July 2017

Automatic enrolment

Commentary and analysis: April 2016 – March 2017

automatic enrolment

The Pensions Regulator

Contents

Foreword

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

When the reforms began in 2012, the road ahead for AE was one peppered with potential capacity crunches and a large volume of employers set to overwhelm us.

However, these potential issues didn't surface and the staging approach worked (starting with the largest employers and working towards the smallest), so that by the end of March 2017 more than 7 million workers had been successfully automatically enrolled into a workplace pension and more than 500,000 employers have completed their declaration of compliance over the same period. Saving for later life is starting to become the social norm.

Nevertheless, we must not be complacent as the job is not yet complete, and we are now helping to steer more than 700,000 small and micro employers through their workplace pension duties. The current schedule for employers to meet their duties comes to an end in February 2018, at which point all businesses with a pre-allocated staging date will have passed their staging date.

From October, anyone setting up a business and taking on staff will need to work AE into their plans. We'll be writing to these new employers and urging anyone thinking of employing staff for the first time to visit our website to find out what they will need to do and by when.

Master trusts have helped contribute to the consolidation of defined contribution (DC) schemes, and they are one of the most effective ways for members to save into secure and well-run schemes. In the last year, we have welcomed the Pension Schemes Act, which gives us tough new powers to supervise master trusts – something we and the industry have been calling for. Implementing that legislation and preparing for the authorisation of master trusts will be a key part of our work over the next year.

Lastly, I would like to take the opportunity to thank my predecessor, Charles Counsell. Charles was instrumental in the implementation of the AE programme and can take a huge amount of credit for its continued success.

Thank you for taking the time to read this report – I hope you find it useful and informative.

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Darren Ryder
Director of Automatic Enrolment

Executive summary

Automatic enrolment: results so far

Proportion of UK employees in a workplace pension scheme:

By March 2016 **78%***

Total amount saved by eligible savers in 2016:

£87.1 billion

Total workers automatically enrolled:

By 2013 **1 million**

By 2014 **3 million**

By 2015 **5.2 million**

By 2016 **6.1 million**

By 2017 **7.7 million**

393,075

employers completed their declaration of compliance between April 2016 and March 2017, which represents **78%** of total declarations of compliance to date

Overall proportion of private sector saving increased by **31%** since AE started

Engagement and support in 2016-17

1.08m unique visitors to our AE webpage for business advisers

1.07m unique visitors to our AE webpage for employers

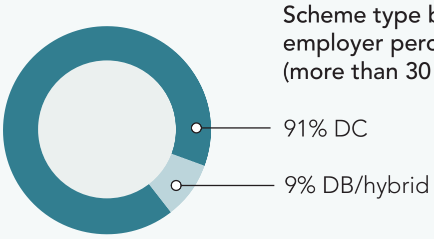
378k employers used our Duties Checker tool

300 speaking events conducted across the UK

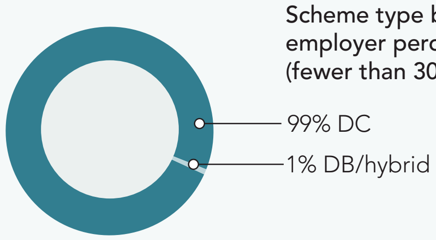
Totals throughout may not sum due to rounding

* Latest figures from ONS: bit.ly/2tpLdBY

Type of scheme used



Scheme type by employer percentage (more than 30 staff)



Scheme type by employer percentage (fewer than 30 staff)

Our interventions

39,801 cases closed in 2016-17

50,068 uses of our formal powers in 2016-17

In 2016-17 we issued:

- 33,716 compliance notices
- 12,181 fixed penalty notices
- 187 statutory demands for information
- 4 warrants
- 1,193 unpaid contributions notices
- 2,527 escalating penalty notices
- 260 statutory inspection notices

AE: Background

AE commenced in October 2012, and it is being rolled out in a staged approach. Businesses with 250 staff or more (large employers) had their staging date from 1 October 2012 to 1 February 2014, those with 50 to 249 staff (medium employers) staged from 1 April 2014 to 1 April 2015, and small (5-49 staff) and micro (1-4 staff) employers became subject to their duties from June 2015. New businesses that started up after 1 April 2012 have been given a staging date from 1 May 2017.

Table 1: Number of employers staging per quarter 2016-17 (last year's figures in brackets)

Quarter	Number of employers staging				
	Micro	Small	Medium	Large	Total
Q1	43,662 (6,116)	38,088 (8,646)	617 (1,964)	644 (20)	83,011 (16,746)
Q2	55,884 (538)	47,273 (6,705)	991 (4,448)	109 (69)	104,257 (11,760)
Q3	68,018 (737)	58,283 (15,134)	1,017 (3,249)	59 (72)	127,377 (19,192)
Q4	89,248 (48,549)	74,267 (39,690)	1,327 (653)	79 (159)	164,921 (89,051)
Total	256,812 (55,940)	217,911 (70,175)	3,952 (10,314)	891 (320)	479,566 (136,749)

How AE works

Employers must enrol all eligible jobholders into a qualifying pension scheme and make contributions. This applies to workers aged at least 22 but under state pension age (SPA), usually 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 worker who is automatically enrolled into a scheme has the option to opt out of it within one month if they choose.

Minimum contributions are being phased in so that from 6 April 2019 they will increase to 8% of qualifying earnings, of which a minimum of 3% must come from the employer. More information on these increases can be found at page 11.

Table 2: Categories of worker

Earnings	Age		
	16-21	22-SPA	SPA-74
Lower earnings threshold (£5,824) or below	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

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

Main areas of focus in 2016-17

Here, we take a look back at some of the main areas we focused on during 2016-17, relevant to the types and volumes of employers who were staging or reaching key points relating to AE, such as re-enrolment.

Increased volumes of employers

We're currently in the process of steering more than 700,000 small and micro employers through their workplace pension duties. We remain committed to doing all we can to maintain the high levels of compliance we've seen so far and we continue to provide plenty of information and guidance on our website to help employers meet their duties.

Reducing burden

We continue to look into ways that we can reduce burden for employers, particularly by using engaging ways to inform employers of their duties and providing them with tools to help them with specific tasks. We use insight and feedback to identify what we need to do to reduce burden for employers, and over the past year we have created new web content, educational animations and online tools.

Our online tools remain popular, with over 378,000 employers using our Duties Checker in the last year. Additionally, we had 1.08m visitors to our AE webpage for business advisers and 1.07m visitors to our employer webpage. We also held 300 speaking engagements across the UK.

- Re-enrolment: Re-enrolment duties occur every three years for each employer and we started communicating with large employers on re-enrolment based on their third year AE anniversary date. As more employers now start to have re-enrolment duties, we launched a new step-by-step guide taking them through the steps they need to complete and by when.
- Seasonal and temporary workers: Based on our employer research, we also have launched new online content, animations and tools for employers of seasonal and temporary workers to help them identify what they need to do and how to assess staff whose hours and pay vary.

The adviser market/capacity crunch

Business advisers have continued to support employers with their duties and no significant issues have been identified with them not being able to cope with the volumes of employers, especially as small and micro employers started to reach their staging dates.

Our research shows there is now strong knowledge and understanding of employers' duties among all the business adviser audiences surveyed, and they are not experiencing any major difficulties supporting their clients.

We published guidance for employers on the amount of time and costs involved when implementing AE, based on employers' experiences so far. The guidance also informs employers of what they can expect, and where to go if they need further support.

Increased enforcement activity

While compliance remains high, we continue to build on this success through our communications, intelligence gathering and enforcement work. As part of a move to understand whether employers are facing any unnecessary challenges, or are simply not complying with their duties, we commenced work to carry out compliance spot checks, starting in London. We detail this further in the 'Compliance and enforcement' section.

How AE has affected the pensions landscape

Trends affecting UK pensions

As seen in Figure 1, between the introduction of the reforms in 2012 and April 2016, the overall proportion of eligible employees saving into a workplace pension increased from 55% to 78%.

Much of this has come from increases in private sector saving, which has increased by 31 percentage points (from 42% in 2012 to 73% in 2016). Public sector participation increased by four percentage points (from 88% in 2012 to 92% in 2016). This can be seen in Figure 2.

By the end of March 2017, nearly 7.7 million people had been automatically enrolled into a pension scheme.

The annual total amount saved by eligible savers was £87.1 billion in 2016 – an increase of £3.8 billion on the total amount saved in 2015.

Figure 1: Proportion of all eligible employees belonging to a workplace pension

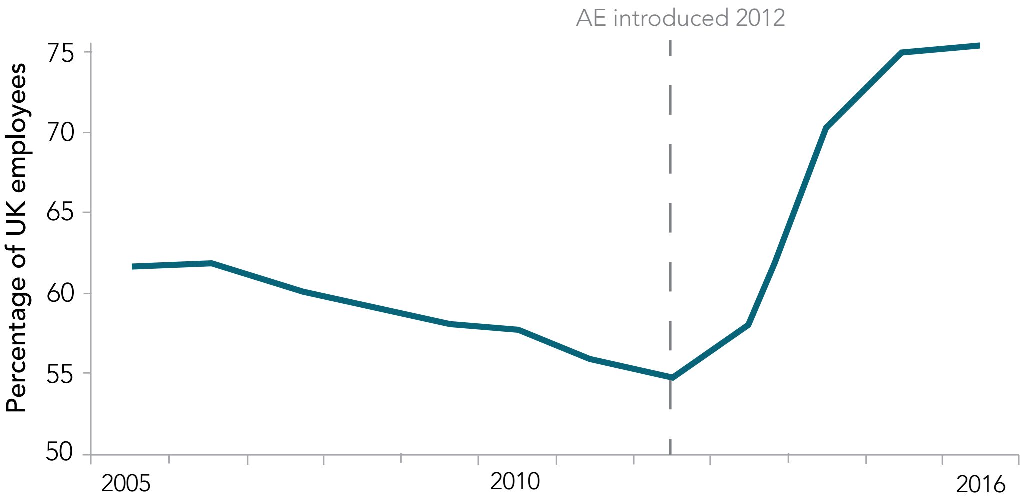
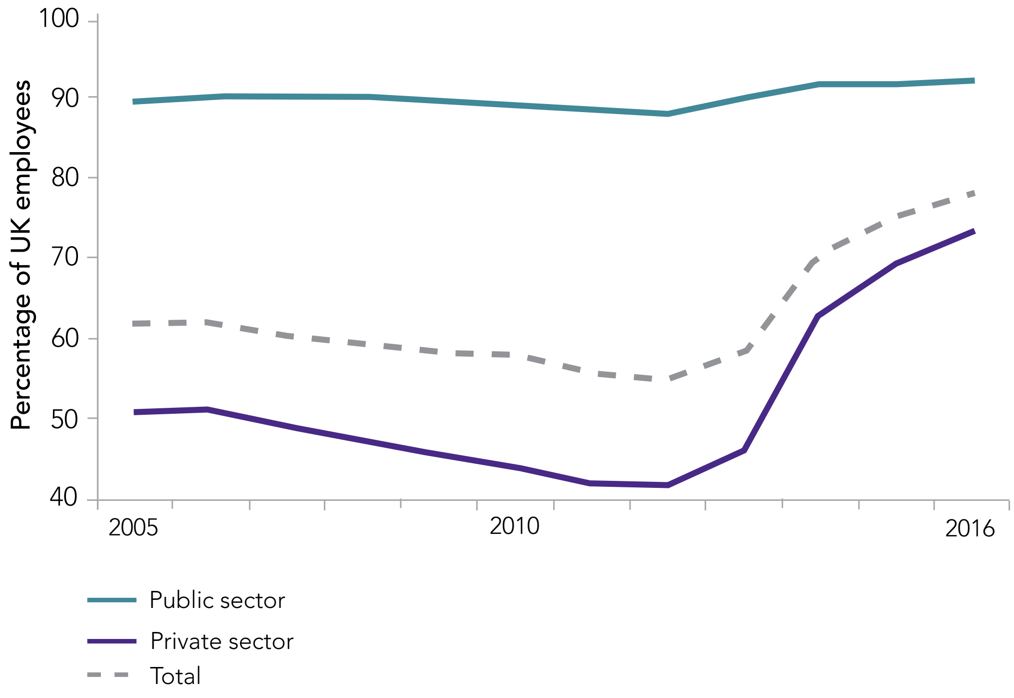


Figure 2: Eligible workers' participation in workplace pensions by sector



Contribution levels

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

Table 3: Phasing of 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%

Meeting ongoing duties: employers and their advisers

Since 2012, we have undertaken surveys and published reports every six months on the awareness and understanding of employers (and the intermediaries on whom they may rely) of their AE duties and the information we provide to help them.

These survey results helped us identify the likelihood that each stage of employers had the knowledge they needed to comply with their AE duties. As we move toward the end of staging, we've discontinued these surveys as new information into the actual behaviour of staging employers has enabled us to make more robust predictions about how and if they will meet their duties.

The employer tracker survey has been replaced by a survey looking at how employers who have already staged are carrying out their ongoing duties.

The intermediary tracker survey has been replaced by a new survey concentrating on their awareness of employers' ongoing duties, planned increases to minimum contribution levels and re-enrolment.

Employers' ongoing duties

In early 2017, we introduced a new survey looking at how employers who have already staged are carrying out their ongoing duties under AE. The five ongoing duties asked about in the survey were:

- Keeping accurate records related to administering the pension scheme.
- Assessing workers 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 worker enrolled in the pension scheme.

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

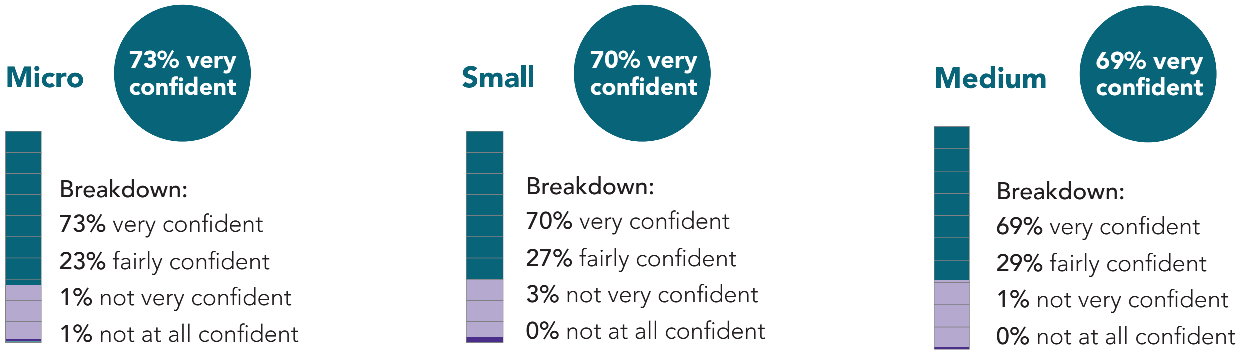
Awareness of all five duties is very high across the board, with nearly all employers being aware of all five, regardless of size (micro 88%, small 90% and medium 96%).

Figure 3: Level of awareness of each ongoing duty by employer size

	Micro	Small	Medium
Keeping records of AE activities	93%	96%	100%
Monitoring ages and earnings of new and existing staff	92%	97%	99%
Enrolling eligible staff and writing to let them know	94%	97%	99%
Managing requests to join or leave	94%	97%	98%
Paying contributions	95%	99%	99%
None of these	3%	1%	0%

Employers were also asked how confident they were that they were fully compliant with their ongoing duties. As shown in Figure 4 below, the vast majority were confident of being fully compliant.

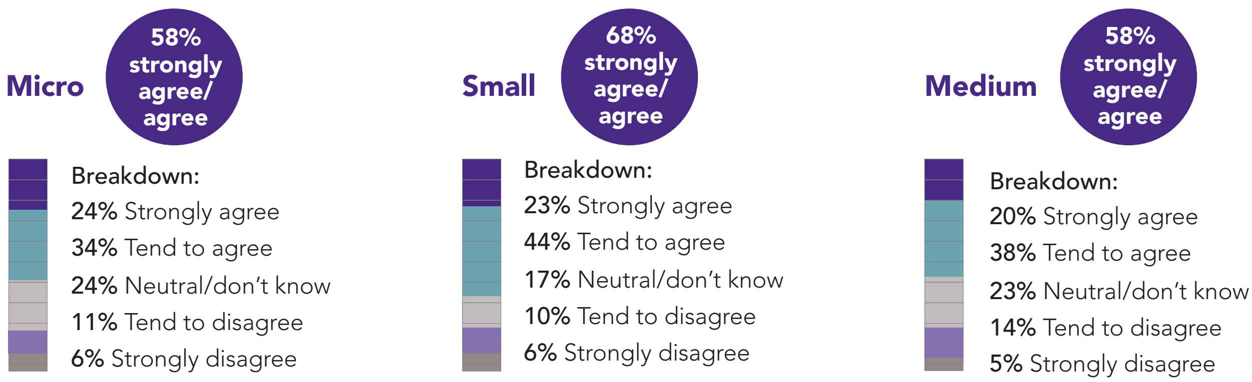
Figure 4: Level of employer confidence in their compliance



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 reported that they found their ongoing duties to be less onerous than they initially expected, as shown in Figure 5.

Figure 5: Level of employer agreement with the statement 'My ongoing duties are actually less onerous than I initially expected'



Around a fifth (17-21%) of employers paid for external support to help them comply with their ongoing duties. Of these, the average reported cost of complying also varied with size, with 29% of micro employers, 31% of small employers and 33% of medium employers paying for ongoing support from an external adviser. For those who did pay for support, the median monthly cost varied from £42 for micro employers, £100 for small employers to £175 for medium employers.

In terms of the time spent complying with their ongoing duties, the majority of employers typically estimated this to be less than two hours per month. The amount of time spent increased with employer size. 74% of small employers and 51% of medium employers spent less than two hours per month complying with their ongoing duties.

Intermediary awareness and understanding

Ongoing duties

Understanding ongoing duties was determined by assessing whether intermediaries could correctly identify key statements about their clients' ongoing duties. The ongoing duties asked about in the survey were as follows:

- Employers' duties to keep accurate records and for how long.
- Monitoring the ages and earnings of staff and checking their eligibility.
- Enrolling staff and writing to them to let them know how AE applies to them.
- Continuing to pay contributions to staff pensions.
- Postponement.

Re-enrolment

Understanding of re-enrolment was determined by assessing whether intermediaries could correctly identify five statements about the specifics of re-enrolment. The five statements intermediaries were tested on were as follows:

- Every three years, an employer must put certain staff back into a pension scheme.
- Employers can choose their re-enrolment date from within a six-month window, which starts three months before the third anniversary of their staging date and ends three months after it.
- Employers will need to assess certain staff to work out if they need to put them back into their pension scheme.
- Employers will need to write to staff that are being re-enrolled to tell them what is happening.
- Employers will need to submit a re-declaration of compliance to TPR after completing re-enrolment.

Knowledge levels relating to ongoing duties and the first planned increase in minimum contribution levels were high. However, levels of knowledge about re-enrolment were lower. This is due, in large part, to a lack of understanding of an employer's ability to choose their re-enrolment date within a six month window related to their original staging date. We are looking at ways of communicating this better to employers, including an online animation and an online tool to help them identify their key re-enrolment dates. This will be supported by a promotional campaign targeted at medium and small employers, and their business advisers.

Knowledge levels among intermediaries about ongoing duties are high.

We also asked intermediaries if they were aware that employers who took on their first worker from October 2017 had an immediate duty to provide them with a workplace pension. Over 50% of all intermediary types were aware that new employers will need to enrol their eligible workers into a pension scheme immediately. 65% of IFAs, 51% of accountants, 53% of payroll advisers, 50% of bookkeepers and 58% of HR professionals were aware that new employers will be required to enrol eligible workers into a pension scheme immediately from October 2017.

The number of declarations has risen sharply since 2015-16 due to the volume of small and micro employers reaching their staging dates.

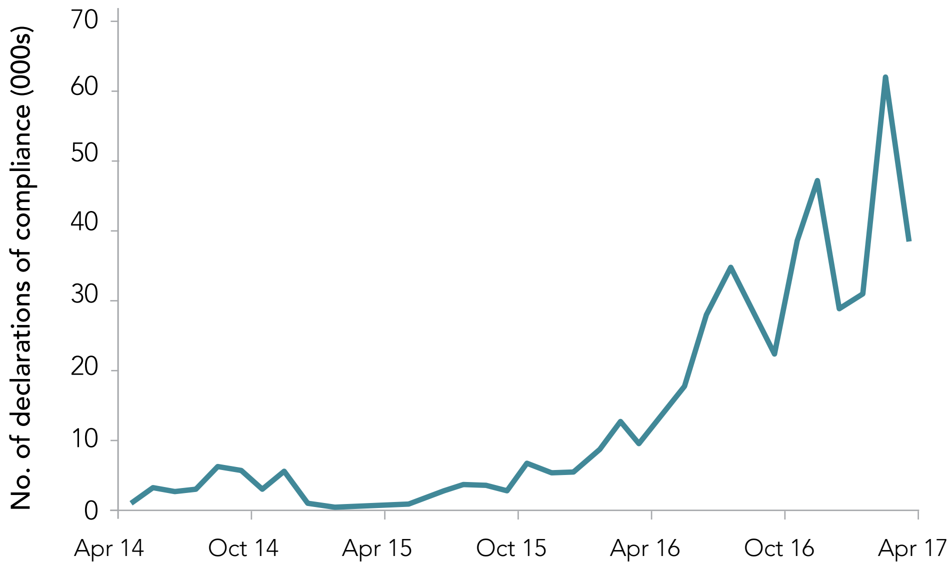
Completed declarations of compliance

Employers confirm to us that they have complied with their AE duties by completing a declaration of compliance. This section reports on the declaration of compliance process to 31 March 2017. 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 to complete their declaration. The number of declarations in the past year (393,075) represents 78% of total declarations to date. This number has risen sharply since 2015-16, reflecting the large volume of small and micro employers reaching their staging dates. As a result, the number of fines and other notices we issued also increased. This is detailed further in the 'Compliance and enforcement' section.

Figure 6: Declarations per reporting month, 2014-2017



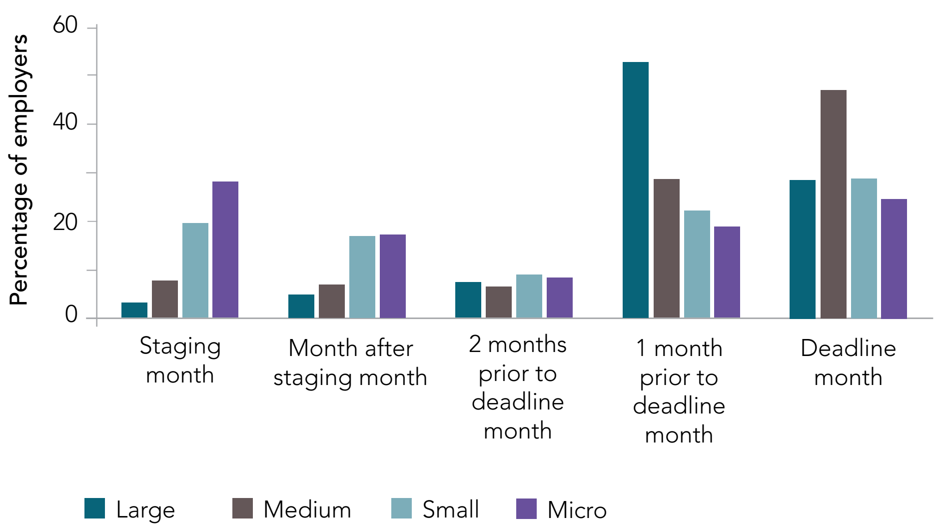
The cumulative split in the size of employers who have completed their declaration is large (2%), medium (8%), small (46%) and micro (44%).

Of the 503,178 employers who completed their declaration to date, 29,719 of these employers also brought forward their AE duties – 85% of which were small or micro employers based on their workforce data at declaration. This number represents a significant increase on the 13,484 reported in last year's commentary and analysis due to the volume of small and micro employers reaching their staging dates. An employer might bring forward their staging date:

- to avoid a busy period
- because they wish to provide a pension scheme for their staff ahead of their staging date
- if they know they don't have any staff who need to be put into a scheme, and want to complete their declaration of compliance early

Figure 7 shows the most popular month between an employer's staging date and deadline date for an employer to declare compliance. It shows that nearly 30% of micro employers favour completing their declaration of compliance in the month of their staging date, whereas a quarter of these employers complete it in the month of their deadline. Small employers are slightly more likely than micro employers to leave declaration to the last two months (nearly 53%).

Figure 7: Months employers choose to complete their declarations of compliance



Overall, the most popular month to complete a declaration is in the deadline month (29%). The first month after staging and the fourth month after staging are the next popular (approximately 23%). The least popular month in which to complete a declaration is two months prior to the deadline month. This is true for all size bands.

For employers who have missed their deadline, 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.

On average, around 25% of employers elected to use postponement in 2016-17.

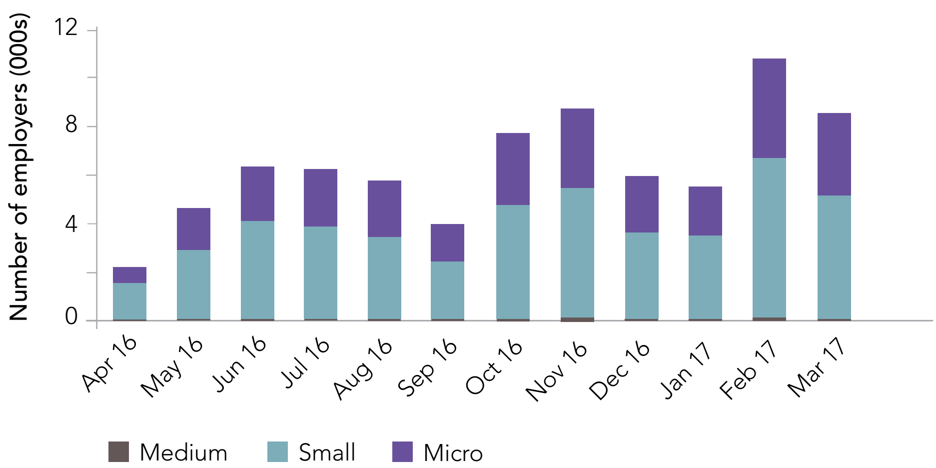
Postponement

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 doesn't mean postponing their staging date, which is set in law, or their declaration of compliance deadline, which is five months from their staging date.

On average, over the year around 25% of employers elected to use postponement, compared to 30% of employers in the previous year. 125,588 employers have chosen to use postponement to date.

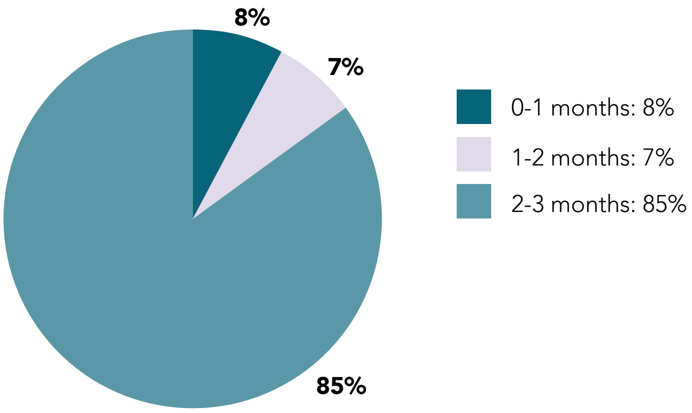
The majority of employers who have used postponement in the past year are small employers, in line with the volume of small and micro employers being subject to their duties from June 2015. This shown in Figure 8.

Figure 8: Employers choosing postponement



Most of those who have used postponement over the past year have chosen to postpone by 2-3 months (85%), as seen in Figure 9.

Figure 9: Length of postponement period used, 2016-17



DB transitional arrangements

Employers with eligible jobholders who will be enrolled into a defined benefit (DB) scheme or the DB section of a hybrid scheme can choose to delay AE until 30 September 2017.

To date, 1,998 employers reported that they had these arrangements in place when they completed their declaration, showing an increase of 622 from last year.

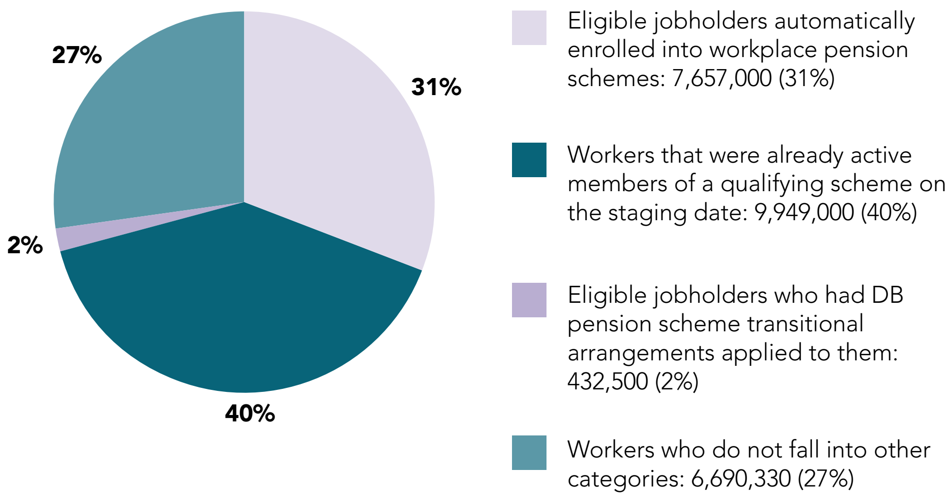
We are reminding these employers that they need to enrol any of the staff they applied the transitional period to and who are still in employment with them when the period comes to an end on 30 September. We have also provided employers with further guidance about this on our website.

While we don't expect smaller schemes to be using DB arrangements, some small public sector employers will have access to larger public sector schemes, for example individual schools will have access to the Local Government DB scheme, and doctors and dentists may use NHS schemes.

Workforce

Up to the end of March 2017, employers who have become subject to the duties since 2012 reported that their total workforce was nearly 25 million. This works out at 81% of the total UK workforce of employers subject to AE duties.

Figure 10: Workforce details provided by organisations that completed the declaration of compliance



By the end of March 2017, a total of 7,657,000 eligible jobholders were reported as being automatically enrolled since the start of AE. 3,874,000 (51%) were employed by large organisations, 1,790,000 (23%) were employed by medium organisations and 1,994,000 (26%) were employed by small and micro employers.

While the largest workforce proportion remains with large employers, the significant increases in eligible jobholders employed by medium, small and micro organisations has meant an overall increase in eligible jobholders on last year. This has been largely driven by an increase of over 1,386,000 eligible jobholders employed by small and micro employers.

Table 4 gives a breakdown of employees in 2016-17 who were automatically enrolled, already had a pension, were in a DB scheme, or were non-eligible jobholders, by size of employer.

Table 4: Workforce splits by size 2016-17

	Micro	Small	Medium	Large	Total
Eligible jobholders automatically enrolled into workplace pension schemes	192,600	1,192,200	106,400	27,000	1,518,200
Workers that were already active members of a qualifying scheme on the staging date	33,300	241,100	40,600	57,600	372,600
Eligible workers who had DB pension scheme transitional arrangements applied to them	300	2,000	300	2,100	4,700
Workers who don't fall into other categories	220,700	771,000	68,900	50,300	1,110,900
Total	**446,900**	**2,206,300**	**216,200**	**137,000**	**3,006,400**

Table 5: Cumulative workforce splits by size

	Micro	Small	Medium	Large	Total
Eligible jobholders automatically enrolled into workplace pension schemes	210,000	1,784,000	1,790,000	3,874,000	7,658,000
Workers that were already active members of a qualifying scheme on the staging date	36,000	429,000	1,079,000	8,405,000	9,949,000
Eligible workers who had DB pension scheme transitional arrangements applied to them	0	3,000	7,000	422,000	432,000
Workers who don't fall into other categories	238,000	1,071,000	999,000	4,432,000	6,740,000
Total	**484,000**	**3,287,000**	**3,875,000**	**17,133,000**	**24,779,000**

Table 6: Workforce and number of staff enrolled

Period	Workforce size	Number automatically enrolled
2016-17	2.4 million	1.5 million (51% of workforce)
Cumulative	24.8 million	7.7 million (31% of workforce)

Pension schemes used and levels of participation

Here we examine the different types of pension schemes used by employers to meet their AE duties.

Schemes used

We continue to see a downward trend for DB and hybrid schemes – from 6% last year to 3% this year. These schemes have gone from being used in 24% of declarations in 2014 to just 3% at the end of 2016-17.

DC continues to be the main type of scheme used for AE. The percentage of DC schemes being used for AE has risen from 93% last year to 97%. At this point in time, we are seeing a higher number of people being enrolled into occupational DC schemes.

Table 7: Schemes used for AE

	Scheme types reported in declarations of compliance		Number of pension schemes		Number of eligible jobholders automatically enrolled (rounded)	
DB	7,943	2%	323	16%	295,500	4%
Hybrid	2,043	1%	346	17%	292,400	4%
DC trust	285,001	78%	831	41%	4,521,300	59%
DC contract	68,502	19%	301	15%	2,543,300	33%
Unknown	253	0%	248	12%	4,400	0%
Total	363,742	100%	2,049	100%	7,657,000	100%

Figure 11: Proportion of scheme types reported in declarations of compliance over the last four years

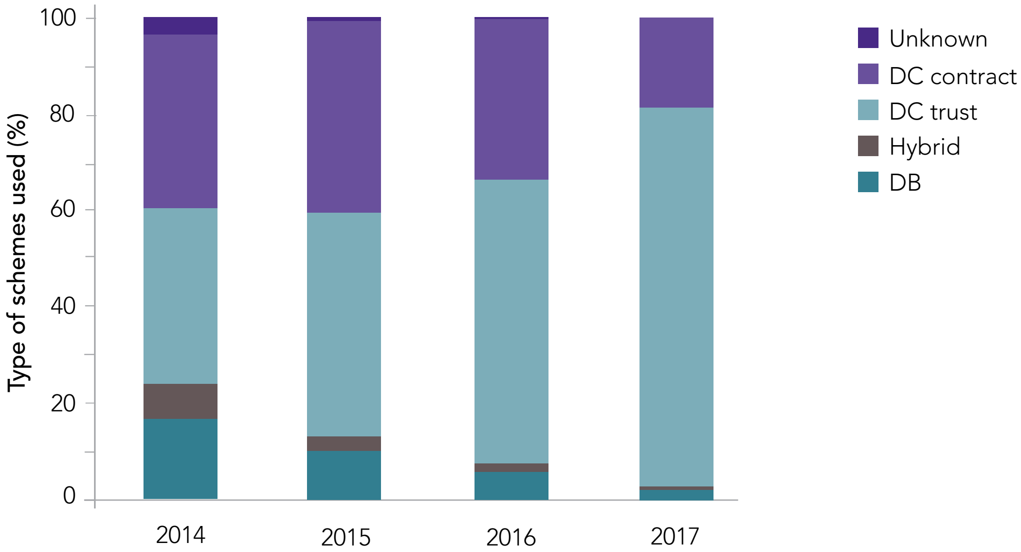


Figure 12: Types of pension scheme used for AE by employers with 30 or more staff

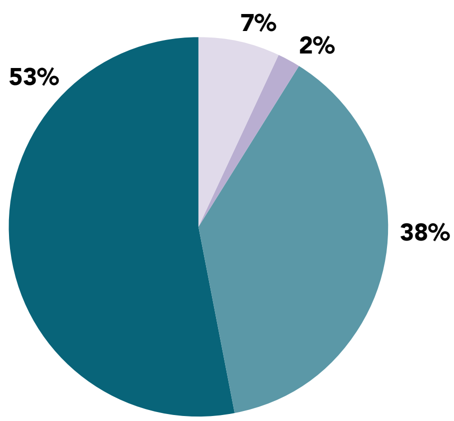


Figure 12 shows that 91% of employers with 30 or more staff are using a form of DC scheme.

DB: 7%
Hybrid: 2%
DC (contract): 38%
DC (trust): 53%

Figure 13: Types of pension scheme used for AE by employers with fewer than 30 staff

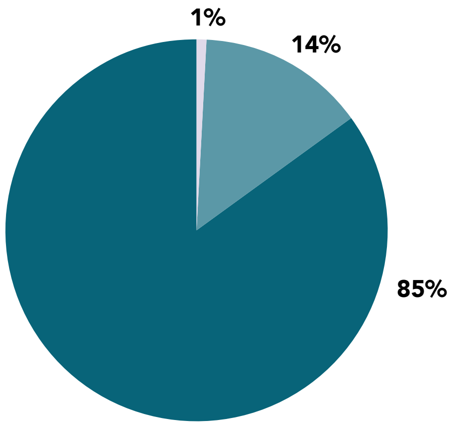


Figure 13 shows that 99% of employers with fewer than 30 staff are using a form of DC scheme.

DB: 1%
DC (contract): 14%
DC (trust): 85%

Figure 14: Types of pension scheme used for AE by employers with 1-4 staff

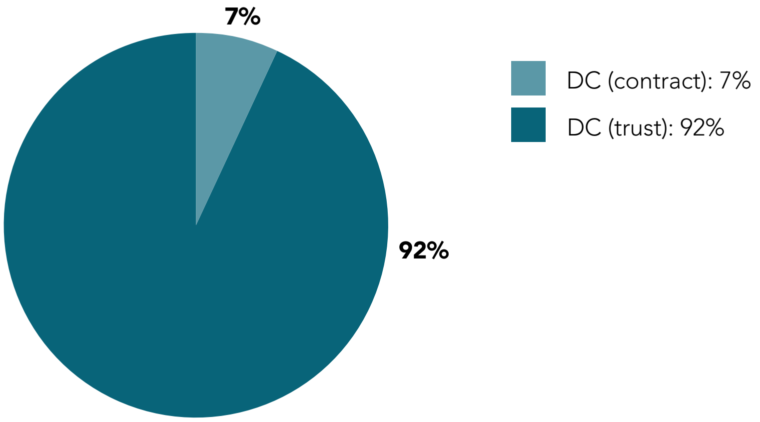


Table 8: Scheme types used

	Master trusts	Non-master trust
Declarations of compliance	99.5%	0.5%
Eligible jobholders split	94%	6%
Declared scheme number split	7%	93%

Table 8 shows that the majority of occupational DC schemes used for AE are master trusts. Master trusts are occupational schemes that are not industry-specific or affiliated schemes.

Table 9 shows the split of master trusts and non-master trusts between employers with fewer than 30 staff and more than 30 staff.

Table 9: Declaration of compliance split by workforce

	Master trusts	%	Non-master trust	%
Less than 30 staff	243,228	99.8%	418	0.2%
30 or more staff	40,449	97.8%	906	2.2%
Total	283,677	99.5%	1,324	0.5%

As with last year, we continue to see movement of DC trust-based schemes into master trusts. Additionally, the smaller the employer, the more likely they are to use a DC scheme.

Compliance and enforcement

In this section we look at the compliance and enforcement activities from 1 April 2016 to 31 March 2017.

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.

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. These 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 telephone, email, letter, fax or web form.

The primary concerns raised by whistleblowers are late or missing contributions. Other concerns relate to scheme governance or allegations of inducement. Contribution failures represent half of all whistleblowing reports made 12 months after an employer's staging date.

Table 10: Whistleblowing

Issue	Number	%
Contributions	214	53.5
Failure to enrol staff	76	19
Opt-in/out	37	9.25
Safeguards	25	6.25
Other	46	12
Total	398	100

The 'other' 12% of theme types are made up of a combination of other breaches relating to, for example, scheme full duties failure, incorrect early AE, intentional non-compliance, and re-enrolment.

Cases

Where we are alerted to non-compliance or potential non-compliance we take 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: Referrals and cases

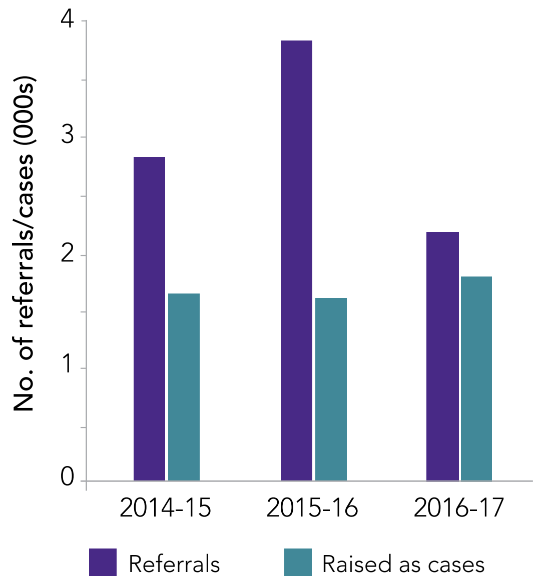
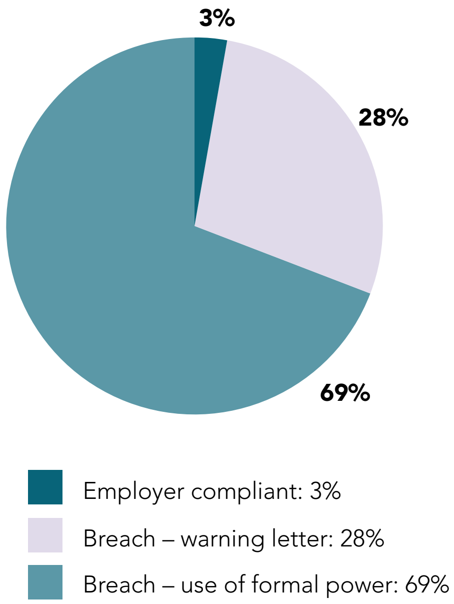


Figure 16: Outcome of closed cases



Closed cases

During 2016-17, we closed 39,801 cases. In 3% of these, no further actions were required following our initial contact. In 28% of cases we issued a breach warning letter to the employer, and in 69% of cases it was necessary for us to use our formal powers, such as issuing compliance notices, unpaid contributions notices and penalty notices.

The proportion of formal notices has risen dramatically since last year. This is expected as we have made the transition from enforcing against medium employers to the higher volume of small and micro employers.

Use of formal powers

Between April 2016 and March 2017 we used our formal powers on 50,068 occasions, a 41,256 increase on the number of powers used in 2016. This number has risen in proportion to the volume of employers who have reached their staging dates.

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

Engaging with us early can help employers avoid penalty notices and fines.

Although the number of compliance notices has risen to over 33,000, we find the majority of employers subsequently comply when reminded of their duties. However, a £400 fixed penalty notice will be issued automatically under section 40 of the Pensions Act 2008 for failure to comply with a statutory notice or specific employer duties.

Between April 2016 and March 2017, we received 193 Tribunal appeals and decided to defend 111 cases. Of the 70 appeals decided by the Tribunal, the notice was confirmed in 69 cases.

Table 11: Use of formal powers 2016-17

Intervention	Number issued
Compliance notice	33,716
Unpaid contribution notice	1,193
Information notice	187
Inspection	260
Fixed penalty notice	12,181
Escalating penalty notice	2,527
Warrant	4

As we continue to deal with small and micro employers there has been an increasing number who, despite the message to prepare early, leave it too late or don't act at all. Engaging with us early in the process and working to put things right can help avoid penalty notices and fines. If an employer has chosen to ignore their duties, we will use our powers where appropriate to ensure compliance.

Figure 17: Declarations made in 2015-17 with fines issued shown as a percentage

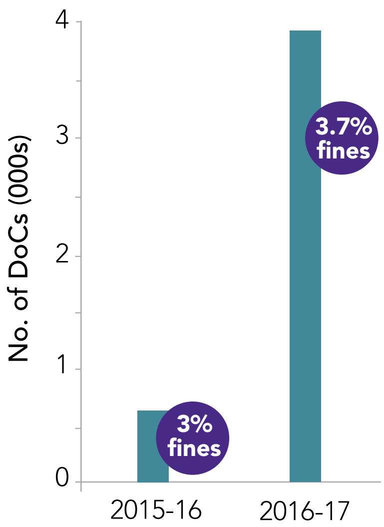


Figure 17 shows the number of declarations of compliance received in 2016-17, compared to the number received in 2015-16. It also shows the number of fixed or escalating penalties issued on those years. The number of fines as a proportion of declarations has remained steady when compared to the previous year.

We're beginning to see the first employers receive County Court Judgments (CCJs) for a failure to pay their AE fines. This can happen when they persistently ignore the penalty notices we send them. If they don't pay up within 30 days of receiving the CCJ, it gets entered on their credit record and remains there for six years.

Employers taken to court for failing to pay fines for workplace pension non-compliance are now being made public on a new list on our website. Separately, we are also publishing the details of every employer that continues to ignore its AE responsibilities despite having been issued with – and having paid – an escalating penalty notice.

Table 12: County Court Judgments issued

Month	Number issued
May 16	1
Jun 16	1
Jul 16	0
Aug 16	1
Sep 16	6
Oct 16	4
Nov 16	9
Dec 16	20
Jan 17	31
Feb 17	18
Mar 17	62
Total	153

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.

Johnsons Shoes Company case study

Johnsons Shoes Company was issued with a £400 fixed penalty notice, which turned into a bill for more than £40,000 after it failed to comply with the law on the automatic enrolment of its staff into a workplace pension.

The company had been required to check whether its staff qualified to be put into a workplace pension scheme and to confirm to TPR that it had done so.

Johnsons paid their initial £400 fine but still did not enrol all eligible staff into a pension scheme. Despite repeated reminders – and being warned that it would face a new fine that would increase by £2,500 per day if it did not meet its responsibilities – the business did not meet its duties.

The fine reached £40,000 before the company finally became compliant. At that point, Johnsons refused to pay the fine – forcing TPR to take the business to court to secure payment.

Eventually Johnsons agreed to pay the £40,000 fine and £2,000 court costs, preventing the need for a full court hearing on the matter.

The failure by Johnsons to act, despite our repeated warnings, left it with a completely unnecessary bill that was more than 100 times the amount it was originally fined.

Employers experiencing challenges in meeting their AE duties should contact us as early as possible to discuss their situation.

Employer inspections

We're carrying out spot checks on employers across the UK to make sure they're complying with their AE duties. We started in London and moved on to Greater Manchester, Birmingham and Sheffield. Visits will also begin in other towns and cities across the UK in the coming months.

Initial results have been positive. While we came across low-level breaches, overall compliance levels have been high and employers have been willing to engage with us. A key finding is that inspection notices can lead to employers becoming compliant (prior to the inspection taking place).

The inspections have provided a number of lessons learnt which will inform and improve future inspection activity, for example the continued use of real time information (RTI) received from HM Revenue and Customs (HMRC) and the way we capture and record data.

Re-enrolment

As we mention earlier in this report, 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 to remind them about the duty to re-enrol certain staff. We then write to them at key points before their re-declaration deadline.

Initial results of employer inspections have been positive.

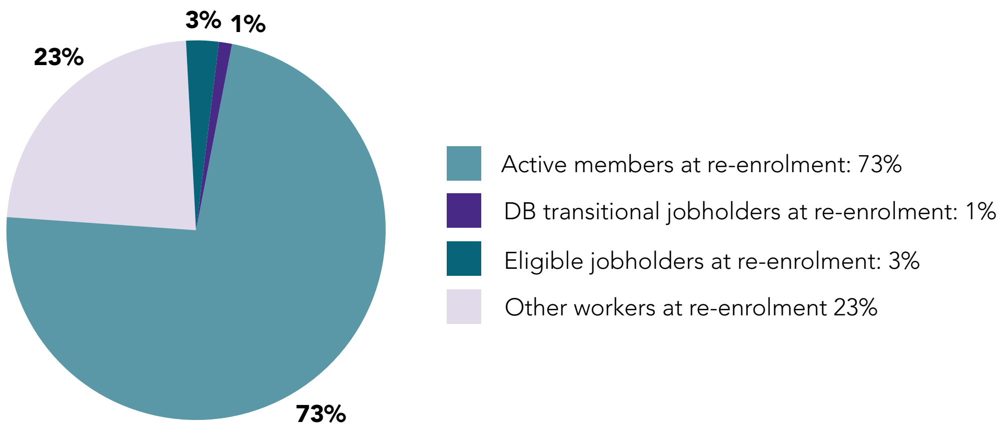
Employers must re-enrol certain staff into a pension scheme that can be used for AE, if they were previously enrolled but opted out or ceased active membership.

For the employers that have re-declared their compliance with AE, when comparing their workforce at the initial declaration against the workforce declared this time round, we see that in the three years since their initial declaration, the workforce of the employers that have re-declared to the end of March 2017 has increased on aggregate by 443,000.

As at the end of March 2017, nearly three quarters of the workforce re-declared are active members of a qualifying scheme. This is unsurprising given that larger employers were always more likely to already be offering an occupational pension to their staff (and this hypothesis did turn out to be true with their original declarations). Given this, as we would expect, the number of eligible jobholders at re-enrolment also decreased by 2,782,000 from their initial declarations, with employers re-declaring only 401,000 eligible jobholders.

Of the 10,938 employers in total that have re-declared their compliance, 3,854 did not have any eligible jobholders to re-enrol, but did have active members of their qualifying scheme (1,109,000).

Figure 18: Cumulative workforce split at re-declaration



We are encouraged to see from our analysis of re-enrolment and re-declaration that AE is becoming business as usual for employers. As the medium employers have started, we've adapted our approach, learning lessons from our experience so far, to support these employers in meeting their re-enrolment and re-declaration duties on time.

Employer staging forecast

Here we set out our forecast of employers that we expect to stage to the end of 2019-20. Given that we are getting closer to the end of the existing staging schedule and the onset of a steady state in which new employers will have instantaneous AE duties and more employers reach their re-enrolment window, we have extended our forecast to the end of 2019-20. We have also included a forecast of employers due to re-enrol staff.

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. Because this group of employers has come into existence relatively recently in comparison to the employers that have staged to date, we expect between 50-58% of employers to have full AE duties – ie to 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 stage or reach their staging 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 19 shows the range of all employers that are due to stage per quarter based on upper and lower estimates (the dark shaded area), and also shows the range of employers that we believe will have full duties based on upper and lower estimates (the light shaded area). The corresponding volumes plus totals are displayed in Table 13 overleaf.

Figure 19: Quarterly forecast of employers due to comply with AE

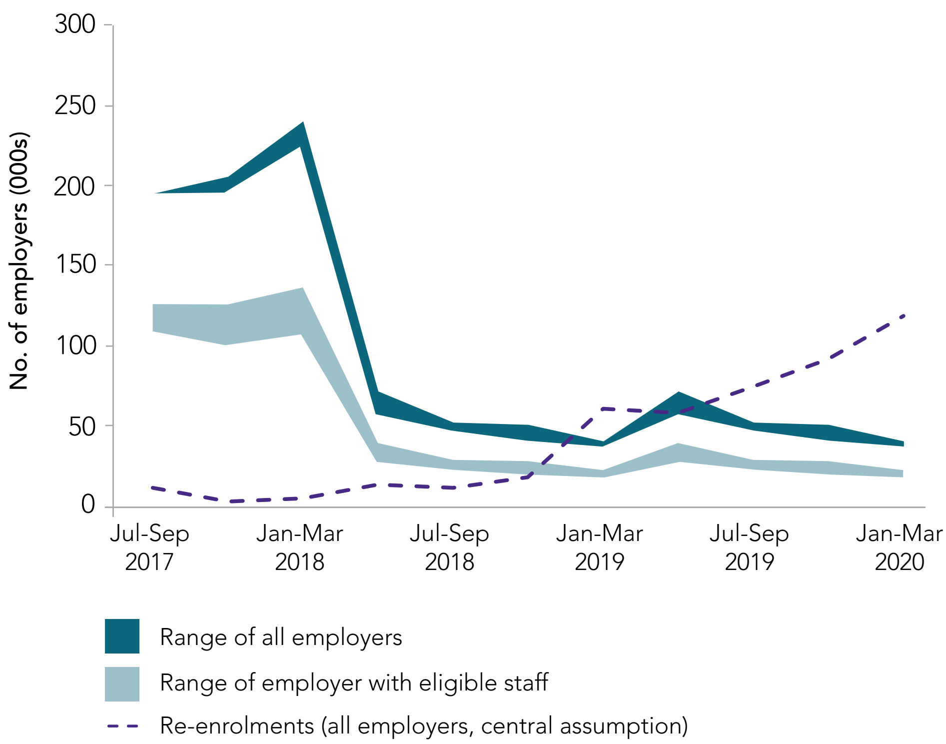


Table 13: Quarterly data table

Period	All employers		Employers with eligible staff		Re-enrolments
	Upper estimate	Lower estimate	Upper estimate	Lower estimate	
2017-18					
Q2	194,000	194,000	125,000	109,000	10,000
Q3	205,000	195,000	125,000	100,000	2,000
Q4	239,000	223,000	135,000	106,000	3,000
2018-19					
Q1	71,000	57,000	38,000	27,000	12,000
Q2	52,000	46,000	28,000	22,000	10,000
Q3	50,000	40,000	27,000	19,000	17,000
Q4	40,000	36,000	22,000	18,000	60,000
2019-20					
Q1	71,000	57,000	38,000	27,000	57,000
Q2	52,000	46,000	28,000	22,000	74,000
Q3	50,000	40,000	27,000	19,000	91,000
Q4	40,000	36,000	22,000	18,000	118,000
Total	1,064,000	970,000	615,000	487,000	454,000

While there has been relatively little change compared with last year, it is important to emphasise that this forecast is an estimate based on the data and information we have now, and we will continue to update it as new data or information arises.

The forecast above shows how many employers we believe will stage 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 AE duties until later months. While it is difficult for us to predict when employers may have full AE duties, the analysis below shows the relationship between the size of an employer and the likelihood of an employer to employ eligible jobholders.

We can see in Figure 20 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), over 27% of employers will have only one worker. This proportion decreases over time until at one year old, the number of employers with only one worker decreases by nearly 10%, whereas all other size bands increase.

Figure 20: Distribution of employer size by age

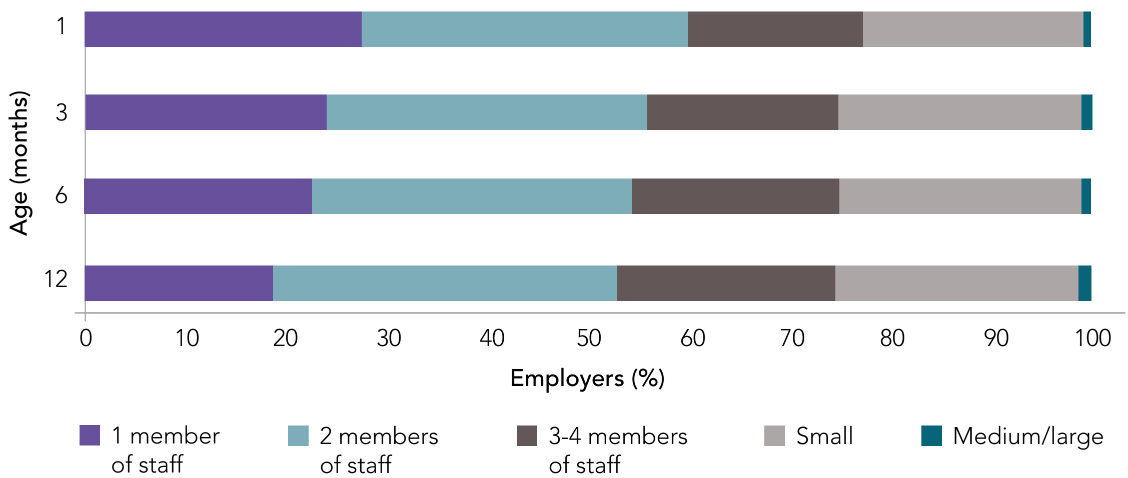
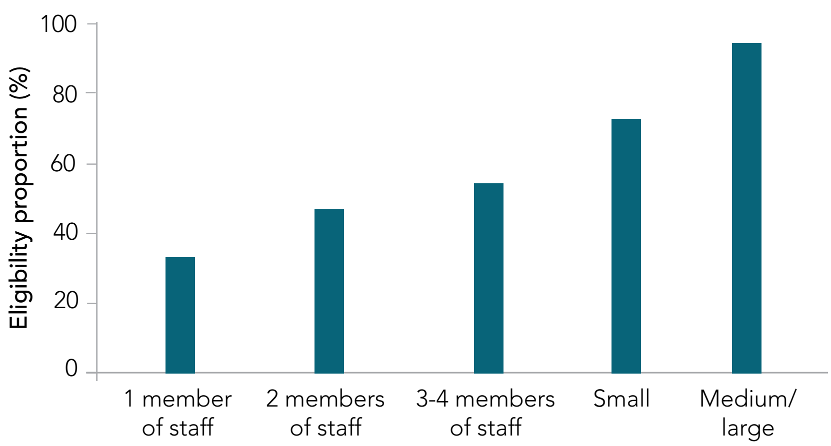


Figure 21: Percentage of employers with eligible jobholders, by size



We can also see in Figure 21 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 AE duties.

Forthcoming trends and challenges

Pension Schemes Act

We welcome the new powers granted to us in April to authorise and supervise master trusts. The number of providers has grown over recent years as more staff are put into pension schemes, so their savings need to be secure.

The regulations are being developed and will give us the powers to ensure that master trusts are being run by fit and proper individuals, and that they are financially stable and secure.

Gig economy

This has grown dramatically over recent 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.

Phasing of contributions

Contributions are being increased gradually over time. From 6 April 2018, the minimum amount an employer will have to pay in will be 2% of a worker's pay, and the amount the worker will put in will rise to 3%. On 6 April 2019, this will rise again to 3% from the employer, and 5% from the worker.

We're sending out letters, reminding employers about forthcoming increases to the minimum pension contributions they make to staff. We'll also be providing plenty of support and guidance on our website so employers know what actions to take.

AE review

The DWP is carrying out a review of AE during 2017. We look forward to working closely with them on the future evolution of AE, using the key successes and our insights to date to help inform that evolution.

Use of data in the long term

Schemes need to have good data. For DC schemes, the issue is acute, because if information is incorrect, it can impact directly on member savings. Trustees will now be asked for more information on data quality in their scheme return – and we will take action if we believe it is not meeting the standards we expect.

RTI data

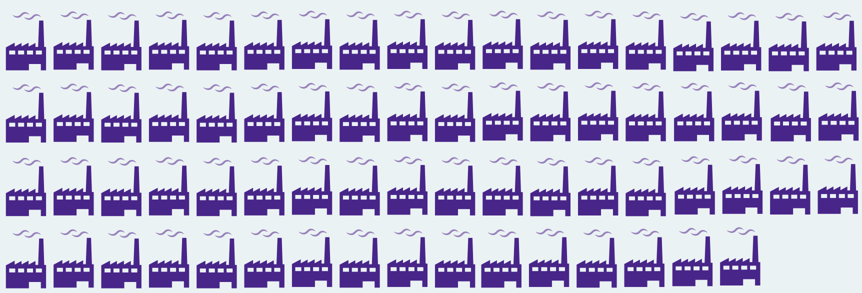
A better use of RTI data will help us to identify which employers have duties and when their duties have come into effect. It will allow us to communicate with them but also to have an effective compliance and enforcement approach based on when staff actually started. We'll be able to see who is avoiding their duties and who has not completed their declaration of compliance.

Sharing data

We look to share data with our government partners, in line with the Data Protection Act. This will help us identify and target high-risk employers who are at risk of non-compliance.

Employers left to stage

Tens of thousands more people every week are signing up to a new workplace pension through AE. Employers are continuing to become compliant and to remain so, allowing their staff to get the pensions they are entitled to.



There are over **700,000** more employers whose duties are still to begin over the coming months.

Volumes of newborns

All employers have legal duties and can use the Duties Checker on our website to quickly understand exactly what they must do. We will continue to reach out to employers and intermediaries to ensure we adapt and evolve our approach for the continuing success of AE.

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Free online learning for those running public service schemes

Automatic enrolment
Commentary and analysis: April 2016 – March 2017

The Pensions Regulator