

BRISTOL CITY COUNCIL

Human Resources Committee

10th January 2013

Report of: Strategic Director: Corporate Services

Title: Changes to Pension & Auto Enrolment

Ward: All

Officer Presenting Report: Tom Wallen - Pensions & Pay Policy Officer

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RECOMMENDATION

That the committees views are provided in relation to the implementation of the pension auto enrolment regulations, specifically in relation to:-

- 1) Applying the “3 month postponement period” allowed in the legislation.
- 2) Not applying a “3 year transitional delay” to one of the trigger points for automatically entering people into a pension scheme.

Summary

The government has introduced changes to the rules governing pension provision for employees throughout the UK. These changes introduce additional administration requirements. The purpose of this report is to explain what the changes are and the key decisions that the City Council has to make about the way in which the changes are implemented.

The significant issues in the report are:

- The pension regulator has the power to fine Bristol City Council (BCC) up to £10,000 per day if we fail to comply with the auto enrolment regulations
- The “staging date” for BCC is the 1st of March 2013. However decisions need to be made about whether we should postpone part of the implementation for 3 months, and whether we should use a “3 year transitional delay” for a smaller part of the workforce.

1. Policy

- 1.1 BCC already has contractual requirements to enrol all teachers into the TPS when they begin working for BCC. Similarly all those eligible to join the LGPS must be contractually enrolled into that scheme when they join BCC, unless their contract of employment is for less than 3 months duration.

2. Consultation

2.1 Internal

Trade Unions have been consulted at the Corporate JCC and they support the “three month postponement period” but wish the auto enrolment rules to be implemented in full from June 2013.

The Schools Forum have been consulted and they support the “three month postponement period” and are not opposed to the auto enrolment rules to be implemented in full from June 2013. However, they noted that the impact upon schools budgets may affect some schools more than others as some schools have a larger number of staff who are not currently contributing to a pension scheme than others.

2.2 External

These issues have been discussed at the South West Council's Pay & Reward group meetings. However, different local authorities within the region have made different historical decisions in relation to the administration of their payroll systems, and have different 'staging dates' for auto enrolment. Therefore local authorities will need to consider their individual circumstances.

3. Context

- 3.1 The government has introduced changes to the rules governing pension provision for employees throughout the UK. These changes introduce additional administration requirements, and the purpose of this report is to explain what the changes are & how they will affect BCC in the future.
- 3.2 The vast majority of teachers will be unaffected by these changes, as they have decided to join the Teachers Pension Scheme (TPS). However, approximately 30% of staff have decided not to join the Local

Government Pension Scheme (LGPS) and will therefore be affected by the auto enrolment regulations.

- 3.3 The Pensions Regulator has been given a range of new powers under The Pensions Act 2011. This includes the ability to issue notices which impose financial penalties which can be fixed or escalating amounts. A fixed penalty will be a single amount specified by the pension's regulator. An escalating penalty will continue to accrue day-by-day until the employer remedies their non-compliance, and for employers with more than 500 workers The Pensions Regulator has the power to impose a **penalty of £10,000 per day for non-compliance**.
- 3.4 New '**auto enrolment regulations**' are designed to automatically enter people into an occupational pension scheme, but not to force people to save for retirement via a pension arrangement. Experience from other countries has shown that automatically enrolling people into a pension scheme in this way increases the percentage of the population saving for retirement. However it should be noted that BCC already has a contractual requirement to enrol the vast majority of employees into a pension scheme when they join the local authority. The new auto enrolment requirements apply to all UK employers, many of whom do not currently enrol new employees into a pension scheme.
- 3.5 In practice this means;
- Employees who are already paying into the Teachers', NHS or Local Government Pension Scheme will be unaffected by these changes.
 - Employees who are not currently contributing to a pension scheme will be automatically entered into a pension scheme when they meet any of the various trigger points specified in the legislation. If someone who has been automatically entered into a pension scheme decides that they do not want to contribute to that pension scheme they will be able to complete a form to opt-out of the pension scheme at that stage. Their employer may then be required to automatically enroll them into the pension scheme again at a later date. At that stage the individual would still be free to opt-out of the pension scheme again, if they wished to do so.
- 3.6 These auto enrolment regulations will apply to public & private sector employers throughout the UK, but the "staging date" when employers have to comply with these requirements varies depending upon the size of the employer. The staging date for Bristol City Council is the 1st of March 2013, because it is a large employer. However smaller employers have a later staging date, based upon the number of employees on their largest PAYE reference code as at the 1st of April

2012. Those organizations that are created after the 1st of April 2012 will have a staging date in May 2017. Therefore schools that became academies or foundation trust schools before the 1st of April 2012 will have an individual staging date that differs from BCC locally managed schools, and those schools that converted their status after the 1st of April 2012.

- 3.7 Unlike some other local authorities BCC did not decide to enroll all part-time teachers into the TPS on the 1st of January 2007, and prior to this date part-time teachers had to actively opt-into the TPS. Therefore the small number of part-time teachers who joined BCC prior to the 1st of January 2007 and who are not currently contributing to a pension scheme have never actively opted-out of the TPS.
- 3.8 Unlike some other local authorities BCC does not have comprehensive records of pension scheme opt-out forms to confirm who has actively opted-out of the joining a pension scheme.
- 3.9 The Pensions Regulator has issued approximately 280 pages of guidance on how to comply with the auto enrolment regulations. The Pensions Trust's "Workplace Pensions Reforms" calculates that the anticipated administration costs of compliance as between £5 and £20 per employee, for organizations with 250+ employees, in the first year of implementation.

4. Proposal

- 4.1 There are two key discretions available to employers that are explained below. The first trigger point under the auto enrolment rules is the employers "staging date" (1st March 2013 for employees of BCC). Therefore all "eligible jobholders" who are not contributing to a pension scheme must be enrolled into a pension scheme at this point unless the employer decides to use a "3 month postponement" or the "3 year transitional delay".

i) 3 month postponement

It is possible to delay the trigger point for auto enrolment at the employers staging date by 3 months, by issuing a postponement notice. Using the 3 month postponement would move the date when large numbers of people were brought into the scheme past the end of the financial year, which is a very busy period for payroll. If this is not done

there may be delays in refunding pension contributions to those who do not wish to join a pension scheme, as we anticipate a large number of opt-out forms as well as a large number of people deciding to stay in the pension scheme. Therefore it is recommended that BCC uses the “3 month postponement period” allowed in the legislation for BCC employees.

ii) 3 year transitional delay

It is also possible to delay the trigger point for auto enrolment at the employers staging date by 3 months, by issuing a transitional delay notice. However, this does not delay the monitoring requirements or the requirement to automatically enroll eligible job holders when they hit another trigger point (for example their 22nd birthday).

- 4.2 If both the 3 year transitional delay & the 3 month postponement are used there are a number of administrative complications with the letters and notices that would need to be issued to different categories of employees. Therefore it is recommended that BCC does not use the “3 year transitional delay”.

5. Other Options Considered

- 5.1 The pros and cons of the options available under the regulations are outlined in the body of this report.

6. Risk Assessment

- 6.1 Not using the 3 month postponement notice would mean that a large number of people would be put into an occupational pension scheme on the 1st of March. This is just before the end of the financial year, which is a particularly busy time for payroll administration. It is anticipated that a large number of employees will return pension scheme opt-out forms after they are placed into a pension scheme as a result of the Auto Enrolment regulations. Therefore payroll expect to have to process a large number of pension scheme opt-out forms shortly after the implementation date.
- 6.2 If a large number of pension scheme opt-out forms are received at the busiest time of the year for payroll there could be delays in refunding contributions to those who do not wish to contribute to a pension scheme.

6.3 Using the 3 year transitional delay, in conjunction with the 3 month postponement notice would introduce a number of complexities in the number of letters that would have to be sent to employees. In this situation the 280 pages of guidance notes from the pension regulator outline various letters which would need to be sent out to different groups of employees. This would potentially cause confusion to employees and would increase administration costs.

7. Public Sector Equality Duties

7a) Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to -
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

7b) An separate equalities impact assessment has not been undertaken by Bristol City Council as these proposals relate to the administration of national regulations issued by central government. Central government considered the equalities impact of the introduction of these regulatory

requirements before they were introduced.

Legal and Resource Implications

Legal

The Report details the requirements of the Pension Act 2008 and 2011 in relation to auto-enrolment. The recommendations contained within the Report are in accordance with the legal requirements of the Act.

(Legal advice provided by Husinara Jones - Senior Practitioner, Solicitor)

Financial

(a) Revenue

The Council's budget process include an allowance for Employers pension costs for all vacant posts. Any additional financial impact will arise from existing staff opting back into the Pension scheme. Appendix B identifies this as having an additional cost of between £75,000 to £300,000. Officers assessment is that it is likely to be at the lower end of this range and therefore the additional costs can be able to be contained within the existing budget.

(b) Capital

Not applicable

(Financial advice provided by Graham Friday – Head of Corporate Finance)

Land

Not applicable

Personnel

The above sections of this report outline the personnel implications

Appendices:

Appendix A: Uptake rate for occupational pensions at BCC

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

None

Appendix A: Take up rate for occupational pensions at BCC

The new auto enrolment regulations are designed to automatically enter people into an occupational pension scheme, but not to force people to save for retirement via a pension arrangement. Experience from other countries has shown that automatically enrolling people into a pension scheme in this way increases the percentage of the population saving for retirement.

Many organisations within the UK do not automatically enrol employees into a pension scheme, even if the organisation offers their employees access to an occupational pension. However, since the 1st of January 2007, Bristol City Council has already been required to automatically enrol all new teachers into the TPS under the regulations governing this pension scheme. We must also automatically enrol most new employees into the LGPS, if their terms and conditions of employment mean that they are eligible to join the LGPS (rather than the TPS). The only exception is for those with a contract of employment for less than 3 months duration, who are eligible to join the LGPS. These employees have the right to opt into the LGPS should they wish to do so, but they are not automatically enrolled when they begin working for BCC.

Evidence from other countries suggests that approximately 50% of those who are automatically enrolled into a pension scheme will continue to contribute. However, for BCC we need to remember that the vast majority of BCC employees who are not contributing to an occupational pension scheme have already actively decided to opt-out of the relevant pension scheme because of the existing pension enrolment provisions described above.

Some of those who have previously decided not to contribute to a pension scheme may have decided to pay into a pension scheme after being automatically enrolled again. It is difficult to assess the potential scale of this impact, but it is likely to be in the range of 5% to 20% of those who have currently opted out of the LGPS, if they did re-join the scheme this would increase employment costs of those paid from the BCC general fund between £75k to £300k per annum. To put this in context this represents approximately 0.14% of the total amount of the £208M staffing budget for the BCC general fund for 2012/13.

The above figures exclude schools, which are budgeted for separately from the BCC general fund.