REPORT TO:	**FINANCE and MANAGEMENT COMMITTEE**	**AGENDA ITEM: 8**
DATE OF MEETING:	**25th APRIL 2013**	**CATEGORY: RECOMMENDED**
		OPEN
REPORT FROM:	**CHIEF EXECUTIVE**	
MEMBERS' CONTACT POINT:	**HEAD OF CORPORATE SERVICES KEVIN STACKHOUSE (01283 595811)** kevin.stackhouse@south-derbys.gov.uk	**DOC:** u/ks/live files/auto enrolment/committee report April 2013
SUBJECT:	**AUTOMATIC ENROLMENT TO THE LOCAL GOVERNMENT PENSION SCHEME**	**REF:**
WARD(S) AFFECTED:	**ALL**	**TERMS OF REFERENCE: FM 05**

1.0 Recommendations

1.1 That the Council applies transitional arrangements for the implementation of Automatic Enrolment into the Local Government Pension Scheme in accordance with the following timetable.

- Identify all employees who are eligible job holders within one month of the staging date of 1st February 2014 and issue a general notice of the Council's intention to delay Automatic Enrolment.
- With effect from 1st February 2014, automatically enrol all new employees, together with any employee passing the age of 22 or breeching the earnings threshold of £9,440 per year for the first time.
- On 1st October 2017, automatically enrol all current employees who are not currently scheme members who are on a salary greater than £9,440 (or the updated figure) per year and aged over 22.

1.2 That all Council employees are notified of the staging date of 1st February 2014.

1.3 That all employees being auto enrolled or where transitional arrangements are being applied are individually notified.

1.4 That the Pension Regulator is notified of the Council's intention to apply the transitional arrangements.

1.5 That a sum is earmarked in the Medium Term Financial Plan to provide for the potential cost of Automatic Enrolment.

1.6 That the timetable in 1.1 is kept under review and any proposed changes are reported to the Committee.

2.0 Purpose of Report

2.1 The Pensions Act 2008 requires employers to start automatically enrolling eligible staff into a qualifying pension scheme. The report sets out the options for applying the relevant regulations for the Council as an employer and member of the Local Government Pension Scheme.

2.2 The Government has allowed employers offering a Defined Benefit Scheme, the ability to defer automatic enrolment for opted out staff until October 2017. The report also analyses the implications of opting for a transitional arrangement.

3.0 Detail

Background

3.1 Under the Pensions Act 2008, new legal requirements were introduced on 1st October 2012, which placed a duty on all employers in England to automatically enrol "eligible jobholders" into a pension scheme that meets certain minimum requirements.

3.2 The Local Government Pension Scheme (LGPS) satisfies the minimum eligibility conditions. The new requirements are generally known as Auto Enrolment (or AE).

3.3 It should be noted that Elected Members are not classed as "eligible jobholders" but rather as "office holders" as they do not have an employment contract. Members are elected to hold office and provide services as elected representatives and the AE requirements do not apply.

Why is AE being Introduced

3.4 Effectively, AE is intended to increase the take-up of employer pension schemes in order that the working age population have automatic access to a pension scheme and that additional resources are available in retirement, without having to rely solely on the State Pension.

3.5 The onus will be on the employer to automatically enrol members of their workforce. Individuals will have the choice to subsequently opt out if they wish - membership is still not compulsory. However, the principle of AE is designed to increase the overall take-up of pension provision by placing the onus on the employer.

Opting Out

3.6 Where employees are automatically enrolled and then subsequently opt out, they will need to be re-enrolled every 3 years. Employees subject to AE will have up to three months to opt out, within which any pension contributions made will be refunded.

3.7 Although employees can still opt out at anytime, if they have been a Scheme member for greater than 3 months, no refunds can be made. Consequently, a pension benefit would have accrued, however small, payable upon retirement.

Eligible Employees

3.8 AE applies to members of the workforce who are over the age of 22 years and below State Pension Age and have annual earnings (including overtime payments) above £9,440.

Implementation and Staging Dates

3.9 All employers have been given an individual implementation date - known as the staging date. The new requirements must be implemented by this date. The staging date is determined by the number of employees.

3.10 There are numerous staging dates which commenced in October 2012 and the phasing will be completed by 2018.

3.11 This timetable is designed to implement the regulations for the largest employers first, with smaller organisations being later. The Council's staging date is **1st February 2014**.

3.12 On this date, all current opted out and new staff will need to be automatically enrolled. However, the regulations give certain employers offering Defined Benefit Schemes (this includes local authorities) the option to defer AE for previously opted out employees only (not new starters) until **October 2017** – effectively a transitional period.

3.13 The transitional period is optional. Consequently, an employer must issue a notice of its intention to delay AE within one month of the staging date otherwise the AE obligation is then triggered immediately.

New Starters

3.14 Currently, the Council automatically enrols new starters in any case and new employees then have to actively opt out. This procedure is usually completed before a new employee is paid as they are able to sign the appropriate "opt out" form issued by the Council as part of the final recruitment process. The flexibility to opt in or opt out is clear and generally no pension contributions are paid before an opt out is made.

3.15 However, from October 2012, new employees have been unable to opt out of the scheme prior to their first day of employment.

3.16 Under AE, the Council will no longer be able to provide an opt out form as this could be seen as an inducement not to join the scheme, which is against the principle underpinning AE.

3.17 Consequently, with effect from February 2014, the Council will only simply need to inform new employees that they will be automatically enrolled (which will then be actioned through Payroll) but that they can arrange to opt out by directly contacting the Pensions Service (not the Council).

3.18 New employees will have up to three months to exercise this option. In the meantime both employee and employer pension contributions could be made, which would then need to be refunded.

3.19 Effectively, AE is making it more difficult for employees to opt out.

Previously Opted Out Employees

3.20 As highlighted, the Council has the option of deferring AE for current employees, who have previously opted out, until October 2017. During the intervening period, eligible workers still retain the right to join the Scheme at any time.

3.21 However, there could be disadvantages as well as benefits of utilising the deferral option; these are considered in Section 4, below.

4.0 <u>Options and Financial Implications</u>

4.1 The Council has 29 current eligible employees who have opted out of the LGPS. If they were all to opt in, this would cost the Council approximately **£135,000** per year in additional pension fund contributions.

4.2 None of these employees are below the earnings threshold of £9,440 and therefore would not need to be auto enrolled between February 2014 and October 2017. One of the employees will become 22 years of age within the period and would need to be subject to AE.

4.3 If the 29 were all automatically enrolled on the staging date of February 2014, there is a risk that this would provide a fairly significant budget pressure for the Council. Clearly, some may opt out again, but this is not certain.

4.4 The main advantage of AE on the initial staging date is that it could have a beneficial effect on the long term position of the Pension Fund, i.e. additional contributions being made that, in principle, should increase the value of the Fund over time and reduce future Council contributions.

4.5 However, this is difficult to quantify and also needs to be balanced against the risk of the initial budget pressure.

4.6 The transitional period does allow more time for AE to be phased in and spread the budgetary pressure. However, this may only be deferring an inevitable cost.

4.7 Clearly, opted out employees can still opt in at anytime. It is difficult to gauge whether the staging date in February 2014 will prompt individuals to review their personal position and opt in.

4.8 It is considered unlikely that all employees will choose to opt in whatever the situation. Individuals opt out for various personal reasons but the risk is that AE could, at some stage, have a financial impact.

4.9 Several authorities have already made decisions to defer EA due to current budgetary pressures and this is perhaps a pragmatic solution. Given the potential cost for the Council, this is also considered to be a strategy worth adopting.

Possible Impact on the Medium Term Financial Plan (MTFP)

4.10 However in doing so, it would be prudent to provide for a potential cost in the Medium Term Financial Plan (MTFP).

4.11 Clearly, this will be difficult given the current pressures highlighted in the MTFP, not least the need to make budget savings in the medium term. However, an annual provision could be included and earmarked within the central inflation contingency.

4.12 As reports to the Committee have highlighted, this contingency has not been fully used in recent years and has been returned to General Reserves. The cost that could arise from AE is not certain and so utilising part of the contingency is a prudent way from which to earmark a sum and guard against a potential cost.

4.13 If this strategy is approved, this will be considered and included as part of the MTFP review in September 2013.

Other Potential Costs

4.14 AE will bring some additional administrative costs through the issue of notices and communication, together where employees are AE and then opt out. These costs are considered to be relatively small and can be contained within current resources.

4.15 AE will also require additional monitoring as the workforce changes and the age and earning thresholds affect individual status. Monthly reports will be required to be sent to the County Council as the Administrative Body for the Derbyshire Pension Fund.

4.16 Although the IT system for Payroll does not currently allow this, a planned upgraded release of the software will provide the appropriate functionality.

5.0 <u>Corporate and Employment Implications</u>

5.1 Legal implications are detailed in the report.

5.2 Although there is no requirement to undergo any formal consultation with the Trade Unions, AE was discussed at the internal Joint Negotiating Group on 4th April 2013; no substantive issues were raised.

5.3 All employees will be notified of the Council's staging date of 1st February 2014 and its intention to delay AE (if approved). Some information has already been communicated in the latest edition on the staff magazine.

5.4 In due course, any employee subject to AE or where transitional arrangements are being applied will be notified individually.

5.5 It should be noted that, although AE is designed to increase pension take-up and specify certain timescales for employers, individuals will still have the option to opt in or opt out of the LGPS at anytime.

6.0 <u>Community Implications</u>

6.1 None directly.

7.0 <u>Background Papers</u>

7.1 The Pensions Act 2008.

http://www.thepensionsregulator.gov.uk/employers/detailed-guidance.aspx