any gener proc comr
10 Update payroll for next month	You r that i
11 Process joiners	While joiner When
12 Resolve and submit joiners	When with We w enqu

New hire process

This is a very simple process that can be included in your current new hire processes. We'd suggest providing the scheme announcement alongside other new hire information such as their employment contract.



Step	Notes
1 Is the employee exempt from auto enrolment?	If the employee is in certain categories (e.g. if they are self employed under a contract for services) then they can be excluded from the auto enrolment duties.
2 Mark the employee as exempt from monitoring	In this case you will need a flag in your systems so that this employee is not included in the ongoing monitoring.
3 Issue the scheme announcement	If they are subject to the auto enrolment rules you will need to issue them with information about the pension scheme. You can use our template version. It's important to note that new employees should not be put into a waiting period straight away.
4 Ongoing monitoring process	Once you've issued the employee with the scheme announcement they fall into the ongoing monitoring process.

All employees should receive a copy of the scheme announcement unless they are exempt from auto enrolment.

Want to know more?

We have a whole range of guides and tools for you to use.

- legalandgeneral.com/employer/workplace-pensions
- Auto enrolment explained
- Auto enrolment template communications (please speak to your usual contact for details)

Appendices

Appendix I – More about pay reference periods

In our example, ACME pays their employees on a 'current' basis.

In other words they pay people in the same period that pay is earned. In this situation the pay period is the same as the pay reference period, May's pay for tax and NI purposes is also May's pay for auto enrolment purposes. This is not always true.

XYZ Ltd has a weekly payroll. The payroll runs on a Tuesday with payment arranged so that it lands in employees' bank accounts on the Thursday. The pay is in respect of the work done in the previous week.

The auto enrolment regulations do not care that XYZ Ltd are paying people for work done in week 12. All that matters is that you are paying them in week 13.

All of the assessment dates and auto enrolment dates are driven from the fact that we are in week 13 when the employee is paid.

Week 12's pay for payroll purposes is actually paid in week 13's pay reference period for auto enrolment purposes.

It's important that you understand the differences here; if you don't pay employees on a strictly 'current' basis, pay reference periods can be different to pay periods.

Let's look at another example:

ABC Traders have a monthly payroll. The payroll runs on the last working day of the month. Pay lands in employee bank accounts a couple of working days into the next month.

In this example, May's pay is actually in June's pay reference period for auto enrolment purposes. This is despite the fact that the payroll processing is still done in May. Any employee who needs to be auto enrolled will have an enrolment date in June.

We'd strongly recommend sketching out a timeline covering the following dates:

- Payroll cut-off date
- Payroll processing date
- Employee pay date

Overlaying pay reference periods on this timeline should make it clear how pay periods and pay reference periods interact for your particular payroll schedule.

Irregular pay reference periods

Some employers pay their employees 12 times a year but do not have monthly pay reference periods. This is because employees are paid for the number of weeks they've worked since the last time they were paid. This means sometimes employees will get 4 weeks' worth of pay and sometimes they will get 5 weeks' worth of pay.

This is actually an irregular pattern of pay reference periods and not a regular monthly pattern as sometimes the pay reference period will be 4 weeks and sometimes it will be 5 weeks. What's more, pay is normally in arrears, so employees may be getting paid 4 weeks' worth of pay in a 5 week pay reference period or vice versa.

If this applies to you we would strongly recommend you use tax months as your pay reference periods (see appendix II).

Appendix II – Tax pay reference periods or calendar pay reference periods

From 1 November 2013 employers have been able to choose whether they use tax periods as an alternative to the standard pay reference period. This can be either tax weeks or tax months. In some cases there are real benefits from using tax periods but in others there are real drawbacks. It depends on your pay frequency.

Monthly

There are no significant problems with using either a calendar monthly or a tax monthly pay reference period. The option you choose will depend on which is easier for your payroll system.

Weekly (and weekly multiples)

Using tax weeks is not as simple as using tax months because of 'week 53'. There are either 52 weeks and one day, or 52 weeks and 2 days in a leap year. Weekly payrolls therefore need to deal with a potential week 53 in some years. Mostly they do this by allowing overlap between week 53 of the previous tax year and week one of the new tax year. There are some variances for fortnightly and four-weekly frequencies but the principle is the same – overlap of pay periods is the norm.

This is not the way the auto enrolment regulations have defined tax pay reference periods. Week 53 under auto enrolment ends on 5 April and is treated as a weekly pay reference period regardless of the fact that it might be only one or two days long. There must not be any overlap in the periods.

Because of this mismatch between common payroll treatment and the auto enrolment treatment, we advise clients to think carefully before using tax weeks for pay reference periods. Calendar week pay reference periods are simpler. They have no real disadvantages and do not have this problem at tax year end.

Irregular 4/4/5 frequencies

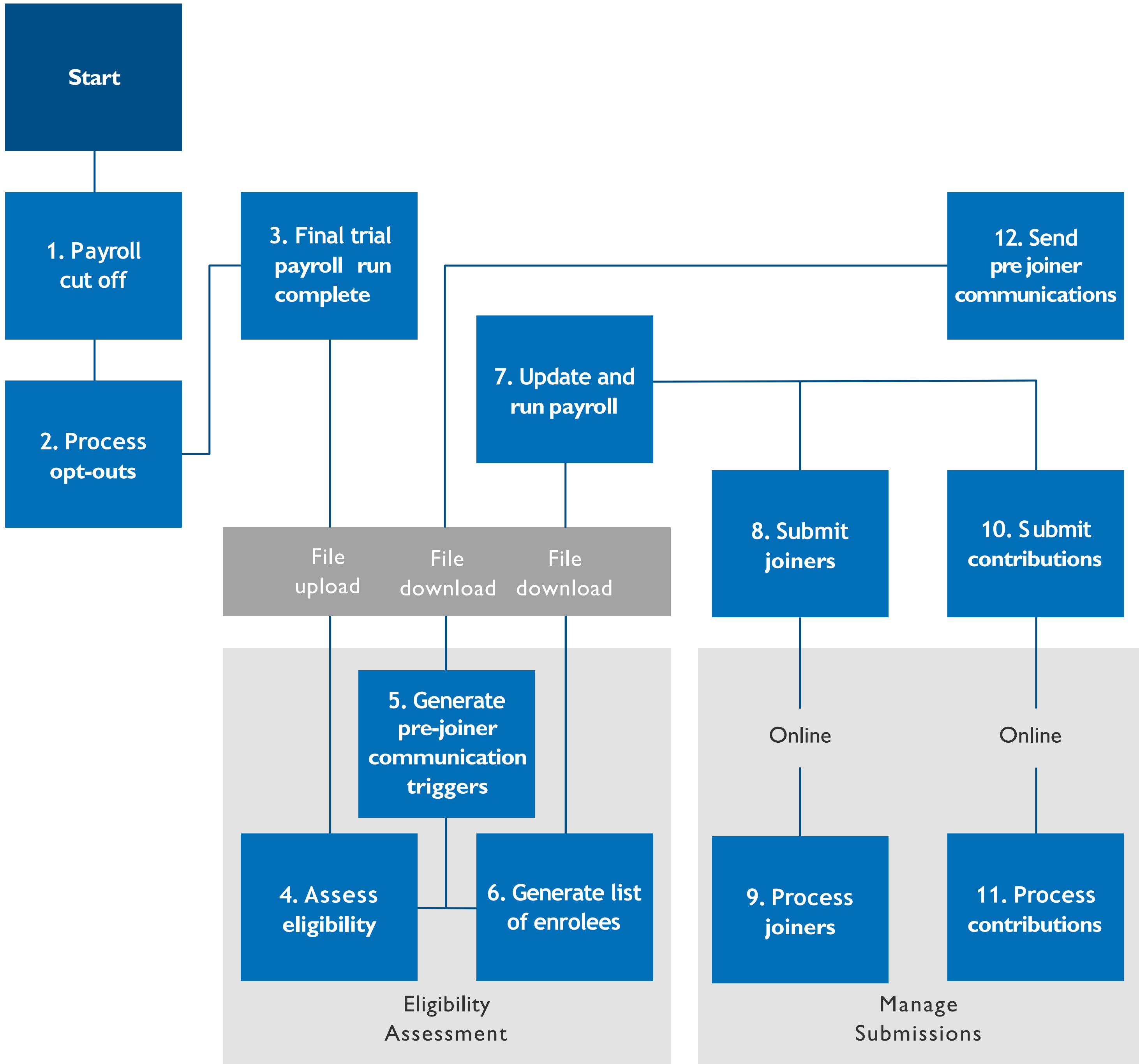
As discussed in appendix I, some employers are faced with irregular pay reference periods of four and five weeks which simply don't work under the auto enrolment rules. If this applies in your situation we strongly suggest that you use tax months for your pay reference periods.

Appendix III – Aligning to the start of a pay reference period

The following process assumes your eligibility assessment solution can't align postponement periods to the end of the pay reference period.

It shows the sequence of events that happen in the payroll cycle where the enrolment date is aligned to the start of a pay reference period instead.

Payroll process



Step	Notes
1 Payroll cut off	This is your usual payroll cut-off date.
2 Process opt-outs	The next step is to process any opt-outs since the last payroll run. This includes setting up any refunds that are due to the employee. We will notify you of any opt-outs with a regular report at a frequency and date agreed with you.
3 Final trial payroll run complete	Once the final trial run is complete you will have the data needed to assess employees for auto enrolment.
4 Assess eligibility	If an employee is auto enrolled you will need to take a deduction from their pay immediately so the assessment needs to happen between the trial run and the actual payroll run.
5 Generate pre-joiner communication triggers	Your eligibility assessment will need to be able to tell you when an employee needs one of the auto enrolment communications, for example because they have been postponed and need a postponement notice.
6 Generate list of enrolees	It will also need to be able to tell you who needs to be auto enrolled. This is the critical information you need to resume running the payroll.
7 Update and run payroll	Once you know who is going to be auto enrolled you can update the payroll system to start making deductions and kick off the live payroll run.
8 Submit joiners	You will need to tell us about any new entrants using our Manage Submissions online system. You'll need to submit the joiners before we can process the contribution file.
9 Process joiners	Once we've accepted the joiner instructions we will start sending out the enrolment information to the new entrants and handling any enquiries and opt-outs.
10 Submit contributions	Once payroll has run and you've submitted the new entrants, you can then submit the contribution file to us.
11 Process contributions	Once we've accepted the contribution file we will trigger the money collection and allocate the contributions to employee's pension accounts.
12 Send pre-joiner communications	The last step is to send any pre-joiner communications to employees that need them.

Appendix IV – Contractual enrolment

This section only applies for contract-based pension schemes. If you are thinking about using contractual enrolment for a trust-based pension scheme please contact us because there will be a number of technical problems to work through.

Contractual enrolment is a practice whereby employees are put into the pension scheme regardless of their auto enrolment worker status. Contractual enrolment is not necessarily incompatible with auto enrolment and they can be made to work together. However, there are implications and a number of detail points that need to be noted.

Change of contracts

First, and most obviously, this will require changes to the employee contracts. This is mainly required because employment law does not allow you to deduct from an employee's pay without their written consent or a legislative requirement to do so. Because you may be contractually enrolling employees who are not required to be auto enrolled, you cannot rely on the auto enrolment legislation to cover you.

Communications

As we pointed out when we 'busted our first myth' you cannot avoid changing the communications you send to employees as a result of auto enrolment. However, at Legal & General we can support you with contractual enrolment if you wish to follow this route.

If you are contractually enrolling someone you can send their details to us in the normal way. We will then issue the employee with an enrolment pack and give them the standard opt-out rights that would apply, had they been auto enrolled. All you will need to do is to phrase the contractual enrolment wording such that, if they exercise their opt-out rights the contractual enrolment will be annulled.

Contribution handling

There used to be a problem where employers using contractual enrolment could not benefit from the contribution easement (see appendix V). However, this anomaly was removed on 1 November 2013 and contribution easement can be used with contractual enrolment.

'Disconnects' with auto enrolment

The main disconnect with the auto enrolment regulations is that, if the employee refuses the contractual enrolment and they are not an eligible jobholder, they will need to be auto enrolled at the first point they become one. This can happen in a number of scenarios:

- Firstly, where a new hire joins part way through a month. The amount they get paid during that first month may well mean they are not an eligible jobholder for the first time they get paid, but will be one next month. If the new hire declines the contractual enrolment they will need to be auto enrolled from the start of the next month. This can be managed by contractually enrolling them from the start of their first full pay reference period and only allowing them to decline contractual enrolment after this date. That way, they will have been a member of the pension scheme during a pay reference period when they were also an eligible jobholder.
- Secondly, where the employee consistently earns less than the threshold for being an eligible jobholder. They may not initially decline the contractual enrolment and may remain a member of the pension scheme for some months or even years. At some point they may cease saving into the pension scheme. If they later become an eligible jobholder they must now be auto enrolled. This is because there has never been a pay reference period where the employee was both an eligible jobholder and an active member of the pension scheme.
- The final scenario is related to the age 22 threshold. Similar to the previous one, the employee may or may not have declined the contractual enrolment. They may or may not have remained a member of the pension scheme for a period of time before leaving. At the point they become an eligible jobholder after leaving the scheme (their 22nd birthday) they fall due for auto enrolment regardless of their previous decisions.

Appendix V – Contribution easement

Recognising that the opt-out right may lead to more refunds, the auto enrolment regulations allowed employers to hold on to contributions for a certain period to minimise needless money flows. These regulations were further refined with effect from 1 November 2013.

- The revised rules now apply to any employee who joins a qualifying scheme. It doesn't matter whether they are auto-enrolled, opt in, join or are contractually enrolled.
- Contributions deducted during the first three months of membership must be paid to the pension scheme by the 22nd of the fourth month.

- From the fourth month onward, contributions must be paid to the pension scheme by the 22nd of the month after the month in which the contributions were deducted.

Should you use the contribution easement?

This depends on your company stance and is a conversation to have with your finance director.

Some take the view that, once deducted from pay, this is pension scheme money and should be paid over to the pension scheme as soon as possible. However, this creates audit and reconciliation issues. For example, you may have paid one contribution to the pension provider but not the second one at the point the opt-out comes in. Do you wait for the provider to refund you before you refund the employee? (Rules about how quickly you must refund employees need to be considered). You'll need to reconcile what the employee gets back with what you originally deducted. You'll also now need to reconcile whether what the provider has paid you is the same as what you originally gave them. Reconciliation becomes more complex if the refund money could be in two different places.

Conversely, if you do choose to make use of the easement you can simplify your refund reconciliation, but may need additional support for your contribution reconciliation. Some finance directors also take the view that there's no point sending money out of the company before you actually have to and so will be more inclined to want to use the easement.

As well as talking to your finance director, it's also worth discussing with your payroll provider to see if they can provide any support in this area.

Do Legal & General have a preference?

No, you can freely choose whether you want to use the easement or not. If you do pay contributions to us we will invest them in the default investment fund. If we then have to refund the contribution we will pay you back exactly what you paid us – regardless of any change in the value of the fund.

Appendix VI – Salary sacrifice

Initially, there was a great deal of confusion about how salary sacrifice would operate alongside auto enrolment. There were two key concerns:

- Auto enrolment must not require the employee to take any action, so how can the salary sacrifice agreement be signed up to?
- What happens to the salary sacrifice agreement if the member opts out?

On the first question, it is possible to include a salary sacrifice agreement in the employment contract for new hires such that it will only take effect at the point of auto enrolment. It is unlikely that this provision would be in place for existing employees. In this case it is possible to effect the salary sacrifice agreement via negative affirmation during the joining/opt-out window.

On the second question, HM Revenue & Customs (HMRC) provided confirmation on two areas.

Firstly, varying a salary sacrifice agreement without a 'lifestyle event' can invalidate the salary sacrifice agreement. HMRC have confirmed that sacrificing salary in return for a pension contribution is not subject to this lifestyle event rule.

Secondly, they have also explicitly confirmed the action the employer should take where an employee opts out of auto enrolment where salary sacrifice is being used. In effect, the salary sacrifice agreement is 'unwound' alongside the auto enrolment. The employee is therefore treated as if they had never joined the pension scheme nor sacrificed their salary. You can find more information about salary sacrifice at gov.uk/guidance/salary-sacrifice-and-the-effects-on-paye

Salary sacrifice and short service refunds for trust-based schemes

This is not strictly an auto enrolment issue but it is important to understand that there is a difference between an opt-out refund and a short-service refund. As we saw above, under an opt-out the auto enrolment and the salary sacrifice are effectively unwound. This is not the case for a short service refund, where the salary sacrifice agreement may cease but has still been in effect. Similarly, the pension membership has ceased but has still been in effect.

In this situation, the entire pension contributions are treated as employer contributions. If they are paid back to the employer they will be treated as a refund of surplus and taxed accordingly. Any amount that the employer chooses to pay to the employee is likely to be treated as an ex-gratia payment but employers will need to discuss this with their tax office.

Note that for people who joined their scheme before 1 October 2015, a short service refund is available if they have less than two years pensionable service. For those that joined their scheme on or after that date, a short service refund is only available if they have less than 30 days service.

Communications

A final point to note is around potential confusion for employees as part of the communications. Employees effectively have two decisions to make here:

- Do I want to stay in the pension scheme or not?
- If I stay in, do I want to pay by salary sacrifice or not?

The potential for confusion arises where an employee decides they don't want to stay in the pension scheme and opts out of the salary sacrifice, but not out of the pension scheme. The converse is where an employee wants to stay in the scheme but not use salary sacrifice and completes the opt-out form by mistake.

One option for managing this potential confusion is to enrol the employee on a non-salary sacrifice basis until the end of their opt-out period. Once the employee has decided to stay in the scheme, they can then be introduced to the salary sacrifice question.

An alternative option is to use a waiting period. In the waiting period notice you explain that the employee will be joining the scheme on a salary sacrifice basis unless they object otherwise during the waiting period. If the employee does not object during the waiting period, they will join on a salary sacrifice basis. If the employee does object during the waiting period, you are still legally obliged to automatically enrol the employee on a non-salary sacrifice basis. This will then trigger an enrolment pack where the employee will have the opportunity to opt out of the pension scheme.

By dealing with the salary sacrifice question during the waiting period and the opt-out question after enrolment you can avoid a lot of confusion.

Appendix VII – Entitled worker and trust-based schemes

Under the auto enrolment legislation there is no provision for entitled workers to opt out of a pension scheme once they have chosen to join. However, the Financial Conduct Authority (FCA) clarified that their rules would allow opt-out rights to be applied to entitled workers.

"For the purposes of clarity, our guidance aims to make it clear that the opt-out rules contained within the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 ('the Regulations') will apply to all members of an automatic enrolment scheme, regardless of whether the right to opt out exists in the Regulations."

Strictly speaking, the FCA is not the regulatory authority for trust-based schemes and it may be inappropriate to apply their guidance to them. However, at Legal & General we are able to support a consistent journey for all types of employee – whether that is for a contract-based or a trust-based pension scheme.

It will be up to employers to choose whether or not to offer entitled workers opt-out rights under a trust-based scheme insured with Legal & General.

What is the risk?

It is possible that HMRC would rule that an opt-out refund made for an entitled worker should be treated as a short-service refund. In this eventuality, the refund would need to be retrospectively accounted for appropriately and the relevant tax applied.

Employers and trustees will need to take their own view on the likelihood of this happening when choosing whether to offer opt-out rights to entitled workers.

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