

Founder Focus: FAQs for Start-Up Success

Pension schemes and auto enrolment for founders

Getting pensions right is important for several reasons: it can help to attract and retain talent, open doors to tax advantages, and ensure compliance with legal obligations. This article sets out some key things to consider as a new employer looking at what benefits to offer your employees for the first time.

What is a pension scheme?

A pension scheme is an arrangement designed to provide an income (and often other benefits) to members when they retire. For an occupational pension scheme, both employers and employees usually contribute into the pension scheme. The trustees of the pension scheme will then invest the contributions made and when the time comes for the employee to retire, they will pay out benefits in line with the pension scheme's governing rules.

Pension schemes can take the following forms, among others:

- **Defined Benefit Scheme:** The pension payable at retirement to an employee will depend on the employee's salary at or around the date that they retire from the scheme (known as their "final salary"). Their benefits can also be based on an average of their salary throughout their career (known as "career average revalued earnings").
- **Defined Contribution Scheme:** The employer and employee contribute a certain percentage of the employee's salary into the pension pot each month. The amount the employee receives at retirement will depend on how much has been paid in, as well as the fund's investment performance and the choices made at retirement. Under the current automatic enrolment framework, the statutory minimum contribution is 8% of qualifying earnings, of which at least 3% must come from the employer.

While pension schemes can be managed by appointed trustees, employers increasingly set up workplace pensions through third-party providers.

What are automatic enrolment duties?

Automatic enrolment places an obligation on employers to enrol eligible jobholders into a qualifying pension scheme, which can be either a defined benefit or a defined contribution scheme provided the scheme in question meets the legislative criteria. While any employee can choose to contribute to a pension scheme, those constituting eligible jobholders must be opted in as a day one employment right (unless postponement is used in which case the employer can hold off from opting in a member for a maximum of three months).

An eligible jobholder is someone who:

- is aged between 22 and State Pension Age;
- works or ordinarily works in the United Kingdom; and
- has qualifying earnings above the earnings trigger.

Note on State Pension Age: The State Pension Age is currently 66. However, it will rise to 67 between 2026 and 2028, and further increases are scheduled thereafter. Employers should monitor these changes as they will affect the definition of eligible jobholders.

Earnings thresholds

The following table sets out the current earnings thresholds for automatic enrolment purposes (2026/2027 tax year):

Threshold	Annual	Monthly	Weekly
Lower earnings limit (for qualifying earnings band)	£6,240	£520	£120
Earnings trigger (for eligible jobholder status)	£10,000	£833	£192
Upper earnings limit (for qualifying earnings band)	£50,270	£4,189	£967

Employees earning above the lower earnings limit but below the earnings trigger (or who fall outside the age bracket) are classed as non-eligible jobholders. These employees have a right to opt in and, if they choose to do so, employers have corresponding duties towards them.

Opting out and re-enrolment

Eligible jobholders do have a right to opt out of the pension scheme. If they opt out within one month from and including the first day of the opt-out period, the eligible jobholder should be treated as though they had never joined the scheme. This includes refunding any contributions already made. Employers should keep a record of all employees who have opted out of the scheme and must automatically re-enrol relevant employees on a three-yearly cycle.

What do I need in an employment contract, and can I make changes?

An employment contract generally states that the employer will comply with automatic enrolment obligations and enrol the employee into a pension scheme. In general, it is best to avoid specifics and leaving pension arrangements open to future change. For example, whilst you could specify contribution levels in the contract, this would make it more difficult to amend in future if there was any change to the minimum level of contributions required for automatic enrolment.

Amending pension terms: Should you need to make a change to the employee's employment contract, the change may be able to be agreed with the employees in writing as a change to their contractual terms and conditions of employment, although the employer will want to seek advice to confirm there are no restrictions preventing this. There are also pensions law considerations, such as ensuring any change doesn't cut across the scheme's rules, that also need to be taken into account.

Consultation requirements: Depending on the change being made, employers may need to consult with employees before the change can be made. Changes requiring consultation include increasing employee contributions.

Consultation periods must be at least 60 days and employers have an obligation to share certain information with employees during the consultation, such as a description of the proposed change and its anticipated effect on members.

Can I offer life assurance?

Yes, many employers offer a life assurance benefit for their employees. This is usually a lump sum payable if an employee dies while in service with the employer.

Generally, the trustee of a life assurance scheme has discretion as to how the lump sum is paid. An expression of wish form can be a helpful tool in identifying an employee's wishes regarding how they would like the sum to be distributed in the event of their death. It is therefore helpful to encourage employees to complete, and regularly update, this form. However, it should be noted that the trustee of the scheme is not bound by this form and may make the payment in a different way if they consider it appropriate.

This article is for general information purposes only and does not constitute legal advice. For advice on your specific circumstances, please contact a member of our team.

Any questions?

Get in touch with the legal team



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