

Automatic enrolment

Commentary and analysis: April 2017-March 2018

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Foreword

Welcome to the sixth edition of 'Automatic enrolment: commentary and analysis', where we report on the impact of automatic enrolment (AE) and the role it is playing in participation in workplace pensions.

It has been another busy year, and we continue to make sure that AE remains business as usual for employers, helping them with any issues they might have, and working to make sure that they don't evade their duties. Our ultimate goal is that employees receive the pension benefits they're entitled to under law.

So, with all employers now in the picture and the majority feeling that AE is the norm, our attention focuses on brand new employers ensuring they are complying with their legal duties.

At the end of March 2018, more than 9.5 million workers had been automatically enrolled into a workplace pension, and 1.1 million employers had completed their declarations of compliance. Only a year earlier it was half a million employers.

Because of the way the employers staged by size (largest first, small and micros last), more than half a million small and micro employers reached their staging date in the last year. As the volumes of employers staging rose dramatically, so did our enforcement activity, as we dealt with larger numbers of employers. Between January and March 2018, for example, we issued nearly 20,000 Compliance Notices, over 11,000 Fixed Penalty Notices, and over 2,500 Escalating Penalty Notices for those who persistently failed to meet their duties. The volume of enforcement action in this quarter represented over 20% of our total use of AE powers to date.

We're doing a great deal of work to ensure employers comply with their duties, especially given the huge volume that are now operating pension schemes for their staff. Our compliance activity has shifted and is increasingly led by data and intelligence analysis, and we can now identify individual employers we believe are non-compliant and take action to ensure compliance faster and more effectively.

We are overseeing the authorisation and supervision of master trusts from October this year, to ensure members are in financially stable, well-run schemes. We have enforcement powers we can use if we find this is not the case.

We're also monitoring employers and making sure they're complying with the new increased contribution rates, which were introduced from April 2018. Pleasingly, our initial analysis shows high compliance rates but we will continue to oversee the situation so this can be sustained.



Darren Ryder
Director of Automatic Enrolment

Executive summary

AE: results so far

Proportion of UK staff in a workplace pension scheme:*



84%, up from 77% last year

662,978 

employers completed their declaration of compliance between April 2017 and March 2018

Total staff automatically enrolled by March each year



By 2013
1 million



By 2014
3 million



By 2015
5.2 million



By 2016
6.1 million



By 2017
7.7 million



By 2018
9.5 million

The proportion of private sector eligible staff participating in a workplace pension has increased sharply from



42%
in 2012 to

81% in 2017



Total amount saved by eligible savers in 2017:

£90.3 billion,

up from £86bn last year

Totals throughout may not sum due to rounding

* Latest figures from <https://bit.ly/2LIDQnW>

Engagement and support in 2017-2018



unique visitors to our AE webpage for business advisers



unique visitors to our AE webpage for employers



employers used our Duties Checker tool



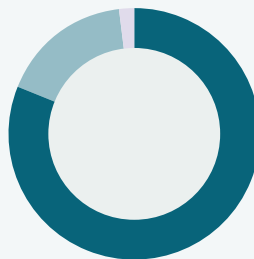
speaking events conducted across the UK

During the year, our customer support team handled around

390,000
telephone calls



Proportion of communications via different channels



- 81% Phone
- 17% Email
- 2% Letter

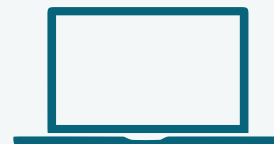
and **90,000** queries via email and letter from employers and advisers.

Of these queries, **93%** were resolved within 5 days,

and **99.9%** within 10 days of the first contact.

90% of customers rated the service they received as excellent, very good or good.

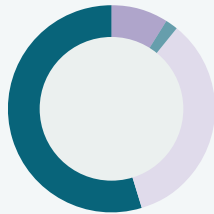
Satisfaction with the time taken to resolve queries was **96%**.



Totals throughout may not sum due to rounding

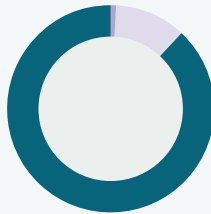
Type of scheme used

Type of pension scheme used by employers with 30 or more staff for AE



- 9% Defined benefit
- 2% Hybrid
- 35% Personal pension DC
- 55% Defined contribution
- 0% Unknown

Type of pension scheme used by employers with fewer than 30 for AE



- 1% Defined benefit
- 0% Hybrid
- 11% Personal pension DC
- 88% Defined contribution
- 0% Unknown

In 2017-2018 we issued:



906 Inspections



60,952 Compliance Notices



4,499 Unpaid Contributions Notices



28,864 Fixed Penalty Notices



7,027 Escalating Penalty Notices



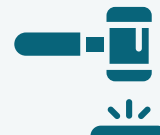
249 Information Notices

Our interventions



109,151
cases closed in 2017-2018

102,497
uses of our formal powers in 2017-2018



AE: Background

AE commenced in October 2012, and the staged approach has now finished. Up until October 2017, employers were given a staging date from which their AE duties would come into effect. This amounted to over 1.45 million employers. All employers need to remain compliant with their full duties¹, including re-enrolling staff every three years, and ensuring they pay staff contributions in line with the planned increases introduced in April 2018 and continuing in April 2019. New employers need to enrol staff into a pension right away – their legal duties begin on the day their first member of staff starts working for them.

How AE works

Employers must enrol all eligible jobholders into a qualifying pension scheme and make contributions. This applies to staff aged at least 22 but under state pension age (SPA), ordinarily working in the UK and earning more than £10,000 per year, unless they are already a member of a pension scheme that meets certain criteria set out in law. A staff member who is automatically enrolled into a scheme has the option to opt out of it within one month if they choose.

Table 1: Categories of worker

Earnings	Age		
	16-21	22-SPA	SPA-74
Lower earnings threshold or below (£5,876)	Entitled worker		
More than lower earnings threshold up to and including the earnings trigger for automatic enrolment (£10,000)	Non-eligible jobholder		
Over earnings trigger for automatic enrolment	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder

- 1
 - ▶ Pay regular contributions to the pension scheme on behalf of existing members of the scheme.
 - ▶ Monitor the ages and earnings of new staff and existing staff who are not already members of the scheme. All staff who meet the criteria must be enrolled into the pension scheme.
 - ▶ Manage requests to join or leave their pension scheme.
 - ▶ Keep records of how they have met their legal duties, including a register of members, records of contributions and any requests to join or leave the pension scheme.
 - ▶ Re-enrolment – every three years employers need to put staff back into their pension scheme if they have left it, and if they meet the criteria to be put into a pension scheme.

Employers must provide information to us to show they are meeting their AE duties. This means completing a declaration of compliance (DoC) using our online service within five months from their duties start date.

Employers need to keep paying contributions into the pension scheme they have set up, keep up-to-date records for their staff, monitor any changes in age or earnings, and manage requests to opt in or leave the scheme every time they run their payroll.

Every three years, staff who were automatically enrolled but opted out of or ceased active membership of a pension scheme more than 12 months before an employer's re-enrolment date must be automatically re-enrolled into the scheme. Again, they have the choice to opt out. This prompts them to revisit their initial decision to opt out.

Planned increases to contribution rates

The minimum contribution rate for DC pension schemes, personal pension schemes and some hybrid schemes is being increased over time. In April 2018, contribution rates increased from a minimum of 2% overall (with at least 1% from the employer) to a minimum of 5% overall (with at least 2% from the employer). Minimum contribution rates will increase again in April 2019 to a minimum of 8% total (with at least 3% from employers).

Table 2: Planned increases in minimum contributions

Phase	Duration	Employer minimum contribution	Total minimum contribution
First transitional period	To 5 April 2018	1%	2%
Second transitional period	6 April 2018 to 5 April 2019	2%	5%
From 6 April 2019 onwards		3%	8%

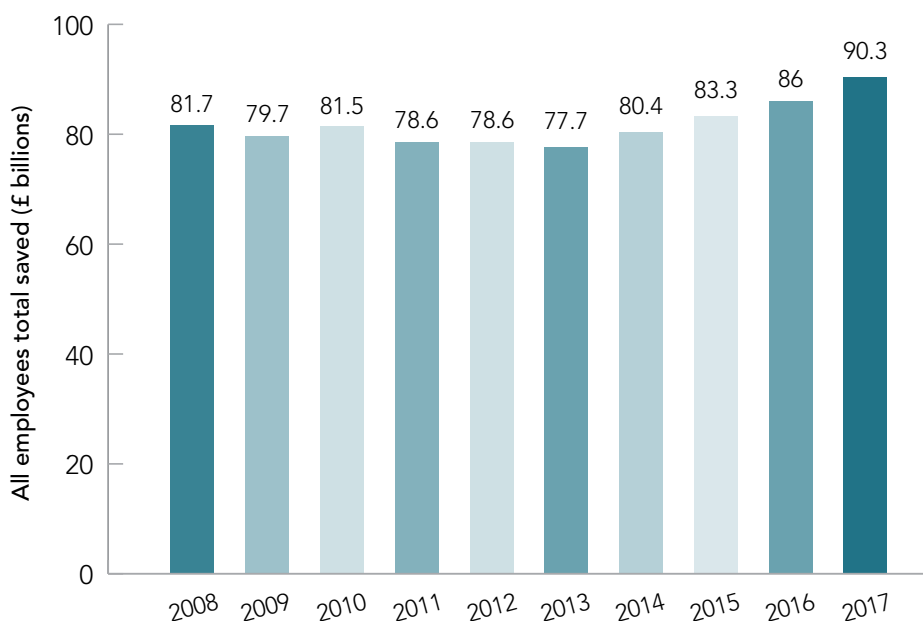
How AE has affected the pensions landscape

Trends affecting UK pensions

By the end of March 2018, over 9.5 million people had been automatically enrolled into a pension scheme. Between the introduction of the reforms in 2012 and April 2017, the overall proportion of eligible staff saving into a workplace pension increased from 55% to 84%.

As seen in Figure 1, the annual amount saved by eligible savers was £90.3 billion in 2017 – an increase of £4.3 billion on the total amount saved last year.

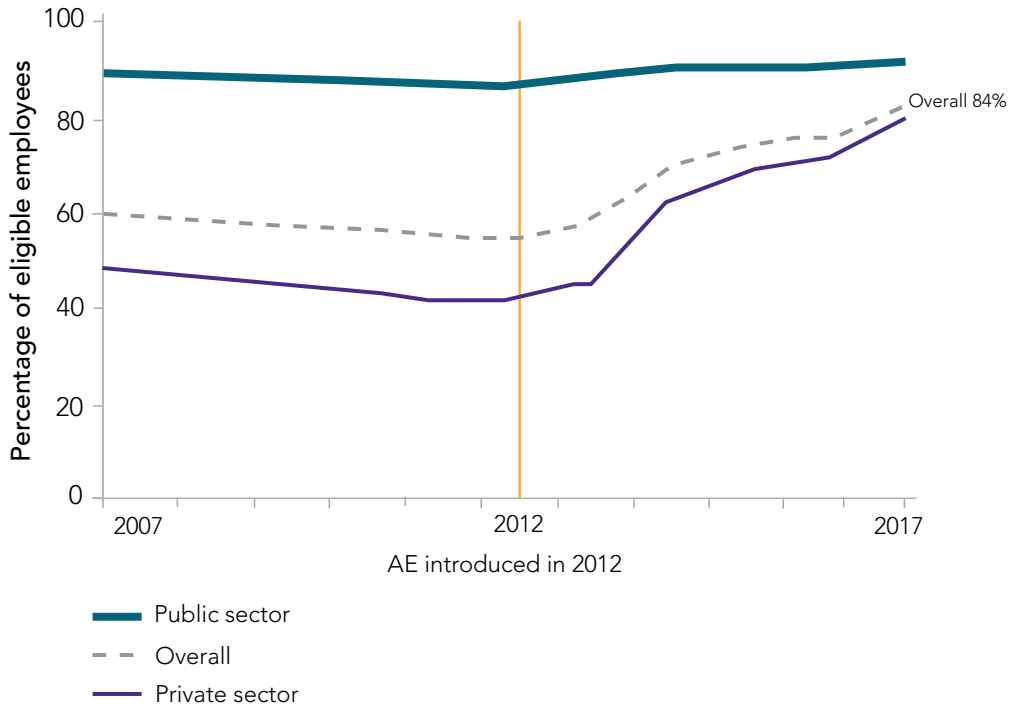
Figure 1: Increase in saving from 2008



Source: <https://bit.ly/2DaPHpz>

Between 2007 and 2012, there was a downward trend in overall workplace pension participation, from 60% to 55%. As seen in Figure 2, the proportion of private sector eligible staff participating in a workplace pension has increased sharply from 42% in 2012 to 81% in 2017. Public sector pension participation remains high at 92% (4.8 million public sector staff), which is an increase of four percentage points since 2012.

Figure 2: eligible workers' participation in workplace pensions by sector



Source: DWP estimates derived from the ONS ASHE, GB, 2007 to 2017

Small and micro employers

Staging for small and micro employers happened between June 2015 and April 2017 and within these bands there were large increases in participation between 2016 and 2017. The small employer band (5 to 49 staff) participation rate increased by 26 percentage points and the micro band (1 to 4 staff) participation rate increased by 18 percentage points.

Meeting ongoing duties: employers and their advisers

Since 2012, we have undertaken regular surveys and published reports looking at how employers (and the intermediaries on whom they may rely) use the information we provide them with to comply with their AE duties.

As we reached the end of staging, the emphasis of our surveys turned toward how employers are complying with their ongoing AE duties, and the costs and time they incur in meeting their obligations. We have also used these surveys to investigate their knowledge and preparations for implementing the planned increases in minimum pension contribution rates.

Employers' ongoing duties

As mentioned in last year's commentary and analysis, the employer tracker survey has been replaced by a new survey looking at how employers who have already staged are carrying out their ongoing duties. We have conducted two waves of this survey, and we plan to continue to run this survey in the future.

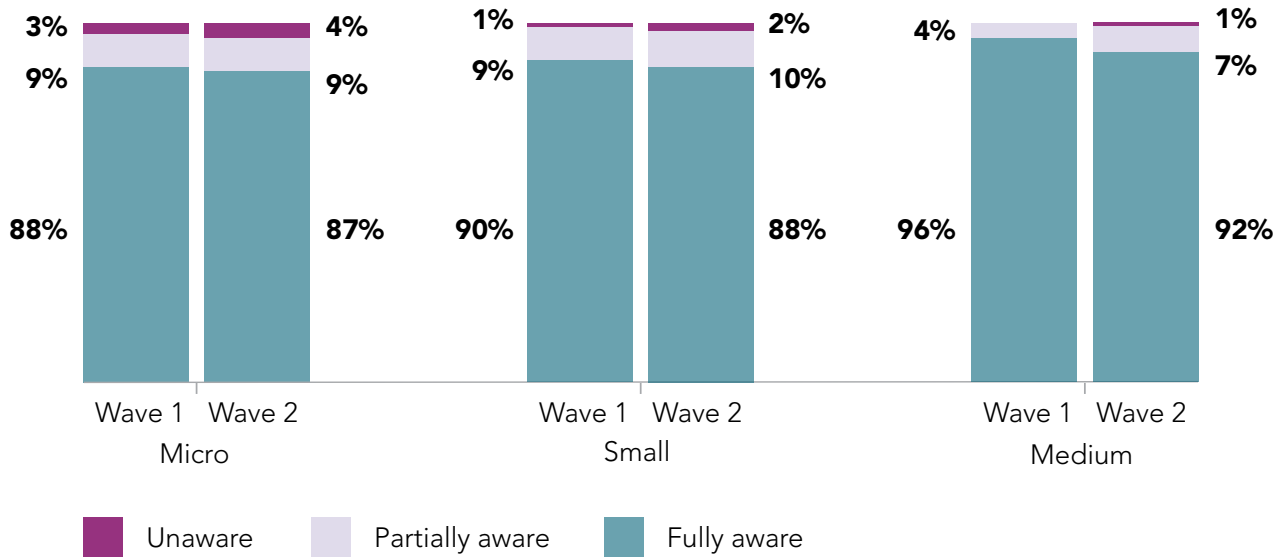
The five ongoing duties asked about in the survey were as follows:

- ▶ Keeping accurate records related to administering the pension scheme.
- ▶ Assessing staff every time they are paid to check whether they are eligible for AE.
- ▶ Enrolling staff if they meet the eligibility criteria and writing to them to explain how AE applies to them.
- ▶ Managing requests from staff to join or leave the pension scheme.
- ▶ Calculating and paying correct pension contributions for every staff member enrolled in the pension scheme.

Employers were classed as 'fully aware' if they were aware of all five duties and 'partially aware' if they were aware of between one and four duties.

Awareness of all five duties remained very high across the board, with nearly all employers being aware of all five, regardless of size. This is shown in Figure 3 below.

Figure 3: Awareness of all five duties

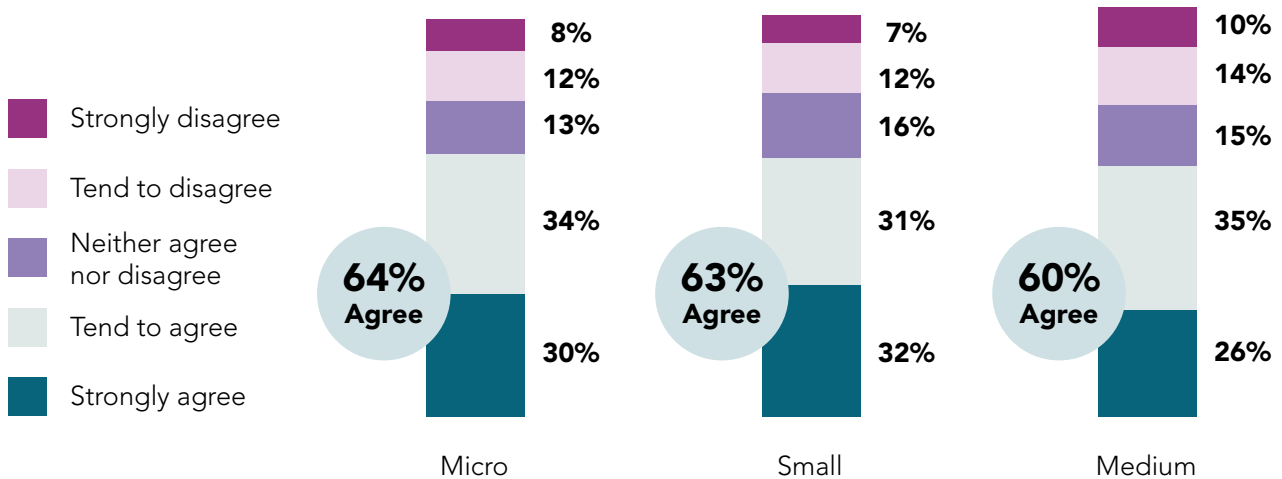


Base: All respondents (W1/W2) (Base) – Micro (290/300), Small (305/301), Medium (205/200)

Employer burden

The survey also explored the time employers spent complying with their ongoing AE duties, and the costs of complying. Encouragingly, the majority of employers of all sizes continued to report that they found their ongoing duties to be less onerous than they initially expected, as shown in Figure 4 below.

Figure 4: Level of employer agreement with the statement 'My ongoing duties are actually less onerous than I initially expected'



Change from wave 1 of survey:

+5%

-5%

+2%

Between 31% and 36% of employers paid someone to help them complete their ongoing duties. For those who did pay for support, the median monthly cost varied from £18 for micro employers (down from £42 in previous survey), £76 for small employers (down from £100) and £150 for medium employers (down from £175).

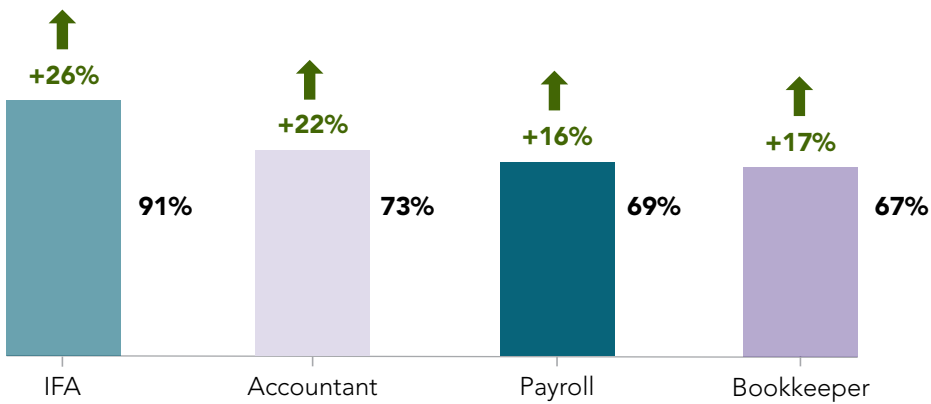
In terms of the time spent complying with their ongoing duties, this was similar to wave 1. The amount of time spent increased with employer size. 87% of micro employers, 81% of small employers and 63% of medium employers spent less than two hours a month complying with their ongoing duties.

The changing role of intermediaries

Since October 2017, all businesses employing someone for the first time have to provide a workplace pension from the first day of their service. This is referred to as having 'instant duties'. The duty to comply is with the employer, however, intermediaries play an increasingly important role in ensuring that these new employers comply with their duties, as well as helping existing employers to comply with their ongoing AE duties.

We found significantly increased awareness of these 'instant duties' among all types of intermediaries, as shown in Figure 5 below.

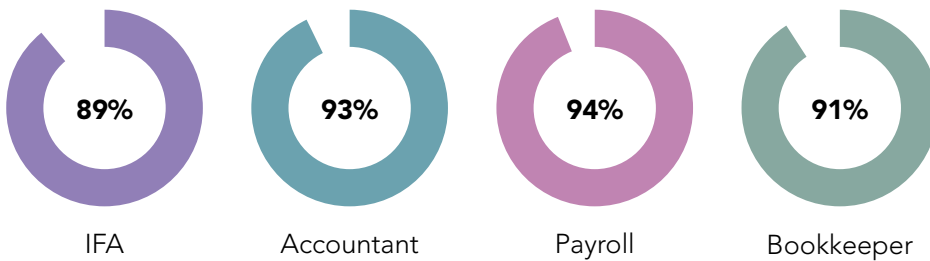
Figure 5: Awareness of instant duties among intermediaries



↑ Shows the % increase on the previous survey results

Base: All that support/plan to support with AE (Base, Don't know):
IFA (94, 2%), Accountant (140, 1%), Payroll (108, 0%), Bookkeeper (95, 1%)

Figure 6: Proportion of intermediaries confident that their small business clients will be able to comply with ongoing AE duties



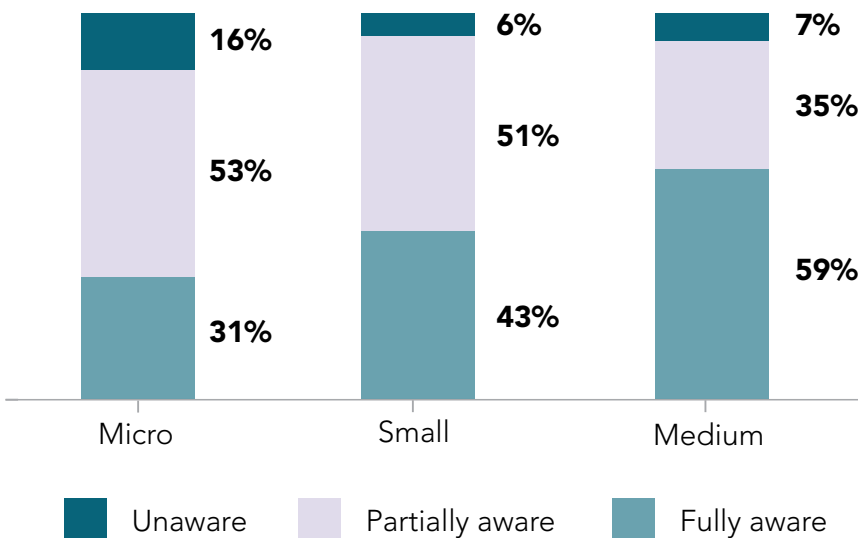
Base: All that support/plan to support with AE: IFA (95), Accountant (141), Payroll (108), Bookkeeper (96)

Knowledge around contributions increases

Knowledge levels² relating to planned increases in minimum contribution levels were high, with almost all aware of the first increase due in April 2018, and 80–94% aware of the timing and amounts of the second planned increase in April 2019.

Before the first increase, we surveyed employers and intermediaries to establish their knowledge of the timing and amounts of the increases in contribution rates. This is shown in Figure 7 below.

Figure 7: Awareness of planned increases in contributions



² The definition of awareness was as follows:
 Unaware: Not aware of plans to increase minimum contributions;
 Partially aware: Aware of future plans.

Although awareness of the increases appeared high, we wrote to every employer to further raise awareness of the changes and provided guidance on our website. Our research showed that the receipt of this letter significantly increased employers’ awareness of the time and amounts by which the minimum contributions were planned to increase.

Table 3: Awareness of phasing

	Sent phasing letter	
	Yes	No
Base: All respondents	703	98
Unaware	7%	29%
Partially aware	47%	55%
Fully aware	46%	16%



We are monitoring employer compliance with these new contribution rates through PAYE data provided to us by HMRC.

We are monitoring employer compliance with these new contribution rates through PAYE data provided to us by HMRC. Early indications from this data indicate that the compliance rate for the first increase was very high, in line with our expectations.

We will continue to monitor employers’ compliance, and will take enforcement action if necessary to ensure all members are receiving the correct contribution payments.

Completed declarations of compliance

Employers confirm to us that they have complied with their AE duties by completing a DoC. This chapter reports on the volumes of completed DoCs to 31 March 2018.

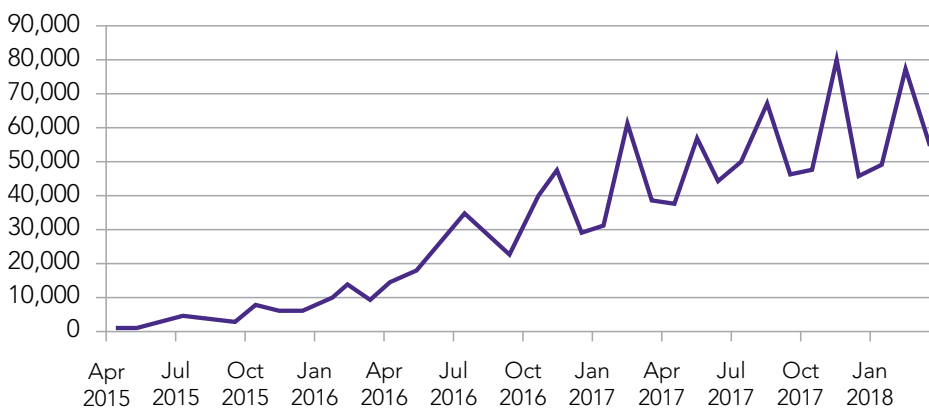
It includes details on the number of employers completing their declaration by month, those who brought forward their staging date, and those who chose to use postponement.

Findings

Employers have up to five months from their staging date or duties start date to complete their DoC. The number of declarations in the past year (662,978) represents 57% of total declarations to date.

To emphasise the rapid rise and pace in the number of employers now enrolling their staff into a pension, it took five years for the first half million of employers to enrol their staff, and then only another 12 months to gain the next half million.

Figure 8: Declarations per reporting month 2015-2018

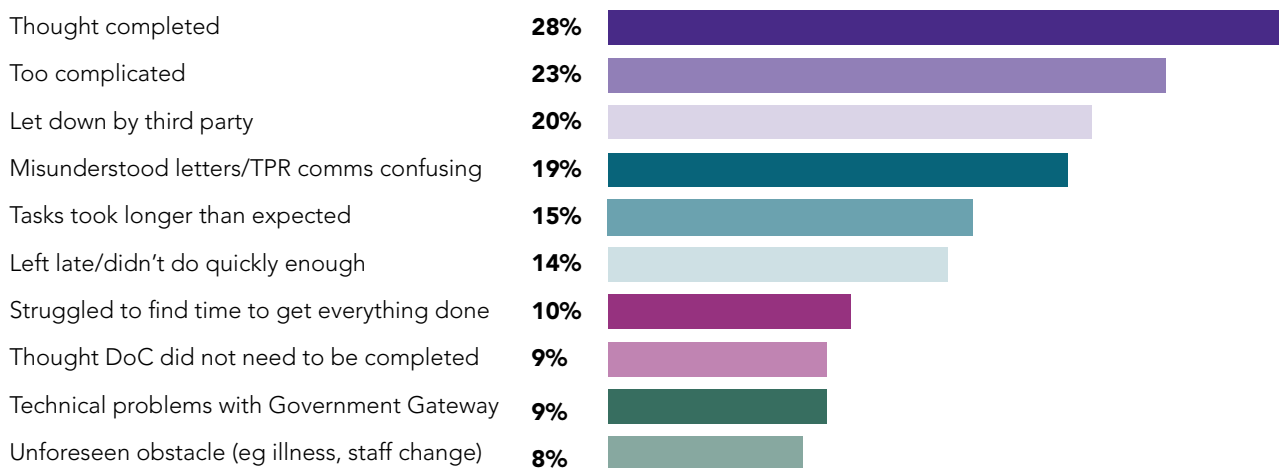


Employers have up to five months from their staging date or duties start date to complete their DoC.

Overall, the most popular month to complete a declaration is in the deadline month (28%). For all size bands, the majority of late declarations are completed in the second month after the deadline. This is likely to be prompted by the receipt of a Compliance Notice.

We spoke to almost 1,000 employers who missed their DoC deadline and were subsequently sent a Compliance Notice. There are a number of reasons employers gave for missing their deadline, as shown in Figure 9 below.

Figure 9: Reasons employers gave for missing their DoC deadline



Respondents could give more than one reason

Employers believing that the DoC had been completed by a third party on their behalf was the most commonly mentioned reason. It's important to remember that even when an employer is relying completely upon an adviser to manage their AE duties, it remains the employer's responsibility to ensure that all duties are completed on time.

Employer issues when completing their DoC

The biggest and most common issues employers suffer from stem from lack of awareness of the DoC and the questions they are asked when completing it. The most common issues are as follows, and which we have aimed to clarify in our communications and guidance:

▶ **Removing 'automatic' from 'automatic enrolment' in worker communications**

One issue occurs when employers remove the word 'automatic' from 'automatic enrolment' when communicating with their staff. Instead, workers are sometimes simply asked if they want to be enrolled. If the staff member states they do not want a pension, the employer will take this as an 'opt out' and will not enrol them in to a scheme. This is very likely to constitute a Full Duties Breach and an employer is liable for enforcement action in these circumstances. It could also constitute inducement.

▶ **Believing the DoC is complete when it isn't**

Issues we've experienced in the past include an employer registering with the Government Gateway and believing it to be the DoC. The DoC asks for PAYE details, scheme details and workforce details. The declaration is not complete until the employer selects the option to confirm that the information they have provided is true to the best of their knowledge. They will receive an email from us with a copy of the information they provided.

▶ **Issuing letters to staff**

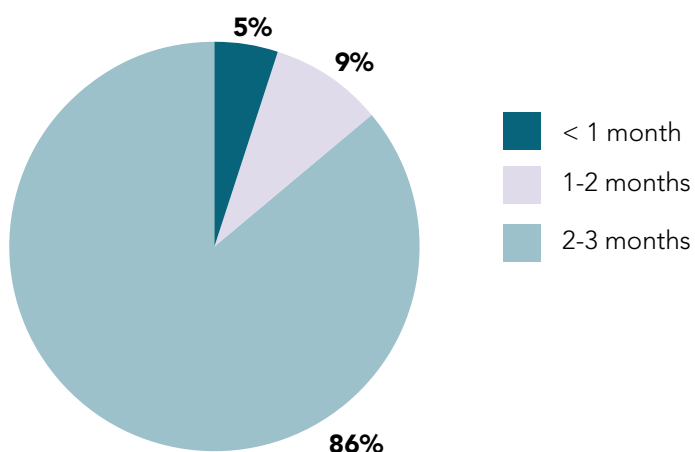
Problems here range from employers not issuing initial letters, to not informing staff that postponement is being used. Employers are also sometimes not aware that different letters should be sent to different categories of staff.

Postponement

Employers can choose to defer the process of assessing their workforce for AE purposes for a period of up to three months, for example to help them align their AE duties to their other business practices. This does not mean postponing their staging date or duties start date, which is set in law, or their declaration of compliance deadline, which is five months from their staging date or duties start date.

Most of the employers who have used postponement over the past year have chosen to postpone by 2-3 months (86%), as shown in Figure 10 below.

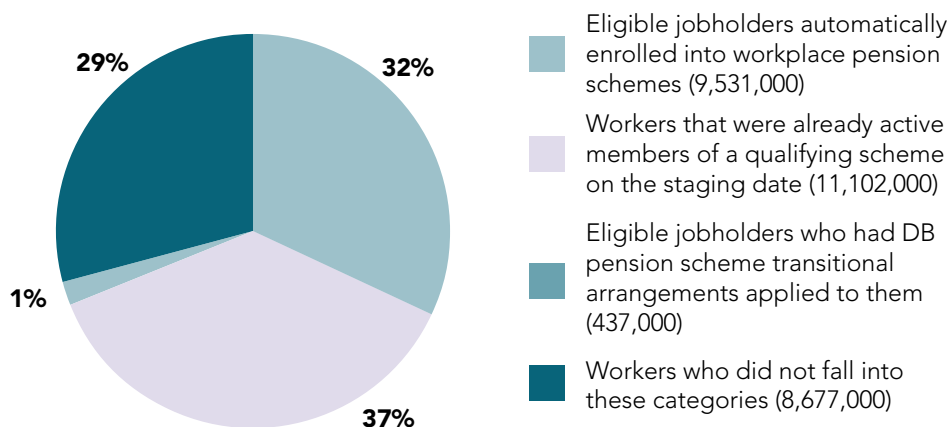
Figure 10: Length of postponement period used, 2017-2018



Workforce

By the end of March 2018, a total of 9,531,000 eligible jobholders were reported as being automatically enrolled since the start of AE.

Figure 11: Workforce details provided by organisations that completed the declaration of compliance as at end March 2018



Based on our published declaration of compliance report, in 2017-2018 the number of eligible jobholders reported to be automatically enrolled represented 38% of total workers. Overall, eligible jobholders represent 32% of the total workforce reported to us. This increase can be attributed to the fact that this year has seen a marked increase in workers of small and micro employers. The vast majority of these employers have never had prior pension provision and therefore are less likely to have workers that were already members of a qualifying scheme.

Pension schemes used and levels of participation

We continue to see very low numbers of employers using DB and hybrid schemes for AE purposes.

In contrast, DC continues to be the main type of scheme used for AE. The percentage of DC schemes being used for AE has risen from 97% last year to 98%. At this point in time, we are seeing a higher number of people being enrolled into occupational DC schemes.

Table 4: Schemes used for AE

	Scheme types reported in DoCs	% of scheme types (<30 members) reported in DoCs	Scheme types reported in DoCs	% of scheme types (>=30 members) reported in DoCs	Total
DB	3,262	1%	8,442	9%	11,704
Hybrid	877	0%	1,467	2%	2,344
DC(trust)	545,478	88%	52,667	55%	598,145
DC(contract)	69,981	11%	33,498	35%	103,479
Unknown	178	0%	68	0%	246
Total	619,776	100%	96,142	100%	715,918

Table 5 below is a breakdown of the 598,145 DC trust schemes by master trust and non-master trust and shows that the majority of people automatically enrolled are enrolled into master trusts. Master trusts are occupational schemes that are not industry-specific or affiliated schemes.

Table 5: Scheme types used

	Master trusts	Vs last year's % of total	Non-master trust	Vs last year's % of total
Percentage of master trusts versus non-master trusts, by declared employers to date	99.5%	↑	0.5%	↓
Percentage of master trusts versus non-master trusts, by automatically enrolled eligible jobholders to date	95%	↑	5%	↓

From 1 October 2018, master trusts will need to apply to us for authorisation, demonstrating that they meet the required standards set out in the new regulations.

Authorisation will increase the quality of master trust products and providers and therefore increase protection for members. For those master trusts that choose to exit the market, or do not meet the standard to be authorised, we will oversee the process to satisfy ourselves that members are being transferred to another scheme in a safe and timely manner and employers continue to meet their AE duties – taking enforcement action if necessary.

Compliance and enforcement

Findings

Most employers want to do the right thing by their staff, and we want to help them comply with their duties. However, where we find employers are not complying with the law, we will use our powers to make them comply. Our approach is proportionate and risk-based, and we target our resources where they will be most effective at maximising compliance and protecting members' benefits. To support this approach, we have increasingly been led by data and intelligence analysis over the year, and can now more quickly identify individual employers we believe are non-compliant and take action to ensure compliance.

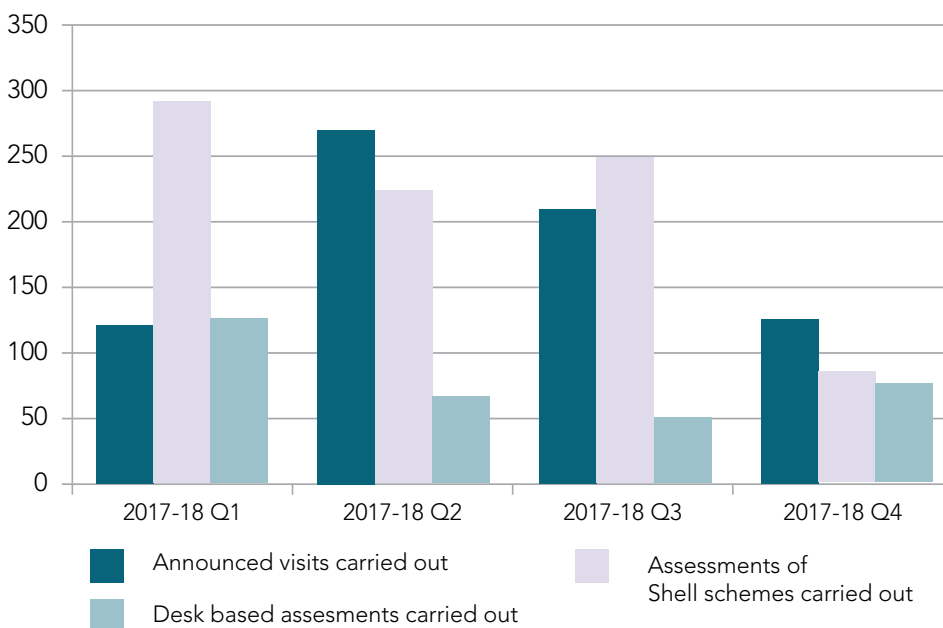
Compliance validation

In 2017-2018, our AE compliance and enforcement team embarked on a series of quarterly compliance validation exercises, or 'spot checks'. Employers were identified through data and intelligence analysis and scheduled for either desk-based investigation or an inspection in person at their place of business. The selected groups ranged from employers with strong or multiple indicators of non-compliance, including mismatched RTI³ and declaration information, to those where the data suggested full compliance with their AE duties.

The desk-based exercises include looking into suspected 'shell' pension schemes where. A shell pension scheme can be set up by an employer with a provider, where they can declare compliance (citing the scheme's details) but have not paid contributions yet.

In 2017-2018 we undertook compliance validation activity against 1,893 employers suspected of non-compliance with their AE duties.

Figure 12: Compliance validation activity carried out in 2017-2018



3
RTI is Real Time Information and relates to the electronic transmission of information about tax and other deductions under the PAYE system to HMRC. TPR receives this information in order to help with its compliance detection, in this example by comparing against what we are told by employers in their DoC.

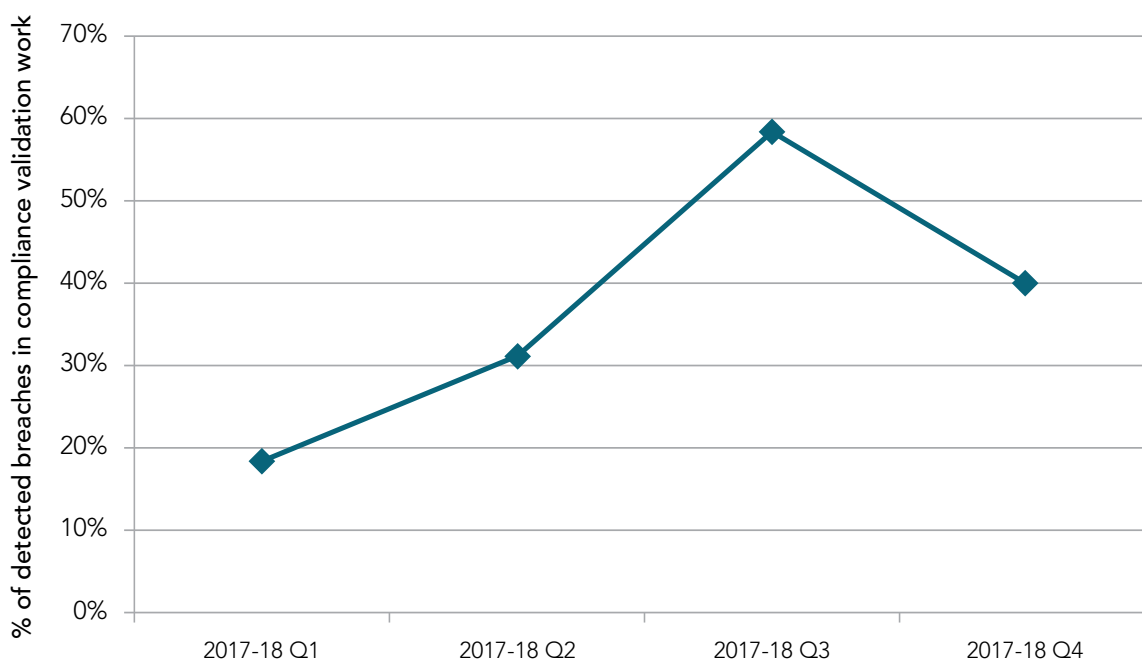
Initially, throughout 2017 and early 2018 we targeted different regional areas across the UK, principally the major urban areas. Our approach involved inspecting a combination of compliant and non-compliant employers. Cases were routinely opened on employers who were found to be non-compliant, but the case teams took a positive approach and worked to assist these employers towards compliance. Compliant employers often used the inspections as an opportunity to show how they had complied and to ask questions to ensure they were meeting their duties correctly.

Drawing on our experience and analysis of the inspections we conducted and how we identified the employers to visit, we adapted our strategy in early 2018 to take a more risk-based approach, focusing primarily on employers where our data suggests continuing non-compliance. This includes employers who have incurred a series of penalties, but remain non-compliant, rather than limiting our efforts to a particular geographical area each quarter. A smaller group of employers whose data suggests they are compliant continue to be assessed.

Sometimes, the employers we investigate are fully compliant, and we feed this back into our data. This then acts a feedback loop so that we are continually enhancing our risk assessment and the way we make decisions.

As a result, Figure 13 shows that over the year, our breach detection rates have improved.

Figure 13: Breach detection rate per quarter, 2017-2018



Where we do identify non-compliance, we do not always need to use our formal enforcement powers* to achieve compliance. Employers may simply require contact with TPR in order to prompt them to comply. However, for around a quarter of cases where a breach has occurred, we do need to use these powers to secure compliance. Table 6 below shows a breakdown of the last intervention used to secure compliance where a formal enforcement power was required.

Table 6: Volume of compliance validation exercises where we used our powers

Last intervention	Announced visits	Desk based	Shell schemes	Total
Compliance Notice	31	60	27	118
Unpaid Contributions Notice	5	1	11	17
Fixed Penalty Notice	8	8	3	19
Escalating Penalty Notice	2	1	2	5
Total	46	70	43	159

Data as at 24 August 2018

Intelligence

We receive intelligence on possible compliance breaches from a variety of sources, and monitor compliance risks and behaviours among different employer groups. The understanding we gain from this intelligence is then used to direct the action we take, which we describe in our quarterly compliance and enforcement bulletins. We also use this intelligence to inform the targeting of our communications activity. Our bulletins include case studies to provide employers with the lessons learned from our enforcement action.

We have a number of referral channels, including customer support, other teams within TPR, whistleblowers and external bodies.

Whistleblowing volumes

We work collaboratively with other agencies and regulators, sharing intelligence and conducting joint proactive exercises. We also engage closely with intermediaries, including business advisers, payroll bureaux and pension providers, to assist them in helping their employer clients comply with their duties.

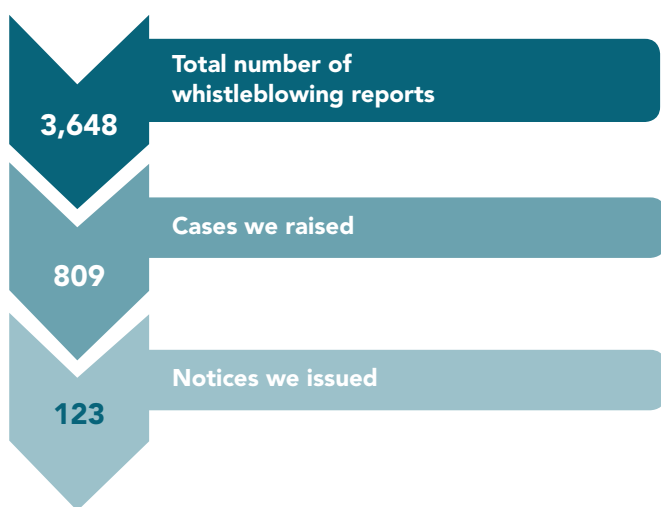
We accept whistleblowing reports by web form, email or telephone.

* For example, Compliance Notices, Unpaid Contributions Notices, or any resultant penalties

We received 3,648 qualifying disclosures from workers during the reporting period that fall within the remit of our functions and objectives. Of these, we took further action in 809 cases, with the majority of action taken as a result of the disclosures reporting a suspected breach of/failure to undertake AE duties, or pay contributions. Where enforcement action wasn't undertaken based on a qualifying disclosure, the information gathered was used to inform our intelligence functions such as our strategic intelligence assessments and compliance validation work.

123 disclosures resulted in issuing a Warning Notice, Unpaid Contributions Notice, Fixed Penalty Notice, Escalating Penalty Notice or Compliance Notice.

Figure 14: Whistleblowing volumes



The primary concerns raised by whistleblowers were late or missing contributions. Contribution failures represent half of all whistleblowing reports made 12 months after an employer's staging date.

The second most common theme for cases being created following a whistleblower report was a failure to automatically enrol staff, with around a third of cases being created during this review period with this breach type. Some examples of how employers have failed to automatically enrol staff include using schemes that were not qualifying schemes, ceasing active membership for some members or not enrolling workers who are eligible.

Anyone who feels they might want to report something to us can [visit our website](#) for more information.

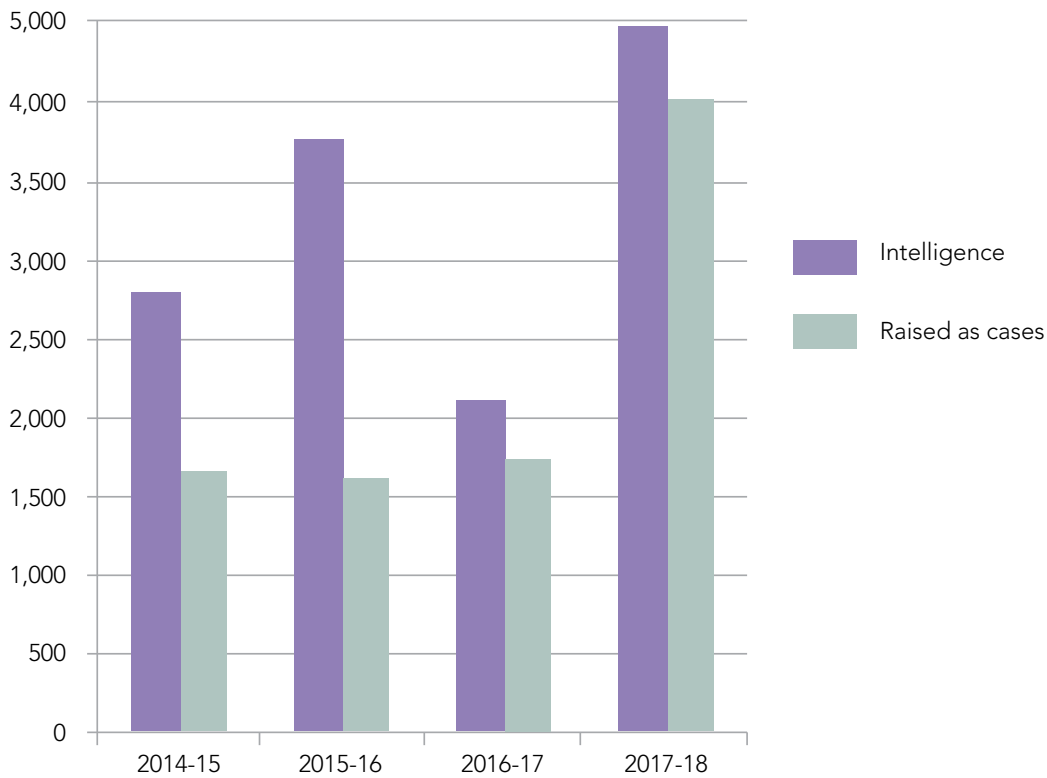
Inducements

An inducement is described as any action taken by the employer, the sole or main purpose of which is to persuade or cause an individual to opt out of or leave their pension scheme, without becoming an active member of another scheme. We received 90 whistleblowing reports alleging inducement by employers during the reporting period (2.5% of all whistleblower reports received). Of those, 53 resulted in cases being created for further investigation by the AE Compliance and Enforcement team. It is encouraging that such reports remain low in volume.

Cases

Where we are alerted to non-compliance or potential non-compliance, we take proactive action, which starts with contacting the employer and opening a case. The number of cases open does not indicate the number of non-compliant employers, as one or more cases may be opened in respect of a particular employer or, on investigation, we may conclude that there is no case to be taken forward.

Figure 15: Intelligence referrals and raised as cases 2017-2018

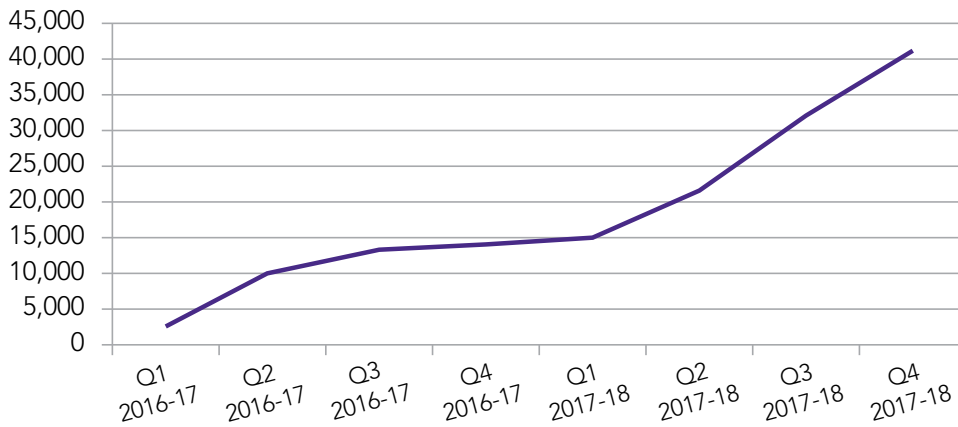


As expected, the number of cases and referrals in 2017-2018 increased sharply, driven by the volume of employers whose duties started in the period.

Closed cases

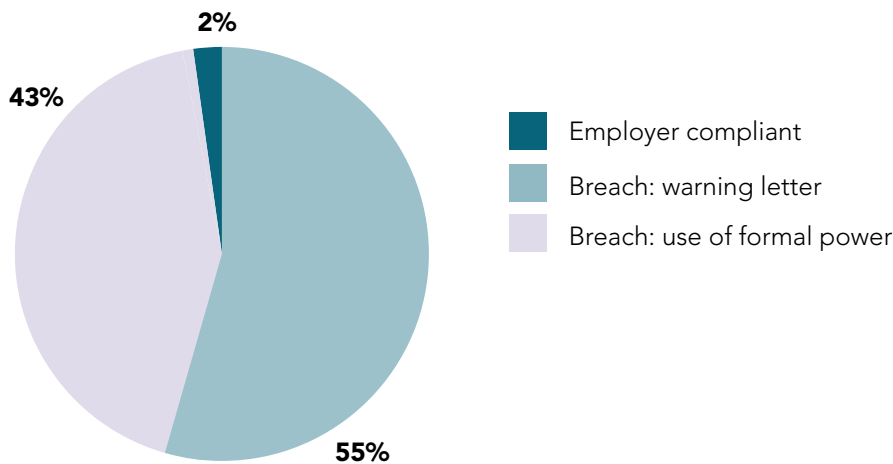
In 2017-2018, we closed 109,151 cases. As the chart below shows, the number of cases closed has increased relative to 2016-2017 (we closed 39,801 in 2016-2017). This is driven by the volume of employers whose duties started in the period, and the fact that we have significantly increased our resources in the detection and enforcement areas.

Figure 16: Cases closed 2016-2018



For 2% of these, no further action was required following our initial contact. For 55%, we concluded our enquiries with a warning letter to the employer, and in 43% it was necessary for us to use our formal powers, such as issuing compliance notices and penalties.

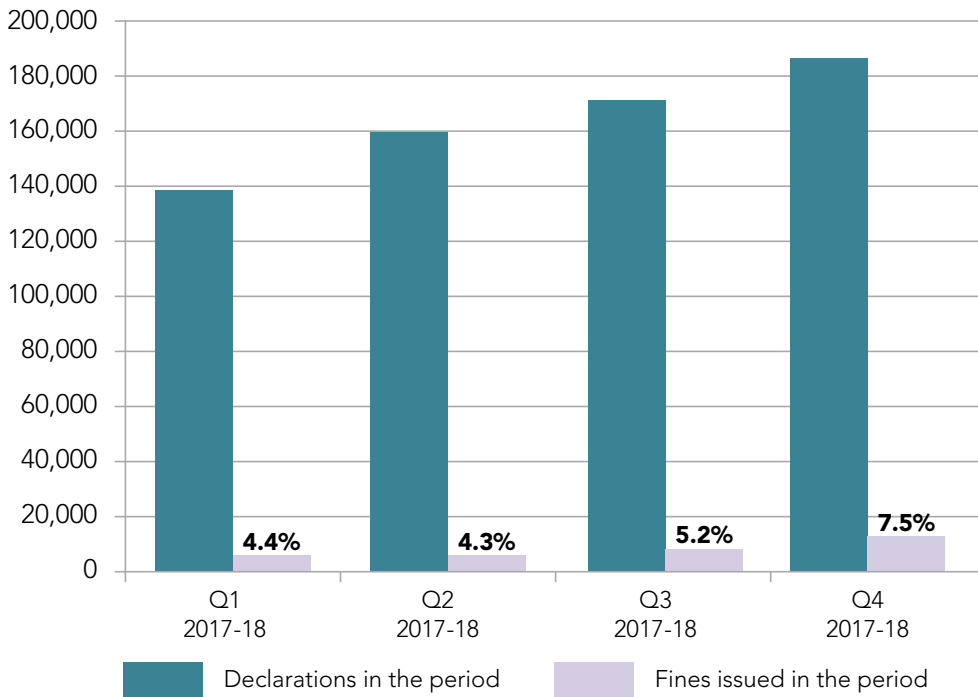
Figure 17: Outcome of closed cases



Fines in relation to declarations

The fact that we have had to use our formal powers in 43% of many thousands of cases may sound significant. However, the vast majority of employers do comply with their duties. As seen in Figure 18 below, the number of fines we have issued over the period is rising broadly in line with the number of DoCs we have received. However, the number of fines as a proportion of the number of DoCs is very low.

Figure 18: Declarations in this period and fines issued 2017-2018



Use of formal powers

Between April 2017 and March 2018, we used our formal powers on 102,497 occasions, a 52,429 increase in the use of our powers from 2017. This number has risen in proportion to the volume of employers who have reached their staging dates.

The number of notices we issued continued to increase substantially, in line with the rise in micro employers staging and the behaviours we expected from this group.

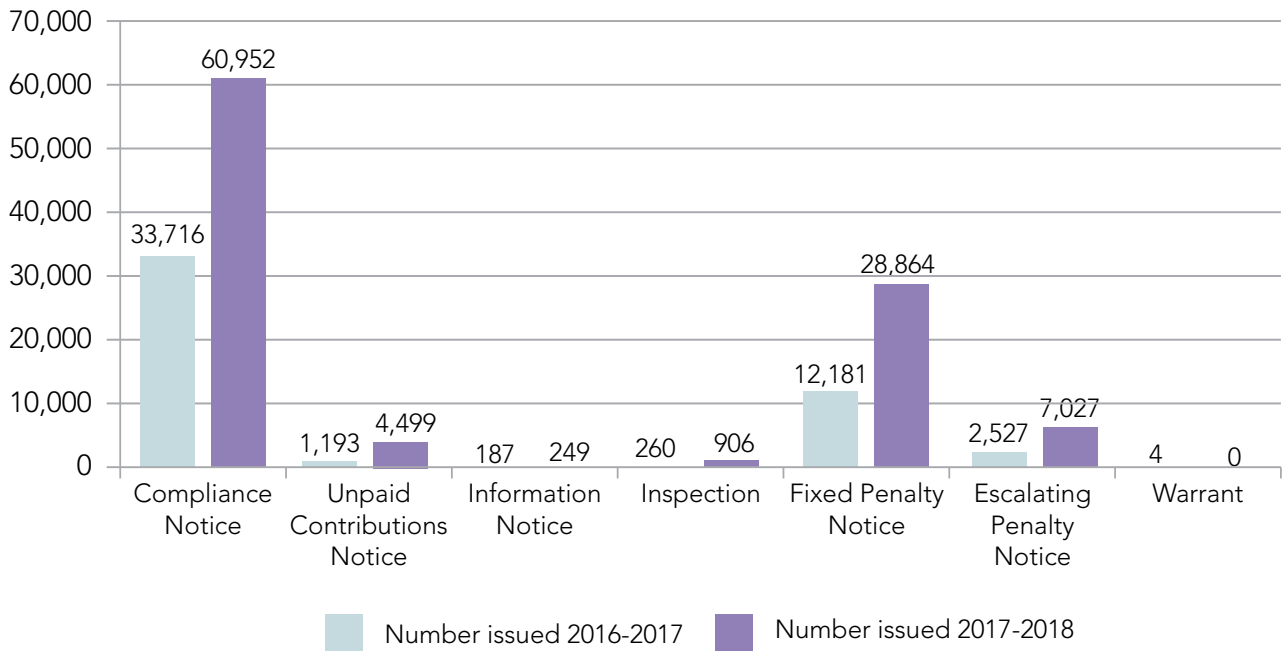
Although the number of compliance notices has risen from nearly 34,000 last year to nearly 61,000 this year, we find the majority of employers subsequently comply when they are reminded of their duties. When an employer fails to comply with a statutory notice for failing to meet its AE duties, we have the power under section 40 of the Pensions Act 2008 to decide to issue a £400 Fixed Penalty Notice.

Table 7: Use of formal powers 2017-2018, compared with 2016-2017

Intervention	Number issued 2017-2018	Number issued 2016-2017
Compliance Notice	60,952	33,716
Unpaid Contribution Notice	4,499	1,193
Information Notice	249	187
Inspection	906	260
Fixed Penalty Notice	28,864	12,181
Escalating Penalty Notice	7,027	2,527
Warrant	0	4

As seen in Figure 19 below, the number of interventions rose dramatically during this period, particularly in relation to Compliance Notices and Fixed Penalty Notice. Again, this is largely due to the increase in employer numbers.

Figure 19: Interventions in 2016-2017 and 2017-2018



Thousands of employers are starting their workplace pension duties every month. Although the vast majority are successfully meeting their duties, if an employer ignores them, we will use our powers where appropriate to ensure compliance. Engaging with us early in the process and working to put things right can help avoid penalty notices and fines.

Non-compliance: a case study

Section 89 of the Pensions Act 2004 gives us the power to publish information on cases where we have exercised or considered exercising our powers. This may include information we have obtained in the course of our statutory functions.

We publish reports under section 89 to increase transparency and understanding of our decisions and actions, and to deter unlawful or improper practices or behaviours.

Case study: Crest Healthcare

A healthcare company and its managing director were ordered to pay more than £20,000 after they admitted misleading TPR about providing their staff with a workplace pension.

Birmingham-based Crest Healthcare and the managing director each pleaded guilty to one charge of knowingly or recklessly providing false or misleading information to TPR and two counts of wilfully failing to comply with their automatic enrolment duties when they appeared at Brighton Magistrates' Court on 7 March 2018.

A whistleblower prompted the investigation into Crest Healthcare after contacting TPR to complain that workers at the company suspected that they had been misled into falsely believing that their pension scheme was up and running. Contributions were being taken from the pay packets of the workers but Crest Healthcare would not give them information about their scheme.

The judge said that it was important to show that individuals and companies must not benefit from avoiding their automatic enrolment responsibilities.

Tribunals

Employers who receive a penalty notice and disagree with our decision to issue it must first ask us for a review. If they disagree with the outcome of that review, they can then appeal the decision to the First-Tier Tribunal. Employers have 28 days after the review decision is issued in which to appeal. Where we do not carry out a review, either because none was requested or the request was out of time, there is no right of appeal to the tribunal

Between April 2017 and March 2018, we received 442 tribunal appeals and decided to defend 296 cases. We consider each appeal very carefully and don't automatically defend all by default.

Table 8: Tribunals to March 2018*

Tribunals	Number to March 2018
Requested	442
Defended	296
Not defended	138

In Table 9 below, 'confirmed' includes struck out and dismissed. There were eight ongoing tribunals where the decision has yet to be made on how to respond, and 106 defended tribunals that were still ongoing at the end of March 2018.

Table 9: Outcome of defended tribunals to March 2018*

Outcome of defended tribunals	Number to March 2018
Confirmed	175
Revoked, substituted or varied (ongoing)	15
Total	190

* Note that numbers may differ slightly from our quarterly bulletins as they are subject to change over a longer time period

Re-enrolment

Re-enrolment occurs for an employer every three years and is similar to the duties an employer carries out on their staging date, or deferral date if they used postponement.

We write to employers six months before the third year anniversary of their staging date or previous re-enrolment date to remind them about the duty to re-enrol certain staff. We then write to them at key points before their re-declaration deadline.

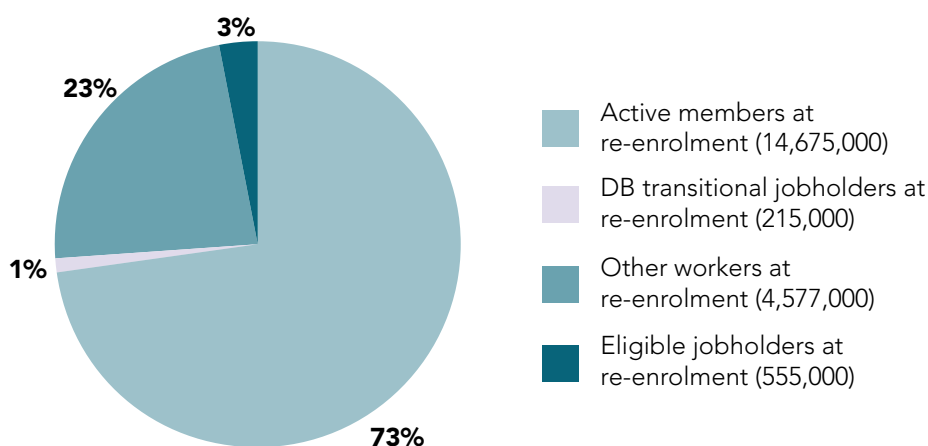
Employers must re-enrol certain staff into a pension scheme that can be used for AE, if they were previously enrolled but opted out or ceased active membership more than 12 months before their chosen re-enrolment date.

Postponement is not available in re-enrolment.

At the end of March 2018, nearly three quarters of the workforce who were re-declared were active members of a qualifying scheme. This is unsurprising given that larger employers were always more likely to be offering an occupational pension to their staff already.

Of the 41,015 employers that have re-declared their compliance, 17,356 did not have any eligible jobholders to re-enrol. They did, however, have a total of 2,198,000 active members of their qualifying scheme. This suggests that their eligible workforce had chosen to remain enrolled in their employer's scheme. For those who did have eligible jobholders to re-enrol, a total of 555,000 eligible jobholders were re-enrolled.

Figure 20: Cumulative workforce split at re-declaration



On average, employers re-enrolled around 11 weeks before their latest possible re-enrolment deadline. And on average, employers completed their re-declaration of compliance around 13 weeks after they re-enrolled.

Employer forecast

Here, we set out our forecast of employers that we expect to have AE duties to the end of 2020-2021. Given that we have in this reporting period reached the end of the existing staging schedule, the forecast below provides a view of a steady state in which new employers will have instantaneous AE duties and a view of the many employers that will reach their re-enrolment window.

As with last year’s commentary and analysis, we look at how many employers will have duties, as well as how many will have full AE duties because they have eligible staff.

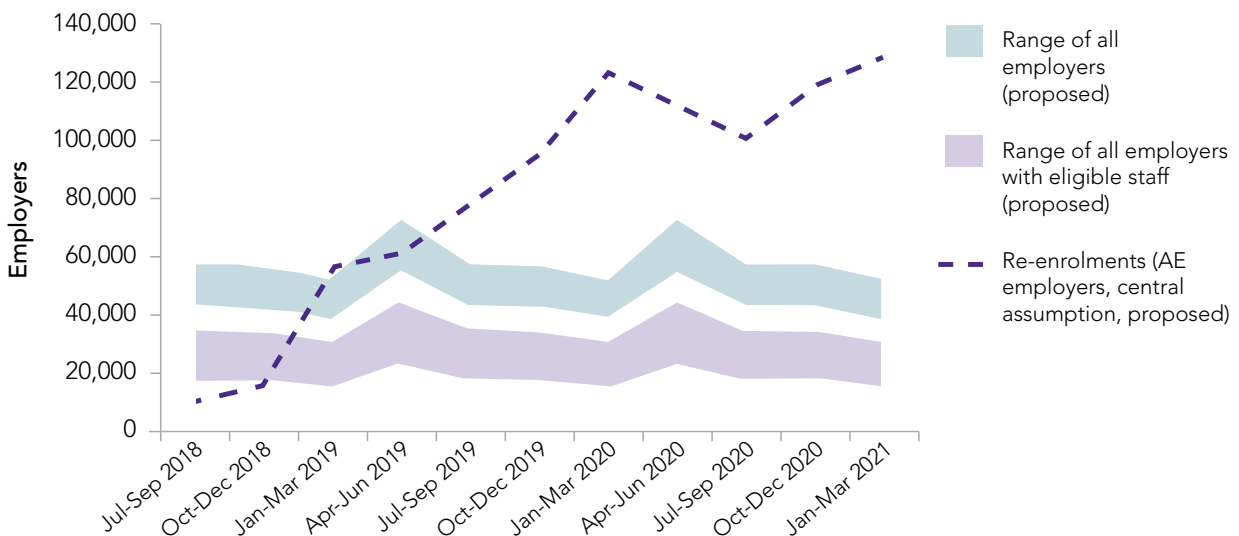
The remaining employers will still be subject to some duties such as needing to provide information to their staff and declaring their compliance with us. If their staff ask to join or opt into a pension scheme, they will need to put one in place and put their staff into it. They should also monitor the age and earnings of their staff and enrol any future workers who are eligible, or existing ones that later trigger eligibility (for instance, when a 21 year old becomes 22).

As this is a forecast, we are presenting this data as a range of how many employers are due to reach their AE duties start date and have jobholders to automatically enrol (and in order to manage industry expectations) based on a lower and upper estimate.

The forecast does not account for future economic factors, threshold changes or the effect of the national living wage. It also does not account for changes to employer births and deaths as a result of underlying data changes (eg tax rules or internal process changes).

Figure 21 below shows the range of all employers that are due to have duties per quarter based on upper and lower estimates (the dark shaded area), and also shows the range of employers we believe will have full duties based on upper and lower estimates (the light shaded area).

Figure 21: Quarterly forecast of employers due to comply with AE



The corresponding volumes plus totals are displayed in Table 10 below. It also shows an estimate of how many employers will reach their re-enrolment window (this is also shown using the dashed line in Figure 21).

Table 10: Quarterly data table

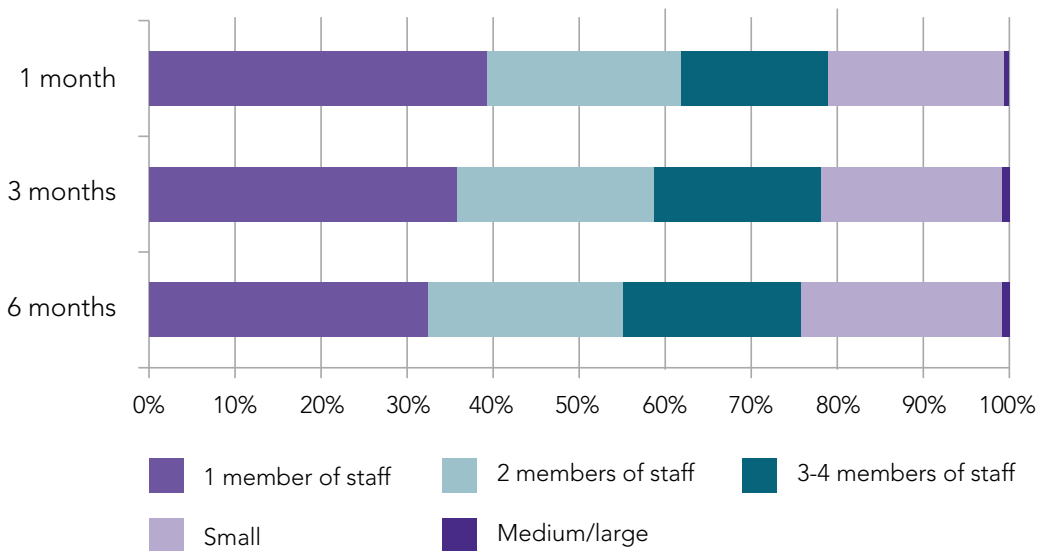
Period	All employers		Employers with eligible staff		Re-enrolments
	Upper estimate	Lower estimate	Upper estimate	Lower estimate	
2018-2019					
Q2	58,000	44,000	35,000	18,000	10,000
Q3	57,000	43,000	34,000	18,000	16,000
Q4	52,000	39,000	31,000	16,000	55,000
2019-2020					
Q1	73,000	55,000	44,000	23,000	62,000
Q2	58,000	44,000	35,000	18,000	76,000
Q3	57,000	43,000	34,000	18,000	95,000
Q4	52,000	39,000	31,000	16,000	123,000
2020-2021					
Q1	73,000	55,000	44,000	23,000	112,000
Q2	58,000	44,000	35,000	18,000	101,000
Q3	57,000	43,000	34,000	18,000	119,000
Q4	52,000	39,000	31,000	16,000	129,000
Total					
Total	647,000	488,000	388,000	202,000	898,000

The forecast shows how many employers we believe will have duties or whose duties will start in that particular month. It is important to note however that some of these employers – particularly those with instantaneous duties – may not employ eligible jobholders and thus not have full duties until later months.

While it is difficult for us to predict when employers may have full duties, we now have over six months’ worth of data on employers with instantaneous duties. The analysis below uses this data to show the relationship between the size of an employer and the likelihood of an employer to employ eligible jobholders.

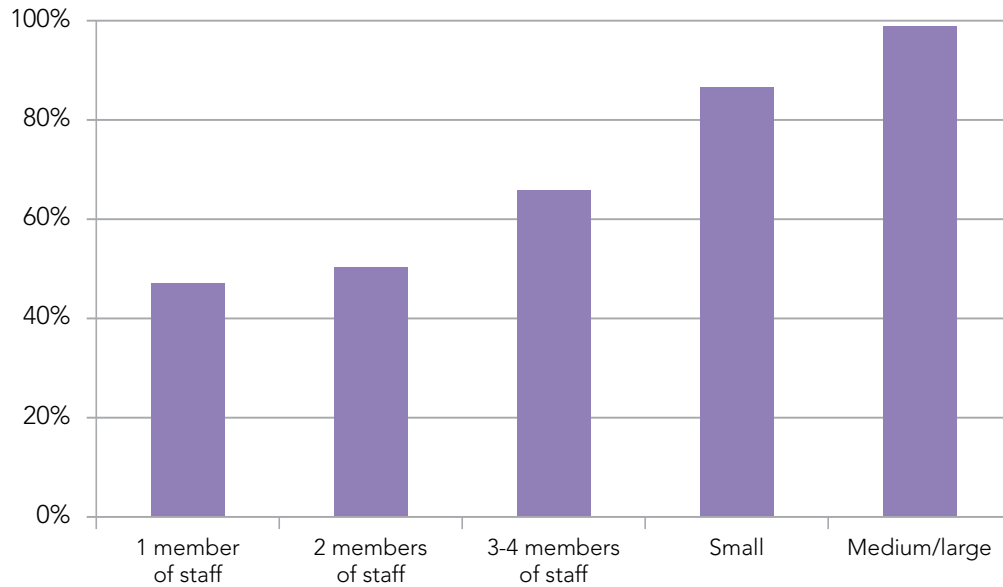
We can see in Figure 22 below that, of the employers whose duties will start in a given month, over time a proportion of those employers will grow in size. For example at one month old (for many this will be the point when duties will start), the clear majority of employers will have only one worker. This proportion decreases over time until at six months old, the number of employers with only one worker decreases significantly, whereas all other size bands increase.

Figure 22: Distribution of employer size by age



We can also see in Figure 23 that an employer is more likely to employ eligible jobholders as the size of an employer increases. So we can infer that in the months after duties first start, more employers are more likely to have full duties.

Figure 23: Percentage of employers with eligible jobholders by size



Forthcoming trends and challenges

Pension Schemes Act and master trust assurance

Nearly 10 million members now hold their workplace pensions in a master trust. From October 2018, we will have new powers to ensure master trusts are financially sustainable and secure, and that they are run by fit and proper individuals. This will be through a process of authorisation. Master trusts can start to submit their applications for formal authorisation from 1 October 2018 and they will begin to be authorised through the first half of 2019.

Authorisation is designed to set high standards for master trusts. Ongoing supervision will maintain these standards, providing much needed protection for the pension savings of millions of workers.

Gig economy

This has grown dramatically in the past few years. We continue to monitor developments in this area with interest – especially around recent court cases on employment status and how this impacts on AE and the number of staff who need to be automatically enrolled.

Increased contribution rates

Before the first planned increase in contributions that took place in April 2018, we wrote to every employer to inform them of the changes in contribution rates.

Our initial analysis of the RTI data we receive from HMRC indicates that employer compliance with the first increase in contributions has been very high. We are continuing to monitor the data over time, and employers who do not appear to have implemented the changes will be liable to enforcement action.

We are also continuing to monitor employers' awareness of the second increase, which will take effect in April 2019 with total contributions rising to 8% - of which the employer contribution is at least 3%.

AE review

The DWP carried out a review of AE during 2017, and a key message that arose was that AE has been a success and any future changes need to build on that success. The review set out the government's ambitions in respect of coverage, contributions and member engagement. We will be working with the DWP as further implementation work around these areas gets underway.

Pensions dashboard

The success of AE means there is likely to be an increase in workers with multiple small pots. The development of the pensions dashboard will enable people to view all their pension savings in one place, and help them plan for the future and take action if they decide they're not saving enough for the retirement they want. We're working with the DWP as discussions on this continue.

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Free online learning for those running public service schemes

Automatic enrolment

Commentary and analysis: April 2017-March 2018

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