

Opting out and refunding contributions

How the opt-out process works for employees who want to leave the pension scheme, and how contributions should be refunded.

Where an employee has been automatically enrolled into a pension scheme, or enrolled following an opt-in request, they can choose to opt out of the pension scheme. There's only a limited period in which the opt-out request can be made, and the opt-out notice must contain certain information.

Following receipt of a valid opt-out notice, an employer must refund any employee contributions within certain timescales, and similarly, the pension scheme must refund any payments that they have received from the employer that relate to the employee.

“Opting out” has a very specific meaning within the enrolment process. Effectively, it results in the employee being treated as if they had never been a member of the scheme.

Although the right to opt out strictly applies only to those who have been auto-enrolled, and therefore only to jobholders who have been enrolled into an auto-enrolment scheme, there are circumstances under which it can be extended to others. If an employer is using a personal pension scheme as an auto-enrolment scheme, opt out rights can apply to anyone whom they then join into that provision, even if the joining is contractual or access to the scheme has been given to an entitled worker.

The opt-out period

An employee who is automatically enrolled, or joins under an opt-in, has a limited period in which they could opt out. The opt-out period begins:

Under a personal pension scheme, upon the later of the employee

- being sent the terms and conditions of the agreement to become an active member, or
- being provided with written enrolment information.

Under an occupational pension scheme, upon the later of the employee

- becoming an active member with effect from the automatic enrolment date, or
- being provided with written enrolment information.

The start of the opt-out period cannot be earlier than the automatic enrolment date, and it must be within six weeks following the automatic enrolment date. This means that an employee cannot opt out before they have been automatically enrolled or opted in. This ensures that they will have received all of the appropriate information that they need to make an informed decision.

Once the opt-out period has started (as just defined), an employee who wants to opt out has one month to complete a valid opt-out notice and submit it to the employer. If an employee submits an invalid opt-out notice during this first month, then the one month period is extended to six weeks.

If an otherwise valid opt-out notice is received later than this period, the employer should deal with the request as for any employee requesting to cease active membership.

The opt-out notice

The opt-out notice must normally be issued by the pension scheme Administrator, and should not be issued by the employer. If the notice were to come from the employer, it's possible that this could be seen as pressuring the employee into opting out, and as such, a breach of the inducement part of the legislation.

So, in order that the employee is able to make a considered decision without undue influence from their employer, the opt-out notice should be issued by the pension scheme. The one exception to this is for a trust based scheme, where the administration of the pension scheme is delegated to the sponsoring employer, in which case the employer can issue the notice.

In order for an opt-out notice to be a valid notice, it currently needs to contain certain information

Information about the employee:

- Full name
- Name of the employer
- NI number or date of birth
- Signature or, if in electronic format, a statement confirming that the employee personally submitted the notice
- Date the employee completed the form

Statements and warnings - the last three of which need to be placed just before the employee's signature:

- IF YOU WANT TO OPT OUT OF PENSION SAVING
FILL IN THIS FORM AND GIVE IT TO YOUR
EMPLOYER

- I wish to opt out of pension saving.
- I understand that if I opt out I will lose the right to pension contributions from my employer.
- I understand that if I opt out I may have a lower income when I retire.

A section called "What you need to know"

- Your employer cannot ask you or force you to opt out.
- If you are asked or forced to opt out you can tell the Pensions Regulator - see www.thepensionsregulator.gov.uk.
- If you change your mind you may be able to opt back in - write to your employer if you want to do this.
- If you stay opted out your employer will normally put you back into pension saving in around 3 years.
- If you change your job your new employer will normally put you back into pension saving straight away.
- If you have another job your other employer might also put you into pension saving, now or in the future. This notice only opts you out of pension saving with the employer you name above. A separate notice must be filled out and given to any other employer you work for if you wish to opt out of that pension saving as well.

Schemes and providers may run the opt-out process in a different way. e.g. online or telephone opt-outs rather than a written form. In any case, the same information must be recorded as having been given to the jobholder, and the same declarations received, as set out above.

Following receipt of a valid opt-out notice

Once the employer receives a valid opt-out notice, the effect of the notice is that the employee has never been a member of the pension scheme. The employer must immediately stop deducting contributions and arrange for the refund of any that have been deducted. The pension scheme should also be told of the opt-out and the date that the notice was completed.

If a pension provider or another party is handling the opt-out process on behalf of the employer, they will inform the employer so that they can stop making contributions and deductions.

Employees who join a qualifying pension scheme under a contractual agreement, or entitled workers who have asked to join, do not currently have a right to opt out. If they choose to leave the scheme, they will have to cease active membership in the normal manner, and they will not be entitled to a refund of contributions unless:

- the scheme is a personal pension scheme or group personal pension scheme and the member's request is within the cancellation period, or
- the scheme is an occupational pension scheme and the member is leaving with less than 30 days service.

Reducing contributions below the qualifying level

Following automatic enrolment, rather than opting out completely, an employee may choose to reduce their contribution level below the minimum required.

They could initially opt out (and obtain a refund of any contributions) and then rejoin the scheme under whatever terms the employer stipulates, paying contributions at a reduced rate. Or, rather than opting

out, they could complete the appropriate documentation to continue active membership, but paying reduced contributions.

In either case, the scheme would no longer be a qualifying scheme for them, and the employee would need to be re-enrolled into a qualifying automatic enrolment scheme on their re-enrolment date (unless they've increased their contributions to the minimum requirement in the meantime).

Refunding contributions

From the first occasion that they are paid following the date that they became an active member of the scheme (the automatic enrolment date, or the enrolment date for those who have chosen to opt in), pension contributions have to be deducted from an employee's pay, unless the whole contribution is being funded directly by the employer.

But upon receipt of a valid opt-out notice, any contributions that have been deducted from pay have to be refunded to the employee:

- within one month of receiving the notice, or
- if the payroll arrangements have recently closed, by the end of the next available payroll run after receipt of the notice.

If any money has been passed to the scheme from the employer, the scheme needs to return the money to the employer by the refund date explained above. It will therefore be necessary for the employer to tell the scheme, for each case, what the refund date is.

Employee contributions must always be refunded by the refund date mentioned above, even where the scheme has yet to return the payments to the employer. If necessary, the employer must cover the cost of the refund.

Employer responsibilities following an employee opting out

If an employee who was automatically enrolled opts out, or ceases membership on their own account, there will normally be no need for the employer to assess earnings again (to identify the next point at which the criteria to be an eligible jobholder are met) until their re-enrolment date. This is because the employer will generally not have to re-enrol that worker until their three-yearly re-enrolment date.

If an employee has been a member of a qualifying scheme and ceases active membership on their own account, or ceases membership of an auto-enrolment scheme having opted in, the employer does not have to reassess them until their next re-enrolment date. However, they have to allow such employees to rejoin voluntarily. In both cases, there is an exception if active membership was ended by the employee less than 12 months before re-enrolment or an opt-in notice.

Record keeping

Both the employer and the pension scheme are required to keep records of opt outs, and be able to produce them on the request of the Pensions Regulator.

Employers need to keep either the original or a copy of all opt-out notices for four years. They can be stored electronically or in paper format.

Scheme Administrators need to keep the following information for four years:

- The name of each employee who has opted out of the pension scheme.
- The date on which the employer notified the pension scheme that the employee had opted out.

Additionally, Scheme Administrators need to keep the following information for six years:

- The date on which any employee ceased active membership of the pension scheme.

How it works with Aviva

Employers can appoint others to carry out some of these processes for them. For example, if you have an Aviva Group Personal Pension (GPP) with a TK or SP prefix, the process of receiving and assessing optouts is delegated to Aviva, unless you use certain specific flexible benefits platforms where we've agreed that they can be used to accept opt-outs for these schemes, and we've agreed that this process applies to you.

If you use our AE hub, part or all of the opt-out process may be delegated to Aviva. Various options are available - please ask us about these if you're considering setting up a scheme with us. If you already use the AE hub, please ask your financial adviser, or your usual Aviva contact, how this works in your case if you aren't sure.

The information in this factsheet represents Aviva's understanding of auto-enrolment legislation. This factsheet uses information from the Pensions Regulator's website. Employers should seek professional financial advice before making any changes to their existing pension scheme or setting up a new one. Aviva cannot accept responsibility for any action taken or not taken based on this information.

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