



COUNCIL REPORT - 29TH JANUARY 2013

SUBJECT: PENSION AUTO ENROLMENT

REPORT BY: HEAD OF HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

1. PURPOSE OF REPORT

- 1.1 To advise Council of the key requirements and actions regarding auto-enrolment and to request direction on options presented.

2. SUMMARY

- 2.1 Auto enrolment is a relatively new requirement, as prescribed by the Pensions Act 2008. Phased in over the coming years, eligible employees will be automatically enrolled into a qualifying pension scheme without any active involvement from the employee. There are several duties that an employer has including registration, identifying types of employees, communication and auto-enrolment itself.
- 2.2 CCBC auto enrolment staging date (go live) is 1st April 2013. This is a statutory employer duty.
- 2.3 A project group has been established with staff from HR, Payroll and IT in order to deliver auto-enrolment.
- 2.4 There are a number of decisions that are required from Council with regard to the project in order to move forward. These can be found in the body of the report.

3. LINKS TO STRATEGY

- 3.1 The delivery of auto-enrolment is a statutory duty as prescribed by the Pensions Act.

4. THE REPORT

Background

- 4.1 Auto-enrolment is a relatively new requirement, as prescribed by the Pensions Act 2008. Phased in over the coming years, eligible employees will be automatically enrolled into a qualifying pension scheme without any active involvement from the employee. There are several duties that an employer has including registration, identifying types of employees, communication and auto-enrolment itself.
- 4.2 CCBC auto-enrolment staging date (go live) is 1st April 2013. This is a statutory employer duty. However, there is an option to defer some of our duties until October 2017.
- 4.3 A project group has been established with staff from HR, Payroll and IT in order to deliver

auto-enrolment.

- 4.4 There are a number of decisions that are required from Council with regard to the project in order to move forward.

Specific Requirements of Auto-Enrolment

- 4.5 Employers have to automatically enrol workers who:
- (a) Are not already in a qualifying pension scheme
 - (b) Are at least 22 years old
 - (c) Are below the state pension age
 - (d) Earn more than £9,440 a year / £786 per month (as at 1st April 2013)
 - (e) Work or ordinarily work in the UK
- 4.6 Employees aged between 22 years and State Pension Age (SPA) earning over £9440 per annum, must be automatically enrolled into a pension scheme. These are classed as eligible job holders.
- 4.7 Employees aged 16 –21years or between SPA –74 years earning over £9440 have a right to join a pension scheme. These are classed as non-eligible job holders.
- 4.8 Employees aged 16 –21 years or between SPA – 74 years earning less than £9440 have a right to join a pension scheme. These are classed as entitled workers.
- 4.9 In terms of pay, i.e. the £9440 (£786 per month) this can be made up of Salary / Overtime / Statutory Sick Pay (SSP) / Statutory Maternity Pay (SMP) / Ordinary or Additional SPP/SAP. Currently overtime is not pensionable but any overtime earnings will be taken into consideration when auto-enrolling employees. If arrears of pay are paid late and this takes the Qualifying Earnings over the limit they will be automatically enrolled.
- 4.10 Employers must continuously monitor age and earnings after the staging date to enrol those that trigger. A report will need to be generated out of Trent in order to effectively manage those who need to be opted in to the pension scheme.
- 4.11 Once each employee is automatically enrolled, notification must be sent to them immediately informing them of their enrolment into the scheme.

Opt-Out

- 4.12 Employees can opt out of automatic enrolment but this is only after they have been opted in. They then complete an opt-out form (an opt-out notice) to the pension scheme provider. An employee cannot opt-out prior to being opted in and employers cannot be seen to encourage or to be making it easy for employees to opt out. The employer must give staff information on the benefits of the scheme and on how to opt-out but they must not send opt-out forms the opt-out forms are obtained by the employee direct from the pension provider. Information in the pension arrangements will be included in offer letters sent to staff.
- 4.13 Employees can choose to opt out of the scheme within the opt-out window, which is up to 28 days after auto enrolment. In this case the employee will not be automatically enrolled for 3 years. If the employee opts out within 3 months then a full refund of employee and employer contributions is given, so it is as if the employee has never been a member of the scheme. An employee can choose to opt out whenever they wish, however, if they cease membership of the scheme at any time after the opt-out window there will be no refund of employee or employer contributions. Their scheme membership is then preserved.
- 4.14 Employees are auto-enrolled even if they have a private pension scheme.
- 4.15 The Council currently enrolls employees into Teacher's Pensions and the LGPS. As the Council is a statutory body then the only scheme that can be offered (apart from teachers

pensions to the relevant staff) is the LGPS.

Staff Groups

- 4.16 Since 1st October 2012 casuals can join the LGPS scheme but further guidance is currently being sought from Torfaen on what needs to be done with casual employees where there is no mutuality of obligation. Also employees with contracts of less than three months cannot access the LGPS under the current terms of the scheme and so a course of action will need to be established for this group.
- 4.17 Another group where the rules need to be established are trainees (Passport scheme) as those on placements of 6 months or less will be on training contracts. Clarification on their status in the scheme is needed. The definition for the auto-enrolment is 'workers' rather than 'employees'.
- 4.18 There are a number of groups excluded. Those are: agency workers, after school clubs, Credit Union, Elected Members. Resolution is currently being sought on whether Cwmcam GMS employees are included via CCBC or whether they will need to be enrolled by the school.
- 4.19 There are a number of contractors who are paid via OLAS who also need to be assessed in terms of the criteria for entitlement to join. For example, those paid for training delivery, consultancy etc.
- 4.20 Supply teachers and part time teachers will be auto-enrolled to the TP and adult tutors will be enrolled to the Local Government Pension Scheme.
- 4.21 CCBC must register with The Pensions Regulator to confirm compliance with statutory duty. The deadline is 4 months after staging date i.e. June 2013). CCBC will need to provide pension scheme details and number of workers automatically enrolled.
- 4.22 Non-compliance with the rules could result in statutory notices, fines and criminal prosecution, although more likely to provide supportive measures to employers to ensure compliance. The maximum fine is £10,000 per day.
- 4.23 This is an employer duty and any failure by third party providers (e.g. the software provider) rests with the employer.
- 4.24 The workforce will need to be assessed against eligibility requirements. Employees with multiple contracts is one area of consideration and a decision is required from Council on whether to treat each contract of employment with the employee as a separate relationship or to aggregate contracts for employee. Legal advice suggests that each contract of employment is separate.
- 4.25 CCBC Auto Enrolment staging date (go live) is 1st April 2013. However, there is an opportunity to postpone the staging date to 1st October 2017 for current employees not enrolled in the LGPS. New starters will need to be auto enrolled. Other Councils have been consulted on their plans and Cardiff, Newport, the Vale of Glamorgan, RCT, Torfaen, Swansea, Powys and Pembrokeshire are postponing or recommending postponement to their elected members. Merthyr intend to implement from April.
- 4.26 Council should note that employees can join the pension scheme out of choice irrelevant of their earnings level. Auto enrolment covers employees who have to meet the criteria laid out above. Employees earning less than the auto-enrolment limits are not prevented from joining the scheme.

Actions to date

- 4.27 The team have undertaken a number of tasks to date in preparation for auto-enrolment.

- Attended various workshops on the subject matter to gain a better understanding.
- Engaging with the Trade Unions
- Midland HR have advised that iTrent will be enhanced 'to provide comprehensive support for the new employer duties'. Release date for the product was December 2012. We are currently looking to introduce the product into a test environment for iTrent week commencing 21.1.2013 and into the live environment in March 2013.
- Project group established to manage the process, and are currently on target to achieve the release date above.
- Clarification on eligibility sought from Legal

Challenges

- 4.28 The level of resource to undertake the project work, being mindful of HMRC Real Time Information (RTI) beginning on 1st April 13 and other HRESC iTrent development work is ongoing, cannot be underestimated.
- 4.29 The Midland iTrent service pack will be uploaded in January. This will need to be tested robustly. There is also a cost implication to the upgrade.

Decisions for COUNCIL

- 4.30 There are a number of decisions that Council will need to make.
- Whether to delay the implementation for existing staff to 2017. The maximum cost to the Authority could be up to £5.4m if all employees who are auto enrolled stay in the LGPS and do not elect to opt out. It is not anticipated that this would not be the outcome as employees have previously had the option to join the LGPS at anytime if that is their preference. It is unlikely therefore that employees who are auto enrolled will opt to stay in the scheme, as they have previously opted out. This will therefore create a burden for staff who will then have to contact the Pensions Authority and opt out, alongside a burden for us in administering the opt in / opt out processes.
 - Legal advice has proposed that we agree that multiple posts will not be aggregated but will be taken individually. This means that employees will need to opt-out for each contract, but it may reduce the number of employees being auto enrolled as fewer will meet the enrolment requirements due to qualifying earning thresholds in each post.

Future actions

- 4.31 A communication plan for staff will be delivered including written communications, the use of the intranet and information for line managers to share.
- 4.32 Engagement with the Trade Unions will continue.
- 4.33 Individual communications to employees regarding the changes and advice when they are auto enrolled will be forwarded. (Letter templates are available to use).
- 4.34 Automatic enrolment will necessitate a full review of HR policies relating to recruitment and where pensions are referred to and a review of documentation issued to staff to ensure the changes are reflected.

5. EQUALITIES IMPLICATIONS

- 5.1 An **EqIA screening** has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance and no potential for unlawful discrimination and/or low level or minor negative impact have been identified, therefore a full EqIA has not been carried out.

- 5.2 This facility is afforded to all staff and it is their choice whether to contribute to the pension fund. The opportunity to access the scheme has a positive implication for an employee regardless of their individual circumstances and background.

6. FINANCIAL IMPLICATIONS

- 6.1 There is a potential significant cost to the auto-enrolment of all employees who are eligible. The estimated cost could be up to £5 million per year to the employer. However it is not anticipated that significant numbers currently opted out will choose to opt in.
- 6.2 There is also a cost to the employee, which is dependent on salary.

7. PERSONNEL IMPLICATIONS

- 7.1 There are benefits to employees to participate in a pension scheme as a way to save effectively for retirement.
- 7.2 There are significant resource implications for the HR and payroll teams not just in the short term to deliver the requirements of the project but to also maintain the administrative requirement of auto-enrolment.

8. CONSULTATIONS

- 8.1 Head of Finance
8.2 HR Senior Team
8.3 Deputy Chief Executive

9. RECOMMENDATIONS

- 9.1 Council approve postponement of auto-enrolment to October 2017 staging date for existing employees. This is in the context of allowing current employees to opt into the pension scheme independently should they wish to. New starters will have to be auto-enrolled after April 2013.
- 9.2 Council approve that contracts are auto-enrolled on an individual basis, not on an aggregated basis, as each contract is a separate relationship.
- 9.3 Council note the content of the report and the administrative workload to undertake the project.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 Postponement is recommended as a removal of an administrative burden to the Council and the employee and it does not prevent current employees from opting into the pension scheme should they wish to.
- 10.2 9.2 is recommended as an employee may choose to auto-enrol in one post and not another which would be a matter of personal choice.

11. STATUTORY POWER

- 11.1 COUNCIL.

11.2 Auto-enrolment is a legislative requirement under the Pensions Act 2008.

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