

General Purposes Committee

13 March 2013

Supplementary agenda

16 Pensions Automatic Enrolment – preparation and progress update 3

Reason for urgency: The Access to information regulations have not been met in respect of the publication of this report. The Chair has agreed to its despatch to members on the grounds that a decision to defer auto enrolment has been taken and HR officers would like to report to members prior to the original deadline of 1 April 2013.

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GENERAL PURPOSES COMMITTEE

Date: 13 March 2013

Agenda item:

Wards: not applicable

Subject: Pensions Automatic Enrolment – preparation and progress update

Lead Officers: Dean Shoesmith – Executive Joint Head of HR / Marissa Bartlett - Joint Head of HR Transactional Services (HR Shared Service LB Merton & LB Sutton)

Lead Member: Councillor Mark Allison

Forward Plan reference number: not applicable

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Recommendations

General Purposes Committee is asked to

- (i) **note the contents of the report in relation to the actions being taken to prepare for pensions automatic enrolment of new employees as at 1st April 2013 and;**
 - (ii) **agree to support focused action to encourage voluntary enrolment into an appropriate pension scheme and especially in the advent of changes to the Local Government Pension Scheme in 2014.**
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1.0 PURPOSE OF REPORT

- 1.1 This report provides General Purposes Committee with a progress update regarding the preparation being undertaken for Pensions Automatic Enrolment, ahead of the Council's 'staging date' of 1st April 2013. At the

Council's staging date, all new employees fulfilling certain eligibility criteria will be automatically enrolled in a qualifying pensions scheme such as the Local Government Pension Scheme (LGPS) or Teachers' Pension Scheme.

2.0 EXECUTIVE SUMMARY

- 2.1 Automatic enrolment affects all pension schemes, in both the private and public sector. The Government's underlying objective in introducing the recent Pensions Reform legislation has been to target smaller private sector companies where pension schemes are not made available to employees and often where pension scheme uptake is low. The Government is also determined to apply greater control, consistency and regulation around the application of pension schemes. These objectives also apply across local government and the wider public sector in lieu of this wider pensions reform approach.
- 2.2 Merton Council has decided to defer automatically enrolling all existing 'eligible jobholders' on financial grounds. The 'transitional delay' discretion was available to local authorities offering a defined benefits scheme. Merton, Sutton, Kingston and many other London Councils have taken this same decision.
- 2.3 Merton takes its role as 'responsible employer' very seriously and although proposing delay in auto-enrolling existing employees, the momentum to encourage enrolment into an appropriate pension scheme such as the Local Government Pension Scheme can still be done on a voluntary basis. A form of automatic enrolment already exists and employees have to sign a certificate to 'opt out' of the pension scheme otherwise they are automatically admitted.
- 2.4 For Merton, the financial implications of deferring automatic enrolment for existing employees has been considered. A projected financial assessment has been undertaken based on current numbers of existing employees who have 'opted-out' of the pension scheme. Of the 2339 employees, 877 would be eligible for automatic enrolment. The maximum general fund cost to Merton of all eligible employees 'opting-in' and remaining in the pension scheme after automatic enrolment would be £1,942,286. Assuming the Government guideline of 30%, remaining in the scheme, the additional cost would be in the region of £582,685 per annum.

- 2.5 The Council clearly has a responsibility to encourage staff to plan for their retirement as well as support them in ensuring this is affordable for all parties concerned. Merton currently operates a form of automatic enrolment (2.3 above refers) as all new employees have to actively 'opt-out' of the pension scheme, and this approach will remain extant. Any non-eligible employees will also have the opportunity to join the pension scheme should they wish, irrespective of the recommendation to defer existing employees to 2017. The report recommends further communication to encourage voluntary enrolment, especially once the new Local Government Pension Scheme is implemented from April 2014.
- 2.6 The overarching regulations of the LGPS and the Teachers' Pensions Scheme means that Merton will need to continue to enrol all new staff automatically but the requirements of automatic enrolment impose continuing, additional duties on the employer in respect of employees that 'opt out'.

3.0 DETAILS

- 3.1 The principle of 'automatic enrolment' is to encourage all employees to save for their retirement and to join an appropriate pension scheme. Retirement planning and funding for retirement is a positive initiative for both employee and employer. This is supported strongly in Merton, and its stance as 'responsible employer' emphasises that positive action should take place to encourage voluntary enrolment into an appropriate pension scheme. Merton already operates a form of automatic enrolment (with the right to opt out) for all new employees in both the contractual Local Government Pension Scheme (LGPS) and Teachers' Pensions Scheme (TPS).
- 3.2 With effect from 'staging dates' (initially commencing in the UK from October 2012), all UK employers with more than 50 employees must automatically enrol all new 'eligible jobholders' into a 'qualifying pensions scheme' and invite most others to join. This affects all Local Government Pension Scheme (LGPS) and Teachers' Pensions Scheme (TPS) employers such as Merton.
- 3.3 Until February 2012, the new Regulations indicated that all employees not members of the LGPS or Teachers' Pensions at staging date must be enrolled on 1st April 2013. The Government (DWP) has included a late

amendment giving certain employers offering Defined Benefit pension schemes (including local authorities) the ability to defer automatic enrolment for eligible jobholder staff who previously opted out until October 2017. This only applies to current employees at the staging date and not new employees. However, automatic enrolment for new eligible job holders commences from the staging date of 1st April 2013. Based on its PAYE size at 31 March 2012, the 'staging date' for Merton is 1 April 2013.

- 3.4 A communication strategy is being developed to explain in more detail the benefits of joining the "new look LGPS" in 2014. This strategy will run concurrent with supporting new employees through the implementation of automatic enrolment so that staff can readily understand the synergies between the two initiatives.
- 3.5 Ahead of 1st April all existing staff are being written to explaining how pensions automatic enrolment will affect them. Template letters, written by the Pensions Regulator and the Local Government Employers, have been adapted to reflect Merton's cultural dimensions.
- 3.5 By exercising a delay for existing employees, Merton will still promote the 'opting in' for staff as a positive action. The "new look" LGPS for 2014 and Teachers' Pension Scheme in 2015 will bring their own administrative challenges. Coupled with the complexities of the new Pensions Regulations of 2012/13 it was considered prudent to delay implementation of automatic enrolment for existing staff to 2017 to ensure such changes over the next few years are firmly embedded.
- 3.6 In essence, the auto-enrolment requirements from Government have been introduced to ensure the UK working population makes better financial provision for retirement. There are particular consequences for low paid employees where the costs of saving can prove difficult when earnings levels are low. Merton, in common with other local authorities, employs a large number of low paid female workers. Automatic enrolment, as well as the 'new look LGPS Scheme' is designed to address some of this shortfall.

4.0 ISSUES

4.1 The categorisation of 'worker' and the eligibility of such 'workers' has been re-defined under the new Regulations. This is a fundamental part of the new Regulations. Table (A) below explains the detail:

4.2 Table (A)

Two definitions of 'worker':

- Work under a contract of employment – an employee
- Those who have a contract to perform work or services personally and are not undertaking the work as part of their own business

Criteria of eligibility

Type 1 (Eligible jobholder)		Type 2 (Non-eligible jobholder)		Type 3 (Entitled worker)	
age	earnings	age	earnings	age	earnings
22 – state pension age	Over £8,105 ## per annum	a) 16 -21 or state pension age – 74 b) 16 -74	a) Over £8,105 per annum b) Over £5,564 but under £8,105 ## per annum	16 -74	Under £5,564** per annum
Working in the UK		Working in the UK		Working in the UK	
Must be automatically enrolled		Have right to opt in		Must be informed of alternative pension provision arrangements	

** aligned to the National Insurance (NI) Lower earnings Limit, above rates from April 2012, likely to increase from April 2013.

aligned to PAYE threshold, above rate from April 2012, likely increase from April 2013, possibly to £9,205 per annum.

4.3 Type 1 - **eligible jobholders** will need to be automatically enrolled.

Type 2 – **non-eligible jobholders** will be advised that they can join the LGPS or Teachers Pension Scheme, as qualifying schemes. They will be provided with specific information and will be informed that the employer will make a contribution to the qualifying scheme if they join it.

Type 3 – **entitled workers** will be advised that they can join a pension scheme. Under the new Regulations this does not have to be a qualifying scheme and the employer is not required to contribute to it. Employer contributions will be mandatory in accordance with the Regulations where the LGPS is used.

4.4 There are a series of new employer responsibilities under the Regulations. These require individual and targeted communication to 'Types 1, 2 and 3' workers at specified dates (relevant to staging dates) and as an ongoing part of the pensions management processes.

- 4.5 Along with statutory requirements for communication, LGPS and Teachers' Pensions have suggested employers use the opportunity to remind employees of the value of their pension package. The aim is to develop sustained and ongoing communication relevant to staff as their circumstances change.

Automatic enrolment will be taking place during reform of both the LGPS (new scheme April 2014) and Teachers' Pensions (new scheme April 2015) impacting key communication messages at a potentially sensitive time.

- 4.6 Academy schools will have their own staging date based on their PAYE roll as at April 2012 and will not be included in the Borough's Automatic Enrolment exercise / responsibilities.
- 4.7 Other non-academy schools and colleges in the Borough will share the Borough's staging date – 1st April 2013. Those buying back HR/payroll services will be included in the processes as they are agreed. Those using alternative payroll providers will have to make / agree their own arrangements with their contractor (s) to fulfil their employer functions / pension notifications.
- 4.8 More detailed record-keeping is also a new and important employer responsibility.

5.0 TIMETABLE

- 5.1 **Appendix A** details the various actions needing to be taken to prepare for Merton's 'staging date' of 1st April 2013.

6.0 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1 There are currently 2339 employees (including casual staff) who are not members of the Merton pension scheme. Under the automatic enrolment arrangements if 'transitional delay' was not exercised, 877 of these employees would be eligible for automatic enrolment and would therefore be automatically enrolled into the scheme on the chosen staging date. There is a further 1462 staff who do not meet the automatic enrolment criteria but must be provided with further information on the scheme and may then choose themselves to opt in.

6.2 The total cost of the employer's contributions for all employees eligible to join the LGPS and Teachers Pension scheme , but not currently members, is estimated at £1,942,286m. However this includes the cost of school staff and some council staff whose costs are currently charged to the Dedicated Schools Grant (DSG). The table below splits out the estimated costs between non-schools and schools. It has not been possible to identify separately out those costs relating to Council staff that could be charged to the DSG.

6.3 **Employer Contribution Costs for Eligible, Non-Eligible and Entitled Employees**

Data as at 1st March 2013

	Eligible	Non Eligible	Entitled	TOTAL
	£	£	£	£
LBM General Fund	923,407	76,439	41,670	1,041,516
Schools	1,018,879	149,970	134,128	1,302,977
Total	1,942,286	226,409	175,798	2,344,493

Note: The figures shown above for schools only include those schools that buyback payroll services from the Council (51 out of 53 schools). Detailed employee data is not held for the 3 non-buyback schools.

6.4 The table shows that the maximum cost to the Council of all eligible employees opting-in is £1,942,286. However this would be based on 100% of employees opting-in which would be very unlikely. There are likely to be different take-up rates between employees eligible for automatic enrolment and non eligible employees. Eligible employees would need to take positive action to opt-out of the scheme and therefore are more likely to remain members. Those that are non-eligible would need to actively opt-in and will be earning lower salaries so it is likely that they will remain opted-out.

6.5 Other Councils are assuming that 10-20% of non-scheme members will permanently join the scheme as a result of this initiative and government research suggests that 30% may stay opted-in. Applying these rates to the table suggests an annual cost of between £194,228 and £582,686 In the short term his increased cost will be slightly offset by a decrease in employers' national insurance contribution costs but this benefit would be eliminated from 2017 when the saving on NI for staff in occupational pension schemes is removed.

6.6 The current issues around Itrent implementation mean that a judgement has been taken that it is too risky to auto enrol existing staff given the penalties that could be incurred for not doing this correctly.

6.7 It is estimated that there will be an additional transitional cost of administering automatic enrolment is estimated at £40,000 for the 3 boroughs using Itrent.. Work is currently underway on whether there are continuing costs and if so how these will be contained within existing budgets.

7.0 LEGAL AND STATUTORY IMPLICATIONS

7.1 The Council has a statutory obligation to comply with the new Pension Regulations.

8.0 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1 The auto-enrolment requirements from Government have been introduced to ensure the UK working population makes better financial provision for retirement. There are particular consequences for low paid employees where the costs of saving can prove difficult when earnings levels are low. Merton, in common with other local authorities, employs a large number of low paid female workers.

9.0 CRIME AND DISORDER IMPLICATIONS

9.1 There are no crime and disorder implications of this report.

10.0 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1 Non-compliance by an employer will run the risk of fines and other penalties from the Pensions Regulator.

10.2 Due to the complexity of administering the Regulations and because this is new and untested legislation there is a risk that the compliance activity will become overly burdensome and bureaucratic.

10.3 Some of guidance documentation especially from Teachers' Pensions has been poorly collated with confusing messages and ambiguity of advice. This has posed a risk to officers within Merton fully understanding some of the nuances of the Regulations.

11.0 APPENDICES – the following documents are to be published with this report and form part of the report.

11.1 **Appendix A** – project plan to implement Pensions Automatic Enrolment

12.0 BACKGROUND PAPERS

None applicable

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