

EXECUTIVE SUMMARY**REPORT TO THE BOARD OF DIRECTORS****HELD ON 16 JANUARY 2013**

Subject	Pensions – Automatic Enrolment and its implications for the Trust
Supporting TEG Member	Mark Gwilliam and Neil Priestley
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Status¹	N

PURPOSE OF THE REPORT

- To inform the Board of the requirements of the Pension Act 2008 (which come into effect in 2012): these require that employees and workers are offered an employment pension. The project is known as Automatic Enrolment. The report also sets out the financial implications for the Trust.
- To set out the rationale for deferring implementation of the scheme and to update the Board of Directors on the recommendations approved by TEG.

KEY POINTS

- The Pension Act 2008 requires all employers to automatically enrol employees into a pension scheme and to make a contribution to that pension.
- STH has approximately 2,600 employees currently not in the NHS Pension Scheme (NHSPS). Approximately 1,860 employees are eligible to join NHSPS but have opted out. Automatic Enrolment requires that these employees are put into the NHSPS but the individuals can then choose to opt out again. Should all these employees remain in the NHSPS, our employer contribution would cost approximately. £4.25m per annum. There is an option to defer auto-enrolment for eligible employees until 30 September 2017, although employees must be communicated with and have the right to opt in at any point in this period.
- STH has 270 employees not eligible to join the NHSPS who must be enrolled into another pension provided by the Trust. This should occur by 1 March 2013, although on application to the Pension Regulator, this could be deferred to 1 June 2013 but no longer.
- There is no central procurement initiative to determine an appropriate alternative qualified pension provider. The Trust must, therefore, take steps to secure an alternative pension scheme and make an employer contribution. The employer contribution cost is estimated at £35k per annum.
- There are also steps to be taken within HR and Payroll Services to inform and communicate with staff, automatically enrol staff in either scheme and continually assess eligibility. All staff will need to be informed of this decision to postpone auto-enrolment.

IMPLICATIONS²

AIM OF THE STHFT CORPORATE STRATEGY 2012-2017		TICK AS APPROPRIATE
1	Deliver the Best Clinical Outcomes	
2	Provide Patient Centred Services	
3	Employ Caring and Cared for Staff	✓
4	Spend Public Money Wisely	✓
5	Deliver Excellent Research, Education & Innovation	

RECOMMENDATIONS

- That the Board of Directors note the actions agreed by TEG to
- Establish an Auto-enrolment Project Team to be jointly led by Jane Clawson and Julie Wright.
 - Select (by tender if necessary) a suitable alternative pension provider.
 - Communication exercise with employees.
 - Formally defer the date for non-eligible NHSPS employees to be assessed and automatically enrolled into an alternative pension scheme by the full 3 months, to 1 June 2013.
 - Auto-enrol all newly eligible individuals as soon as they become eligible, rather than defer enrolment.
 - Adopt the transitional period, enabling deferment of auto-enrolment for staff who are eligible to be in the NHSPS but who are currently opted out to the furthest date of September 2017.

APPROVAL PROCESS

Meeting	Date	Approved Y/N
TEG	14.11.12	✓
JNCC	6.12.12	✓
Finance Committee	10.12.12	✓

¹ Status: A = Approval
A* = Approval & Requiring Board Approval
D = Debate
N = Note

² Against the five aims of the STHFT Corporate Strategy 2012-2017

Pensions: Automatic Enrolment and its implications for STH

1 Introduction

- 1.1 As part of the government’s drive for all workers to have a pension, work-place pensions law has changed. Every employer will now have to act to fulfill new legal duties as set out in the Pension Act 2008. The main employer responsibilities, as determined by the Pension Regulator (TPR) are:
- Automatic enrolment. Enrolling an eligible job holder into a pension scheme without the need for action by the worker.
 - Opting in, joining and contractual enrolment. Arranging membership of a pension scheme for other workers (who are not eligible job holders) who choose to opt in or join a pension scheme.
 - Managing opt outs. Administering the opt-out process for workers classified for auto-enrolment who decide they do not want to be a member of a pension scheme.
 - Providing information. Giving specified information to groups of workers within specified categories.
- 1.2 It is important to note that where workers are not eligible to join the NHS Pension Scheme (NHSPS), an alternative scheme must be offered. Once a worker has been enrolled, the employer needs to make and maintain contributions to the pension scheme. The employer must keep records to comply with these duties and must be able to keep track of the ages and earnings of everyone who works for them at all times.
- 1.3 This paper sets out the process and explains its anticipated effects on STH. It also sets out indicative financial implications of an expected rise in employer pension contributions.
- 1.4 The term worker is used throughout this paper as the legislation requires employers to consider not just employees but some other categories of worker such as those who have a contract to perform work or services personally (otherwise known as a contract for services). This would exclude self-employed contractors and agency workers provided by a third party agency, but individual case assessment may be required.

2 Effective or “Staging” date

- 2.1 The effective date of our responsibilities is 1 March 2013 as determined by TPR. It is known as the ‘staging date’. From this date we must have assessed our workforce for workers who qualify for auto-enrolment and enrolled them in a qualifying pension scheme (NHSPS or alternative provider). We can postpone this date by a maximum of 3 months to 1 June 2013, by application to TPR.
- 2.2 The Pensions Regulator will ensure employers fulfill their duties in relation to the Act and have already made indications of fines of around £10k per day, should these duties not be met.

3 Assessing our workforce

- 3.1 The initial step of compliance is to assess our workforce for auto-enrolment at the staging date, ie identify those workers not already within the NHSPS. The majority of our staff (approximately 85%) are already NHSPS members. This leaves approximately 2,600 who are not members.
- 3.2 These workers then have to be classified into three different categories: Eligible Job holders, Non-eligible Job holders and Entitled workers. The category into which a worker falls is determined by their age and their qualifying earnings, as indicated below.

Category	Criteria/Comment	Estimated Worker Numbers
Eligible Job Holders	Only this group of workers are part of automatic enrolment at the staging date.	2,130

Non-Eligible Job Holders	This group of workers are not eligible for automatic enrolment because of either their age (age 16-21 or state pension age – 74) or because they have earnings under the qualifying threshold for automatic enrolment (<£8,105pa). They can, however, opt into the pension scheme.	470 (split to be determined)
Entitled Workers	Workers in this category are not eligible for automatic enrolment because they have earnings of less than £5,564 pa, but they may be aged 16 - 74. They have the right to join a pension scheme at their request. This does not have to be NHSPS.	

- 3.3 Workers who are required to be auto-enrolled can choose to opt back out after the staging date. An eligible job holder has the right to opt-out of pension scheme membership, but cannot opt out of automatic enrolment.
- 3.4 Workers who are not eligible to be automatically enrolled at the staging date will need to be monitored on a regular (ie monthly) basis post this date. This is necessary to capture workers who may change category as time progresses due to increases in age or movement in earnings. Once a change in category has been established, the Trust is required to inform the worker and automatically enrol them into a pension scheme. The Payroll Department will need to establish a system of assessment and set assessment dates throughout the year. It is likely these will be set to fit in with established payroll deadlines.
- 3.5 In respect of the auto-enrolment exercise, the focus is on the 2,130 Eligible Job Holders who are not currently in the NHSPS – this could be for two reasons:
- Employees who have previously chosen not to join the NHSPS:- It is estimated this accounts for 1,860 workers currently.
 - Employees who are not eligible to be part of the NHSPS:- eg already accessing their NHS Pension following flexible retirement or ill health retirement, those who have already contributed maximum years service, those working full-time elsewhere in the NHS, etc. It is estimated this accounts for 270 workers currently. The Trust is required to provide an alternative pension provider to the NHSPS for these workers.

Further validation work will be required on these numbers and it is expected that a survey will be required to be undertaken to confirm the status of each individual.

- 3.6 An assessment of any other workers who are not employees but where we are required to provide a pension is still to be carried out, but it is anticipated either none or a very low number of such workers will be eligible job holders.

4 Potential employer pension costs

- 4.1 All categories of workers are entitled to an employer pension contribution when in a pension scheme.
- 4.2 Potential employer pension costs for the 2,130 staff noted above have been estimated as follows:
- **Those eligible to join the NHSPS but who have opted out.** If all the 1,860 staff rejoined the NHSPS (which they can of course do at anytime) the employer contributions would cost the Trust an additional **£4.25m per annum** (gross £5.0m offset by NI deductions). This is based on the employer's contribution rate of 14%.
 - **Those not eligible to join the NHSPS.** Providing an alternative pension for these 270 staff could cost the Trust **£35k per annum** in additional employer cost contributions. This is based on the employer's contribution rate being 1%.
- 4.3 For an alternative pension scheme, minimum contribution rates are being phased in as per the table overleaf, and the employer rate will reach 3% by October 2018.

Timescale	Employer	Employee	Total
Employer's staging date to 30 September 2017	1%	1%	2%
1 October 2017 to 30 September 2018	2%	3%	5%
1 Oct 2018 onwards	3%	5%	8%

4.4 Additional employer pension contributions could be incurred for Non-eligible job holders and entitled workers who chose to opt into a pension scheme. Work is ongoing to quantify the maximum financial effect for this group of workers.

4.5 However, this scenario is not considered likely and it also needs to be recognised that some eligible job holders will choose to opt out of their automatic enrolment.

5 Providing an alternative qualifying pension scheme (AQPS)

5.1 Automatic Enrolment means that eligible job holders who are not entitled to be part of the NHSPS must be provided with an alternative pension scheme by the Trust. As noted in 3.5 above, it is estimated that the Trust has 270 employees in this category at present.

5.2 The options to provide an alternative pension are limited from a sourcing and procurement perspective. The Department of Health has confirmed they are not creating a national framework and the responsibility for sourcing an alternative pension scheme is a local decision. Therefore,

- The Trust can run our own procurement process to appoint a provider
- The Trust can access pension provision via NEST – the National Employment Savings Trust – assuming levels are below tendering limits
- Standard Life may offer a product under existing contractual, tendered arrangements. Early indications are this option will not be available to the Trust but clarity is still being sought.

5.3 NHS Employers have calculated that Trusts would need to have in excess of 900 eligible workers who are not eligible for the NHSPS to reach the OJEU value over a 4 year period (assuming £15k pa earnings per worker), as the tender limits are assessed on the level of fees and maintenance charges involved, not the value of the pension contributions. On this basis, and given that the numbers of such workers is only expected to decrease in the future, it would not appear necessary for the Trust to undertake a procurement process, unless there is a quality reason to do so.

5.4 However, further work needs to be undertaken as soon as possible to determine the appropriate way forward and if NEST is an appropriate scheme to offer. TEG will be updated on this as soon as possible.

6 Postponement and the Transitional Period

6.1 Postponement is an option for an employer to choose to suspend the duty of assessment and automatic enrolment for up to 3 months. An employer can postpone from either:

- the staging date (ie 1 March 2013) for existing workers, in which case the postponement can apply to one worker, some workers or all workers at the staging date,
- the worker's first day of employment for a joiner after the staging date or,
- the date the worker meets the criteria for automatic enrolment after the employers staging date.

Individuals still have a right to opt in during a postponement period.

6.2 TEG has approved the recommendation that we take postponement at the staging date so that assessment and enrolment begins at a deferred date of 1 June 2013. This postponement allows the Trust more time to determine and organise a suitable alternative pension scheme for those not eligible to join the NHSPS and to avoid the financial year end which is already a peak time for Finance and Payroll teams.

In approving this postponement, we must now apply to the Pension Regulator by 31 March 2013 at the latest, but McKesson, our software provider, have requested information to a far

earlier timescale to facilitate software changes. To also provide for adequate communication to employees we would wish to make this application no later than 30 November 2012.

We should then also give

- general notice of the date of automatic enrolment and the postponement to all workers already in a qualifying scheme, by 31 March 2013.
- individual tailored notice to a non-eligible job holder about their right to opt in to the automatic enrolment scheme.
- individual tailored notice to an entitled worker about their right to join a pension scheme.

6.3 TEG has also approved that we do not take postponements for new joiners after the staging date as this provides the same opportunity as currently provided to new joiners. The current provision is to offer the NHSPS on appointment.

TEG has also approved the recommendation that we do not take a three month postponement for existing individual employees who meet the auto-enrolment criteria after the Trust's staging date.

6.4 There is also an option to adopt a transition period which delays automatic enrolment for eligible job holders who join a defined benefit pension scheme by almost 5 years. The NHSPS is a defined benefit scheme, but NEST is not (it is a defined contribution scheme). Hence this option could be taken for the 1,860 workers but not the 270 workers noted above (unless the Trust sources an alternative provider who does provide a defined benefit scheme).

6.5 However, once the transition period is adopted, auto-enrolment cannot be invoked at any point in the period to 30th September 2017. The transitional period also cannot be used to delay automatic enrolment of new joiners commencing with the Trust after the staging date.

6.7 There could be a risk that, if the Trust takes this transitional period, that it is perceived as acting against the principles of all workers saving for their retirement via a pension. However this is countered by the fact that this group of workers has already taken the deliberate decision to opt out of the NHSPS. As previously stated, it should also be noted that the Trust taking the option of the transitional period does not prevent any individual opting into the NHSPS at any time, and merely extends the period of their previous decision, unless the individual chooses to reverse that decision. The other drawbacks to exercising this deferment is that the administration requirements in the transition period become complex and will require close and careful management to ensure fines are avoided. Clearly there could be a financial advantage to the Trust of taking the permitted transitional period if significant levels of employees opt back out following auto-enrolment.

6.8 TEG has also approved the recommendation that the Trust also opts to apply for the transitional period, thereby deferring auto-enrolment for the 1860 employees until September 2017.

6.8 The level of new resource within Payroll and HR to administer all arrangements cannot yet be assessed, until further details of the changes to be made to the ESR system to facilitate monitoring are confirmed. It is hoped that the level of administration will be minimised by the recommendation to avoid using postponement for individual cases.

7 Communication requirements

7.1 There is no requirement to formally consult on these changes; Staff side will be informed of the arrangements as soon as possible and kept informed of the ongoing arrangements.

7.2 However, there is a requirement to inform our workforce generally, and directly affected workers individually, about the automatic enrolment scheme and any decisions to postpone. In some cases there are very specific requirements for individual communication and to prescribed time limits.

7.3 The Trust recognises that it is important workers are able to make an informed decision about their pension arrangements. Employers must inform workers of the opt out option, but must not be seen to encourage opting out. A communication plan is currently work in progress as this will be a significant area of work initially.

8.0 Future Re-enrolment

- 8.1 Under automatic enrolment legislation, employers must re-enrol all workers not currently in a pension scheme three years after the initial (non-postponed) staging date and at every three year interval following this; this is known as "automatic re-enrolment". The date of this automatic re-enrolment may be advanced or deferred by up to three months.
- 8.2 However, if the transition period is adopted, this requirement is removed during that period. Longer term, this will bring a consequential workload impact for HR, Payroll and Communications teams.

9 Recommendations approved by TEG on 14 November 2012

- 9.1 An Auto-enrolment project team, led jointly by Jane Clawson (HR) and Julie Wright (Finance) is formally established to discharge the Trust's responsibility to this legislation. This will specifically include further consideration and recommendation to TEG as to the alternative qualified pension provider for the Trust.
- 9.2 The initial staging date of 1st March 2013 is officially postponed to 1st June 2013 to give the Trust more time to plan the process, communicate with affected individuals and do more detailed work on an alternative pension provision.
- 9.3 The postponement of the auto-enrolment date for individual workers becoming eligible after the staging date is not applied for in each case.
- 9.4 The transition period for appropriate workers, which defers their auto-enrolment until 30th September 2017, is applied for and adopted. This recognises the significant additional administration work involved, but maximises financial advantage for the Trust whilst still recognising the rights of workers.

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29 NOVEMBER 2012