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Auto-enrolment: the post staging date guide

How to...

# audit your auto-enrolment scheme compliance



Johnson Fleming

Group Pensions | Group Risk and Healthcare | Service Provision

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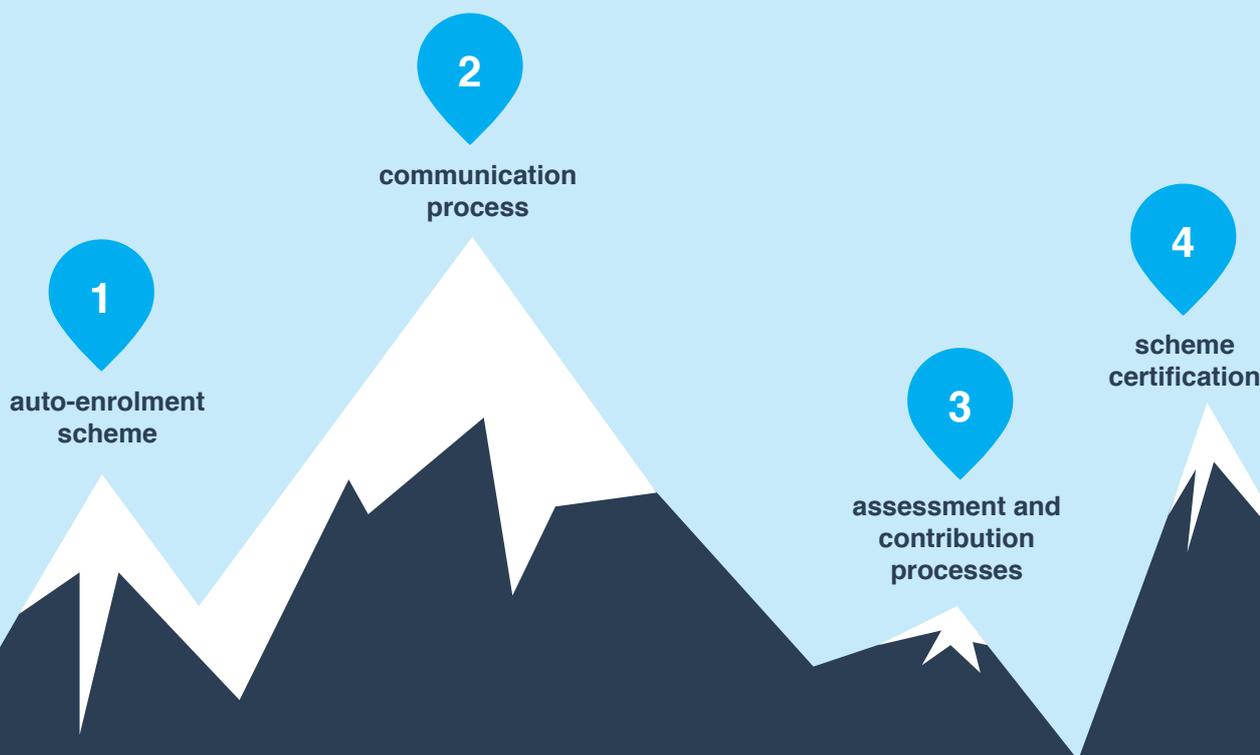
# Introduction

For many HR and pension professionals the last two years have all been about getting through their auto-enrolment staging date successfully. But, as the Regulator starts to bare its teeth and the changes to defined contribution (DC) pensions mentioned in the Budget and Queens Speech start to come in to force, it is now more important than ever to fully understand whether your scheme and the processes you have put in place to manage it remain compliant.

So far The Pensions Regulator has issued 23 auto-enrolment compliance notices and has even used their powers to inspect premises or demand documentation up to five times. Whilst no fines have yet been issued they have stated that they expect to see an increase in the number of times they will have to use their statutory powers.

In this guide we'll help you understand the **4 key areas** you should be reviewing to ensure compliance, identify common areas where breaches occur almost unknowingly, and provide you with a helpful checklist to make sure no stone goes unturned in the auditing of your auto-enrolment compliance.

**The 4 key areas to audit are your:**



# 1. Auditing...

## **your auto-enrolment scheme**

Your scheme forms the crux of your auto-enrolment programme and there are clear guidelines set out determining what a qualifying auto-enrolment scheme is. However, the imminent changes to DC pensions, such as the annual management charge cap and the removal of active member discounts, means your audit should also include reviewing your schemes compliance with these.

When looking retrospectively at your scheme it is not only key to review whether or not it meets the auto-enrolment criteria, the qualifying scheme criteria and the minimum requirements, but are your record keeping processes robust enough to demonstrate this, should the Regulator come calling. The simple tick sheet opposite, whilst not exhaustive, will help you to understand the areas you need to be reviewing.



## What to check...

Audit requirements	✓/x	Notes
<b>Is your scheme free from any barriers to enrolment?</b>	<input type="checkbox"/>	These could be barriers such as length of service rules (i.e. can only join the scheme after 1 years service) or a requirement to choose an investment fund.
<b>Is your scheme free from any requirement for eligible employees to provide information to become a member?</b>	<input type="checkbox"/>	This could be an application form or the need to provide written consent.
<b>Does your scheme meet the minimum requirements for its pension scheme type?</b>	<input type="checkbox"/>	These vary by scheme type and can be found at <a href="http://www.thepensionsregulator.co.uk">www.thepensionsregulator.co.uk</a>
<b>Does your scheme provide access to a default investment option?</b>	<input type="checkbox"/>	As individuals are not required to make an active choice when being enrolled, a default investment option must be in place.
<b>Have all required pieces of documentation and record keeping been maintained for the regulated period of time?</b>	<input type="checkbox"/>	Details of these required records and lengths of time can be found in our “How to...change your auto-enrolment support options” guide.
<b>Does the scheme fit within the annual management charge cap of 0.75%</b>	<input type="checkbox"/>	This charge cap will come into force from April 2015.
<b>Is the scheme free from active member discount pricing?</b>	<input type="checkbox"/>	Active member discount schemes are being removed from April 2016.
<b>Is the scheme free from any member borne commission elements?</b>	<input type="checkbox"/>	This facility is also being removed from schemes in April 2016.

## TOP TIPS

- Many potential breaches come from unwitting inducements or barriers to entry such as; prohibited recruitment or the provision of an opt out form or application form at the start of employment.
- If your scheme contains any of the final three points it needs to be reviewed sooner rather than later. Many providers are implementing these changes earlier than the prescribed dates and with the industry already stretched due to ongoing auto-enrolment it makes sense to make these changes as early as possible.

## 2. Auditing... **your communication processes**

When auditing your auto-enrolment communication there are three key areas to review. Firstly, have the correct communications gone to the correct people, is the wording of the communication in line with regulations and accurate, and has it been provided on time. Whilst the Regulator will mainly be looking at the statutory communication that you are required to provide, as best practice you should include all auto-enrolment communication in your audit as well as the communication processes between you and your provider.



**Automatically  
here.** *Always there*

## What to check...

Audit requirements	✓/x	Notes
Do you have an audit record of all communications sent to each individual employee?	<input type="checkbox"/>	It is important to maintain records of who was sent what communication, be it letter or e-mail, and on what day this was sent.
Have employees received their statutory communications at the correct time?	<input type="checkbox"/>	There have been many examples of employees receiving the communication after being enrolled into the scheme, which has a knock on effect to the opt out and opt in windows.
Does the notification of new joiners to the provider always take place in time?	<input type="checkbox"/>	If this is done late this can mean the provider supplying the employee with their information too late.
Does the wording of your communication contain all the statutory information as detailed by the Regulator?	<input type="checkbox"/>	This wording can be found on the Regulators website in their template letters.
Is the wording of your auto-enrolment communication free from any inducement to opt out of the scheme?	<input type="checkbox"/>	This can often be done unwittingly and the Regulator will see this as a breach of compliance even if no opt out occurred as a result.
Do all communications contain the correct up to date information in relation to your scheme and the regulation?	<input type="checkbox"/>	Potential breaches here could be incorrect salary bandings for the relevant tax year.

## TOP TIPS

- In your communication you should ensure your wording does not persuade workers to take a particular course of action or encourage workers to leave a scheme.
- The maintaining of a robust audit history of all communications sent to your employees can also be useful when dealing with HR disputes.
- Implementing an annual re-approval process of all communication can ensure that the content of your communication remains up to date and accurate.

### 3. Auditing your... **assessment and contribution processes**

It is in the mechanics of auto-enrolment where many breaches can occur. The Regulator has already issued notices to companies relating to unpaid contributions, and made an example of one company who owed over £100,000 in unpaid contributions, due to issues with their payroll systems and processes. When auditing this area you need to look at how you assess your staff and the decisions you have made on who needs to be assessed, as well as whether or not contributions have been applied correctly.



## What to check...

Audit requirements	✓/x	Notes
<b>Have all the people in your business who need to be assessed, been assessed?</b>	<input type="checkbox"/>	For standard employees this should be fairly straightforward, but employers need to also consider employees such as LLP partners, temporary staff and the self employed.
<b>Do your scheme contribution levels meet those set out in the minimum requirements for an auto-enrolment scheme?</b>	<input type="checkbox"/>	These can be found in the Regulators detailed guidance, and employers should also be aware of the phasing in of increasing contribution levels.
<b>Have the correct level of contributions always been taken?</b>	<input type="checkbox"/>	Discrepancies can occur when pay elements such as bonuses or commission fluctuate, or employees have a leave of absence such as maternity, paternity or sick leave.
<b>Where refunds are required have these always been implemented to ensure fund levels balance?</b>	<input type="checkbox"/>	This normally occurs when an opt out has taken place.
<b>Have all funds been allocated by the 22nd of the following month at each contribution window?</b>	<input type="checkbox"/>	Issues in payroll processes can often have a knock on effect to the application of contributions in a timely manner.
<b>Where salary sacrifice is used as the main contribution method has this been applied correctly?</b>	<input type="checkbox"/>	For example, has the salary sacrifice communication been kept separate from auto-enrolment communication?

## TOP TIPS

- It is the responsibility of the employer to determine who needs to be assessed, so a good idea is to document the agreed policy here to demonstrate your reasoning to the Regulator.
- Tightening up of, and reviewing internal payroll processes, can help ensure correct contributions are made at the correct time. Involve your payroll team and other leaders of the business to illustrate the importance of these deadlines.
- The increase to the National Minimum Wage may have a knock on effect to those currently contributing via salary sacrifice, as their contributions cannot take them under the minimum wage limit. It is your responsibility as an employer to identify these people and change their contribution method.

## 4. Auditing your... **scheme certification**

The certification of your scheme as qualifying for auto-enrolment is required if you are using pensionable pay as your earnings definition, or if total earnings tend to fluctuate. Confusion around the need to certificate and where the responsibility lies for this has been fairly commonplace in the early days of auto-enrolment, so this is an important area for you to consider when auditing your scheme. As schemes and their rules can often change within their lifetime it is important to ensure that your original certification declaration is still accurate.



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## What to check...

Audit requirements	✓/x	Notes
<b>Do you have separate certification for each employee group that is treated differently within the scheme?</b>	<input type="checkbox"/>	If you have different rules for different employee groups you will need to certify for each of these.
<b>Do you have a separate certification certificate for each required scheme?</b>	<input type="checkbox"/>	Many employers will operate a number of schemes. The certification certificate applies to the individual scheme, not the employer.
<b>Was your certificate in place before your staging date?</b>	<input type="checkbox"/>	Many employers have certified late, which would be viewed as a breach by the Regulator.
<b>Have you maintained a copy of your certificate?</b>	<input type="checkbox"/>	The Regulator and employees can ask to see this at any time, so it must be retained.
<b>Did you re-certify the scheme after 18 months?</b>	<input type="checkbox"/>	A certificate lasts no longer than 18 months and therefore must be renewed before it expires.
<b>If changes have been made to the scheme since certification, have you re-certified?</b>	<input type="checkbox"/>	Any significant changes to the scheme mid-period would mean the certificate was no longer valid and so would need to be re-certified before the 18 month expiry.

## TOP TIPS

- The upcoming changes to DC pensions may mean a substantial change to your existing scheme, therefore it is important to remember that there may be a need to re-certify your scheme once these have been implemented.

# Achieving good scheme governance

Whilst conducting this audit, it also gives you a good opportunity to benchmark your scheme against key elements that represent good scheme governance, regardless of auto-enrolment compliance. Many see pension scheme governance as being purely around the investment decisions taken, but to truly understand the performance of your scheme we believe it's better to take a complete 360 degree view of your scheme. Some areas that we believe you should also look at are:

## **Contribution decisions**

What are current average contributions, and how do they tally with current average selected retirement ages? If your employees are not contributing enough then this will have a knock on impact to how you manage your retirement population and the outcomes they will get from their scheme. Looking at contributions can also help you understand the costs associated with the scheme and potential National Insurance savings.

## **Investment decisions**

Undeniably investment choices have a large impact on outcomes members receive, so employers should review the investment trends present in their scheme, including membership and performance of the default fund. This will help you understand the need for greater financial education on investment options for your workforce.

## **Decumulation decisions**

The choices people make at retirement are now more important than ever after the greater freedom that has been granted. By looking at selected retirement ages and cross referencing this against areas such as contribution levels, salary ranges and current age of your membership you can get an idea of whether the decisions currently made are appropriate, helping you to manage your retirement population.

## **Administration**

Some of this will be covered in your wider auto-enrolment scheme audit such as timing of contributions and the performance of internal processes, but you should also look at areas such as errors in contribution reports and how these have been rectified, and the overall performance of your provider.

## **Value for money**

To ensure your scheme is still competitive, a benchmarking exercise can also be useful. Whether this is just against providers such as NEST and Now:Pensions or completing a full market test. Including this exercise as part of the audit will ensure the scheme you are providing is the best it possibly can be for your members.

## **Protection of assets**

To provide peace of mind for both yourself and your employees it is also worth reviewing how the assets of the scheme are protected. This could take the form of looking at your providers de-risking strategy or reviewing how many of your members assets exceed the current level of the Financial Services Compensation Scheme (FSCS).

# Summary

Whilst The Pensions Regulator will take notice of breaches in your scheme, they are more likely to be interested in how you rectify them.

Hopefully your audit will show you that everything is running smoothly and the hard work you have put in has paid off, but if it does uncover some areas that need attention, it is far better for you to discover them than the Regulator.

Embedding this audit into a wider robust governance structure represents best practice for all DC schemes. Regularly reviewing every aspect of your scheme from auto-enrolment processes and compliance, to investment and contribution decisions helps you gain a full picture of your scheme performance and ensure you are doing everything possible to help your members gain the outcomes they desire.

If you haven't completed an audit of your auto-enrolment compliance before, now is definitely the time to do it. With re-enrolment approaching along with the upcoming changes to DC pensions, completing this audit will help you identify whether or not there is a need to change your auto-enrolment support options.

At Johnson Fleming we offer comprehensive governance services through the use of our administrative platform, **inform+equip**. Coupling this with information from your provider we can provide effective reporting on every aspect of your schemes performance. We also use our experience in administering auto-enrolment schemes to undertake a detailed audit of your auto-enrolment processes and provide advice and guidance on how these can be developed or improved.

To find out more visit **[www.johnsonfleming.com](http://www.johnsonfleming.com)** or contact us now on **01527 571 300**.

# Contact information

To find out more about any of the issues raised in this guide please feel free to get in touch...



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