

**AUTOMATIC ENROLMENT GUIDE**  
**Local Government Pensions Committee (LGPC)**

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Introduction	Ref.
<p>1. This Guide sets out the LGPC Secretariat's understanding of the automatic enrolment provisions and their interaction with the Local Government Pension Scheme (LGPS). The guide is based on:</p> <ul style="list-style-type: none"> <li>• the regulations governing the LGPS i.e. <ul style="list-style-type: none"> <li>a) the LGPS (Benefits, Membership and Contributions) Regulations 2007 [<a href="#">SI 2007/1166</a>]</li> <li>b) the LGPS (Administration) Regulations 2008 [<a href="#">SI 2008/239</a>],</li> <li>c) the LGPS (Transitional Provisions) Regulations 2008 [<a href="#">SI 2008/238</a>]</li> <li>d) the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 [<a href="#">SSI 2008/230</a>]</li> <li>e) the LGPS (Administration) (Scotland) Regulations 2008 [<a href="#">SSI 2008/228</a>]</li> <li>f) the LGPS (Transitional Provisions) (Scotland) Regulations 2008 [<a href="#">SSI 2008/229</a>]</li> </ul> </li> <li>• the provisions of the <a href="#">Pensions Act 2008</a> (as amended by a <a href="#">correction slip</a> and by the <a href="#">Pensions Act 2011</a>)</li> <li>• related Statutory Instruments i.e. <ul style="list-style-type: none"> <li>a) the Employers' Duties (Implementation) Regulations 2010 [<a href="#">SI 2010/4</a>]</li> <li>b) the Employers' Duties (Registration and Compliance) Regulations 2010 [<a href="#">SI 2010/5</a>]</li> <li>c) the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [<a href="#">SI 2010/772</a>]</li> <li>d) the Automatic Enrolment (Miscellaneous Amendments) Regulations 2012 [<a href="#">SI 2012/215</a>]</li> <li>e) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 [<a href="#">SI 2012/1257</a>]</li> <li>f) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 2) Regulations 2012 [<a href="#">SI 2012/1477</a>]</li> <li>g) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2012 [<a href="#">SI 2012/1506</a>]</li> <li>h) the Employers' Duties (Implementation) (Amendment) Regulations 2012 [<a href="#">SI 2012/1813</a>]</li> <li>i) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 3) Regulations 2012 [<a href="#">SI 2012/2691</a>]</li> </ul> </li> <li>• guidance and information on automatic enrolment on <a href="#">The Pensions Regulator's website</a></li> </ul>	

- the [Detailed Guide to Workplace Pensions Reform for Software Developers](#) on The Pensions Regulator's website
- communication materials contained on the joint [Department for Work and Pensions and Pensions Regulator website](#), and
- correspondence the LGPC Secretariat has had with The Pensions Regulator and with the Department for Work and Pensions.

2. It should be noted that:

- this Guide covers the position in England, Wales and Scotland and reflects the legislation pertaining to those countries. Thus, in places, this Guide makes references to Great Britain rather than the United Kingdom. Separate legislation applies in Northern Ireland i.e. the Pensions (No. 2) Act (Northern Ireland) 2008 which corresponds to the Pensions Act 2008 in Great Britain. That is why the information on The Pensions Regulator's website refers to the United Kingdom (excluding the Channel Isles and the Isle of Man)
- the Guide does **not** cover the automatic enrolment provisions as they apply to any *worker* to whom the employer does **not** offer access to the LGPS, or to whom the employer cannot offer access (including the case of any person who, although a *worker*, is not an employee). Employers will need to make other pension arrangements for such *workers* and comply with the provisions of the Pensions Act 2008 and related Statutory Instruments in relation to such *workers*. Guidance is available on [The Pensions Regulator's website](#). It should be noted that it is believed Councillors are not *workers* and so the automatic enrolment provisions are not applicable to them. This view is taken on the basis that councillors do not have a *contract of employment* or any other contract by which they undertake to do work or perform services personally for another party to the contract. They are elected to hold office and provide services as an elected representative
- there are three categories of teacher that are currently not eligible to join the Teachers' Pension Scheme (TPS) i.e.
  - (i) in England and Wales, full-time teachers with an additional part-time teaching contract cannot join the TPS in the part-time contract,
  - (ii) in Scotland, since 20 November 2000, full-time teachers with an additional part-time teaching contract cannot join the TPS in the part-time contract. However, this does not apply to any teachers who prior to that date had a part-time contract additional to full-time and who remain in the same posts. Such teachers would pay contributions on all of their earnings, but only 365 days service would count for pension purposes each year, and

(iii) in England and Wales, current part-time teachers under normal pension age in the TPS who retired on the grounds of ill-health prior to 1 April 1997, and are thus permitted to undertake a degree of teaching work without losing the entitlement to the benefits involved, are not able to rejoin the TPS in respect of that part-time re-employment until they attain normal pension age.

Despite representation from the LGPC Secretariat, the Department for Education has decided not to amend the current TPS Regulations in England and Wales to allow the teachers in categories (i) and (iii) to join that scheme. Those in category (i) are, therefore, eligible to join the LGPS in the part-time contract (until they cease the full-time contract) if they are employed by an employer participating in the LGPS in England or Wales under Part 1 of Schedule 2 of the LGPS (Administration) Regulations 2008 or if they are employed by an employer participating in the LGPS in England or Wales as a designation body or admission body and the person is covered by that employer's designation or admission agreement. Similarly, those in category (ii) who are excluded from the TPS in Scotland are thus eligible to join the LGPS in the part-time contract (until they cease the full-time contract) if they are employed by an employer participating in the LGPS in Scotland under Schedule 2 of the LGPS (Administration) (Scotland) Regulations 2008 or if they are employed by an employer participating in the LGPS in Scotland as an admission body and the person is covered by that employer's admission agreement. This will have a considerable administrative impact. Take, for example, a teacher with a full-time contract and a part-time contract. The teacher is in the TPS in the full-time contract and the LGPS in the part-time contract. If the teacher ceases the full-time contract the teacher would then have to be taken out of the LGPS in the part-time contract and put in the TPS. This might result in a transfer of pension rights between the two schemes. If the teacher commences a further full-time contract one term later the teacher would then have to be taken out of the TPS in the part-time contract and put in the LGPS. If the full and part-time contracts are with different employers how will the employer issuing the part-time contract know which scheme to place the teacher in and when to revert from one scheme to another? There is clearly a major risk that mistakes will be made leading to employees being placed in the wrong scheme and retrospective adjustments having to be made. Members of the LGPC Technical Group, at their meeting on 7 September 2012, suggested it would be wise to include a paragraph in part-time teachers' contracts saying that if they also have a full time teaching contract they should let the employer know as the person would be eligible for membership of the LGPS in the part time contract and not membership of the TPS for so long as they hold the full-time teaching contract; and that they should let the employer know if they subsequently cease the full-time contract as they would then

be eligible for the TPS in the part-time contract.

The teachers in category (iii) are eligible for membership of the LGPS until normal pension age in the TPS in England and Wales (if they are employed by an employer participating in the LGPS in England or Wales under Part 1 of Schedule 2 of the LGPS (Administration) Regulations 2008 or if they are employed by an employer participating in the LGPS in England or Wales as a designation body or admission body and the person is covered by that employer's designation or admission agreement) but would revert to being eligible for membership of the TPS when they attain normal pension age in the TPS

- whilst Pension Fund administering authorities have, in the past, provided help and assistance to employers on pension matters, the landscape has changed in respect of automatic enrolment. This is because the vast majority of the provisions relating to automatic enrolment (as set out in the Pensions Act 2008 and related Statutory Instruments) relate to duties and responsibilities placed on employers (not the Pension Section of the Pension Fund administering authority). **The purpose of this guide is to help employers participating in the LGPS understand their duties and responsibilities. It is the employer's responsibility to have systems and processes in place to comply with the requirements of the Pensions Act 2008 and the related Statutory Instruments. The Pensions Regulator can impose penalties on the employer for non-compliance and this would be a charge to the employer, not the Pension Fund**
- in this Guide:
  - cross references shown in square brackets are cross references to the relevant section(s) of the Pensions Act 2008 (referred to as 'the Act'), as amended by the Pensions Act 2011, or to the appropriate regulation in subordinate legislation (i.e. in a Statutory Instrument, as amended by any subsequent amending Statutory Instrument)
  - expressions / terms shown in *plum coloured font* are defined in the Glossary at [Annex 1](#)
  - where there are references to an employer providing information in writing this can, instead, be provided by someone acting on the employers' behalf (but it remains the employer's responsibility to ensure it is provided on time, to the correct person, and is correct and complete)
  - the information to be provided in writing to a *worker* must be direct (i.e. via a letter, e-mail, payslip message) and must be personalised (e.g. Dear Mr. Smith) for *workers* not already in the LGPS, but can be non-personal (e.g. Dear Member) for employees already in the LGPS

<ul style="list-style-type: none"> <li>the new LGPS Career Average Revalued Earnings (CARE) scheme in England and Wales, which it is proposed will come into effect from 1 April 2014, contains a 50/50 option. This 50/50 option will enable members to pay half their normal contribution rate and, in return, they will build up half pension during that period. It is proposed that the 50/50 option will operate in tandem with the automatic enrolment provisions. Members who elect for the 50/50 option will be regularly automatically enrolled back into the main scheme in line with the automatic enrolment provisions. The full details of how this will operate have yet to be determined and this Guide will be updated in due course once the details are known.</li> </ul>	
<p><b>Disclaimer</b></p>	
<p>3. This Guide has been prepared by the LGPC Secretariat, a part of the Local Government Association (LGA). It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LGPC Secretariat or the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Guide. Whilst every attempt has been made to ensure the accuracy of the Guide, it would be helpful if readers could bring to the attention of the LGPC Secretariat any perceived errors or omissions. Please write to LGPC, Local Government Association, Local Government House, Smith Square, London, SW1P 3HZ or email: <a href="mailto:terry.edwards@local.gov.uk">terry.edwards@local.gov.uk</a> Tel: ☎ 01954 232834</p>	
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<p><b>Background</b></p>	
<p>5. As is well known, people are living longer and so they need to plan and save for their later years. To encourage more people to do so the Government is introducing workplace pensions reforms from 2012.</p>	

6. The Pensions Act 2008 set out the initial framework for these reforms.
7. In March 2009 the Government consulted on draft regulations to be made under the Pensions Act 2008 – The Pensions (Automatic Enrolment) Regulations 2009 and The Pensions Regulator (Delegation of Powers) Regulations 2009. On 24 September 2009 the Government published its response to comments made on those draft regulations and issued a further consultation document – [Workplace Pensions Reform – Completing the Picture](#) - with six sets of draft regulations and various guidance notes.
8. Three main Statutory Instruments were subsequently issued: the Employers’ Duties (Implementation) Regulations 2010 [[SI 2010/4](#)], the Employers’ Duties (Registration and Compliance) Regulations 2010 [[SI 2010/5](#)] and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [[SI 2010/772](#)]. These were amended by the Automatic Enrolment (Miscellaneous Amendments) Regulations 2012 [[SI 2012/215](#)], the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 [[SI 2012/1257](#)] and the Employers’ Duties (Implementation) (Amendment) Regulations 2012 [[SI 2012/1813](#)].
9. The Pensions Act 2011 made changes to the Pensions Act 2008.
10. On 15 December 2011, the DWP published a formal consultation on proposals for uplifting the automatic enrolment earnings trigger and the qualifying earnings band figures for 2012/13. The Government published its [response](#) to the consultation paper in March 2012 and the proposals were enacted in the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2012 [[SI 2012/1506](#)].
11. In March 2012, the DWP issued a consultation paper “[Revised implementation proposals for workplace pension reform](#)” setting out:
  - proposals to amend the ‘staging dates’ for small to medium sized employers
  - proposals concerning small employers who are part of a multiple employer PAYE scheme
  - proposals regarding PAYE schemes that are artificially swollen due to non-*workers* so there are really fewer than 50 employees, and
  - proposals to extend the automatic enrolment transitional period for defined benefit schemes from 1 October 2016 to 1 October 2017.

Small employers are defined as organisations with less than 50 employees while medium-sized employers have between 50 and 249 employees.

The proposals were enacted in the Employers’ Duties (Implementation) (Amendment) Regulations 2012 [[SI 2012/1813](#)]

12. On 24 April 2012, the DWP issued a consultation paper “[The draft Occupational Pension Schemes \(Disclosure of Information\) \(Amendment\) Regulations 2012](#)”. Under the Disclosure of Information Regulations as they stood at 24 April 2012 occupational pension schemes were required to provide basic scheme information to prospective members, or if that was not practicable, to new members within two *months* of joining. With the introduction of automatic enrolment, this could have meant that members might not have received this information until the opportunity for them to opt out of the scheme under the automatic enrolment rules had expired. The consultation paper proposed that the timescales for providing basic scheme information to new members subject to automatic enrolment should be amended, to make it more likely that schemes would disclose the information before the expiry of the one *month* automatic enrolment opt out period, thereby ensuring the member had information about the benefits of the scheme before making a decision to opt out.

The proposals were enacted in the Occupational Pension Schemes (Disclosure of Information) (Amendment) Regulations 2012 [[SI 2012/1811](#)]. The requirement for the Pension Fund administering authority to provide basic scheme information to all prospective LGPS members, or to new members within 2 *months* of their becoming a member, is amended as from 1 October 2012 in the case of those individuals who are enrolled under the Pensions Act 2008 for whom the Pension Fund administering authority has received the jobholder information from the employer (see [paragraphs 51, 59, 67, 72, 82, 87 and 89](#)). The basic scheme information, if not already given to the individual, must be given to them within 1 *month* of receiving the jobholder information from the employer. Where no jobholder information is received from the employer (or the employee is contractually enrolled), the 2 *months* time limit still applies. The basic information to be provided must set out how persons who are eligible to be members of the LGPS are admitted to it, which will include whether they are automatically enrolled and, as from October 2012, the member guides produced by the Secretariat will comply with this requirement.

13. On 30 April 2012, the DWP issued a consultation paper “[Automatic enrolment: career average schemes as qualifying schemes](#)” in which DWP propose to amend regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [[SI 2010/772](#)] to give more flexibility for schemes over how they provide for revaluation of CARE benefits as the current regulations interact in an unintended way with the scheme rules for some CARE schemes. The amendments are contained in the [draft Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) \(No. 2\) Regulations 2012](#).
14. This guide is based on the extant legislation and on the assumption that the amendments to the LGPS Regulations in Scotland, as

contained in the draft Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2013, are promulgated.

### Brief summary of the requirements

15. Employers will be required to comply with new pension duties which are being introduced in stages from October 2012 (starting with the largest employers). Every employer in the UK will be allocated a date from which the duties will first apply to the employer, known as the employer's 'staging date'. An employer's 'staging date' is based on the number of people in the employer's PAYE scheme on 1 April 2012. The Pensions Regulator will write to employers to notify them of their 'staging date' at 12 *months* and 3 *months* in advance of their 'staging date'. An additional notification will be issued to larger employers at 18 *months* in advance of their 'staging date' due to the anticipated longer lead in time needed. The purpose of these letters is to make employers aware of their duties. They will explain the requirements and direct employers to information that will help them to comply. Employers will also be told how to register with The Pensions Regulator after their duty date (see [paragraphs 96 and 97](#)). Although employers will be subject to the duties from their 'staging date' it is important to note that some provisions of the legislation, in particular the prohibition against inducing opt-outs, prohibited recruitment conduct and unfair dismissal and detrimental treatment safeguards (see [paragraphs 106 to 108](#)), apply to all employers from July 2012.
16. Under the new duties, employers will have to:
- a) 'automatically enrol' *eligible jobholders* into an *automatic enrolment scheme*, although the employer can apply a 3 *month* postponement period (or "waiting period") before doing so,
  - b) pay a minimum level of employer contributions or provide a minimum level of benefits for *eligible jobholders* who are enrolled into the *automatic enrolment scheme*,
  - c) tell *eligible jobholders* they have been 'automatically enrolled', provide specified information to them, and inform them they have the right to opt out of the scheme if they wish to,
  - d) advise *non-eligible jobholders* that they can join a *qualifying scheme*, provide specified information to them, and inform them that the employer will make a contribution to the *qualifying scheme* if they join it,
  - e) advise *entitled workers* that they can join a pension scheme (under the automatic enrolment legislation this does not have to be a *qualifying scheme* and the employer is not required to contribute to it but, where the LGPS is used, employer contributions to the LGPS will nevertheless be mandatory in accordance with the regulations governing the LGPS) and provide

- the *entitled worker* with specified information,
- f) process opt-ins and opt-outs,
  - g) keep accurate records to demonstrate how they have complied with their 'automatic enrolment' duties, including records of opt-outs, opt-ins and re-enrolment,
  - h) *keep records* about the pension scheme(s) used to comply with their duties,
  - i) monitor their *workers'* eligibility status for 'automatic enrolment' purposes, which will include keeping track of *workers'* age and *earnings* at all times,
  - j) register with The Pensions Regulator within four *months* of their 'staging date' and at their subsequent re-enrolment dates,
  - k) avoid any action whose sole or main purpose is to seek to induce an *entitled worker*, *non-eligible jobholder* or *eligible jobholder* to opt out of the pension scheme,
  - l) not screen out job applicants on grounds relating to potential pension scheme membership as an *eligible jobholder* or suggest that a job applicant's success could depend on whether or not, should they become an *eligible jobholder*, they opt out of the pension scheme.

17. The legislative requirements are overriding. This Guide sets out the requirements in detail and how they interact with the statutory provisions of the Local Government Pension Scheme. The first two sections below ([paragraphs 18 to 20](#)) are intended as high level checklists for employers and for Pension Fund administering authorities, with the detail being covered in the remaining sections and annexes to the Guide. The flowcharts and sample letters in [Annex 7](#) are to help employers comply with their duties under the Pensions Act 2008.

### Matters for employers to consider – a checklist

18. Employers participating in the LGPS will need to understand and prepare for the challenges posed by the Pensions Act 2008. It is recommended that employers set up an implementation team to ensure that the necessary procedures are implemented to enable the employer to comply with the duties under the Act. Close liaison with the employer's payroll and HR providers / third party suppliers will be required with the involvement of the employer's internal Pensions Liaison Officer (if they have one). The employer's Director of Finance / Treasurer / Chief Financial Officer will need to be alerted to the potential costs that the duties under the Pensions Act 2008 will entail (see below) and payroll and HR will need to consider the effect on systems and processes.

The following is a checklist of matters for employers to consider:

- ✓ determine when your 'staging date' is (see [Annex 2](#))

- ✓ if a Local Authority has any maintained community, voluntary controlled, community special or maintained nursery schools that run their own payroll in-house, or have outsourced their payroll function to an external payroll provider, make the school aware that they will be subject to the Local Authority's 'staging date' (see [paragraph 26](#)) even if they have a separate PAYE scheme from the Local Authority
- ✓ decide whether to bring forward your 'staging date' (see [paragraphs 30](#) and [31](#)) and, if so, notify The Pensions Regulator of the new date that you have chosen
- ✓ if you are a small employer who, on 1 April 2012, had less than 50 *workers*, and had, or were part of, one or more PAYE schemes in which there were 50 or more persons, decide whether to use the alternative 'staging date' shown in the final column of the Table at [Annex 2](#) (see [paragraph 22](#))
- ✓ determine which pension scheme(s) to use to fulfil your employer duties (the scheme will be the LGPS for those employees to whom you offer membership of the LGPS)
- ✓ if you have any *workers* who are not employees they will not be eligible for membership of the LGPS, as only employees (and councillors) may join the LGPS. You will need to make alternative pension arrangements for such *workers* in order to comply with your duties under the Pensions Act 2008 – see the guidance on [The Pensions Regulator's website](#)
- ✓ if you are a designation / resolution body who currently does not offer a *qualifying scheme* to all of your employees, consider whether to offer the LGPS to these employees as from your 'staging date' by designating them for membership. If not, you will need to make alternative pension arrangements for those employees in order to comply with your duties under the Pensions Act 2008 – see the guidance on [The Pensions Regulator's website](#)
- ✓ if you are an *admission body* who currently does not offer a *qualifying scheme* to all of your employees, consider whether to offer the LGPS to these employees as from your 'staging date' (providing they would be eligible for membership under the rules of the LGPS). You will need to liaise with the Pensions Section of the Pension Fund administering authority to determine whether it will be possible to amend your admission agreement to permit this. If it is not possible, or you choose not to do so, you will need to make alternative pension arrangements for those employees in order to comply with your duties under the Pensions Act 2008 – see the guidance on [The Pensions Regulator's website](#)

- ✓ if you are an *admission body* who currently offers your employees a choice of schemes you may need to liaise with the Pensions Section of the Pension Fund administering authority to amend your admission agreement from 1 October 2012 so that you can continue with this practice (see [paragraph 38](#))
- ✓ set up appropriate processes to ensure all *workers* who commence employment on or after your 'staging date' and who have a *contract of employment* for 3 *months* or more, including casual employees on open ended contracts, are issued with the appropriate letter within 2 *months* of starting (see [paragraphs 41 to 44](#))
- ✓ set up appropriate processes to ensure all *workers* who commence employment on or after your 'staging date' and who have a *contract of employment* for less than 3 *months* are issued with the appropriate postponement letter within 1 *month* of starting (see [paragraphs 46 and 47](#))
- ✓ set up appropriate processes to ensure that those issued with a postponement letter are 'contractually enrolled' into the LGPS when / if their *contract of employment* is extended to be for 3 *months* or more (assuming they have not already opted in) - see [paragraph 47\(d\)](#), that the appropriate joining letter is sent to them at that time (e.g. by HR) and that the joiner information is sent to the Pensions Section of the Pension Fund administering authority
- ✓ determine how to deal with casual employees with *contracts of employment* of less than 3 *months* - see the important NB at the end of [paragraph 47](#); and set up a process to ensure that where such a casual employee opts to join the LGPS their option to join remains in force for so long as they remain with the employer (or until such time as they decide to opt out)
- ✓ set up appropriate payroll processes to monitor your *workers'* age and *earnings* in each *pay reference period* in order to determine which category a *worker* falls into in each *pay reference period* (see [paragraph 39](#)). This is needed in order to ensure that:
  - a) an employee who commences employment on or after your 'staging date' and who opts out of the LGPS is brought back into the scheme on becoming an *eligible worker* for the first time,
  - b) the appropriate letter is sent to that person (e.g. by HR) within 1 *month* of re-joining the scheme and joiner information is sent to the Pensions Section of the Pension Fund administering authority within that same period (see [paragraphs 48 to 51](#)).

It is also needed to ensure that an employee who commences employment on or after your 'staging date' and who opts out of the LGPS is, within 1 *month* of becoming an *entitled worker* or a *non-eligible worker* for the first time, issued with an appropriate letter (e.g. by HR) to remind them they can rejoin the scheme (see [paragraphs 55, 56, 63 and 64](#)).

Make sure the necessary links and processes have been put in place to achieve the above

- ✓ set up appropriate processes to ensure that all existing *workers* on your 'staging date' who are already members of the LGPS are issued with the appropriate letter within 2 *months* of your 'staging date' (see [paragraphs 80 and 81](#))
- ✓ decide whether or not to apply the transitional delay period (see [paragraphs 82 to 85](#)) for existing *workers* who:
  - i) are *eligible jobholders* on your 'staging date'
  - ii) are not already members of the LGPS, and
  - iii) have a *contract of employment* for 3 *months* or more, including casuals with open ended contracts

If you decide not to apply the transitional delay period, ensure processes are set up so that the appropriate letter is sent to affected persons (e.g. by HR) within 1 *month* of being brought into the scheme on your 'staging date' and joiner information is sent to the Pensions Section of the Pension Fund administering authority within that same period (see [paragraph 82\(a\)](#)).

If you decide to apply the transitional delay period, ensure processes are set up so that:

- a) the appropriate letter is sent to that person (e.g. by HR) within 1 *month* of your 'staging date' informing that person that you are applying the transitional delay period (see [paragraph 86](#)), and
  - b) the person will be enrolled into the LGPS at the end of the transitional delay period if they remain in continuous employment with the employer until then, are an *eligible jobholder* at that point, and have not already opted back into the LGPS (see [paragraph 87](#))
- ✓ for those existing *workers who*:
    - i) are *entitled workers* or *non eligible jobholders* on your 'staging date', and
    - ii) are not already members of the LGPS, and
    - iii) have a *contract of employment* for 3 *months* or more, including casuals with open ended contracts

set up processes to ensure they are issued with the

appropriate letter (e.g. by HR) to remind them they can join the scheme (see [paragraphs 88](#) and [89](#))

- ✓ decide whether or not to apply the transitional delay period for existing *workers* who:
  - i) are existing *eligible jobholders* on your 'staging date', and
  - ii) are not already members of the LGPS, and
  - iii) have a *contract of employment* for less than 3 *months*,.

It would make sense to do so if you have applied the transitional delay period to existing *workers* who are *eligible jobholders* on your 'staging date' who are not already members of the LGPS and who have a *contract of employment* for 3 *months* or more).

If you decide **not** to apply the transitional delay period (see [paragraph 90\(b\)](#)), ensure processes are set up so that:

- a) the appropriate postponement letter is sent to affected persons (e.g. by HR) within 1 *month* of your 'staging date' (but see the important NB at the end of [paragraph 47](#) in relation to casual employees with *contracts of employment* of less than 3 *months*), and
- b) the person is 'contractually enrolled' into the LGPS when / if their *contract of employment* is extended to be for 3 *months* or more (assuming they have not already opted in), that the appropriate joining letter is sent to them at that time (e.g. by HR) and that the joiner information is sent to the Pensions Section of the Pension Fund administering authority.

If you decide to apply the transitional delay period (see [paragraph 90\(a\)](#)), ensure processes are set up so that:

- a) the appropriate letter is sent to affected persons (e.g. by HR) within 1 *month* of your 'staging date' informing them that you are applying the transitional delay period, and
- b) if, at the end of the transitional delay period, the person has remained in continuous employment with the employer until then, are an *eligible jobholder* at that point, and have not already opted back into the LGPS, the person will be enrolled into the LGPS

- ✓ for existing *workers* who
  - a) are *entitled workers* or *eligible jobholders* on your 'staging date', and
  - b) are not already members of the LGPS, and
  - c) have a *contract of employment* for less than 3 *months*,

ensure processes are set up so that the appropriate postponement letter is sent to that person (e.g. by HR) within 1 *month* of your 'staging date' (but see the important NB at the end of [paragraph 47](#) in relation to casual employees with *contracts of employment* of less than 3 *months*); the person is

'contractually enrolled' into the LGPS when / if their *contract of employment* is extended to be for 3 *months* or more (assuming they have not already opted in); the appropriate joining letter is sent to them at that time (e.g. by HR) and the joiner information is sent to the Pensions Section of the Pension Fund administering authority (see [paragraph 91](#))

- ✓ set up processes to monitor and record whether a person who opts out of membership of the LGPS opted out under the LGPS rules or under the statutory 'automatic enrolment' opt out rules (see [paragraphs 45, 52 to 54, 60 to 62, 68, and 69 to 71](#))
- ✓ decide whether to delay pay-over of the contributions collected during the 'automatic enrolment opt-out window' and during the 'enrolment opt-out window' (delaying pay-over is not recommended – see [paragraph 94](#))
- ✓ retain opt out forms for at least 4 years (see [paragraphs 53 to 54, 61 to 62 and 100 to 102](#)). Set up processes to pass information / data on optants out to the Pensions Section. It might be worth checking with the Pensions Section of the Pension Fund administering authority whether they will hold a copy of the opt out form for more than 4 years (as there is little point in duplicating the retention of records beyond 4 years)
- ✓ ensure you register with The Pensions Regulator within 4 *months* of your 'staging date' (and of each 3 yearly re-enrolment date) and set up procedures to enable you to provide the information to The Pensions Regulator showing how you complied with your enrolment duties (see [paragraphs 96 to 99](#))
- ✓ retain the appropriate records for 6 years to enable The Pensions Regulator to check you have complied with your duties under the Pensions Act 2008 (see [paragraphs 100 to 102](#))
- ✓ do not underestimate the amount of additional work and cost, not just in terms of amending payroll and HR procedures (which may entail additional costs from third party suppliers) but also, for example, the work involved in having to write to all *workers* on your 'staging date' (whether they are already in the LGPS or have opted out). Also, for all existing *eligible jobholders* on your 'staging date' who have a *contract of employment* for 3 *months* or more and who are not members of the LGPS because they have chosen to opt out, if you do not apply the transitional delay period you will have to 'automatically enrol' them into the LGPS. For those who then chose to again opt out, records will have to be kept, refunds may need to be paid through the payroll, and information passed to the Pensions Section of the Pension Fund

administering authority. However, for those who do not opt out, not only will records have to be kept and information be passed to the Pensions Section, but there will be the cost of employer pension contributions to be paid in respect of those members. The Director of Finance / Treasurer / Chief Financial Officer will need to be alerted to the potential costs. Even if you use the transitional delay period (to 1 October 2017), the same issues will arise at the end of that period

- ✓ decide what your re-enrolment date will be. This can be a date within the period commencing 3 *months* before the 3<sup>rd</sup> anniversary of your 'staging date' / last re-enrolment date and ending 3 *months* after the 3<sup>rd</sup> anniversary of your 'staging date' / last re-enrolment date (see [paragraphs 74](#) and [75](#))
- ✓ set up appropriate payroll processes to identify, on your chosen re-enrolment date, those *eligible jobholders* who have a *contract of employment* for 3 *months* or more, including casuals with open ended contracts, and who are not members of the LGPS (because they have previously chosen to opt out). Re-enrol any such individuals, who had opted out more than 12 *months* prior to the re-enrolment date, into the LGPS and ensure the appropriate joiner letter is sent to that person (e.g. by HR) and joiner information is sent to the Pensions Section of the Pension Fund administering authority (see [paragraph 72](#)). Make sure the necessary links and processes have been put in place to achieve this.

### Matters for Pension Fund administering authorities to consider – a checklist

19. Pension Fund administering authorities will also be employers in their own right. Therefore, the employer duties under the Pensions Act 2008 will also apply to the administering authority (wearing its hat as an employer). Much of the information in [paragraph 18](#) will, therefore, equally apply to the administering authority in its role as an employing authority.
20. Over and above that, however, there are additional implications for the administering authority (wearing its hat as the Pension Fund administering authority). These can be summarised as follows:
  - ✓ decide what communications strategy to adopt to make employers in the Fund aware of their duties (e.g. signpost them to this Guide and to the information on [The Pensions Regulator's website](#))
  - ✓ decide what information relating to the 'automatic enrolment' provisions to include in scheme guides and literature, newsletters, etc

- ✓ be prepared for enquiries from employers asking for help / guidance on their duties under the Pensions Act 2008. The Pensions Section of the Pension Fund administering authority will need to consider what level of help / resource it is willing to provide given that the vast bulk of the responsibilities under the Act rest squarely with the employers and not with the Pension Fund administering authority
- ✓ be prepared for enquiries from a *admission bodies* seeking to amend their admission agreement (to either make the agreement an open agreement or to make it a closed agreement)
- ✓ be prepared for enquiries from *admission bodies* who currently offer their employees a choice of schemes and who want to amend their admission agreement from 1 October 2012 so that they can continue with this practice (see [paragraph 38](#))
- ✓ consider asking each employer what their 'staging date' is (and, roughly every three years after their 'staging date', what each employer's chosen re-enrolment date will be)
- ✓ decide which elements of the optional new joiner information you will require from employers (see [paragraphs 51, 59](#) and [67](#)). For any information you choose to receive that is not currently on your starter forms, consider introducing that information on your starter forms for all employers (regardless of their 'staging dates') from the date the largest employer in your Fund attains its 'staging date'
- ✓ consider by what method you will issue opt out forms (e.g. will employees have to write in / e-mail the Pensions Section of the Pension Fund administering authority to obtain the form or will the form be available for downloading from the Pensions Section's website)? You will need to take into account the fact that time is of the essence for optants out. Will employers still be allowed to issue opt out forms prior to reaching their 'staging date' or, for practical purposes, will the Pension Fund administering authority require that, as from the date the largest employer in the Fund attains its 'staging date', employees of **all** employers in the Fund will only be able to obtain an opt out form from the administering authority (see [paragraph 71](#)). Whatever decisions are taken, communicate these to employers
- ✓ ask each employer what their decision is on whether they will delay pay-over of the contributions collected during the 'automatic enrolment opt-out window' and during the 'enrolment opt-out window' (delaying pay-over is not recommended – see [paragraph 94](#)) so that this can be managed / reconciled
- ✓ alert current scheme member's who have Fixed or Enhanced Protection and who have previously opted out of the LGPS in

order to ensure they do not have further 'benefit accrual' or 'relevant benefit accrual' that they will need consider opting out again if they are brought back into the LGPS under the 'automatic enrolment' provisions at any of the following times:

- a) when the employer has reached their 'staging date', or
- b) at the end of the Transitional Delay period, if the employer has applied the Transitional Delay period, or
- c) upon the employer's chosen re-enrolment date.

If they wish to have no 'benefit accrual' or 'relevant benefit accrual' and thereby ensure they retain their Fixed or Enhanced Protection it will be necessary to opt out within 3 *months* of being enrolled into the LGPS, thereby ensuring they are treated as never having been a member of the scheme. Note, however, that there are exceptions to this general rule which are:

- a) members in England or Wales will not lose Fixed Protection if they do not opt out within 3 *months* but have earlier LGPS membership in England or Wales which they aggregate with the current membership (as this will not constitute entering into a new arrangement) and members in Scotland will not lose Fixed Protection if they do not opt out within 3 *months* but have earlier LGPS membership in Scotland which they aggregate with the current membership (as this will not constitute entering into a new arrangement) **provided**, in either case, they do not have 'benefit accrual'. However, they will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see [RPSM11101530](#) for more information on 'benefit accrual'
- b) members in England or Wales will not lose Enhanced Protection if they do not opt out within 3 *months* but have earlier LGPS membership in England or Wales which they aggregate with the current membership (as this will not constitute entering into a new arrangement) and members in Scotland will not lose Enhanced Protection if they do not opt out within 3 *months* but have earlier LGPS membership in Scotland which they aggregate with the current membership (as this will not constitute entering into a new arrangement). Even if the member then has 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of the member's benefits at 5 April 2006 as increased after then, in general terms, by the greater of 5% per annum, the increase in the cost of living or increases in their pensionable pay) the member can notionally split the crystallisation of their defined benefit rights on retirement. This will allow them to reduce their tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection is retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. The member will lose Enhanced Protection if they pay contributions into a

money purchase pension arrangement (e.g. they pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if they start a new pension arrangement, or if they transfer their LGPS benefits to another defined benefit pension scheme

- ✓ agree with employers that, for employees opting out within 3 *months* of being enrolled, any employee **and** employer contributions paid over to the Fund should be recovered from the Fund by the employer (by reducing the next month's pay-over to the Fund) – see [paragraph 71\(f\)](#)
- ✓ recognise the staffing implications of having to create / retain base records on all optants out
- ✓ recognise the staffing implications of having to create and maintain records on all exiting optants out who, on the employers' 'staging dates' (or end of the employers' transitional periods), are *eligible jobholders* and who are 'automatically enrolled' but choose not to opt out
- ✓ recognise the cost implications of having to maintain base records on all optants out e.g. if the contract with your pensions administration software provider includes a cost per record and you choose to maintain the base optants out records on that software
- ✓ recognise the cost implications of having to create and maintain records on all existing optants out who, on the employers' 'staging dates' (or end of the employers' transitional periods), are *eligible jobholders* and who are 'automatically enrolled' but choose not to opt out e.g. if the contract with your pensions administration software provider includes a cost per record
- ✓ recognise the cost implications of having to maintain base records on all optants out if your pensions administration is outsourced and the contract with your pensions administration provider includes a cost per record
- ✓ recognise that, if your pensions administration is outsourced and the contract with your pensions administration provider includes a cost per record, there will be cost implications of having to create and maintain records on all exiting optants out who, on the employers' 'staging dates' (or end of the employers' transitional periods), are *eligible jobholders* and who are 'automatically enrolled' but choose not to opt out
- ✓ consider the funding and cash flow / investment implications resulting from a potential influx of new members

<b>Staged process for employers to be brought into the automatic enrolment regime</b>	
<p>21. <b>‘Staging dates’ for employers:</b> The ‘automatic enrolment’ regime is being phased in from 1 October 2012, starting with the largest employers. An employer will be required to comply with the ‘automatic enrolment’ duties from its ‘staging date’. An employer’s ‘staging date’ is determined by the number of people in its largest PAYE scheme, as ascertained by The Pensions Regulator based on HMRC data at 1 April 2012. The ‘staging date’ will be as follows:</p> <ul style="list-style-type: none"> <li>• the ‘staging date’ for employers with 120,000 or more persons within their PAYE scheme on 1 April 2012 will be 1 October 2012</li> <li>• the ‘staging dates’ for other employers with people in their PAYE scheme on 1 April 2012 are to be phased in over the period between 1 November 2012 and 1 April 2017 as shown in the third column of the Table at <a href="#">Annex 2</a>.</li> </ul> <p>The ‘staging date’ for any employer who does not have a PAYE scheme in respect of any <i>worker</i> after 1 April 2017 and is an employer to whom the employer duties do not already apply will be the date on which <i>qualifying earnings</i> are payable to any <i>worker</i>.</p> <p>For new employers:</p> <ul style="list-style-type: none"> <li>• the ‘staging dates’ for new employers who first pay PAYE income in respect of persons on or after 1 April 2012 and before 1 October 2017 are to be phased in between 1 May 2017 and 1 February 2018, as shown in the third column of the Table at <a href="#">Annex 2</a>, and</li> <li>• new employers with PAYE income first payable on or after 1 October 2017 will have an immediate ‘staging date’.</li> </ul>	<p>[Regs 2 and 4 of SI 2010/4 as amended by SI 2012/215 and SI 2012/1813]</p> <p>[Regs 2(9) and (10) of SI 2010/4, inserted by SI 2012/1813]</p> <p>[Regs 2(6) of SI 2010/4 as amended by SI 2012/1813 and reg 2(7) of SI 2010/4]</p> <p>[Reg 2(8) of SI 2010/4 as amended by SI 2012/1813]</p>
<p>22. <b>‘Staging dates’ for certain employers with less than 50 workers:</b> It should be noted that an employer who, on 1 April 2012,</p> <ul style="list-style-type: none"> <li>• had less than 50 <i>workers</i>, and</li> <li>• had, or was part of, one or more PAYE schemes in which there were 50 or more persons</li> </ul> <p>can choose to use the alternative ‘staging date’ shown in the final column of the Table at <a href="#">Annex 2</a>.</p>	<p>[Regs 2(1)(b)(ii), 2(1A) and 4A of SI 2010/4 as inserted by SI 2012/1813]</p>
<p>23. <b>How to determine the ‘staging date’ for existing employers:</b> The ‘staging date’ for an existing employer is determined by reference to the number of persons in the employer’s PAYE scheme (including pensioners, councillors and, for Police and Fire Authorities, both uniformed and non-uniformed staff). The number of persons in a PAYE scheme is based on the information available to The Pensions</p>	<p>[Regs 2(3) and (4) of SI 2010/4]</p>

<p>Regulator at 1 April 2012. An <i>admission body</i>, for example, may have only 80 employees in the LGPS but may have 5,000 people in its PAYE scheme. It will be the 5,000 figure that determines its 'staging date'. The 'staging date' will not be affected even if the number of persons within the employer's PAYE scheme significantly changes after 1 April 2012.</p>	
<p>24. <b>Employers with more than one PAYE scheme:</b> If an employer has more than one PAYE scheme it is the largest of them (by number of persons on that PAYE scheme as at 1 April 2012) which determines the employer's 'staging date' (but see <a href="#">paragraph 22</a>).</p> <p>For example, each company that is part of a group of companies might have its own PAYE scheme but all of the <i>contracts of employment</i> / contracts to perform services personally might be with a single company (e.g. the controlling company) within the group. In such a case it is the largest of each company's PAYE schemes which determines the 'staging date'. Employers should not aggregate the numbers where they operate multiple PAYE schemes. PAYE schemes containing only pensioners are excluded.</p>	<p>[Reg 2(5) of SI 2010/4]</p>
<p>25. <b>Employers who share a PAYE scheme:</b> Subject to the caveat in <a href="#">paragraph 22</a>, employers who share a PAYE scheme with other employers will all have the same 'staging date' determined by the number of persons in that PAYE scheme as at 1 April 2012.</p> <p>For example, a charity that is a community <i>admission body</i> may have an arrangement with a local authority to pay its employees on the authority's payroll (with a recharge being made to the charity). If it shares the authority's PAYE scheme it will have the same 'staging date' as the authority. Where this is the case, the authority might wish to alert the charity to this fact.</p>	<p>[Reg 2(2) of SI 2010/4 as amended by SI 2012/215]</p>
<p>26. <b>Maintained schools:</b> Employees employed under a <i>contract of employment</i> in a <b>maintained community, voluntary controlled, community special or maintained nursery school</b> are employees of the Local Authority and so will be subject to the Local Authority's 'staging date' even if the school runs its own payroll in-house, or has outsourced its payroll function to an external payroll provider, and has a separate PAYE scheme – see <a href="#">paragraph 24</a> above for the explanation. It is recommended that the Local Authority make any such school that has a separate PAYE scheme aware of this.</p> <p>Although employees of a <b>foundation school (including a Trust school that is a foundation school), a voluntary aided school or a foundation special school</b> are treated for the purposes of the LGPS as if they were employees of the Local Authority they are, in fact, employees of the governing body of the school. As a separate employer the school will, if it has a separate PAYE scheme from the Local Authority, have its own separate 'staging date' determined by the number of persons in its own PAYE scheme as at 1 April 2012 or,</p>	

if a maintained school converts to being a foundation (or Trust) school after 1 April 2012, it will get its own 'staging date' based on the appropriate entry for a new employer from the Table in [Annex 2](#) (although it could, if it wished to do so, choose to bring forward its 'staging date' to align with that of the Local Authority – see [paragraph 30](#)). If, however, it shares a PAYE scheme with the Local Authority, it will have the same 'staging date' as the authority – see [paragraph 25](#) – but subject to the caveat in [paragraph 22](#).

27. **Academies:** Subject to [paragraph 25](#), and the caveat in [paragraph 22](#), the following will apply.

If an Academy existed on 1 April 2012 and the proprietor of the Academy had its own PAYE scheme on 1 April 2012 it will have a 'staging date' as determined by the number of persons in the PAYE scheme on that date.

If a school was a maintained school on 1 April 2012 and is covered by the Local Authority's PAYE scheme on that date, the Local Authority's 'staging date' will apply to it (as a maintained school). However, if it subsequently converts to an Academy it will get its own 'staging date' based on the appropriate entry for a new employer from the Table in [Annex 2](#) unless:

- on conversion the Academy is run by a proprietor who has an existing PAYE scheme in existence on 1 April 2012, in which case the Academy will be subject to the proprietor's 'staging date', or
- on conversion the Academy is run by a proprietor who did not have an existing PAYE scheme in existence on 1 April 2012, and had itself become a new employer after that date in which case the Academy will be subject to the proprietor's 'staging date' which will be based on the appropriate entry for the proprietor (as a new employer) from the Table in [Annex 2](#).

If, post conversion, an Academy amalgamates with an existing proprietor before the Academy's 'staging date' has been reached and the proprietor has a 'staging date' earlier than that which applied to the Academy, the Academy will, subject to [paragraph 29](#), become subject to the proprietor's 'staging date'.

28. **Employee led organisations:** After an authority has considered how in-house services can be delivered through different models, an employee led organisation might be created (e.g. a social enterprise, staff mutual, workers' co-operative, community interest company, industrial and provident society, company limited by guarantee, etc). If that new organisation existed with its own PAYE scheme on 1 April 2012 it will have its own 'staging date' as determined by the number of persons on its PAYE scheme on that date (subject to the caveat in [paragraph 22](#)). If the new organisation is created after that date it will be treated as a new employer and its 'staging date' will be determined by reference to the appropriate entry for a new employer' in the Table

in [Annex 2](#). However, see [paragraph 25](#) if the employee led organisation shares a PAYE scheme with other employers.

29. **Takeovers, mergers, TUPE transfers, etc:** The advice in [Detailed Guidance Note no. 2](#) on The Pensions Regulator's website in relation to takeovers and mergers is as follows:

- *If employers merge after 1 April 2012, and both employers retain the existing contracts of employment for their workers, the staging date of the merged entity will be determined by the largest PAYE scheme of the merging employers. For example, where one employer with a staging date of 1 September 2013 merges with a larger employer with a staging date of 1 April 2013, the staging date of the merged entity will be 1 April 2013.*
- *If an employer is taken over and as a result ceases to exist, or where existing contracts of employment are transferred to the take-over employer, the staging date of the employer that has taken them over will apply.*
- *If a new entity is created as a result of a takeover, the new entity will be treated as a new employer and allocated a staging date [by reference to the appropriate entry for a new employer in the Table in [Annex 2](#)].*

With regard to TUPE transfers where there is no takeover or merger, the information in the box under paragraph 14 of the [Pensions Regulator's Detailed Guidance Note no. 1](#) says

*Where a transfer occurs under the TUPE regulations, transferred-in workers should be viewed as being under a new contract and the new employer should therefore assess that individual's worker status at the point of transfer.*

Paragraphs 57 to 59 of the [Pension Regulator's Detailed Guidance Note no. 2](#) says

*Where a worker changes employer as a result of a TUPE transfer, the new employer will be responsible for complying with the employer duties that arise in relation to that worker. This means they will have to assess the worker with effect from the transfer date and, where appropriate, automatically enrol them. In effect, they are treated as a new joiner for that employer.*

*Scheme requirements under TUPE operate in parallel to the employer duties and both must be complied with as necessary. If the transferred worker was in a pension scheme on the transfer date, the new employer must place them into a scheme that complies with TUPE provisions when they are transferred. If the worker is assessed as an eligible jobholder on the transfer date, they must be automatically enrolled into a qualifying scheme. However, if the scheme the employer used to meet the TUPE requirements is also a qualifying scheme, the employer would not need to automatically enrol the worker. If the scheme used to meet TUPE provisions is not a*

*qualifying scheme, the employer must use a different qualifying scheme to meet their automatic enrolment duties.*

*If the transferred worker was not in a pension scheme at the transfer date but was still entitled to become a member, on transfer, the entitlement to a TUPE-compliant scheme remains and must be honoured by the new employer. If the new employer assesses that the worker is an eligible jobholder on the transfer date, they can use postponement as long as the worker is still able to opt in to a TUPE-compliant and qualifying scheme during the postponement period.*

Paragraph B1 of the table under paragraph 2.3 of the [Pensions Regulator's guide for software developers](#) (a detailed guide aimed at software developers rather than employers) says

*NB: Where the employer entity changes for a worker as a result of a TUPE transfer, the new employer will have to undertake anew any of the pensions reform duties that arise (e.g. automatic enrolment, providing information) for that worker regardless of whether the previous employer had already fully discharged their pensions duties for the worker. In practical terms when applying the rules in this specification, for the purposes of pension reform, a TUPE transfer has an effect similar to the starting of a new employment for that worker and so the rules should be re-applied on that basis.*

The LGPC's understanding, which has been checked with The Pensions Regulator, is that upon a TUPE transfer the new employer has to treat the *worker* as a new *worker*. Thus:

- if neither the old or new employer had reached their 'staging dates', the 'automatic enrolment' rules would start to apply to the TUPE transferred *worker* from the new employer's 'staging date' (not the old employer's staging date), and
- if the old employer had reached its staging date, and so had the new employer, the 'automatic enrolment' rules would immediately apply to the TUPE transferred *worker* (in the same way as they would apply to any new *worker* of that employer), and
- if the old employer had reached its 'staging date', but the new employer had not, the 'automatic enrolment' rules would no longer apply to the TUPE transferred *worker* and would only re-engage (i.e. again start to apply) to the *worker* from the new employer's 'staging date'. The 'automatic enrolment' rules would not immediately apply at the point of the TUPE transfer even though the old employer had reached its 'staging date'.

In an outsourcing situation where a new admission agreement is set up in respect of a transferee admission body, consideration will need to be given as to how the staff being transferred to that body should be covered in the admission agreement. All the transferred staff could be named in the admission agreement which would mean that upon transfer to the employment of the admission body, all transferred staff under age 75 would be **contractually** enrolled into the LGPS (even

those who had opted out of membership whilst employed by the outsourcing body prior to the transfer) but with the right to opt out. Alternatively, only those staff who are active members of the LGPS at the point of transfer, and those who are not active members at the point of transfer but are *eligible jobholders*, could be nominated for membership of the LGPS under the terms of the admission agreement at the point of transfer, with any other staff who had opted out of membership of the LGPS prior to the transfer retaining the right (under The Best Value Authorities Staff Transfers (Pensions) Direction 2007) to require the admission body to nominate them for membership at any time in the future (whilst they are employed in connection with the provision of the outsourced service), including on or after the point when they have the right to be enrolled into, or to opt to join, a qualifying scheme under the terms of the Pensions Act 2008.

30. **Option to bring forward the ‘staging date’:** Employers (apart from those employers covered by [paragraph 22](#) who choose to use the alternative ‘staging date’ in the fourth column of the Table in [Annex 2](#)) can, if they wish, bring forward their ‘staging date’ to:

- a) any earlier ‘staging date’ shown in the third column of the Table in [Annex 2](#), or
- b) to 1 December 2012, or
- c) for employers with 50,000 or more persons on their PAYE scheme, to either one of 1 July 2012, 1 August 2012 or 1 September 2012 as the employer chooses

Employers may wish to bring forward their ‘staging date’ to align it with another key date in their financial or operational calendar (e.g. the beginning of the financial year) or, if they have a February or March ‘staging date’ they might want to bring the staging date forward to avoid having to process refunds of contributions via payroll in April for optants out where the refund of contributions relates (at least in part) to the earlier tax year. An alternative solution would be for the employer to retain their ‘staging date’ but issue all *workers* with a notice of postponement (in which case the procedures set out in [paragraph 47](#) would apply except the postponement notice would need to be sent to the person within 1 *month* of the ‘staging date’ and the ‘deferral date’ can be any period up to a maximum of 3 *months*). However, if the employer wishes to apply the transitional delay period to *workers* who are *eligible jobholders* it would appear that the employer might be best advised not to issue a postponement notice to those *eligible jobholders* – see paragraphs 17-21 of [Detailed Guidance no. 3b](#) for more information.

An employer who brings forward their ‘staging date’ can still apply the transitional delay period to those *workers* who are *eligible jobholders* on the employer’s new ‘staging date’ (see [paragraphs 82 to 87](#)).

If an employer brings forward their ‘staging date’, the employer cannot revert back to their original ‘staging date’. Where two or more

[Reg 3 of SI 2010/4 as amended by SI 2012/215]

<p>employers share a PAYE scheme, and therefore have the same 'staging date', each employer may bring forward their 'staging date' independently.</p> <p>The only employers who can put back their normal 'staging date' to a later date are those employers covered by <a href="#">paragraph 22</a> who choose to put back their 'staging date' to the alternative 'staging date' shown in the fourth column of the Table in <a href="#">Annex 2</a>.</p> <p>31. If an employer decides to bring forward their 'staging date' they must secure the agreement of the Pension Fund administering authority that the LGPS can be used by the employer to comply with their 'automatic enrolment' duties from that earlier date and notify The Pensions Regulator in writing of the earlier date they have chosen. This written notification must be given:</p> <ul style="list-style-type: none"> <li>• if (a) in <a href="#">paragraph 30</a> above has been chosen, before the date in the second column of the Table at <a href="#">Annex 2</a>, or</li> <li>• if (b) in <a href="#">paragraph 30</a> above has been chosen, before 1 November 2012, or</li> <li>• if (c) in <a href="#">paragraph 30</a> above has been chosen, no later than one <i>month</i> before whichever of 1 July 2012, 1 August 2012 or 1 September 2012 the employer has chosen as the early 'staging date'</li> </ul>	<p>[Reg 3(4) of SI 2010/4 as amended by SI 2012/215]</p>
<b>Operating the automatic enrolment rules - general information</b>	
<p>32. <b>The different categories of worker:</b> All <i>workers</i> will fall into one of three categories:</p> <ul style="list-style-type: none"> <li>• <i>eligible jobholders,</i></li> <li>• <i>non-eligible jobholders</i></li> <li>• <i>entitled workers.</i></li> </ul> <p>The category into which a <i>worker</i> falls is determined by their age and <i>earnings</i>. The definitions for each category are included in <a href="#">Annex 1</a> as is a definition of <i>earnings</i>. A table summarising the different categories of <i>worker</i> for 'automatic enrolment' purposes is set out below.</p>	

Age	16 - 21	22 - <SPA*	SPA* - <75
<b>Earnings**</b>			
Under lower earnings threshold (£5,564♦)	<i>Entitled worker</i>		
Between £5,564♦ and £8,105× <sup>7</sup>	<i>Non-eligible jobholder</i>		
Over earnings trigger for automatic enrolment (£8,105× <sup>7</sup> )	<i>Non-eligible jobholder</i>	<i>Eligible jobholder</i>	<i>Non-eligible jobholder</i>
<p>* <i>State Pension Age</i></p> <p>** <i>Earnings</i>: separate contracts treated separately</p> <p>♦ To align with National Insurance contributions lower earnings limit</p> <p>×<sup>7</sup>To align with the PAYE threshold</p>			

The values per *pay reference period* are:

Pay reference period	Lower earnings threshold p.a.	Earnings trigger for automatic enrolment
Annual	£5,564.00	£8,105.00
6 months	£2,782.00	£4,053.00
4 months	£1,855.00	£2,702.00
3 months	£1,391.00	£2,027.00
1 Month	£464.00	£676.00
4 weeks	£428.00	£624.00
Fortnight	£214.00	£312.00
1 week	£107.00	£156.00

The Secretary of State will review the above figures each tax year. In its December 2012 [response](#) to the DWP consultation paper [Automatic Enrolment Earnings Thresholds Review and Revision 2013/14](#) (which was open for comment until 17 October 2012) the Government has announced that an Order for the following thresholds, to apply for 2013/14, will be laid before Parliament for approval:

- the automatic enrolment earnings trigger should rise from £8,105 to £9,440 to align with the PAYE threshold; and
- the lower limit of the qualifying earnings band should rise from £5,564 to around £5,668 to align with the lower earnings limit for National Insurance Contributions.

33. **Rules for existing and new workers differ slightly:** The requirements relating to **existing** *eligible jobholders*, *non-eligible jobholders* and *entitled workers* on an employer's 'staging date' are slightly different to those relating to **new** *eligible jobholders*, *non-*

<p><i>eligible jobholders</i> and <i>entitled workers</i> who start working for an employer on or after the employer’s ‘staging date’.</p> <p>The requirements relating to <b>new</b> <i>eligible jobholders, non-eligible jobholders</i> and <i>entitled workers</i> who commence on or after the employer’s ‘staging date’ are covered in <a href="#">paragraphs 39 to 77</a>.</p> <p>The requirements relating to <b>existing</b> <i>eligible jobholders, non-eligible jobholders</i> and <i>entitled workers</i> on an employer’s ‘staging date’ are covered in <a href="#">paragraphs 78 to 91</a>.</p> <p>34. <b>Multiple contracts:</b> In <a href="#">Detailed Guidance Note no. 2</a> the Pensions Regulator says that</p> <p><i>“if an employer has multiple contracts with the same individual, they will need to consider if the totality of those contracts constitute a single employment relationship with the worker. The employer may wish to consider taking appropriate advice, if they are unsure. Where the employer considers that a single employment relationship exists, they will need to treat all the contracts as one contract. If this is not the case, they will need to treat each contract separately.”</i></p> <p>Thus, where <i>workers</i> have multiple contracts with one employer, the employer must assess the situation and make a reasonable judgement as to whether the contracts are separate, distinct, contracts or whether they are to be viewed as a single employment relationship. For example, if an employer purposefully engages a <i>worker</i> on multiple contracts in order to simply avoid the employer duties under the Pensions Act 2008 this is likely to be considered avoidance and open to possible action by the <i>worker</i> through an employment tribunal. If an employer decides that a <i>worker</i> has separate contracts then the <i>earnings</i> from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the <i>worker</i> is an <i>entitled worker</i>, a <i>non-eligible jobholder</i> or an <i>eligible jobholder</i>.</p> <p>35. <b>Secondees:</b> A secondee will usually remain a <i>worker</i> for the employer from whom they are seconded and that employer will continue to pay them and send a bill the body to which they are seconded. In that situation it is the employer who has seconded the employee who will remain responsible for the ‘automatic enrolment’ duties under the Pensions Act 2008 (not the body to whom the individual has been seconded). If, instead, the new body becomes the employer during the period of the secondment, then they will become responsible for the employer duties under the Pensions Act 2008 in relation to that individual (in line with their duties to their other employees).</p> <p>36. <b>Agency workers:</b> Where an LGPS employer uses an agency <i>worker</i> who is paid by the Agency, the LGPS employer has no duties under the Pensions Act 2008 in relation to that agency <i>worker</i> (although the</p>	<p>[s89 of the Act]</p>
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<p>LGPS employer may find that the cost of that agency <i>worker</i> increases on account of the duties placed by the Pensions Act 2008 on the Agency in respect of the agency <i>worker</i>). Where the agency is the employer for ‘automatic enrolment’ purposes, the ‘automatic enrolment’ duties fall on the agency and will apply to the agency <i>worker</i> from the agency’s ‘staging date’ and not the hirer’s ‘staging date’.</p> <p>37. <b>Workers aged 75 or over:</b> If an employer takes on a <i>worker</i> aged 75 or over neither the LGPS nor the ‘automatic enrolment’ requirements apply i.e. the member cannot join the LGPS. Similarly, if an employer removes a member of the LGPS from active membership of the scheme two days before the member’s 75<sup>th</sup> birthday (to enable the benefits to be paid the day before the member’s 75<sup>th</sup> birthday) then the member has no right to opt back into LGPS membership. This raises the question of whether the ‘automatic enrolment’ rules then have to be applied for the one day the <i>worker</i> is still employed, not in the LGPS and is under age 75. Technically, it seems the answer is “Yes” but in practice we would take the view that employers should ‘overlook’ this as it is clearly not intended. If, on the employer’s chosen re-enrolment date (see <a href="#">paragraphs 74 and 75</a>) a <i>worker</i> is aged 75 or over, that person will not be an <i>entitled worker</i>, <i>non-eligible jobholder</i> or <i>eligible jobholder</i> and so there will be no actions for the employer to take in relation to that <i>worker</i>.</p> <p>38. <b>Changes to the LGPS to comply with ‘automatic enrolment’ requirements:</b> Prior to 1 October 2012:</p> <ul style="list-style-type: none"> <li>• all employees (other than those with a <i>contract of employment</i> of less than 3 <i>months</i> duration) who were aged under 75 and       <ul style="list-style-type: none"> <li>- who were employed by a <i>Part 1 Scheduled body</i> were automatically brought into the LGPS (with the right to opt out), or</li> <li>- who were designated for membership of the LGPS by a <i>designation body</i> were automatically brought into the LGPS (with the right to opt out), or</li> <li>- who were designated for membership of the LGPS by an <i>admission body</i> in Scotland were automatically brought into the LGPS (with the right to opt out), or</li> <li>- who were designated for membership of the LGPS by an <i>admission body</i> in England or Wales were not automatically brought into the LGPS, but had to apply in writing to the employer to become a member, and</li> </ul> </li> <li>• employees of a <i>Part 1 Scheduled body</i>, a <i>designation body</i> or an <i>admission body</i> who would otherwise be eligible for membership of the LGPS but who had a <i>contract of employment</i> that was for less than 3 <i>months</i> duration were not able to join the scheme unless and until the <i>contract of employment</i> was extended to be for 3 <i>months</i> or more.</li> </ul> <p>However, to ensure the LGPS could comply with the ‘automatic</p>	<p>[s1 and s9 of the Act ; regs 12(4) and 50(6) of SI 2008/239; reg 17(4) of SI 2007/1166; regs 9(4) and 46(6) of SSI 2008/228; reg 17(4) of SSI 2008/230]</p>
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enrolment' requirements of the Pensions Act 2008, the LGPC Secretariat asked the Department for Communities and Local Government (DCLG) and the Scottish Public Pensions Agency (SPPA) to amend the LGPS Regulations to permit those employees with *contracts of employment* of less than 3 *months* duration to be able to opt into membership of the LGPS (provided they are otherwise eligible to join). For casual employees with *contracts of employment* of less than 3 *months*, such an option (where exercised) would, in practice, remain in force for so long as the employee remains with the employer. This would prevent such an employee having to opt into the scheme on each day that they work.

The LGPC Secretariat also asked DCLG to amend the LGPS Regulations to provide that all employees (other than those with a *contract of employment* of less than 3 *months* duration) who are aged under 75 and who are designated for membership of the LGPS by an *admission body* are automatically brought into the LGPS (with the right to opt out).

The regulatory amendments requested by the LGPC Secretariat were made by DCLG in the LGPS (Miscellaneous) Regulations 2012 [SI 2012/1989], effective from 1 October 2012. DCLG have also confirmed that the policy intention behind regulation 13 of the LGPS (Administration) Regulations 2008 (as amended by SI 2012/1989) is that employees are not able to make an opt out election prior to commencement of employment (and that regulation 13(3) is meant to only cover those who made such an election prior to 1 October 2012). Paragraph 7.25 of the Explanatory Memorandum that accompanied SI 2012/1989 confirmed that "newly eligible members have to be enrolled into the Pension Scheme, although they can opt out **after** they have joined." Assuming the SPPA make the appropriate amendments to the LGPS in Scotland, the LGPS in England & Wales and in Scotland will (provided employers issue a postponement notice to those with a *contract of employment* of less than 3 *months* duration) be fully compliant *qualifying schemes* and *automatic enrolment schemes* for the purposes of the Pensions Act 2008 in respect of those *workers* who are eligible to be enrolled into the scheme. This guide has been prepared on the basis that the SPPA make the amendments requested.

It should be noted that where an *admission body* currently offers employees the choice to opt into the LGPS or another scheme, the admission agreement might, depending on the wording of the agreement, need to be amended (from 1 October 2012 in England and Wales due to the amendments introduced by SI 2012/1989) to provide that the class of employees to whom the agreement applies is those employees who the employer nominates from time to time i.e. those employees who choose the LGPS in preference to the employer's alternative scheme will be the employees the employer nominates. It would be wise for the employer, in such cases, to ask the employee to make the choice before commencement of

<p>employment and to specify that, in the absence of an express choice being made by the employee, the default enrolment scheme will be [name of scheme].</p>	
<p><b>Operating the automatic enrolment rules for workers who commence employment on or after the employer’s ‘staging date’ - general</b></p>	
<p>39. When a <i>worker</i> under age 75 commences employment on or after the employer’s ‘staging date’ (including a TUPE transferred-in <i>worker</i>) the <i>worker</i> will, in respect of that appointment, be either an <i>eligible jobholder</i>, a <i>non-eligible jobholder</i> or an <i>entitled worker</i>. If they are eligible for membership of the LGPS they will be ‘contractually enrolled’ into the LGPS in accordance with the LGPS rules and <b>not</b> under the ‘automatic enrolment’ duties. If the <i>worker</i> decides to opt out of membership of the LGPS they will do so in accordance with the opt out provisions in the LGPS (not the ‘automatic enrolment’ opt out provisions under the Pensions Act 2008). However, if the <i>worker</i> does decide to opt out of membership of the LGPS at any time, then the employer’s ‘automatic enrolment’ duties will start to apply. In order to be able to decide how and when those duties are to be met it is important that the employer has monitored the eligibility category or categories the <i>worker</i> has fallen into during their period of membership in the LGPS in relation to that <i>contract of employment</i> i.e. whether, at any time during their period of membership of the LGPS under that <i>contract of employment</i> they have, in relation to that contract, been an <i>entitled worker</i>, a <i>non-eligible jobholder</i> or an <i>eligible jobholder</i>. The reason that this is important is covered in <a href="#">paragraphs 48</a>, <a href="#">55</a> and <a href="#">63</a>.</p> <p>It must be stressed that just because, when a <i>worker</i> commences employment, they are ‘contractually enrolled’ into the LGPS under the rules of the LGPS (as opposed to being ‘automatically enrolled’ in accordance with the statutory ‘automatic enrolment’ procedure), this does not mean that the employer does not have any obligations under the Pensions Act 2008 – the employer must determine the category the <i>worker</i> is in at the commencement of, and during, their employment; the employer must provide some information to their <i>workers</i>; the employer will still have to register with The Pensions Regulator (see <a href="#">paragraphs 96 to 99</a>); and the employer will be subject to the prohibition against inducing opt-outs, prohibited recruitment conduct and unfair dismissal and detrimental treatment safeguards (see <a href="#">paragraphs 106 to 108</a>).</p> <p>40. A simple table is included in <a href="#">paragraph 32</a> to assist employers to determine the category which a <i>worker</i> falls into at the commencement of employment and, over time, the various categories which a <i>worker</i> might fall into.</p>	<p>[s3(3) and s7(1) of the Act only apply if the person is not an active member of an <i>automatic enrolment scheme</i>; and s9(1)(c) of the Act only applies if the person is not an active member of a pension scheme]</p>

**Operating the automatic enrolment rules for eligible jobholders, non-eligible jobholders or entitled workers who have a contract of employment for 3 months or more and who commence employment on or after the employer's 'staging date'**

41. **Eligible jobholders and non-eligible jobholders:** If an employee commences employment on or after the employer's 'staging date', is an *eligible jobholder* or a *non-eligible jobholder* and has a *contract of employment* for 3 *months* or more (including casual employees on open ended contracts), that person will, if they are eligible for membership of the LGPS under the contract, be 'contractually enrolled' into the LGPS in accordance with the LGPS rules and **not** in accordance with the statutory 'automatic enrolment' procedure.
42. Over and above the existing information requirements set out in the Employment Rights Act 1996, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996, the LGPS (Benefits, Membership and Contributions) Regulations 2007 and the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (see [Annex 3](#)), the legislation under the Pensions Act 2008 requires that, within 2 *months* of their start date, the employer must provide the following information in writing to an *eligible jobholder* or *non-eligible jobholder* who is 'contractually enrolled' in the circumstances described in [paragraph 41](#):
- a) confirmation that they are an active member of a *qualifying scheme* (the LGPS) in relation to that contract,
  - b) where to obtain further information about pensions and saving for retirement (e.g. [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions), [www.lgps.org.uk](http://www.lgps.org.uk), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc), and
  - c) a statement that if they cease to be an active member of the LGPS under the contract by reason of something other than electing to opt out of membership of the LGPS, attaining age 75 or ceasing employment with the employer, the employer must make arrangements by which they immediately become an active member of another *automatic enrolment scheme* with effect from the day following that date that they ceased to be an active member of the LGPS.
43. **Entitled workers:** If an employee commences employment on or after the employer's 'staging date', is an *entitled worker* and has a *contract of employment* for 3 *months* or more (including casual employees on open ended contracts), that person will, if they are eligible for membership of the LGPS under the contract, be 'contractually enrolled' into the LGPS in accordance with the rules of the LGPS and **not** in accordance with the statutory 'automatic enrolment' procedure.

[Regs 33(1) and (2) of SI 2010/772 as inserted by SI 2012/215]

<p>44. In contrast to an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> who commences employment on or after the employer's 'staging date' the legislation under the Pensions Act 2008 imposes no additional information requirements in relation to an <i>entitled worker</i> who commences employment on or after the employer's 'staging date' over and above those that exist under the Employment Rights Act 1996, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996, the LGPS (Benefits, Membership and Contributions) Regulations 2007 and the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (see <a href="#">Annex 3</a>). It simply requires that if the <i>earnings</i> of an <i>entitled worker</i> who is an active member of the LGPS subsequently increase so that in a <i>pay reference period</i> they become, for the first time with the employer, either a <i>non-eligible jobholder</i> or <i>an eligible jobholder</i> in relation to that contract, the employer must, <u>at any time</u> before a period of 2 <i>months</i> of the beginning of the <i>pay reference period</i> in which the person became a <i>non-eligible jobholder</i> or <i>eligible jobholder</i> (whichever occurs first) provide the following information in writing to the person:</p> <ul style="list-style-type: none"> <li>a) confirmation that they are an active member of a <i>qualifying scheme</i> (the LGPS) in relation to that contract,</li> <li>b) where to obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc), and</li> <li>c) a statement that if they cease to be an active member of the LGPS under the contract by reason of something other than electing to opt out of membership of the LGPS, attaining age 75 or ceasing employment with the employer, the employer must arrange for them to become an active member of another <i>automatic enrolment scheme</i> with effect from the day following the date that they ceased to be an active member of the LGPS.</li> </ul> <p>From a practical point of view it seems sensible to simplify the process for issuing the above information. So, instead of issuing it within 2 <i>months</i> <u>after</u> the beginning of the <i>pay reference period</i> in which the person became a <i>non-eligible jobholder</i> or <i>eligible jobholder</i> (whichever occurs first) in relation to that contract, it would be easier to simply issue a letter to the <i>entitled worker</i> on joining the LGPS saying that if they subsequently become a <i>non-eligible jobholder</i> or <i>eligible jobholder</i> in relation to that contract whilst an active member of the LGPS the information in (a) to (c) above will apply. This seems to be permitted as the legislation allows the information to be given <u>at any time</u> before a period of 2 <i>months</i> of the beginning of the <i>pay reference period</i> in which the person becomes a <i>non-eligible jobholder</i> or <i>eligible jobholder</i>.</p> <p>45. <b>Opt out procedure:</b> As the <i>eligible jobholder</i>, <i>non-eligible jobholder</i>, or <i>entitled worker</i> will have been 'contractually enrolled' into the LGPS in accordance with the LGPS rules (and <b>not</b> under the</p>	<p>[<i>Entitled workers</i> are not mentioned in reg 33 of SI 2010/772 as amended by SI 2012/215]</p>
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‘automatic enrolment’ duties), that person will have the right to opt out of membership under the LGPS rules (see [paragraphs 69 to 71](#) for more information). Employees are not able to make an opt out election prior to commencement of employment. That does not mean that contributions have to be collected from pay before they can opt out. It merely means that they cannot sign and date the opt out form until on or after the day they are enrolled.

It should be noted that DCLG have confirmed that the wording in regulation 13(3) of the LGPS (Administration) Regulations 2008, as amended by SI 2012/1989, which appears to allow an opt out election to be made before commencement of employment, is not intended to have this effect and is intended to only cover those who made such an election prior to 1 October 2012.

Where a member takes flexible retirement but does not wish to remain in the LGPS post flexible retirement then, if the *worker* is issued with a new *contract of employment*, he / she would be treated as a ‘new’ employee and so could not make an opt out election before the ‘new’ employment had commenced. If the *worker* is issued not issued with a new *contract of employment* but is, instead, issued with a variation to a contract (e.g. for a reduction in hours), it could be argued that the employee could make an opt out election before the ‘new’ employment had commenced. However, it might be preferable to treat such an employee in the same way as one who is issued with a new contract (i.e. not permit an opt out election until the ‘new’ employment has commenced).

### **Operating the automatic enrolment rules for eligible jobholders, non-eligible jobholders or entitled workers who have a contract of employment of less than 3 months and who commence employment on or after the employer’s ‘staging date’**

46. If an employee commences employment on or after the employer’s ‘staging date’, is an *eligible jobholder*, a *non-eligible jobholder* or an *entitled worker* and is employed under a *contract of employment* of less than 3 *months* (including any casual *workers* who are engaged under a *contract of employment* of less than 3 *months*), the LGPS will not ‘contractually enrol’ the employee under that contract but will allow them to opt into membership of the LGPS. This means that unless the employer applies a 3 *month* postponement period (or “waiting period”), the LGPS would not meet the requirements for being an *automatic enrolment scheme* for *eligible jobholders* with a *contract of employment* of less than 3 *months* duration. To ensure employers do not have to provide an alternative scheme for such *eligible jobholders*, the employer should issue a postponement notice to any *eligible jobholder*, *non-eligible jobholder* or *entitled worker* who has a *contract of employment* of less than 3 *months*.

<p>47. The postponement notice must be sent to the person within 1 <i>month</i> of their start date. It must be in writing and include the following statements:</p> <ul style="list-style-type: none"> <li>a) that the employer has postponed enrolment into the LGPS until [date 3 <i>months</i> from start date] (known as the ‘deferral date’), but if the <i>contract of employment</i> is extended to last for 3 <i>months</i> or more, the person will be ‘contractually enrolled’ into the LGPS as from the date the contract is so extended,</li> <li>b) that, nevertheless, the person may, at any time before [date 3 <i>months</i> from start date] or before any extension to the contract, opt to join the LGPS by giving written notice to the employer, [Note: if they do give such a notice, they will be treated as being ‘contractually enrolled’ into the LGPS, in the same way as a new <i>worker</i> with a <i>contract of employment</i> for 3 <i>months</i> or more will be ‘contractually enrolled’ – see <a href="#">paragraph 39</a>]</li> <li>c) that a written notice to join must be signed by the person or, if sent electronically, it must include a statement that the person submitted the notice personally,</li> <li>d) that if, on the ‘deferral date’ (i.e. at the end of the postponement period), the person has not by then opted into the LGPS or been brought into the LGPS (as a result of a contract extension), the employer will ‘automatically enrol’ them into the LGPS from [date 3 <i>months</i> from start date] if they are working or ordinarily work in Great Britain under a contract with the employer, are aged at least 22 and under <i>State Pension Age</i>, and would have annualised equivalent <i>earnings</i> of more than £8,105 in respect of that contract, [Note: although this statement is required by regulation 24 of SI 2010/772, in practice it is irrelevant as, should a <i>contract of employment</i> be extended either during the 3 <i>month</i> period or at the end of the 3 <i>month</i> period so that it is for a duration of 3 <i>months</i> or more, the person will be ‘contractually enrolled’ into the LGPS, in the same way as a new <i>worker</i> with a <i>contract of employment</i> for 3 <i>months</i> or more will be ‘contractually enrolled’ – see <a href="#">paragraph 39</a>]</li> <li>e) that, if the person joins the LGPS, the employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund’s appointed actuary,</li> <li>f) that if the person joins the LGPS and is a <i>non-eligible jobholder</i> or an <i>eligible jobholder</i>, and the employer subsequently ceases to offer membership of the LGPS or the person ceases to be eligible for membership of the LGPS, the employer must make arrangements by which the <i>non-eligible jobholder</i> or <i>eligible jobholder</i> becomes an active member of an <i>automatic enrolment scheme</i> with effect from the day following that when the person ceased to be an active member of the LGPS,</li> <li>g) that the LGPS complies with the requirements of the Pensions Act 2008 to be both an <i>automatic enrolment scheme</i> and a <i>qualifying scheme</i>, and</li> <li>h) where the person may obtain further information about pensions</li> </ul>	<p>[Reg 24 of SI 2010/772 as amended by SI 2012/215]</p> <p>[Reg 13(5) of SI 2008/239 and reg 10(5) of SSI 2008/228]</p>
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and saving for retirement (e.g. [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions), [www.lgps.org.uk](http://www.lgps.org.uk), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).

**NB:** it should be noted that casual *workers* engaged for the periods of work as an employee will have to be sent a postponement notice each time they undertake work where each period of work they are offered and accept forms a new employment contract. If the employer decides not to issue a postponement notice, they would have to issue a letter each time the employee is offered and accepts work explaining that they could opt into the LGPS if they are an *entitled worker* or a *non-eligible jobholder* (i.e. the employer would have to follow the procedures set out in [paragraphs 56 to 62](#) and [64 to 68](#)), and the employer would have to ‘automatically enrol’ them into an *automatic enrolment scheme* - not the LGPS - in the first *pay reference period* in which they are or become an *eligible jobholder* (with the right to opt out). The employer could not ‘automatically enrol’ them into the LGPS as the LGPS does not permit ‘automatic enrolment’ (only enrolment by option) for those with a *contract of employment* that is for less than 3 months. Neither solution is ideal but issuing the postponement notice is probably preferable. As casual *workers* usually have to complete a timesheet, a subset of the information from Letter P of [Annex 7](#) could be included on the back of the timesheet, thereby avoiding the need to issue Letter P every time a casual *worker* undertakes work as an employee. This would need to include the minimum legal information i.e. :

*If you are a casual worker engaged during periods of work as an employee and you have not already opted to join the Local Government Pension Scheme (LGPS) in respect of such periods of work then our policy, as allowed by law, is to postpone for a period of 3 months from the commencement of each period of work you undertake for us as an employee a decision about bringing you into the LGPS. If you are not already a member of the LGPS you will not, in relation to each period of work undertaken for us as an employee, be enrolled into LGPS but you have the right to opt to join the Local Government Pension Scheme if you so wish.*

*If you want to join the LGPS, please contact [insert name of relevant person] in writing either by:*

- *sending a letter, signed by you, to [insert address] stating the name of the post in which you wish to join the scheme; or*
- *sending an email with your request containing the phrase “I confirm I personally submitted this notice to join a workplace pension scheme” to [insert email address]*

*You will then be sent further information on the scheme, including*

<p><i>relevant forms to complete, and will be enrolled into the LGPS.</i></p> <p><i>If you work as an employee for a continuous period of 3 months and at the end of that period you are aged 22 or over and under State Pension Age and earning more than £8,105 we will enrol you into the Local Government Pension Scheme on [enter date 3 months from start date]. You don't have to do anything – it will happen automatically.</i></p> <p><i>If you join the LGPS then both you and [insert employer's name] will pay into the LGPS each pay period and the government will also contribute through tax relief.</i></p> <p><i>The LGPS complies with the requirements of the Pensions Act 2008 to be both an automatic enrolment scheme and a qualifying scheme, which means it meets or exceeds the government's standards.</i></p> <p><i>For further information on the Local Government Pension Scheme please visit: [enter local LGPS Fund's website address or, alternatively, point to <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>]</i></p> <p><i>If you have any questions about the scheme, please contact [insert relevant contact details]</i></p> <p><i>For more general information about pensions and saving for retirement please visit <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>.</i></p> <p><i>If you join the LGPS we must continue to maintain your membership of it (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards.</i></p> <p><i>If you join the LGPS and we were ever to cease to offer you membership the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564, immediately have to put you into another scheme that meets those government standards.</i></p>	
<p><b>Employees who commence employment on or after the employer's 'staging date', who opt out of membership of the LGPS and who subsequently become an eligible jobholder for the <u>first</u> time since commencing employment with the employer</b></p>	
<p>48. If an employee who commences employment on or after the employer's 'staging date' and who is 'contractually enrolled' into the LGPS (a) decides to opt out of active membership of the scheme, and</p>	

<p>(b) subsequently (due to an increase in <i>earnings</i> or on attaining age 22) becomes an <i>eligible jobholder</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts)</p> <p>then the employer must ‘automatically enrol’ the <i>eligible jobholder</i> into the LGPS as from the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes an <i>eligible jobholder</i> due to an increase in <i>earnings</i> or from the day the person becomes an <i>eligible jobholder</i> due to attaining age 22 (the ‘automatic enrolment’ date). As mentioned in <a href="#">paragraph 39</a> it is important that the employer monitors the category the person falls into in each <i>pay reference period</i> as from the commencement of employment so as to enable the employer to determine when that person becomes an <i>eligible jobholder</i> for the <u>first</u> time. It must be stressed that it is only if the person has not been an <i>eligible jobholder</i> under that contract (or consecutive string of contracts) at any point since commencement and who, after opting out of membership of the LGPS becomes an <i>eligible jobholder</i> for the first time, that the employer must ‘automatically enrol’ the <i>eligible jobholder</i> into the LGPS as from the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes an <i>eligible jobholder</i> due to an increase in <i>earnings</i> or from the day the person becomes an <i>eligible jobholder</i> due to attaining age 22 (the ‘automatic enrolment’ date).</p> <p><b>Note 1:</b></p> <p>The requirement to ‘automatically enrol’ an optant out when they subsequently first become an <i>eligible jobholder</i> can lead to some interesting outcomes. Assume all of the following people were ‘contractually enrolled’ in the LGPS and opted out immediately (and we are past the employer’s staging date).</p> <p>Scenario 1: A person starts 1 May on £10,000 pa but is only 21. She attains age 22 on 26 May. Although the person opted out immediately upon ‘contractual enrolment’ on 1 May, the employer would have to ‘automatically enrol’ her again from 26 May when she becomes an <i>eligible jobholder</i>.</p> <p>Observation 1 This person gets ‘automatically enrolled’ within days of opting out of ‘contractual enrolment’ and will have to opt out again. The employer could, of course, ‘defer’ automatic enrolment until, say, 1 June (or any time up to a maximum of 3 <i>months</i> after 26 May) by issuing a postponement notice. Such a notice must include the information set out under Note 2 below.</p> <p>Scenario 2: A person starts 1 May on £6,000 pa, immediately opts out of ‘contractual enrolment’ and is aged 25. He earns £500 per month and so is a <i>non-eligible jobholder</i>. On 1 June he gets promoted and</p>	<p>[s3 of the Act]</p> <p>[s3(7) of the Act]</p>
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now earns £9,000 pa (£750 per month). His *earnings* in the *pay reference period* (1/6-30/6) are £750 so he is 'automatically enrolled' from 1 June.

#### Observation 2

The employer could, of course, 'defer' automatic enrolment for up to a maximum of 3 *months* after 1 June by issuing a postponement notice. Such a notice must include the information set out under Note 2 below.

#### Scenario 3

A person starts 1 May on £6,000 pa, immediately opts out of 'contractual enrolment' and is aged 25. He earns £500 per month and so is a *non-eligible jobholder*. On 16 June he gets promoted and now earns £9,000 pa (£750 per month). His *earnings* in the *pay reference period* (1/6-30/6) are £625 so he is still a *non-eligible jobholder*. His *earnings* in the next *pay reference period* (1/7-31/7) are £750 so he is now an *eligible jobholder*. He is 'automatically enrolled' from 1 July.

#### Observation 3

Because *earnings* are measured over a *pay reference period* and the 'automatic enrolment' date is the first day of the *pay reference period* in which the person becomes an *eligible jobholder* for the first time, when a pay rise occurs in a month will determine whether the person is 'automatically enrolled' from the first day of the *pay reference period* in which the pay rise occurs or the first day of the next *pay reference period*. In this example, the employer could, of course, 'defer' automatic enrolment for up to a maximum of 3 *months* after 1 July by issuing a postponement notice. Such a notice must include the information set out under Note 2 below.

#### Scenario 4

A person starts 16 June on £9,000 pa, immediately opts out of 'contractual enrolment' and is aged 25. She earns £375 in the *pay reference period* (June) and so is a *non-eligible jobholder*. In July she gets paid for the whole month. Her *earnings* in July are therefore £750 and, as she is now classified as an *eligible jobholder* she is 'automatically enrolled' from 1 July.

#### Observation 4

It is quite possible that after starting part way through a month and getting a part-month salary, a person can be categorised as a *non-eligible jobholder* in the part-month and become an *eligible jobholder* in the next month even though their rate of pay hasn't changed. So they get 'automatically enrolled' within days of opting out of 'contractual enrolment' and have to opt out again. It is also possible that if they started a little earlier in the month they would have been an *eligible jobholder* from day 1 so they wouldn't have

got 'automatically enrolled' the next month as their category would not have changed. In this particular example, the employer could, of course, 'defer' automatic enrolment for up to a maximum of 3 *months* after 1 July by issuing a postponement notice. Such a notice must include the information set out under Note 2 below.

## Note 2

If the person becomes an *eligible jobholder* for the first time simply because of a one-off spike in *earnings* (e.g. due to payment of a bonus or honorarium, or an unusual amount of overtime, etc) the employer could, instead of 'automatically enrolling' the person into the LGPS, issue the person with a postponement notice instead. If, at the end of the postponement period, the person is not an *eligible jobholder* (because the level of earnings has dropped by then) the person would not then need to be enrolled into the LGPS. The postponement notice would need to be sent to the person within 1 *month* of the beginning of the *pay reference period* in which the person became an *eligible jobholder*. It must be in writing and include the following statements:

- a) that the employer has postponed enrolment into the LGPS until [date up to 3 *months* from the beginning of the *pay reference period* in which the person became an *eligible jobholder*] (known as the 'deferral date'),
- b) that, nevertheless, the person may, at any time before [date up to 3 *months* from the beginning of the *pay reference period* in which the person became an *eligible jobholder*], opt to join the LGPS by giving written notice to the employer,
- c) that a written notice to join must be signed by the person or, if sent electronically, it must include a statement that the person submitted the notice personally,
- d) that if, on the 'deferral date' (i.e. at the end of the postponement period), the person has not by then opted into the LGPS, the employer will 'automatically enrol' them into the LGPS from [date up to 3 *months* from the beginning of the *pay reference period* in which the person became an *eligible jobholder*] if they are working or ordinarily work in Great Britain under a contract with the employer, are aged at least 22 and under *State Pension Age*, and would have annualised equivalent *earnings* of more than £8,105 in respect of that contract,
- e) that, if the person joins the LGPS, the employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund's appointed actuary,
- f) that if the person joins the LGPS and is a *non-eligible jobholder* or an *eligible jobholder*, and the employer subsequently ceases to offer membership of the LGPS or the person ceases to be eligible for membership of the LGPS, the employer must make arrangements by which the *non-eligible jobholder* or *eligible jobholder* becomes an active member of an *automatic enrolment*

<p><i>scheme</i> with effect from the day following that when the person ceased to be an active member of the LGPS,</p> <p>g) that the LGPS complies with the requirements of the Pensions Act 2008 to be both an <i>automatic enrolment scheme</i> and a <i>qualifying scheme</i>, and</p> <p>h) where the person may obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</p>	
<p><b>Note 3</b></p>	
<p>If an <i>eligible jobholder</i> is ‘automatically enrolled’ then, before or within 1 <i>month</i> of the ‘automatic enrolment’ date, the employer must provide information to the <i>eligible jobholder</i> (see <a href="#">paragraph 50</a>) and the employer (or someone acting on behalf of the employer) must provide information to the Pensions Section of the Pension Fund administering authority (see <a href="#">paragraph 51</a>). Where an employer runs its payroll in, say, the last few days of the <i>month</i> but the employee became an <i>eligible jobholder</i> at the beginning of the <i>month</i> (e.g. due to an increase in <i>earnings</i> in that <i>pay reference period</i>) the employer will only have a very limited period of time left to meet the 1 <i>month</i> deadline. This will not necessarily be a problem if the employer has automated its notification systems. Alternatively, in order to meet the 1 <i>month</i> deadline, the employer could choose to make an assessment of the employee’s status earlier in the <i>month</i> (even though the payroll is not actually run until towards the end of the <i>month</i>), or the employer could consider changing its payroll run dates so that they fall earlier in the <i>month</i>, or the employer could issue a postponement notice (for up to a maximum of 3 <i>months</i>). Such a notice must include the information set out under Note 2 above.</p>	
<p>49. If an <i>eligible jobholder</i> is ‘automatically enrolled’ into the LGPS in accordance with <a href="#">paragraph 48</a> then the employer must provide both the <i>eligible jobholder</i> and the Pensions Section of the Pension Fund administering authority with information.</p>	<p>[Reg 7 of SI 2010/772]</p>
<p>50. <b>Information to provide to the eligible jobholder:</b> The legislation made under the Pensions Act 2008 requires that before or within 1 <i>month</i> of the ‘automatic enrolment’ date the employer must provide the following information to the <i>eligible jobholder</i> in writing:</p> <p>a) a statement that, although they have previously opted out of the LGPS, they have subsequently become an <i>eligible jobholder</i> for the first time which means that the employer has had to (or will have to) ‘automatically enrol’ them back into the LGPS to help them save for their retirement,</p> <p>b) the date the <i>eligible jobholder</i> was (or is to be) ‘automatically enrolled’ into the LGPS,</p> <p>c) the name, address, telephone number and electronic contact</p>	<p>[Reg 2 of SI 201/772 as amended by SI 2012/215 and reg 7 of SI 2010/772]</p>

<p>details of the scheme in respect of which the <i>eligible jobholder</i> is or will be an active member,</p> <p>d) the value of any contributions payable to the LGPS by the employer and the <i>eligible jobholder</i> in any applicable <i>pay reference period</i>. The "value" of contributions may be expressed as a fixed amount or a percentage of <i>qualifying earnings</i> or of pensionable pay due to the <i>eligible jobholder</i> in any applicable <i>pay reference period</i> (but see <a href="#">Annex 6</a> for details on, and issues connected with, the "value" of contributions),</p> <p>e) a statement that any contributions payable to the LGPS by the <i>eligible jobholder</i> have been or will be deducted from any pensionable pay due to them,</p> <p>f) confirmation that tax relief is or will be given in accordance with section 193 of the Finance Act 2004 (relief under net pay arrangements),</p> <p>g) a statement that if the <i>eligible jobholder</i>, on a date, ceases to be an active member of the LGPS (without the <i>eligible jobholder</i> ceasing to be employed by the employer) by reason of something other than an action or omission by the <i>eligible jobholder</i>, the employer must make arrangements by which the <i>eligible jobholder</i> becomes an active member of an <i>automatic enrolment scheme</i> with effect from the day following the date they ceased to be an active member of the LGPS,</p> <p>h) a statement that the <i>eligible jobholder</i> has the right to opt out of the LGPS during the opt out period i.e. during the 'automatic enrolment opt out window',</p> <p>i) a statement indicating the start and end dates of the opt out period applicable to the <i>eligible jobholder</i> if that information is known to the employer but if not, a statement that the opt out period is the period determined in accordance with regulation 9(2) or (3) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010,</p> <p>j) where the opt out notice may be obtained (i.e. from the Pensions Section of the Pension Fund administering authority),</p> <p>k) a statement that an opt out notice must be signed by the <i>eligible jobholder</i> or, if it is given by means of an electronic communication, the notice must include a statement that the <i>eligible jobholder</i> personally submitted the opt out notice,</p> <p>l) a statement that opting out within the 'automatic enrolment opt out window' means that the <i>eligible jobholder</i> will be treated for all purposes as not having become an active member of the LGPS on that occasion,</p> <p>m) a statement that after a valid opt out notice is given to the employer within the opt out period and in accordance with regulation 9(2) or (3) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, any contributions paid by the <i>eligible jobholder</i> will be refunded to the <i>eligible jobholder</i> by the employer,</p> <p>n) a statement that if the <i>eligible jobholder</i> opts out, the <i>eligible jobholder</i> may opt back in, in which case the employer will be required to arrange for that <i>eligible jobholder</i> to become an active</p>	
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<p>member of an <i>automatic enrolment scheme</i> (i.e. the LGPS) once in any 12 <i>month</i> period (although, in practice, under the LGPS rules the member can opt back in from the beginning of the next available pay period i.e. the once in any 12 <i>month</i> period will not apply in the LGPS),</p> <p>o) a statement that, if the <i>eligible jobholder</i> does not opt out within the opt out period, they will still be able to opt out of the LGPS at any time in accordance with the opt out rules of the LGPS (and be entitled to whatever benefits may be due under the rules of the LGPS),</p> <p>p) a statement that an <i>eligible jobholder</i> who opts out or who ceases active membership of the LGPS will be ‘automatically re-enrolled’ into an <i>automatic enrolment scheme</i> by the employer on [<i>enter date</i>] if they are an <i>eligible job</i> holder on that date (being the ‘automatic re-enrolment’ date chosen by the employer in accordance with regulations made under section 5 of the Pensions Act 2008), and</p> <p>q) where the <i>eligible jobholder</i> can obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</p>	
<p>51. <b>Information to provide to the Pensions Section:</b> The information to be given in writing by the employer (or by someone acting on behalf of the employer) to the Pensions Section of the Pension Fund administering authority (before or within 1 <i>month</i> of the ‘automatic enrolment’ date) is the <i>eligible jobholder’s</i>:</p> <p>a) name;</p> <p>b) date of birth;</p> <p>c) postal residential address;</p> <p>d) gender;</p> <p>e) ‘automatic enrolment’ date;</p> <p>f) national insurance number*;</p> <p>g) the gross <i>earnings</i> (not pensionable pay) due to the <i>eligible jobholder</i> in any applicable <i>pay reference period</i>**;</p> <p>h) the value of any contributions payable to the LGPS by the employer and the <i>eligible jobholder</i> in any applicable <i>pay reference period</i>, where this information is available to the employer. The “value” of contributions may be expressed as a fixed amount or a percentage of any <i>qualifying earnings</i> or of pensionable pay due to the <i>eligible jobholder</i> in any applicable <i>pay reference period</i>** ( but see <a href="#">Annex 6</a> for details on, and issues connected with, the “value” of contributions);</p> <p>i) postal work address**;</p> <p>j) individual work e-mail address, where an individual work e-mail address is allocated to that <i>eligible jobholder</i>**; and</p> <p>k) personal e-mail address, where the employer holds this information**.</p>	<p>[Regs 3 and 7 of SI 2010/772]</p>

<p>Notes:</p> <p>* With regard to item (f) above, if the employer is not in receipt of the NI number on the 'automatic enrolment' date, the employer must supply it to the Pensions Section of the Pension Fund administering authority within 1 <i>month</i> of receiving it.</p> <p>** With regard to items (g) to (k) above, the Pensions Section of the Pension Fund administering authority can decide not to obtain some or all of those items of information from the employer. Pension Sections will, therefore, have to determine their policy on this. Items (i), (j) and (k) might, for example, aid Pensions Sections of Pension Fund administering authorities with the distribution of Newsletters, Annual Benefit Statements, etc thereby reducing administration costs.</p>	<p>[Reg 7(3) of SI 2010/772]</p> <p>[Reg 7(2) of SI 2010/772]</p>
<p>52. <b>Opt out procedure if the eligible jobholder wants to opt out after being 'automatically enrolled'</b>: An employee who commences employment on or after the employer's 'staging date', is 'contractually enrolled' into the LGPS, opts out, and is subsequently 'automatically enrolled' back into the LGPS upon first becoming an <i>eligible jobholder</i> (see <a href="#">paragraph 48</a>) is entitled to opt out of the LGPS again. However, such a person cannot opt out until they have been 'automatically enrolled'. That does not mean that contributions have to be collected from pay before they can opt out. It merely means that they cannot sign and date the opt out form until on or after the day they are 'automatically enrolled' or the date on which they have received the 'automatic enrolment' information (whichever is later) i.e. if they are 'automatically enrolled' on 1 March but were provided with the 'automatic enrolment' information on 26 February, they cannot sign and date the opt out form until 1 March. An opt out under the 'automatic enrolment' rules must be made on a prescribed form (see <a href="#">Annex 4</a>) which can only be obtained from the Pension Section of the Pension Fund administering authority (although the Pensions Section of the Pension Fund administering authority might make this available on their website for downloading). Unless an occupational pension scheme, within its trust instrument, expressly delegates its pensions administration function to the employer (which the LGPS does not), the employer is not legally allowed to issue the opt out form. This also means that an employer is not permitted to download an opt out form on behalf of the <i>eligible jobholder</i> from the website of the Pension Section of the Pension Fund administering authority and hand this to the <i>eligible jobholder</i>. Under the 'automatic enrolment' rules the <i>eligible jobholder</i> can opt out within the 'automatic enrolment opt out window'. This opt out window is the period of 1 <i>month</i> from the later of the date the <i>eligible jobholder</i> was 'automatically enrolled' or the date the employer provided that person with the information in <a href="#">paragraph 50</a> (which could be up to 1 <i>month</i> after they were 'automatically enrolled', meaning that the opt out window can be anywhere between 1 <i>month</i> and 2 <i>months</i> after the <i>eligible jobholder</i> was 'automatically enrolled'). If the opt out form is incorrectly completed or is not made on the prescribed form the employer must inform the person of the reason it is invalid. The 'automatic enrolment opt out window' is then</p>	<p>[Reg 9(1) of SI 2010/772]</p> <p>[Regs 9(4) and (6) of SI 2010/772]</p> <p>[Reg 9(5) of SI 2010/772]</p> <p>[Reg 9(2) of SI 2010/772]</p> <p>[Reg 9(7) of SI 2010/772]</p>

<p>extended to a period of 6 weeks from the later of the date the <i>eligible jobholder</i> was 'automatically enrolled' or the date the employer provided that person with the information in <a href="#">paragraph 50</a>. This does not mean that the person cannot opt out of the LGPS after the end of the 'automatic enrolment opt out window'; they can still do so, but if they do, the opt out (and any entitlements that flow from it) will be in accordance with the rules of the LGPS. The person must return the opt-out form to the employer (not the Pensions Section of the Pension Fund administering authority). See <a href="#">paragraphs 69 to 71</a> for more information.</p>	
<p>53. <b>Opt out procedure if the eligible jobholder opts out after being 'automatically enrolled' and the opt out request is made within the 'automatic enrolment opt out window'</b>: If the <i>eligible jobholder</i> completes a valid opt out form within the 'automatic enrolment opt out window' the employer must inform the Pensions Section of the Pension Fund administering authority that a valid opt out form has been received. The person will then be treated as not having become an active member of the LGPS on that occasion. The employer must refund through the payroll any pension contributions paid by the <i>eligible jobholder</i>. Where the contributions to be refunded span tax years this must be dealt with by payroll in accordance with HMRC guidance. A refund must be made within 1 <i>month</i> of the date the employer received the valid opt out form or, if the payroll has closed when the opt out form is received, by the end of the next pay period. The Pensions Section of the Pension Fund administering authority must, within the same time frame, refund to the employer any employee <b>and</b> employer contributions paid to the Fund in respect of the optant out. Note, however, that in practice it is recommended that the Pensions Section of the Pension Fund administering authority agrees with the employers in the Fund that the employer should simply reduce the next month's contribution payover to the Fund by the amount of employee <b>and</b> employer contributions that are to be / have been refunded. The employer must retain a copy of the valid opt out notice and the Pensions Section of the Pension Fund administering authority must keep a record of the name of the optant out and the date they were informed by the employer that the <i>eligible jobholder</i> had opted out. The employer and Pensions Section of the Pension Fund administering authority are required to retain the respective records for 4 years although, in practice, it is recommended that the employer and the Pensions Section of the Pension Fund administering authority should retain records indefinitely (subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998) in order to be able to prove the person had opted out should that person, perhaps many years later, claim that they had not done so and are due a pension.</p>	<p>[Reg 10 of SI 2010/772]</p> <p>[s8(2)(a) of the Act]</p> <p>[Regs 11(1) and (3) of SI 2010/772]</p> <p>[Reg 11(2) and (3) of SI 2010/772]</p> <p>[Regs 6(1)(i) and 7(1)(c) of SI 2010/5]</p> <p>[Reg 8(2) of SI 2010/5]</p>
<p>54. <b>Opt out procedure if the eligible jobholder opts out after being 'automatically enrolled' and the opt out request is made outside the 'automatic enrolment opt out window'</b>: If the <i>eligible jobholder</i></p>	

<p>completes a valid opt out form outside the ‘automatic enrolment opt out window’ the opt out will be in accordance with the rules of the LGPS. This means that if an <i>eligible jobholder</i> opts out after the ‘automatic enrolment opt out window’ but within 3 <i>months</i> of being ‘automatically enrolled’, that person will be treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via the payroll. Opting out after 3 <i>months</i> would mean a member in England or Wales would be entitled to a deferred benefit. In Scotland, if the opt out occurred after 3 <i>months</i> but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they already have, in an LGPS Fund in Scotland, a deferred pension or a pension in payment (in which case they would be entitled to a deferred benefit). If the opt out was after 2 years in Scotland, that person would be entitled to a deferred benefit. Although, for optants out under this paragraph, the Pensions Act 2008 does not require the employer to retain a copy of the opt out notice (for 4 years) and does not require the Pensions Section of the Pension Fund administering authority to keep a record (for 4 years) of the name of the optant out and the date they were informed by the employer that the person had opted out, it is recommended that such records are retained indefinitely (subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998).</p>	
<p><b>Employees who commence employment on or after the employer’s ‘staging date’, who opt out of membership of the LGPS and who subsequently become a non-eligible jobholder for the <u>first</u> time since commencing employment with the employer</b></p>	
<p>55. If an employee who commences employment on or after the employer’s ‘staging date’, is ‘contractually enrolled’ into the LGPS, decides to opt out of active membership of the scheme and subsequently becomes a <i>non-eligible jobholder</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts), then the employer must, either before or within 1 <i>month</i> of the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes a <i>non-eligible jobholder</i>, provide the <i>non-eligible jobholder</i> with a written statement about their right to opt back into the LGPS (see <a href="#">paragraph 56</a> and the note below). As mentioned in <a href="#">paragraph 39</a> it is important that the employer monitors the category the person falls into in each <i>pay reference period</i> from the commencement of employment so as to enable the employer to determine when that person becomes a <i>non-eligible jobholder</i> for the <u>first</u> time. It must be stressed that it is only in cases where the person has not been a <i>non-eligible jobholder</i> under that contract (or consecutive string of contracts) at any point since commencement and who, after opting out of membership of the LGPS, becomes a <i>non-eligible jobholder</i> for the first time, that the employer must provide the <i>non-eligible jobholder</i> with a written statement.</p>	<p>[s7 of the Act]</p>

<p>Note: strictly, there is no need for the employer to provide a written statement if an employee who commenced employment on or after the employer's 'staging date', was 'contractually enrolled' into the LGPS, opted out, was 'automatically enrolled' on subsequently becoming an <i>eligible jobholder</i> for the first time, opted out again, and then becomes a <i>non-eligible jobholder</i> for the first time. However, the chances of this occurring are remote and so, for practical reasons, employers will probably wish to ignore this exception and provide a written statement.</p>	<p>[Reg 17(3)(a) of SI 2010/772]</p>
<p>56. <b>Information to provide to the non-eligible jobholder about right to opt back into the LGPS:</b> Either before or within 1 <i>month</i> of the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes a <i>non-eligible jobholder</i>, the employer must provide the <i>non-eligible jobholder</i> with the following information in writing:</p> <ul style="list-style-type: none"> <li>a) a statement that, although they have previously opted out of the LGPS, they have subsequently become a <i>non-eligible jobholder</i> for the first time which means that the employer is required to remind them that they may, by giving written notice to the employer, opt back into membership of the LGPS (an <i>automatic enrolment scheme</i>)</li> <li>b) that, if the person joins the LGPS, the employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund's appointed actuary,</li> <li>c) that a written notice to opt back into the LGPS must be signed by the person or, if sent electronically, it must include a statement that the person submitted the notice personally, and</li> <li>d) where the <i>non-eligible jobholder</i> may obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</li> </ul>	<p>[Reg 17(1) of SI 2010/772 as amended by SI 2012/215]</p>
<p>57. If the <i>non-eligible jobholder</i> gives a written opt in notice to the employer, the person must be enrolled back into the LGPS with effect from the first day of the first <i>pay reference period</i> that begins after the employer receives the opt in notice or, if the payroll for that has closed, from the first day of the next <i>pay reference period</i>. However, the <i>non-eligible jobholder</i> can rescind the opt in notice if they withdraw it before the enrolment date. If they do not rescind their opt in notice, the employer must, either before or within 1 <i>month</i> of the enrolment date, provide:</p> <ul style="list-style-type: none"> <li>a) the <i>non-eligible jobholder</i> with the enrolment information in writing, and</li> <li>b) the Pensions Section of the Pension Fund administering authority with information on the <i>non-eligible jobholder</i> in writing.</li> </ul>	<p>[Regs 18(1) and (6) of SI 2010/772]</p> <p>[Reg 18(5) of SI 2010/772] [Reg 18(3) of SI 2010/772]</p>
<p>58. <b>Information to provide to the non-eligible jobholder if they opt</b></p>	<p>[Reg 2 of SI</p>

<p><b>back into the LGPS:</b> Before or within 1 <i>month</i> of the enrolment date the employer must provide the following information to the <i>non-eligible jobholder</i> in writing:</p> <ol style="list-style-type: none"> <li>a) a statement that, although they have previously opted out of the LGPS, they have chosen to opt back into the LGPS and the employer has enrolled (or will enrol) them back into the LGPS to help them save for their retirement,</li> <li>b) the date the <i>non-eligible jobholder</i> was (or is to be) enrolled back into the LGPS,</li> <li>c) the name, address, telephone number and electronic contact details of the scheme in respect of which the <i>non-eligible jobholder</i> is or will be an active member,</li> <li>d) the value of any contributions payable to the LGPS by the employer and the <i>non-eligible jobholder</i> in any applicable <i>pay reference period</i>. The "value" of contributions may be expressed as a fixed amount or a percentage of <i>qualifying earnings</i> or of pensionable pay due to the <i>non-eligible jobholder</i> in any applicable <i>pay reference period</i> (but see <a href="#">Annex 6</a> for details on, and issues connected with, the "value" of contributions),</li> <li>e) a statement that any contributions payable to the LGPS by the <i>non-eligible jobholder</i> have been or will be deducted from any pensionable pay due to them,</li> <li>f) confirmation that tax relief is or will be given in accordance with section 193 of the Finance Act 2004 (relief under net pay arrangements),</li> <li>g) a statement that if the <i>non-eligible jobholder</i>, on a date, ceases to be an active member of the LGPS (without the <i>non-eligible jobholder</i> ceasing to be employed by the employer) by reason of something other than an action or omission by the <i>non-eligible jobholder</i>, the employer must make arrangements by which the <i>non-eligible jobholder</i> becomes an active member of an <i>automatic enrolment scheme</i> with effect from the day following the date they ceased to be an active member of the LGPS,</li> <li>h) a statement that the <i>non-eligible jobholder</i> has the right to opt out of the LGPS during the opt out period i.e. during the 'enrolment opt out window',</li> <li>i) a statement indicating the start and end dates of the opt out period applicable to the <i>non-eligible jobholder</i> if that information is known to the employer but if not, a statement that the opt out period is the period determined in accordance with regulation 9(2) or (3) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010,</li> <li>j) where the opt out notice may be obtained (i.e. from the Pensions Section of the Pension Fund administering authority),</li> <li>k) a statement that an opt out notice must be signed by the <i>non-eligible jobholder</i> or, if it is given by means of an electronic communication, the notice must include a statement that the <i>non-eligible jobholder</i> personally submitted the opt out notice,</li> <li>l) a statement that opting out within the opt out period means that the <i>non-eligible jobholder</i> will be treated for all purposes as not</li> </ol>	<p>2010/772 as amended by SI 2012/215, and regs 7 and 18(3) of SI 2010/772]</p>
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<p>having become an active member of the LGPS on that occasion,</p> <p>m) a statement that after a valid opt out notice is given to the employer within the opt out period and in accordance with regulation 9(2) or (3) of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010, any contributions paid by the <i>non-eligible jobholder</i> will be refunded to the <i>non-eligible jobholder</i> by the employer,</p> <p>n) a statement that if the <i>non-eligible jobholder</i> opts out, the <i>non-eligible jobholder</i> may opt back in, in which case the employer will be required to arrange for that <i>non-eligible jobholder</i> to become an active member of an <i>automatic enrolment scheme</i> (i.e. the LGPS) once in any 12 <i>month</i> period (although, in practice, under the LGPS rules the member can opt back in from the beginning of the next available pay period i.e. the once in any 12 <i>month</i> period will not apply in the LGPS),</p> <p>o) a statement that, if the <i>non-eligible jobholder</i> does not opt out within the opt out period, they will still be able to opt out of the LGPS at any time in accordance with the opt out rules of the LGPS (and be entitled to whatever benefits may be due under the rules of the LGPS),</p> <p>p) a statement that a <i>non-eligible jobholder</i> who opts out or who ceases active membership of the LGPS will be ‘automatically re-enrolled’ into an <i>automatic enrolment scheme</i> by the employer on <i>[enter date]</i> if they are an <i>eligible job holder</i> on that date (being the ‘automatic re-enrolment’ date chosen by the employer in accordance with regulations made under section 5 of the Pensions Act 2008), and</p> <p>q) where the <i>non-eligible jobholder</i> can obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</p> <p>59. <b>Information to provide to the Pensions Section if the non-eligible job holder opts back into the LGPS:</b> The information to be given by the employer in writing to the Pensions Section of the Pension Fund administering authority (before or within 1 <i>month</i> of the enrolment date) is the <i>non-eligible jobholder’s</i>:</p> <p>a) name;</p> <p>b) date of birth;</p> <p>c) postal residential address;</p> <p>d) gender;</p> <p>e) enrolment date;</p> <p>f) national insurance number*;</p> <p>g) the gross <i>earnings</i> (not pensionable pay) due to the <i>non-eligible jobholder</i> in any applicable <i>pay reference period</i>**;</p> <p>h) the value of any contributions payable to the LGPS by the employer and the <i>non-eligible jobholder</i> in any applicable <i>pay reference period</i>, where this information is available to the employer. The “value” of contributions may be expressed as a</p>	<p>[Regs 3, 7 and 18(3) of SI 2010/772]</p>
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<p>fixed amount or a percentage of any <i>qualifying earnings</i> or of pensionable pay due to the <i>non-eligible jobholder</i> in any applicable <i>pay reference period</i>** ( but see <a href="#">Annex 6</a> for details on, and issues connected with, the “value” of contributions);</p> <ul style="list-style-type: none"> <li>i) postal work address**;</li> <li>j) individual work e-mail address, where an individual work e-mail address is allocated to that <i>non-eligible jobholder</i>**;</li> <li>k) personal e-mail address, where the employer holds this information**.</li> </ul> <p>Notes:</p> <p>* With regard to item (f) above, if the employer is not in receipt of the NI number on the enrolment date, the employer must supply it to the Pensions Section of the Pension Fund administering authority within 1 <i>month</i> of receiving it.</p> <p>** With regard to items (g) to (k) above, the Pensions Section of the Pension Fund administering authority can decide not to obtain some or all of those items of information from the employer. Pension Sections will, therefore, have to determine their policy on this. Items (i), (j) and (k) might, for example, aid administering authorities Pensions Sections with the distribution of Newsletters, etc thereby reducing administration costs.</p> <p>60. <b>Opt out procedure if the non-eligible jobholder who opts in wants to opt out:</b> An employee who commences employment on or after the employer’s ‘staging date’, is ‘contractually enrolled’ into the LGPS, opts out, and subsequently opts back into the LGPS after first becoming an <i>non-eligible jobholder</i> (see <a href="#">paragraph 55</a>) can rescind the opt in notice but can only do so before the enrolment date. If they do so, the employer does not have to action their opt in request. If they do not rescind their opt in notice, they then cannot opt out until they have been enrolled into the. That does not mean that contributions have to be collected from pay before they can opt out. It merely means that they cannot sign and date the opt out form until on or after the day they are enrolled or the day they received the statutory ‘automatic enrolment’ information from their employer (whichever is later) i.e. if they are enrolled on 1 March and received the statutory ‘automatic enrolment’ information on 4 March they cannot sign and date the opt out form until, at the earliest, 4 March. An opt out under the ‘automatic enrolment’ rules must be made on a prescribed form (see <a href="#">Annex 4</a>) which can only be obtained from the Pension Section of the Pension Fund administering authority (although the Pensions Section of the Pension Fund administering authority might make this available on their website for downloading). Unless an occupational pension scheme, within its trust instrument, expressly delegates its pensions administration function to the employer (which the LGPS does not) the employer is not legally allowed to issue the opt out form. This also means that an employer is not permitted to download an opt out form on behalf of the <i>non-eligible jobholder</i> from the website of the Pension Section of the Pension Fund administering authority and hand this to the <i>non-eligible</i></p>	<p>[Reg 18(5) of SI 2010/772]</p> <p>[Regs 19 and 9(1) of SI 2010/772]</p> <p>[Regs 19 and 9(4) of SI 2010/772, and reg 9(6) of SI 2010/772 as amended by SI 2012/215]</p> <p>[Regs 19 and 9(5) of SI 2010/772]</p>
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<p><i>jobholder</i>. Under the ‘automatic enrolment’ rules the <i>non-eligible jobholder</i> can opt out within the ‘enrolment opt out window’. This opt out window is the period of 1 <i>month</i> from the later of the date the <i>non-eligible jobholder</i> was enrolled or the date the employer provided that person with the information in <a href="#">paragraph 58</a> (which could be up to 1 <i>month</i> after they were enrolled, meaning that the opt out window can be anywhere between 1 <i>month</i> and 2 <i>months</i> after the <i>non-eligible jobholder</i> was enrolled). If the opt out form is incorrectly completed or is not made on the prescribed form the employer must inform the person of the reason it is invalid. The ‘enrolment opt out window’ is then extended to a period of 6 weeks from the later of the date the <i>non-eligible jobholder</i> was enrolled or the date the employer provided that person with the information in <a href="#">paragraph 58</a>. This does not mean that the person cannot opt out of the LGPS after the end of the ‘enrolment opt out window’; they can still do so, but if they do, the option out (and any entitlements that flow from it) will be in accordance with the rules of the LGPS. The person must return the opt-out form to the employer (not the Pensions Section of the Pension Fund administering authority). See <a href="#">paragraphs 69 to 71</a> for more information.</p>	<p>[Regs 19 and 9(2) of SI 2010/772]</p> <p>[Regs 19 and 9(7) of SI 2010/772]</p>
<p>61. <b>Opt out procedure if the non-eligible jobholder opts out after being enrolled and the opt out request is made within the ‘enrolment opt out window’:</b> If the <i>non-eligible jobholder</i> completes a valid opt out form within the ‘enrolment opt out window’ the employer must inform the Pensions Section of the Pension Fund administering authority that a valid opt out form has been received. The person will then be treated as not having become an active member of the LGPS on that occasion. The employer must refund through the payroll any pension contributions paid by the <i>non-eligible jobholder</i>. Where the contributions to be refunded span tax years this must be dealt with by payroll in accordance with HMRC guidance. A refund must be made within 1 <i>month</i> of the date the employer received the valid opt out form or, if the payroll has closed when the opt out form is received, by the end of the next pay period. The Pensions Section of the Pension Fund administering authority must, within the same time frame, refund to the employer any employee <b>and</b> employer contributions paid to the Fund in respect of the optant out. Note, however, that in practice it is recommended that the Pensions Section of the Pension Fund administering authority agrees with the employers in the Fund that the employer should simply reduce the next month’s contribution payover to the Fund by the amount of employee <b>and</b> employer contributions that are to be / have been refunded. The employer must retain a copy of the valid opt out notice and the Pensions Section of the Pension Fund administering authority must keep a record of the name of the optant out and the date they were informed by the employer that the <i>non-eligible jobholder</i> had opted out. The employer and the Pensions Section of the Pension Fund administering authority are required to retain these records for 4 years although, in practice, it is recommended that the employer and Pensions Section should retain records indefinitely</p>	<p>[Regs 19 and 10 of SI 2010/772] [s8(2)(a) of the Act] [Regs 19, 11(1) and (3) of SI 2010/772] [Regs 19, 11(2) and (3) of SI 2010/772]</p> <p>[Regs 6(1)(i) and 7(1)(c) of SI 2010/5] [Reg 8(2) of SI 2010/5]</p>

<p>(subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998) in order to be able to prove the person had opted out should that person, perhaps many years later, claim that they had not done so and are due a pension.</p> <p>62. <b>Opt out procedure if the non-eligible jobholder opts out after being enrolled and the opt out request is made outside the ‘enrolment opt out window’:</b> If the <i>non-eligible jobholder</i> completes a valid opt out form outside the ‘enrolment opt out window’ the opt out will be dealt with in accordance with the rules of the LGPS. This means that if a <i>non-eligible jobholder</i> opts out after the ‘enrolment opt out window’ but within 3 <i>months</i> of being enrolled, that person will be treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via the payroll. Opting out after 3 <i>months</i> would mean a member in England or Wales would be entitled to a deferred benefit. In Scotland, if the opt out occurred after 3 <i>months</i> but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they already have, in an LGPS Fund in Scotland, a deferred pension or a pension in payment (in which case they would be entitled to a deferred benefit). If the opt out was after 2 years in Scotland, that person would be entitled to a deferred benefit. Although, for optants out under this paragraph, the Pensions Act 2008 does not require the employer to retain a copy of the opt out notice (for 4 years) and does not require the Pensions Section of the Pension Fund administering authority to keep a record (for 4 years) of the name of the optant out and the date they were informed by the employer that the person had opted out, it is recommended that such records are retained indefinitely (subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998).</p>	
<p><b>Employees who commence employment on or after the employer’s ‘staging date’, who opt out of membership of the LGPS and who subsequently become an entitled worker for the <u>first</u> time since commencing employment with the employer</b></p>	
<p>63. If an employee who commences employment on or after the employer’s ‘staging date’, is ‘contractually enrolled’ into the LGPS, decides to opt out of active membership of the scheme, and subsequently becomes an <i>entitled worker</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts), then the employer must, either before or within 1 <i>month</i> of the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes an <i>entitled worker</i>, provide the <i>entitled worker</i> with a written statement. As mentioned in <a href="#">paragraph 39</a> it is important that the employer monitors the category the person falls into in each <i>pay reference period</i> as from the commencement of employment so as to enable the employer to determine when that person becomes an <i>entitled worker</i> for the <u>first</u> time. It must be stressed that it is only if the person has not been an</p>	<p>[s9 of the Act)</p>

<p><i>entitled worker</i> under that contract (or consecutive string of contracts) at any point since commencement of employment and who, after opting out of membership of the LGPS becomes an <i>entitled worker</i> for the first time, that the employer must provide the <i>entitled worker</i> with a written statement.</p>	
<p>64. <b>Information to provide to the entitled worker about right to opt back into the LGPS:</b> Either before or within 1 <i>month</i> of the beginning of the <i>pay reference period</i> in which the person <u>first</u> becomes an <i>entitled worker</i>, the employer must provide the <i>entitled worker</i> with the following information in writing:</p> <ul style="list-style-type: none"> <li>a) a statement that, although they have previously opted out of the LGPS, they have subsequently become an <i>entitled worker</i> for the first time which means that the employer is required to remind them that they may, by giving written notice to the employer, opt back into membership of the LGPS</li> <li>b) that a written notice to opt back into the LGPS must be signed by the person or, if sent electronically, it must include a statement that the person submitted the notice personally, and</li> <li>c) where the <i>entitled worker</i> may obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</li> </ul> <p>Note: Although there is no requirement to inform the <i>entitled worker</i> that, if they join the LGPS, the employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund's appointed actuary, it would seem sensible to do so to be consistent with the information sent to a <i>non-eligible jobholder</i> (see <a href="#">paragraph 56</a>).</p>	<p>[Reg 21(1) of SI 2010/772 as amended by SI 2012/215]</p>
<p>65. If the <i>entitled worker</i> gives a written opt in notice to the employer, the person must be enrolled back into the LGPS from the enrolment date, being the first day of the first payment period after the employer receives the opt in notice. The enrolment is under the terms of the LGPS rules. The opt in notice must be in writing and, unless submitted electronically, must be signed by the <i>entitled worker</i>. If it is submitted electronically, it must include a statement confirming that the <i>entitled worker</i> personally submitted the notice.</p>	<p>[ Reg 13(2) of SI 2008/239; reg 10(2) of SI 2008/228] [Regs 23(1)(a) and 22 of SI 2010/772]</p>
<p>66. Unlike in the case of a person who opts out of the LGPS and:</p> <ul style="list-style-type: none"> <li>a) is enrolled back into the LGPS upon becoming an <i>eligible jobholder</i> for the first time, or</li> <li>b) opts back into the LGPS on or after becoming a <i>non-eligible jobholder</i> for the first time</li> </ul> <p>there is no requirement under the Pensions Act 2008 or the related</p>	<p>[Reg 23 of SI</p>

<p>Statutory Instruments to send information to a person who opts back into the LGPS on or after becoming an <i>entitled worker</i> for the first time. Although this is the case, it would seem sensible to provide such information to the <i>entitled worker</i>. There is a requirement under the Act to send information to the Pensions Section of the Pension Fund administering authority about the <i>entitled worker</i>, although there is no time limit placed on when this has to be sent. However, we recommend that this information is provided to the Pensions Section of the Pension Fund administering authority before or within 1 <i>month</i> of the <i>entitled worker's</i> enrolment date.</p>	<p>2010/772]</p>
<p>67. <b>Information to provide to the Pensions Section if the entitled worker opts back into the LGPS:</b> The information to be given by the employer in writing to the Pensions Section of the Pension Fund administering authority (preferably before or within 1 <i>month</i> of the enrolment date) is the <i>entitled worker's</i>:</p> <ul style="list-style-type: none"> <li>a) name;</li> <li>b) date of birth;</li> <li>c) postal residential address;</li> <li>d) gender;</li> <li>e) enrolment date*;</li> <li>f) national insurance number**;</li> <li>g) the gross <i>earnings</i> (not pensionable pay) due to the <i>entitled worker</i> in any applicable <i>pay reference period</i>***;</li> <li>h) the value of any contributions payable to the LGPS by the employer and the <i>entitled worker</i> in any applicable <i>pay reference period</i>, where this information is available to the employer. The "value" of contributions may be expressed as a fixed amount or a percentage of pensionable pay due to the <i>entitled worker</i> in any applicable <i>pay reference period</i>** (but see <a href="#">Annex 6</a> for details on, and issues connected with, the "value" of contributions);</li> <li>i) postal work address***;</li> <li>j) individual work e-mail address, where an individual work e-mail address is allocated to that <i>entitled worker</i>***; and</li> <li>k) personal e-mail address, where the employer holds this information***.</li> </ul>	<p>[Regs 3 and 23 of SI 2010/772]</p>
<p>Notes:</p> <p>* With regard to item (e) there is no requirement under regulation 23 of SI 2010/772 to provide this information. However, in practice, this date should, of course, be supplied to the Pensions Section of the Pension Fund administering authority.</p> <p>** With regard to item (f) above, if the employer is not in receipt of the NI number on the enrolment date, the employer must supply it to the Pensions Section of the Pension Fund administering authority within 1 <i>month</i> of receiving it.</p> <p>*** With regard to items (g) to (k) above, the Pensions Section of the Pension Fund administering authority can decide not to obtain some or all of those items of information from the employer. Pension Sections will, therefore, have to determine their policy on</p>	<p>[Reg 23(2) of SI 2010/772]</p> <p>[Reg 23(3) of SI 2010/772]</p> <p>[Reg 23(2) of SI 2010/772]</p>

this. Items (i), (j) and (k) might, for example, aid administering authorities Pensions Sections with the distribution of Newsletters, etc thereby reducing administration costs.

68. **Opt out procedure if the entitled worker opts out after being enrolled:** It should be noted that the Pensions Act 2008 does not specify a prescribed form to be used by *entitled workers* who wish to opt out of the LGPS. However, for practical reasons, it is recommended that the same form that is to be used for *eligible jobholders* and *non-eligible jobholders* is used for *entitled workers* (see [Annex 4](#)). If the *entitled worker* completes a valid opt out form the opt out will be dealt with in accordance with the rules of the LGPS. This means that if an *entitled worker* opts out within 3 *months* of being enrolled, that person will be treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via the payroll. Opting out after 3 *months* would mean a member in England or Wales would be entitled to a deferred benefit. In Scotland, if the opt out occurred after 3 *months* but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they already have, in an LGPS Fund in Scotland, a deferred pension or a pension in payment (in which case they would be entitled to a deferred benefit). If the opt out was after 2 years in Scotland, that person would be entitled to a deferred benefit. The optant out must return the opt-out form to the employer (not the Pensions Section of the Pension Fund administering authority). Unlike in the case of an *eligible jobholder* who opts out in the 'automatic enrolment opt out window' or a *non-eligible jobholder* who opts out in the 'enrolment opt out window', for optants out under this paragraph the Pensions Act 2008 does not require the employer to retain a copy of the valid opt out notice (for 4 years) and it does not require the Pensions Section of the Pension Fund administering authority to keep a record (for 4 years) of the name of the optant out and the date they were informed by the employer that the *entitled worker* had opted out. However, it is recommended that the same record keeping requirements should be applied to all optants out and that such records are retained indefinitely (subject, of course, to any data protection legislation e.g. under the Data Protection Act 1998).

### Can the opt out procedures that apply under the LGPS and under the Pensions Act 2008 be aligned?

69. An employee who commenced employment before the employer's 'staging date' will have been enrolled into the LGPS in accordance with the rules of the LGPS and they will have the right to opt out of membership under the rules of the LGPS. If they do opt out, either before or after the employer's 'staging date', they may, on or after the employer's 'staging date', be 'automatically enrolled' (or 'automatically re-enrolled') into the LGPS as an *eligible jobholder*, or be enrolled as a result of opting in as a *non-eligible jobholder* or as an *entitled*

*worker*, in accordance with the employer duties under the Pensions Act 2008. If they subsequently opt out as an *eligible jobholder* or a *non-eligible jobholder* within the 'automatic enrolment / enrolment opt out window' they will be opting out under the 'automatic enrolment' procedures, but if they opt out after the end of the window, they will be opting out under the rules of the LGPS; and if an *entitled worker* opts out they will be doing so under the rules of the LGPS.

70. An employee who commences employment on or after the employer's 'staging date' will be 'contractually enrolled' into the LGPS in accordance with the rules of the LGPS (**not** under the 'automatic enrolment' duties), regardless of whether they are an *eligible jobholder*, *non-eligible jobholder*, or *entitled worker*. This means that if the person were to opt out of membership they would do so under the rules of the LGPS. If such a person does opt out and is subsequently 'automatically enrolled' back into the LGPS on becoming an *eligible jobholder* (or 'automatically re-enrolled' as an *eligible jobholder* on the re-enrolment date), or opts into the LGPS on becoming a *non-eligible jobholder* or an *entitled worker*, they can opt out again. If an *eligible jobholder* or *non-eligible jobholder* does so within the 'automatic enrolment / enrolment opt out window' they will be opting out under the 'automatic enrolment' procedures, but if they opt out after the end of the window they will be opting out under the rules of the LGPS. If an *entitled worker* opts out they will be doing so under the rules of the LGPS.

71. Clearly, this is a potential recipe for confusion as different provisions apply depending upon whether:

- the employer's 'staging date' has passed,
- whether the *worker* was 'contractually enrolled' into the LGPS or 'automatically enrolled' in accordance with the 'automatic enrolment' duties,
- when the person opts out, and
- what type of *worker* they are.

Thankfully, The Pensions Regulator has confirmed that the LGPS can continue to operate the LGPS rule which provides that a member who opts out within 3 *months* of being enrolled is treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via the payroll. That means that although there are technically two sets of opt out provisions (those that apply to opt outs in the 'automatic enrolment opt out window' and those that apply under the rules of the LGPS) the net result, and all the employee needs to understand, is that if the employee opts out within 3 *months* of being enrolled they will be treated as not having been a member of the LGPS on that occasion and will be entitled to a refund via the payroll. The relevant letters in [Annex 7](#) and the opt out form at [Annex 4](#) have been designed to reflect this. Opting out after 3 *months* would mean a member in England or Wales would be entitled to a deferred benefit. In Scotland, if the opt out occurred after 3 *months* but before 2 years, that person would be entitled to claim a refund via the Pension Fund

unless they already have, in an LGPS Fund in Scotland, a deferred pension or a pension in payment (in which case they would be entitled to a deferred benefit). If the opt out was after 2 years in Scotland, that person would be entitled to a deferred benefit.

So, given the above confirmation from The Pensions Regulator, and in order to simplify matters and to ensure consistency of approach between opt outs under the LGPS rules and opt outs under the 'automatic enrolment' duties, it is recommended that Pension Sections should apply the following from a common date of the Pension Fund administering authority's choosing (for example, from the date the largest of the employers in the Fund attains its 'staging date'), regardless of when any individual employer's 'staging date' applies:

- a) the same form (which should comply with the requirements for opt-out forms under the Pensions Act 2008) should be used for all opt outs (see [Annex 4](#)) regardless of whether the person is opting out under the LGPS rules or under the 'automatic enrolment' rules,
- b) the opt out form should only be available from the Pensions Section of the Pension Fund administering authority (although this could be available to *workers* for download on the Pension Section's website) regardless of whether the person is opting out under the LGPS rules or under the 'automatic enrolment' rules (although, legally, the employer is only debarred from issuing an opt out form to those seeking to opt out in the 'automatic enrolment opt out' window),
- c) the optant out must return the opt-out form to the employer (not the Pensions Section of the Pension Fund administering authority) regardless of whether the person is opting out under the LGPS rules or under the 'automatic enrolment' rules,
- d) as a person with multiple *contracts of employment* can opt out in respect all or some of their contracts, the form should allow for the LGPS member to specify from which contracts they wish to opt out of membership of the LGPS,
- e) although the Pensions Act 2008 places no requirement on the employer to retain a copy (for 4 years) of an opt out notice submitted under the rules of the LGPS nor does it place a requirement on the Pensions Section of the Pension Fund administering authority to keep a record (for 4 years) of the name of such an optant out and the date they were informed by the employer that the person had opted out, it is recommended that such record keeping requirements are adopted for all optants out (see [paragraphs 54](#) and [62](#)), not just for optants out under the 'automatic enrolment' rules but for optants out under the rules of the LGPS as well, and that, subject to any data protection legislation requirements e.g. under the Data Protection Act 1998, records are retained indefinitely, and
- f) as a member who opts out within 3 *months* of being enrolled is treated as not having been a member of the LGPS on that occasion, any employee **and** employer contributions paid over to

the Fund should be recovered from the Fund by the employer (by reducing the next month's pay-over to the Fund).

Although, as stated previously, there are technically two sets of opt out provisions (those that apply to opt outs in the 'automatic enrolment opt out window' and those that apply under the rules of the LGPS), it would be a burden for employers to have to monitor and record under which rules a person had opted out. An alternative method, if an employer is ever asked by TPR for information only on optants out within the 'automatic enrolment opt out window', would be for the employer to simply isolate the relevant cases in the following way:

- a) look at all the opt out forms received in the period The Pensions Regulator is interested in
- b) determine how many of the forms in (a) relate to *eligible jobholders* to whom the employer had sent an automatic enrolment or re-enrolment letter containing the information in [paragraph 50](#) or to *non-eligible jobholders* to whom the employer had sent an enrolment letter containing the information in [paragraph 58](#))
- c) determine how many of the opt out forms within (b) had been sent back within, for an eligible jobholder, the 'automatic enrolment opt out window' (as described in [paragraph 52](#)) or, for a non-eligible jobholder, within the 'enrolment opt out window' (as described in [paragraph 60](#)), and
- d) determine how many of those in (c) received the refund via payroll within a *month* of receiving the valid opt out form or, if the payroll run had closed when the opt out form was received, by the end of the next pay period.

One further matter to note regarding opting out is the interrelationship with Fixed or Enhanced Protection Certificates.

The guidance notes to the HMRC Fixed Protection application form (APSS227) contained the following information for those applying for Fixed Protection - *"Loss of fixed protection under auto-enrolment: From 2012 if your employer is subject to the automatic enrolment duty under the provisions of Pensions Act 2008 they will have to automatically enrol you into a qualifying workplace pension scheme. If your employer automatically enrolls you in a pension scheme, you will have one month to opt out. If you opt out within that **one month** period then the law treats you as if you were never a member of the pension scheme. In these circumstances you will keep your fixed protection. **If you do not opt out in time then you will lose your fixed protection.** If you have applied for fixed protection and think that automatic enrolment into a new scheme will mean that you will lose this then you should speak to your employer or prospective employer who will be able to tell you how you can opt out of the pension scheme".* However, this is not strictly correct and the LGPC Secretariat has received confirmation from HMRC that an *eligible*

*jobholder, non-eligible jobholder, or entitled worker* who is enrolled into the LGPS will not lose their Fixed Protection provided they opt out within 3 *months* of being enrolled. This is because the LGPS contains a provision whereby a member who opts out within 3 *months* of being enrolled is treated as not having been a member of the LGPS on that occasion, This is confirmed on the [HMRC website](#). Furthermore, members in England or Wales will not lose Fixed Protection if they do not opt out within 3 *months* but have earlier LGPS membership in England or Wales which they aggregate with the current membership (as this will not constitute entering into a new arrangement) and members in Scotland will not lose Fixed Protection if they do not opt out within 3 *months* but have earlier LGPS membership in Scotland which they aggregate with the current membership (as this will not constitute entering into a new arrangement) **provided**, in either case, they do not have 'benefit accrual'. However, they will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see [RPSM11101530](#) for more information on 'benefit accrual'

The LGPC Secretariat also understands that all people in receipt of an Enhanced Protection certificate have received a letter from HMRC telling them that if they are 'automatically enrolled' into a pension scheme they must take action and opt out immediately if they wish to retain their Enhanced Protection. However, the LGPC Secretariat has received confirmation from HMRC that Enhanced Protection will not be lost:

- a) if the person opts out within 3 *months* of being enrolled into the LGPS, or
- b) if a LGPS member in England or Wales with Enhanced Protection has earlier LGPS membership in England or Wales which, on rejoining the LGPS, they decide to aggregate with the current period of membership (as, by aggregating, the member will not be deemed to have started a new 'arrangement'), or
- c) if a LGPS member in Scotland with Enhanced Protection has earlier LGPS membership in Scotland which, on rejoining the LGPS, they decide to aggregate with the current period of membership (as, by aggregating, the member will not be deemed to have started a new 'arrangement').

In the case of (b) and (c), even if the member subsequently has 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of the member's benefits at 5 April 2006 as increased after then, in general terms, by the greater of 5% per annum, the increase in the cost of living or increases in their pensionable pay) the member can notionally split the crystallisation of their defined benefit rights on retirement. This will allow them to reduce their tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection is retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. However, the member will lose Enhanced

<p>Protection if they pay contributions into a money purchase pension arrangement (e.g. they pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if they start a new pension arrangement, or if they transfer their LGPS benefits to another defined benefit pension scheme.</p>	
<p><b>The re-enrolment rules applying to employees who commence employment on or after the employer's 'staging date'</b></p>	
<p>72. If an employee who commences employment on or after the employer's 'staging date' opts out of membership of the LGPS, remains in continuous employment with the employer and, on the re-enrolment date chosen by the employer (see <a href="#">paragraphs 74 and 75</a>), is not an active member of the LGPS but is an <i>eligible jobholder</i>, the employer must 'automatically re-enrol' that <i>eligible jobholder</i> into the LGPS (unless the <i>eligible jobholder</i> had opted out of the LGPS within the 12 <i>month</i> period prior to the employer's chosen re-enrolment date). The information requirements and opt out procedures for those <i>eligible jobholders</i> who are re-enrolled are the same as for those who are 'automatically enrolled' in accordance with the statutory requirements (see <a href="#">paragraphs 50 to 54</a>). However, an employer cannot issue a postponement notice (but an employer can choose a re-enrolment date up to 3 months after the third anniversary of the employer's 'staging date' (see <a href="#">paragraphs 74 and 75</a>)).</p>	<p>[s 5 of the Act and regs 14(1) and (2) of SI 2010/772 as inserted by SI 2012/215]</p> <p>[Regs 13, 15 and 16 of SI 2020/772]</p>
<p>73. If an employee who commences on or after the employer's 'staging date' opts out of membership of the LGPS, remains in continuous employment with the employer and, on the re-enrolment date chosen by the employer, is not an active member of the LGPS but is either a <i>non-eligible jobholder</i> or an <i>entitled worker</i>, the employer is under no obligation to communicate with that person. There is nothing, however, to prevent the employer issuing a communication at that time reminding such employees that they have the right to opt in to the LGPS.</p>	
<p>74. An employer's first re-enrolment date will be the third anniversary of the employer's 'staging date' or such other date chosen by the employer within a period of 3 <i>months</i> either side of the third anniversary date.</p>	<p>[Reg 12(1)(a) of SI 2010/772 as amended by SI 2012/215]</p>
<p>75. Thereafter, the employer's re-enrolment date will be the third anniversary of the employer's previously chosen re-enrolment date, or such other date as the employer may chose which has to be a date within a period of up to 3 <i>months</i> either side of the third anniversary of the previous re-enrolment date.</p>	<p>[Reg 12(1)(b) of SI 2010/772 as amended by SI 2012/215]</p>
<p>76. It is worth stressing at this point that if: (a) an employee who is 'contractually enrolled' into the LGPS is an</p>	

<p><i>eligible jobholder</i> at any time whilst in the LGPS,</p> <p>(b) opts out,</p> <p>(c) becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i> (because of falling <i>earnings</i>), and</p> <p>(d) during a continuous period of employment with the employer but <u>before</u> the employer’s chosen re-enrolment date, subsequently becomes an <i>eligible jobholder</i> again (when <i>earnings</i> rise)</p> <p>then the employer does not have to re-enrol the <i>eligible jobholder</i> at that point (because that was not the <u>first</u> time the person had been an <i>eligible jobholder</i>). However, if the person is still an <i>eligible jobholder</i> on the employer’s chosen re-enrolment date, the employer would have to re-enrol the person at that time.</p> <p>77. It is also worth stressing that if:</p> <p>(a) an employee who is ‘contractually enrolled’ into the LGPS, is an <i>eligible jobholder</i> at any time whilst in the LGPS,</p> <p>(b) opts out,</p> <p>(c) becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i> (because of falling <i>earnings</i>), and</p> <p>(d) during a continuous period of employment with the employer but <u>after</u> the employer’s chosen re-enrolment date, subsequently becomes an <i>eligible jobholder</i> again (when <i>earnings</i> rise)</p> <p>then the employer does not have to re-enrol the <i>eligible jobholder</i> at that point (because that was not the <u>first</u> time the person had been an <i>eligible jobholder</i>). As the person would not be an <i>eligible jobholder</i> on the employer’s chosen re-enrolment date, the employer would not have to re-enrol the person at that time. However, if the <i>worker</i> is an <i>eligible jobholder</i> on the employer’s next re-enrolment date they will need to be re-enrolled at that time (if they are not an active member of the LGPS on that date).</p>	
<b>Existing employees on the employer’s ‘staging date’ – general</b>	
<p>78. On an employers ‘staging date’ the vast majority of employees will be existing employees (with only a few employees being new employees on the employer’s ‘staging date’ i.e. new employees commencing work on that date). The rules for existing employees are covered in <a href="#">paragraphs 79 to 91</a> below as they are slightly different to the rules for new employees.</p> <p>79. Existing employees on the employer’s ‘staging date’ will fall into one of three main categories:</p> <p>i) those who are already active members of the LGPS</p> <p>ii) those who are not active members of the LGPS because they have a <i>contract of employment</i> for less than 3 <i>months</i> and have not opted in to the LGPS</p> <p>iii) those who are not active members of the LGPS because they</p>	

<p>have chosen to opt out of active membership.</p> <p>The procedures relating to each of these categories are covered in the sections below.</p>	
<p><b>Existing employees who, on the employer's 'staging date', are already active members of the LGPS in relation to the contract of employment</b></p>	
<p>80. If, on the employer's 'staging date', an existing <i>worker</i> who is an <i>eligible jobholder</i> or a <i>non-eligible jobholder</i> is already an active member of the LGPS in respect of the <i>contract of employment</i>, that person simply remains an active member of the LGPS in relation to that contract. The employer must, however, provide the following information to that person, in writing, within 2 <i>months</i> of the employer's 'staging date':</p> <ul style="list-style-type: none"> <li>a) confirmation that the <i>jobholder</i> is an active member of a <i>qualifying scheme</i> in relation to that contract,</li> <li>b) a statement that if the <i>jobholder</i>, on a date, ceases to be an active member of the LGPS under that contract (without the <i>jobholder</i> ceasing to be employed by the employer) by reason of something other than an action or omission by the <i>jobholder</i>, the employer must make arrangements by which the <i>jobholder</i> becomes an active member of an <i>automatic enrolment scheme</i> with effect from the day following the date they ceased to be an active member of the LGPS under that contract,</li> <li>c) where to obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc)</li> </ul> <p>If the <i>eligible jobholder</i> or <i>non-eligible jobholder</i> subsequently opts out of membership of the LGPS the same rules then apply as those that would apply to a <i>worker</i> taken on at or after the employer's 'staging date' who decides to opt out of the LGPS - see <a href="#">paragraphs 69 to 71</a> for more information on the opt out rules, <a href="#">paragraphs 48 to 68</a> for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and <a href="#">paragraphs 72 to 77</a> for information on the actions to take on the employer's chosen re-enrolment date (i.e. in effect treating the person as if he / she had been a <i>worker</i> who had commenced employment on or after the employer's 'staging date').</p> <p>81. If, on the employer's 'staging date', an existing <i>worker</i> who is an <i>entitled worker</i> is already an active member of the LGPS in respect of the <i>contract of employment</i>, that person simply remains an active member of the LGPS in relation to that contract. There is no requirement under the Pensions Act 2008 for the employer to provide information to that person. Equally, there is nothing to prevent the</p>	<p>[Reg 33 of SI 2010/772 as amended by SI 2012/215]</p>

<p>employer simply writing to that person (within, say, 2 <i>months</i> of the employer's 'staging date' to:</p> <ul style="list-style-type: none"> <li>a) confirm that the <i>entitled worker</i> is an active member of a <i>qualifying scheme</i> in relation to that contract, and</li> <li>b) provide details of where to obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc)</li> </ul> <p>If the <i>entitled worker</i> subsequently opts out of membership of the LGPS the same rules then apply as those that would apply to a <i>worker</i> taken on at or after the employer's 'staging date' who decides to opt out of the LGPS – - see <a href="#">paragraphs 69 to 71</a> for more information on the opt out rules, <a href="#">paragraphs 48 to 68</a> for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and <a href="#">paragraphs 72 to 77</a> for information on the actions to take on the employer's chosen re-enrolment date (i.e. in effect treating the person as if he / she had been a <i>worker</i> who had commenced employment on or after the employer's 'staging date').</p>	
<p><b>Existing eligible jobholders with a contract of employment for 3 months or more who, on the employer's 'staging date', are not active members of the LGPS in relation to the contract because they have previously opted out of active membership of the scheme under that contract</b></p>	
<p>82. <b>Existing eligible jobholders - options:</b> If, on the employer's 'staging date', an existing <i>eligible jobholder</i> with a <i>contract of employment</i> for 3 <i>months</i> or more is not an active member of the LGPS under the contract because they have previously opted out of the LGPS in relation to that contract, the employer must either, in relation to that contract:</p> <ul style="list-style-type: none"> <li>a) 'automatically enrol' that person into the LGPS on the employer's 'staging date', even if the person had opted out within the 12 <i>months</i> immediately preceding the employer's 'staging date'. If the employer does enrol the person, the information requirements, opt out procedures and re-enrolment procedures are the same as for <i>eligible jobholders</i> who are 'automatically enrolled' (see <a href="#">paragraphs 50 to 54</a>). If the <i>eligible jobholder</i> subsequently opts out of membership of the LGPS the same rules then apply as those that would apply to a <i>worker</i> taken on at or after the employer's 'staging date' who decides to opt out of the LGPS - see <a href="#">paragraphs 69 to 71</a> for more information on the opt out rules, <a href="#">paragraphs 48 to 68</a> for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and <a href="#">paragraphs 72 to 77</a> for information on the actions to take on the employer's</li> </ul>	<p>[s30(3) of the Act]</p>

<p>chosen re-enrolment date (i.e. in effect treating the person as if he / she had been a <i>worker</i> who had commenced employment on or after the employer's 'staging date'), or</p> <p>b) choose to apply the transitional delay period.</p> <p>It should be noted that an employer does not have to take the same route for all existing <i>eligible jobholders</i> with a <i>contract of employment</i> for 3 <i>months</i> or more who are not an active member of the LGPS under the contract because they have previously opted out of the LGPS in relation to that contract. The employer could apply (a) to some of them and (b) to others. Equally, if an employer operates two pension schemes (e.g. the LGPS and the Teachers' Pension Scheme, the employer could, for example, 'automatically enrol' that person into the TPS on the employer's 'staging date' and apply the transitional delay period to those eligible for the LGPS.</p>	
<p>83. <b>The transitional delay period for existing eligible jobholders:</b> If the employer chooses to apply the transitional delay period it means that the employer is putting back the date the 'automatic enrolment' requirements apply for that <i>eligible jobholder</i> in relation to that contract (i.e. if the <i>eligible jobholder</i> has more than one contract and the employer issues a transitional delay notice in respect of one but not the other, the employer is putting back the date the 'automatic enrolment' requirements apply only in respect of the contract for which the transitional delay notice was issued). If the contract in respect of which the transitional delay notice is issued subsequently ceases but the employee is issued with a new contract with the same employer and there is no break in service, the transitional delay notice continues to apply to the new contract. The transitional delay period is a period of 5 years and 3 <i>months</i> from the date section 3 of the Pensions Act 2008 came into force (i.e. the 'automatic enrolment' rules can be delayed until 1 October 2017 as section 3 of the Act came into force on 30 June 2012). However, it should be noted that any <i>eligible jobholders</i> to whom the transitional delay period is applied will still have the right to opt in to the LGPS during that period.</p>	<p>[Reg 6 of SI 2010/4 as amended by SI 2012/215 and SI 2012/1813]</p> <p>[SI 2012/1682]</p>
<p>84. The employer can only apply the transitional delay period if:</p> <ul style="list-style-type: none"> <li>a) the <i>eligible jobholder</i> was employed by the employer for a continuous period immediately before the employer's first enrolment date (being the first date the employer is required to 'automatically enrol' an <i>eligible jobholder</i>, which is likely to be the employer's 'staging date'),</li> <li>b) the <i>eligible jobholder</i> had, at a time during that period, become entitled to join a defined benefit scheme (the LGPS),</li> <li>c) the person had, since that time, always been entitled to be an active member of the scheme (the LGPS), and</li> <li>d) the LGPS is, and continues to be, a <i>qualifying scheme</i> in respect of that <i>worker</i>, which the LGPS is (and so is any pension scheme offered by the employer of which the <i>eligible jobholder</i> is entitled to become an active member on or after the employer's first</li> </ul>	<p>[s30(1) and (2) of the Act]</p>

enrolment date).

85. **Reasons to use the transitional delay period for existing eligible jobholders:** An employer will need to consider whether or not to utilise the transitional delay period in respect of existing *eligible jobholders* who, on the employer's 'staging date', are not active members of the LGPS under a *contract of employment* because they have opted out of the LGPS in relation to that contract. Clearly, by utilising the transitional delay period in respect of such *eligible jobholders*, the employer will not have to enrol them into the LGPS until the end of the transitional period, thereby not incurring the cost of employer contributions to the LGPS (apart from in the case of any such person who opts in to the LGPS before the end of the transitional period). The employer would need to put processes in place to ensure that those to whom the transitional delay period is applied are enrolled into the LGPS at the end of that period (assuming they are still an *eligible jobholder* and are still employed by the employer at that time and have not already opted into the LGPS). Conversely, an employer might decide not to make use of the transitional delay period for various reasons, including:

- a) administrative simplicity i.e. not having to run a dual track approach for
  - i) new employees and existing employees and for
  - ii) an existing employee who is issued with a transitional delay notice who subsequently takes on an addition contract, to which the transitional delay notice will not apply,
- b) paternalism (i.e. ensuring employees start providing for their retirement as early as possible),
- c) the cost is considered not to be significant (e.g. if the number of employees who are not in the scheme and who are *eligible jobholders* is small, or the employer considers that a significant proportion of the numbers of *eligible jobholders* to be automatically enrolled will opt out after enrolment),
- d) the cost of employer pension contributions for employees has already been factored into budgets. If employees opt out of the LGPS then the employer pension contribution "savings" are currently used for other things. However, if the employee opts back into the LGPS or is automatically enrolled back into the LGPS, those "savings" can no longer be spent on other matters and would need to be used for their initially intended purpose i.e. as an employer contribution to the LGPS.

86. **Employer chooses to use the transitional delay period:** If the employer decides to apply the transitional delay period, the employer (or someone acting on the employer's behalf) must write to, or e-mail, the affected *eligible jobholder* within 1 *month* of the date on which the 'automatic enrolment' duties first apply to that employer (which will normally be the employer's 'staging date') confirming:

- a) that the employer intends to defer 'automatic enrolment' for the

[s30(3) of the Act and reg 27 of SI 2010/772 as amended by SI 2012/215]

<p>person until the end of the transitional period</p> <p>b) the person may nevertheless, by giving written notice to the employer, choose to opt into membership of the LGPS (which is an <i>automatic enrolment scheme</i>)</p> <p>c) that, if the person joins the LGPS, the employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund's appointed actuary,</p> <p>d) that a written notice to opt into the LGPS must be signed by the person or, if sent electronically, it must include a statement that the person submitted the notice personally, and</p> <p>e) where the person may obtain further information about pensions and saving for retirement (e.g. <a href="http://www.direct.gov.uk/workplacepensions">www.direct.gov.uk/workplacepensions</a>, <a href="http://www.lgps.org.uk">www.lgps.org.uk</a>, any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc).</p> <p>87. If the employer provides the <i>eligible jobholder</i> with the transitional delay notice referred to in <a href="#">paragraph 86</a>, the transitional delay period continues to apply provided the conditions in (c) and (d) of <a href="#">paragraph 84</a> continue to apply in respect of the <i>worker</i>. If they continue to apply, the employer cannot choose to 'automatically enrol' the <i>eligible jobholder</i> at an earlier date during the transitional delay period, but must, at the end of the transitional delay period, 'automatically enrol' the <i>eligible jobholder</i> into the LGPS (provided the person is still working for the employer, is an <i>eligible jobholder</i> on the day following the last day of the transitional delay period and has not already opted into the LGPS). This still holds true even if the person had opted into the LGPS prior to the end of the transitional delay period and had then opted out within 12 <i>months</i> prior to the end of the transitional delay period.</p> <p>If the person opts to join the LGPS before the end of the transitional delay period that person will be 'contractually enrolled' into the LGPS in accordance with the LGPS rules and <b>not</b> in accordance with the statutory 'automatic enrolment' procedure. This means that the information requirements and opt out procedures under the Pensions Act 2008 do not apply. The information requirements are simply those that apply under the Employment Rights Act 1996, the Occupational Pension Schemes (Disclosure of Information) Regulations 1996, the LGPS (Benefits, Membership and Contributions) Regulations 2007 and the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 (see <a href="#">Annex 3</a>); and the opt out procedures are those that apply under the LGPS (Administration) Regulations 2008 and the LGPS (Administration) (Scotland) Regulations 2008.</p> <p>If the person has not opted to join the LGPS before the end of the transitional delay period and they are an <i>eligible jobholder</i> at that point in time they will be 'automatically enrolled' then. The information requirements and opt out procedures for those <i>eligible jobholders</i> who are enrolled at the end of the transitional delay period are the same</p>	<p>[s30(4) of the Act]</p> <p>[s30(3) of the Act]</p>
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<p>as for <i>eligible jobholders</i> who are ‘automatically enrolled’ (see <a href="#">paragraphs 50 to 54</a>). If the <i>eligible jobholder</i> subsequently opts out of membership of the LGPS the same rules then apply as those that would apply to a <i>worker</i> taken on at or after the employer’s ‘staging date’ (and on or after the transitional delay period) who decides to opt out of the LGPS - see <a href="#">paragraphs 69 to 71</a> for more information on the opt out rules, <a href="#">paragraphs 48 to 68</a> for information on subsequent actions to take prior to the employer’s chosen re-enrolment date, and <a href="#">paragraphs 72 to 77</a> for information on the actions to take on the employer’s chosen re-enrolment date (i.e. in effect treating the person as if he / she had been a <i>worker</i> who had commenced employment on or after the employer’s ‘staging date’ and on or after the transitional delay period).</p> <p>It should be noted that an employer can issue a postponement notice to an eligible jobholder (for up to 3 months) at the end of the transitional delay period.</p> <p>It should also be noted that if the <i>eligible jobholder</i> opts out after being ‘automatically enrolled’ at the end of the transitional delay period (or after being ‘automatically enrolled’ at the end of the postponement period if a postponement notice was issued at the end of the transitional delay period), the first re-enrolment date for that <i>eligible jobholder</i> will be the first one that occurs after the end of the transitional delay period (unless the eligible jobholder had opted out within 12 <i>months</i> prior to the re-enrolment date). For example, if an employer’s ‘staging date’ is 1 February 2013 and the transitional delay period ends on 1 October 2017, the first re-enrolment date will be 1 February 2019 (or a date up to 3 <i>months</i> either side of that date chosen by the employer), not 1 October 2020 (unless the eligible jobholder had opted out within 12 <i>months</i> prior to the 2019 re-enrolment date, in which case the first re-enrolment date would be 3 years later in 2022).</p> <p>Of course, whilst a person may have been an <i>eligible jobholder</i> when the employer issued him / her with the transitional delay notice, it may be that on the day following the last day of the transitional delay period the person is, due to a drop in <i>earnings</i>, no longer an <i>eligible jobholder</i> (and is not already an active member of the LGPS) but is, instead, a <i>non-eligible jobholder</i> or an <i>entitled worker</i>. In that case, the employer does not have to enrol the person into the LGPS at the end of the transitional delay period. If that person subsequently becomes an <i>eligible jobholder</i> again (i.e. after the end of the transitional delay period the <i>earnings</i> increase), the employer must ‘automatically enrol’ the person into the LGPS from the commencement of the <i>pay reference period</i> in which the person became an <i>eligible jobholder</i> again due to an increase in <i>earnings</i> or from the day the person becomes an <i>eligible jobholder</i> due to attaining age 22. The information requirements and opt out procedures would then be the same as for <i>eligible jobholders</i> who are ‘automatically enrolled’ (see <a href="#">paragraphs 50 to 54</a>).</p>	<p>[s30(7)(b) of the Act]</p>
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<p>It should be noted that:</p> <p>a) if the employer issues an <i>eligible jobholder</i> with a transitional delay notice and</p> <ul style="list-style-type: none"> <li>- the <i>eligible jobholder</i> does not opt to join the LGPS during the transitional delay period, and</li> <li>- the <i>eligible jobholder's earnings</i> subsequently drop during the transitional delay period to a level where the person becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i></li> </ul> <p>the employer does not have to write to the person at that time to remind them that they can opt to join the LGPS nor to tell them where they can find more information on pension savings</p> <p>b) if the employer issues an <i>eligible jobholder</i> with a transitional delay notice and</p> <ul style="list-style-type: none"> <li>- the <i>eligible jobholder</i> decides to opt to join the LGPS during the transitional delay period, and</li> <li>- then opts out during the transitional delay period, and</li> <li>- the <i>eligible jobholder's earnings</i> subsequently drop during the transitional delay period to a level where the person becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i></li> </ul> <p>the employer does not have to write to the person at that time to remind them that they can opt to re-join the LGPS nor to tell them where they can find more information on pension savings</p> <p>c) if the employer issues an <i>eligible jobholder</i> with a transitional delay notice and</p> <ul style="list-style-type: none"> <li>- the <i>eligible jobholder</i> does not opt to join the LGPS during the transitional delay period, and</li> <li>- the <i>eligible jobholder's earnings</i> subsequently drop during the transitional delay period to a level where the person becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i>, and</li> <li>- the <i>earnings</i> then increase before the end of the transitional delay period to a level where the person again becomes an <i>eligible jobholder</i></li> </ul> <p>'automatic enrolment' does not apply at that point. The employer only has to 'automatically enrol' that person if they are an <i>eligible jobholder</i> at the end of the transitional delay period</p> <p>d) if the employer issues an <i>eligible jobholder</i> with a transitional delay notice and the <i>eligible jobholder</i> is TUPE transferred (or otherwise) to a new employer, the transitional delay notice falls. It does not carry over to the new employer since, as explained in <a href="#">paragraph 29</a>, the is treated as a new employer of that new employer.</p>	<p>[Reg 17(3)(b) of SI 2010/772]</p> <p>[Reg 17(3)(b) of SI 2010/772]</p> <p>[Reg 28 of SI 2010/772]</p>
<p><b>Existing non-eligible jobholders and entitled workers with a contract of employment for 3 months or more who, on the employer's 'staging date', are not active members of the LGPS in relation to the contract because they have opted out of membership of the scheme under</b></p>	

<p><b>that contract</b></p> <p>88. <b>Existing non-eligible jobholders and entitled workers:</b> If, on the employer's 'staging date', an existing <i>non-eligible jobholder</i> or <i>entitled worker</i> with a <i>contract of employment</i> for 3 months or more is not an active member of the LGPS under the contract because they have opted out of the LGPS in relation to that contract, the employer must follow the same processes as set out in <a href="#">paragraphs 55 to 62</a> (<i>non-eligible jobholders</i>) and in <a href="#">paragraphs 63 to 68</a> (<i>entitled workers</i>), even if the person had opted out of the LGPS within the 12 month period immediately preceding the employer's 'staging date'.</p> <p>89. Furthermore, if on or after the employer's 'staging date', the existing <i>non-eligible jobholder</i> or <i>entitled worker</i> does not opt to join the LGPS and subsequently (and for the first time since the employer's 'staging date'):</p> <ul style="list-style-type: none"> <li>a) moves from being an <i>entitled worker</i> or <i>non-eligible jobholder</i>, to being an <i>eligible jobholder</i>, the employer cannot apply the transitional delay period (as this can only be applied to those who were <i>eligible jobholders</i> on the employer's 'staging date') and must, instead, follow the processes as set out in <a href="#">paragraphs 50 to 54</a> (<i>eligible jobholders</i>), or</li> <li>b) moves from being an <i>entitled worker</i> to being a <i>non-eligible jobholder</i>, the employer must follow the processes as set out in <a href="#">paragraphs 55 to 62</a> (<i>non-eligible jobholders</i>), or</li> <li>c) moves from being a <i>non-eligible jobholder</i> to being an <i>entitled worker</i>, the employer must follow the processes as set out in <a href="#">paragraphs 63 to 68</a> (<i>entitled workers</i>).</li> </ul>	<p>[s30(1) of the Act]</p>
<p><b>Existing employees who, on the employer's 'staging date', are not active members of the LGPS in relation to the contract of employment because they have a contract of employment of less than 3 months and have not opted in</b></p>	
<p>90. <b>Eligible jobholders:</b> If, on the employer's 'staging date', an existing <i>eligible jobholder</i> is not an active member of the LGPS under a <i>contract of employment</i> because the contract is for less than 3 months, including casual employees with <i>contracts of employment</i> of less than 3 months, and the <i>eligible jobholder</i> has not opted in to the LGPS, the employer must either, in relation to that contract:</p> <ul style="list-style-type: none"> <li>a) choose to apply the transitional delay period (in which case the procedures set out in <a href="#">paragraphs 86 to 87</a> would apply, with the person having the right to opt into the LGPS). It would make sense to do this if the employer has decided to apply the transitional period to existing <i>eligible jobholders</i> with a <i>contract of employment</i> for 3 months or more who are not in the LGPS (see <a href="#">paragraph 82</a>),</li> </ul>	

<p>or</p> <p>b) issue the person with a notice of postponement (in which case the procedures set out in <a href="#">paragraph 47</a> would apply, with the person having the right to opt into the LGPS). It would make sense to do this if the employer has decided to not to apply the transitional period to existing <i>eligible jobholders</i> with a <i>contract of employment</i> for 3 <i>months</i> or more who are not in the LGPS (see <a href="#">paragraph 82</a>).</p> <p>Note: the employer could, alternatively, ‘automatically enrol’ the person into another <i>automatic enrolment scheme</i> but, as the rules of the LGPS provide that such employees have the right to choose to opt into the LGPS, this does not seem appropriate.</p> <p>91. <b>Non-eligible jobholders and entitled workers:</b> If on the employer’s ‘staging date’, an existing <i>non-eligible jobholder</i> or <i>entitled worker</i> is not an active member of the LGPS under a <i>contract of employment</i> because the contract is for less than 3 <i>months</i>, including casual employees with <i>contracts of employment</i> of less than 3 <i>months</i>, and the person has not opted in to the LGPS, the employer should, for consistency of treatment with new <i>non-eligible jobholders</i> or <i>entitled workers</i> with a <i>contract of employment</i> of less than 3 <i>months</i> (see <a href="#">paragraph 46</a>), issue the person with a notice of postponement (in which case the procedures set out in <a href="#">paragraph 47</a> would apply).</p>	
<b>Payment of contributions</b>	
<p>92. Prior to 1 July 2012, employee contributions deducted from pay had to be paid over to the LGPS by no later than the 19<sup>th</sup> of the month following the month in which they were deducted from pay.</p> <p>93. However, as from 1 July 2012, employee contributions deducted from pay have, by law, to be paid over to the LGPS by no later than the 22<sup>nd</sup> of the month following that in which they were deducted from pay, if those contributions are remitted to the LGPS Fund electronically, or by the 19<sup>th</sup> of the month in any other case.</p> <p>Pension Fund administering authorities may, of course, require employers in their Fund to pay over both employee and employer contributions to the Fund at an earlier date in accordance with regulations 39(3)(a) and 42(1) of the LGPS (Administration) Regulations 2008 and regulations 35(3)(a) and 38(1) of the LGPS (Administration) (Scotland) Regulations 2008.</p> <p>94. The one exception to this is that employee contributions deducted from an <i>eligible jobholder</i> during the ‘automatic enrolment opt-out window’ (see <a href="#">paragraphs 52</a> and <a href="#">53</a>, <a href="#">72</a>, <a href="#">82</a> and <a href="#">87</a>) or from a <i>non-</i></p>	<p>[Reg 16 of SI 1996/1715, as amended]</p> <p>[Regs 1 and 48 of SI 2010/772 as amended by SI 2012/215 and reg 16(1) of SI 1996/1715, as amended]</p> <p>[Regs 39(3)(a) and 42(1) of SI 2008/239 and regs 35(3)(a) and 38(1) of SSI 2008/228]</p> <p>[Reg 16(2) of SI 1996/1715,</p>

<p><i>eligible jobholder</i> during the ‘enrolment opt-out window’ (see <a href="#">paragraphs 60</a> and <a href="#">61</a>) do not have to be paid over until the end of the second month after the month the <i>eligible jobholder</i> or <i>non-eligible jobholder</i> was enrolled (or re-enrolled) into the LGPS. This means that if the <i>eligible jobholder</i> opts out in the ‘automatic enrolment opt-out window’ or the <i>non-eligible jobholder</i> opts out in the ‘enrolment opt-out window’, the employer can refund the employee contributions and will not have to get the employer and employee contributions back from the Fund (as they will not by then have been paid over to the Fund). However, as this ‘hold-back’ rule does not apply to contributions deducted from <i>entitled workers</i> or from any employee who is ‘contractually enrolled’, it is recommended that the ‘hold-back’ rule is not applied in order to ensure ease of administration and to avoid any potential for interest to be payable on late payment of contributions under regulation 44 of the LGPS (Administration) Regulations 2008 or regulation 39 of the LGPS (Administration) (Scotland) Regulations 2008 if the <i>eligible jobholder</i> or <i>non-eligible jobholder</i> does not opt out in the opt-out window. Instead, as recommended in <a href="#">paragraphs 53</a> and <a href="#">61</a>, the Pensions Section of the Pension Fund administering authority should agree with the employers in the Fund that the employer should pay over contributions monthly, as normal, and simply reduce the next month’s contribution pay-over to the Fund by the amount of employee and employer contributions that are to be / have been refunded.</p> <p>95. Although The Pensions Regulator can issue an unpaid contribution notice to employers under section 37 of the Pensions Act 2008 in respect of employee and employer contributions that are not paid over by the due date, this does not apply in the case of contributions due to the LGPS. This is because the provision only applies where the managers of a scheme are required to prepare and maintain a schedule of contributions under s227 of the Pensions Act 2004. That section of the Pensions Act 2004 does not apply to LGPS Pension Fund administering authorities by reason of regulation 17 of the Occupational Pension Schemes (Scheme Funding) Regulations 2005 [SI 2005/3377]. It should also be noted that regulation 16A of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [SI 1996/1715] provides that LGPS administering authorities are exempt from having to notify The Pensions Regulator of a late pay over of pension contributions.</p>	<p>as amended]</p>
<b>Registration with The Pensions Regulator</b>	
<p>96. <b>Initial registration:</b> Employers will be required to register with The Pensions Regulator and provide specified information within 4 <i>months</i> of their ‘staging date’ or, if the last day of that period falls on a Saturday, Sunday, bank holiday (as specified in paragraphs 1 and 2 of Schedule 1 to the Banking and Financial Dealings Act 1971) or other public holiday, by the end of the next working day. The</p>	<p>[Regs 2 and 3 of SI 2010/5 as amended by SI 2012/215]</p>

Pensions Regulator is designing an online registration process. This will be available through their website. However, other channels such as telephone registration will be available for employers who are unable to register online. It is the employer's duty to complete registration, but they may authorise an agent to carry out the activity on their behalf, if they wish. For example, they may choose to use the agent who already deals with their tax and national insurance returns for HM Revenue & Customs (HMRC). The information to be provided by law to The Pensions Regulator is:

- a) the employer's name, address and post code, and
  - the employer's registered companies house number or, where such a number does not exist
  - the employer's industrial and provident society number or, if that does not exist
  - the employer's registered charity number or, where that does not exist
  - the employer's VAT registration number (if any)
- b) the name, telephone number, ordinary work address, e-mail address (if any) and job title of the person supplying the information on behalf of the employer
- c) the number of
  - *workers* in the employer's PAYE scheme on the employer's 'staging date' who were already active members of a *qualifying scheme* or, if the employer has more than one such *qualifying scheme*, the number in each such scheme
  - *eligible jobholders* 'automatically enrolled' into an *automatic enrolment scheme* on the employer's 'staging date' or, if the employer has more than one such scheme, the numbers 'automatically enrolled' into each such scheme
  - *eligible jobholders* 'automatically enrolled' into an *automatic enrolment scheme* immediately after the end of the postponement period (where the employer has chosen to use a postponement period) or, if the employer has more than one such scheme, the numbers 'automatically enrolled' at the end of the postponement period into each such scheme [Note: any *worker* who was issued with a postponement notice and whose *contract of employment* is extended to be for 3 *months* or more will be 'contractually enrolled' into the LGPS; where the 'contractual enrolment' occurs after the employer's 'staging date' the *worker* would appear to have to be included in the final indent below, as such a case does not precisely meet the conditions relevant to any of the other indents]
  - the number of *eligible jobholders* to whom the employer has applied the transitional delay period
  - the number of any other *workers* in the employer's PAYE scheme (e.g. pensioners)
- d) the deferral date i.e. the date immediately following the end of the postponement period (if used), or the last such deferral date where the employer uses more than one
- e) the pension scheme details for any scheme (or schemes) used to

<p>'automatically enrol' <i>eligible jobholders</i> i.e.</p> <ul style="list-style-type: none"> <li>- the name of any occupational pension scheme so used and, unless registrable information has already been provided to The Pensions Regulator by the trustees or managers of that scheme, its address</li> <li>- the name and address of the provider of any personal pension scheme so used</li> <li>- the employer's pension scheme reference (for personal pensions and NEST).</li> </ul> <p>The Pensions Regulator also asks for the following additional information:</p> <ul style="list-style-type: none"> <li>f) the letter code from The Pensions Regulator. This is a unique number shown on each letter the employer receives from The Pensions Regulator regarding automatic enrolment</li> <li>g) PAYE scheme references for all PAYE schemes the employer uses</li> <li>h) the employer's Pension Scheme Registry Number (PSRN). [Note: we understand that in September 2011 LGPS administering authorities were required to complete an on line return for the Pension Regulator. The person who completed this in each administering authority (e.g. the pension manager or the internal investment manager) will have log in details for use of the site at <a href="https://exchange.thepensionsregulator.gov.uk">https://exchange.thepensionsregulator.gov.uk</a> which will bring up the name of the scheme and the PSRN]</li> </ul> <p>97. The information provided on initial registration must be accompanied by a declaration that the information is, to the best of the employer's belief and knowledge, correct and complete.</p> <p>98. <b>Three yearly re-registration:</b> Where the employer re-enrols <i>eligible jobholders</i> into an 'automatic enrolment' scheme on the re-enrolment date chosen by the employer, the employer must provide information to The Pensions Regulator in relation to each of its PAYE schemes within 1 <i>month</i> of the re-enrolment date.</p> <p>If, however, the employer has no <i>eligible jobholders</i> to re-enrol at the re-enrolment date, then the employer must, in relation to each of the its PAYE schemes, provide information to The Pensions Regulator 3 years after it last provided the Regulator with information (the point of re-registration).</p> <p>In either case, the information to be provided to The Pensions Regulator is:</p> <ul style="list-style-type: none"> <li>a) the employer's name, address and post code, and <ul style="list-style-type: none"> <li>- the employer's registered companies house number or, where such a number does not exist</li> <li>- the employer's industrial and provident society number or, if that does not exist</li> </ul> </li> </ul>	<p>[Reg 3(4) of SI 2010/5]</p> <p>[Reg 4 of SI 2010/5 as amended by SI 2012/215]</p>
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<ul style="list-style-type: none"> <li>- the employer's registered charity number or, where that does not exist</li> <li>- the employer's VAT registration number (if any)</li> <li>b) the name, telephone number, ordinary work address, e-mail address (if any) and job title of the person supplying the information on behalf of the employer</li> <li>c) the number of <ul style="list-style-type: none"> <li>- <i>workers</i> in the employer's PAYE scheme on the 'automatic re-enrolment' date chosen by the employer or the point of re-registration, whichever is applicable, who were already active members of a <i>qualifying scheme</i> or, if the employer has more than one such <i>qualifying scheme</i>, the number in each such scheme</li> <li>- <i>eligible jobholders</i> 'automatically re-enrolled' into an <i>automatic enrolment scheme</i> at the point of re-registration or, if the employer has more than one such scheme, the numbers 'automatically re-enrolled' into each such scheme, <b>and</b> the 'automatic re-enrolment' date chosen by the employer</li> <li>- the number of <i>eligible jobholders</i> to whom any transitional delay period applied by the employer still applies</li> <li>- the number of any other <i>workers</i> in the employer's PAYE scheme</li> </ul> </li> <li>d) the pension scheme details for any scheme (or schemes) used to 'automatically re-enrol' <i>eligible jobholders</i> i.e. <ul style="list-style-type: none"> <li>- the name of any occupational pension scheme so used and, unless registrable information has already been provided to The Pensions Regulator by the trustees or managers of that scheme, its address</li> <li>- the name and address of the provider of any personal pension scheme so used</li> <li>- the employer's pension scheme reference.</li> </ul> </li> </ul> <p>99. The information provided on each three yearly registration must be accompanied by a declaration that the information is, to the best of the employer's belief and knowledge, correct and complete.</p>	<p>[Reg 4(4) of SI 2010/5]</p>
<b>Records to be kept by employers</b>	
<p>100. As from the date the 'automatic enrolment' provisions first apply to the employer (i.e. usually from the employer's 'staging date'), the employer will be required to keep the following records (in relation to the use of the LGPS to comply with the employer's duties under the Pensions Act 2008) but can authorise another person to keep the records on their behalf (other than the Pensions Section of the Pension Fund administering authority):</p> <ul style="list-style-type: none"> <li>a) the name and address of the occupational pension scheme used to comply with the employer's duties under the Pensions Act 2008 (i.e. the LGPS plus the address of the Pension Fund administering</li> </ul>	<p>[Reg 5 of SI 2010/5, and reg 6 of SI 2010/5 as amended by SI 2012/215]</p>

- authority),
- b) the employer pension scheme reference,
  - c) the contracting-out certificate issued for the LGPS (see copy at [Annex 5](#)),
  - d) the name and national insurance number (where available) of any person to whom the employer issued a postponement notice and the date the postponement notice was issued,
  - e) the name, national insurance number (where one exists), date of birth and the 'automatic enrolment' date of every *eligible jobholder* 'automatically enrolled' into the LGPS (see [paragraphs 48, 86, 87](#) and [90](#)), plus their gross *earnings* in any relevant *pay reference period*, the employer contributions due during each relevant *pay reference period* (and, if different, the contributions actually made), and the date on which the contributions made by the employer were paid to the LGPS,
  - f) the name, national insurance number (where one exists), date of birth, enrolment date and original of the opt in notice (or an electronic copy) for every *non-eligible jobholder* who opted to join the LGPS (see [paragraphs 57, 88](#) and [91](#)), plus their gross *earnings* in any relevant *pay reference period*, the employer contributions due during each relevant *pay reference period* (and, if different, the contributions actually made), and the date on which the contributions made by the employer were paid to the LGPS,
  - g) the name, national insurance number (where one exists), date of birth, enrolment date and original of the opt in notice (or an electronic copy) for every *entitled worker* who opted to join the LGPS (see [paragraphs 65, 88](#) and [91](#)), plus their gross *earnings* in any relevant *pay reference period*, the employer contributions due during each relevant *pay reference period* (and, if different, the contributions actually made), and the date on which the contributions made by the employer were paid to the LGPS,
  - h) the original (or an electronic copy) of any opt out notice given by an *eligible jobholder* or *non-eligible jobholder* (see [paragraphs 53, 61, 82, 87, 88](#) and [89](#)).

NB: It should be noted that:

- whilst the record keeping requirements mentioned in (e) to (h) above do not cover employees who are 'contractually enrolled' into the LGPS such records ought, for practical reasons, to be retained in respect of those employees as well
- where an authority is both an employing authority and a Pension Fund administering authority the authority must, wearing its employing authority hat, comply with the record keeping requirements set out in (a) to (h) above and in [paragraphs 101](#) and [102](#). It is the employer that must retain the information set out in paragraphs (a) to (h) above, not the Pensions Section of the Pension Fund administering authority wearing its administering authority hat. The employer cannot authorise the Pensions Section to hold the information on the employer's behalf (but can authorise another person to keep the records on the employer's behalf).

<p>101. The records must be kept for 6 years, apart from the original of any valid opt-out notice given by an <i>eligible jobholder</i> or <i>non-eligible jobholder</i>, which has to be kept for 4 years (in paper or electronic copy format). However, it is recommended that the employer should retain copies of valid opt-out forms indefinitely (subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998) in order to be able to prove the person had opted out should that person, perhaps many years later, claim that they had not done so and are due a pension. Although not required by the Pensions Act 2008, it is also recommended that copies of opt-out notices given by <i>entitled workers</i> should also be retained.</p> <p>102. All records must be kept in such a way that they are capable of being arranged according to the corresponding employer pension scheme reference, are legible or can be provided to The Pensions Regulator in a legible format, and can be provided to The Pensions Regulator on request.</p>	<p>[Reg 8 of SI 2010/5]</p> <p>[Regs 5(1)(c) and (7) of SI 2010/5]</p>
<b>Records to be kept by the Pension Fund administering authority</b>	
<p>103. The Pension Fund administering authority will be required to keep the following records in relation to the use of the LGPS by employers to comply with their duties under the Pensions Act 2008 (but can authorise another person, other than the employer of the <i>eligible jobholder</i>, <i>non-eligible jobholder</i> or <i>entitled worker</i>, to keep the records on the administering authority's behalf):</p> <ol style="list-style-type: none"> <li>a) the employer pension scheme reference,</li> <li>b) the full name, national insurance number (where one exists), date of birth and gender of scheme members (as notified by the employer), their last known postal residential address and, if applicable, UK postcode,</li> <li>c) the date from which an <i>eligible jobholder</i> was 'automatically enrolled' into the LGPS or a <i>non-eligible jobholder</i> or <i>entitled worker</i> opted to join the LGPS,</li> <li>d) whether the person is an active member,</li> <li>e) the date an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> ceased membership of the LGPS and, if that cessation resulted from the <i>eligible jobholder</i> or <i>non-eligible jobholder</i> opting out within the opt-out window, the date on which the Pension Fund administering authority was notified of the opt out by the employer.</li> </ol> <p>NB: It should be noted that:</p> <ul style="list-style-type: none"> <li>- whilst the Pensions Act 2008 and SI 2010/5 do not require the information in (a) to (d) above to be kept for employees who are 'contractually enrolled' into the LGPS, the Pensions Section of the Pension Fund administering authority will, just as they did prior to the introduction of 'automatic enrolment', need</li> </ul>	<p>[s 60 of the Act and reg 5 of SI 2010/5, and reg 7 of SI 2010/5 as amended by SI 2012/215]</p>

<p>to hold such information on <u>all</u> joiners. This means that the only real additional record keeping requirement for the Pensions Section will be to hold the information in (e) in respect of employees who opt out after an employer's staging date</p> <ul style="list-style-type: none"> <li>- where an authority is both an employing authority and a Pension Fund administering authority the authority must, wearing its Pension Fund administering authority hat, comply with the record keeping requirements set out in (a) to (e) above and in <a href="#">paragraphs 104</a> and <a href="#">105</a>. Wearing its employing authority hat it must, separately, also comply with the employer record keeping requirements set out in <a href="#">paragraphs 100 to 102</a>.</li> </ul> <p>104. The records must be kept for 6 years, apart from in cases where an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> opted out in the opt-out window. In those cases, the Pension Fund administering authority only has to keep the name of the optant out and the date they were informed of the option out by the employer, for 4 years. In practice, it is recommended that the Pension Fund administering authority might wish to consider retaining opt-out records beyond that period (subject, of course, to any Data Protection legislation requirements e.g. under the Data Protection Act 1998) in order to be able to prove the person had opted out should that person, perhaps many years later, claim that they had not done so and are due a pension.</p> <p>105. All records must be kept in such a way that they are capable of being arranged according to the corresponding employer pension scheme reference, are legible or can be provided to The Pensions Regulator in a legible format, and can be provided to The Pensions Regulator on request.</p>	<p>[s 60 of the Act and reg 8 of SI 2010/5]</p> <p>[Regs 5(1)(c) and (7) of SI 2010/5]</p>
<b>Prohibited recruitment conduct</b>	
<p>106. As from July 2012 an employer (or someone acting on their behalf) is not permitted to make any statement or ask any question (written or verbal) during a recruitment process (i.e. in a job advert, on an application form, on a request for a reference, during an interview, or when proposing terms and conditions) which indicates, expressly or impliedly, that an application for employment with the employer may be determined by reference to whether or not an applicant might opt out of 'automatic enrolment'.</p>	<p>[s50 of the Act]</p>
<b>Inducement to opt out of the LGPS (or any other qualifying scheme)</b>	
<p>107. As from July 2012 an employer is not allowed to take any action the sole or main purpose of which is to induce a member of the LGPS (or any other <i>qualifying scheme</i>) to opt out of the scheme (without immediately providing an alternative scheme that complies with the</p>	<p>[s54 of the Act]</p>

<p>requirements of the Pensions Act 2008). Possible examples of inducement include offering a higher salary, a cash inducement, a promotion, an extended or renewed contract in return for opting-out or subjecting, or threatening to subject, a <i>worker</i> to detrimental treatment (such as threatening to withhold a promotion or pay increase, or threatening redundancy or dismissal) if they do not opt-out. It is the action taken by the employer with a view to inducing a <i>worker</i> to opt out or cease membership of the LGPS (without becoming an active member of another scheme) that could be a breach of the law, regardless of whether or not the inducement actually succeeded in getting the <i>worker</i> to opt out or cease membership.</p>	
<p><b>Unfair treatment of workers</b></p>	
<p>108. As from July 2012 an employer must not treat a <i>worker</i> unfairly or dismiss a <i>worker</i> due to the <i>worker</i> trying to enforce their 'automatic enrolment' rights. For example, an employer cannot deny a <i>worker</i> promotion or training opportunities because the <i>worker</i> has decided not to opt out of pension scheme membership. If an employer does so, the <i>worker</i> can enforce their rights in an employment tribunal.</p>	
<p><b>Compliance</b></p>	
<p>109. <b>Employer compliance notice:</b> The Pensions Regulator may issue a compliance notice to a person if the Regulator is of the opinion that the person has contravened one or more of the employer duty provisions or has induced a member of the LGPS to opt out. The notice can require that person to take, or refrain from taking, the steps specified in the notice in order to remedy the contravention (and stop any inducements to opt out being repeated). These may, in particular, include steps to ensure the <i>worker</i> is placed in the same position (as nearly as possible), and is entitled to the same benefits under the LGPS, as if the contravention had not occurred. The notice could include an instruction to:</p> <ol style="list-style-type: none"> <li>a) calculate the amount of any unpaid employee and employer contributions,</li> <li>b) if the contributions are being paid within 3 <i>months</i> of the date specified in the notice, to pay the employer contributions to the LGPS, with the employee being given the option to pay their contributions which, if they choose to do so, can be spread over a repayment period, and</li> <li>c) if the contributions are not being paid within 3 <i>months</i> of the date specified in the notice, to pay both the employer and employee contributions (on the employee's behalf) to the LGPS</li> </ol> <p>It is not clear how such a notice would operate in the relation to the</p>	<p>[s35 and s54of the Act]</p> <p>[s38 of the Act and reg 9 of SI 2010/5]</p>

<p>LGPS, given that:</p> <ul style="list-style-type: none"> <li>a) employee contributions are statutorily due to the LGPS (i.e. there is no option for a scheme member not to pay them nor for the employer to pay them on the member's behalf), and</li> <li>b) an unpaid contributions notice (see <a href="#">paragraph 111</a>) cannot be issued in relation to contributions due to the LGPS for the reasons stated in <a href="#">paragraph 95</a>.</li> </ul> <p>It should also be noted that The Pensions Regulator cannot issue an employer compliance notice in respect of a contravention of s54 of the Pensions Act 2008 (inducement to opt out of the LGPS) unless the contravention occurred within a period of:</p> <ul style="list-style-type: none"> <li>a) 6 <i>months</i> before the time when a complaint was made to the Regulator about the contravention, or</li> <li>b) 4 years before the time when the Regulator informed the employer of an investigation of the contravention, if no complaint was made before that time.</li> </ul> <p>110. <b>Third party compliance notice:</b> The Pensions Regulator may issue a third party compliance notice if the Regulator is of the opinion that a person has contravened one or more of the employer duty provisions and the contravention is or was, wholly or partly, a result of a failure of another person (the "third party") to do any thing. The notice can require the third party to take, or refrain from taking, the steps specified in the notice in order to remedy or prevent a recurrence of the failure, but may give the third party a choice between different ways of remedying or preventing the recurrence of the third party's failure.</p> <p>111. <b>Unpaid contributions notice:</b> The Pensions Regulator may issue an unpaid contributions notice to an employer if the Regulator is of the opinion that relevant contributions have not been paid on or before the "due date". The notice can require an employer to pay into a pension scheme by a specified date an amount in respect of relevant contributions that have not been paid. However, an unpaid contributions notice cannot be issued in relation to contributions due to the LGPS for the reasons stated in <a href="#">paragraph 95</a>.</p> <p>112. <b>Prohibited recruitment conduct compliance notice:</b> The Pensions Regulator may issue a prohibited recruitment compliance notice to an employer if the Regulator is of the opinion that the employer has contravened s50 of the Pensions Act 2008 (prohibited recruitment conduct). The notice can direct the employer to take, or refrain from taking, the steps specified in the notice in order to remedy the contravention, or prevent the contravention being repeated.</p>	<p>[s54 of the Act and reg 16 of SI 2010/5]</p> <p>[s36 of the Act]</p> <p>[s37 of the Act and reg 50 of SI 2010/772 as amended by SI 2012/215]</p> <p>[s51 of the Act]</p>
<p><b>Penalties</b></p>	

<p>113. Although its approach is intended to educate and enable in the first instance, The Pensions Regulator has the power to issue fixed and, in some circumstances, escalating penalty notices in cases of non-compliance with employer duties under the Pensions Act 2008. The Pensions Regulator has published its <u>Compliance and Enforcement Strategy</u> and its <u>Compliance and Enforcement Policy</u> setting out its strategy for tackling non-compliance with auto-enrolment legislation, including when and how it will use powers (including penalties) and providing details on its approach to prosecutions and inspecting business premises.</p>	
<p>114. <b>Fixed penalty notice:</b> The Pensions Regulator may issue a fixed penalty notice to a person who has failed to comply with any of the 'automatic enrolment' duties placed on them under the Pensions Act 2008 (as described in this guide) or who has failed to comply with an employer compliance notice, a third party compliance notice, an unpaid contributions notice, or a notice issued under section 72 of the Pensions Act 2004 (c. 35) (provision of information). A fixed penalty notice will set out the details of the failure in respect of which the notice has been issued and the right of appeal. It will require the person to whom it is issued to pay a penalty within the period specified in the notice (which must be at least 4 weeks after the date on which the notice is issued). The penalty must not exceed £50,000 and is currently set at £400.</p>	<p>[s40 of the Act and reg 12 of SI 2010/5]</p>
<p>115. <b>Escalating penalty notice:</b> The Pensions Regulator may issue an escalating penalty notice to a person who has failed to comply with an employer compliance notice, a third party compliance notice, an unpaid contributions notice, or a notice issued under section 72 of the Pensions Act 2004 (c. 35) (provision of information). An escalating penalty notice will set out the details of the failure in respect of which the notice has been issued and the right of appeal. It will require the person to whom it is issued to pay an escalating penalty, calculated on a daily non-compliance rate, if they do not comply with the requirements of the employer compliance notice, third party compliance notice, unpaid contributions notice, or a notice issued under section 72 of the Pensions Act 2004 (c. 35) (provision of information) by a specified date. The penalties for employers range from £50 a day for an employer with less than 5 <i>workers</i> up to £10,000 a day for an employer with 500 or more <i>workers</i>. The daily rate for non-compliance by third parties is £200.</p>	<p>[s41 of the Act and reg 13 of SI 2010/5 as amended by SI 2012/215]</p>
<p>116. <b>Prohibited recruitment penalty notice:</b> The Pensions Regulator may issue a prohibited recruitment penalty notice to an employer where the Regulator is of the opinion that the employer has contravened s50 of the Pensions Act 2008 (prohibited recruitment conduct) or has failed to comply with a prohibited recruitment compliance notice. The notice will set out the details of the failure in respect of which the notice has been issued and the right of appeal. It will require the employer to whom it is issued to pay a penalty within the period specified in the notice (which must be at least 4 weeks</p>	<p>[s52 of the Act and reg 14 of SI 2010/5 as amended by SI 2012/215]</p>

<p>after the date on which the notice is issued). The penalty must not exceed £50,000 but is currently based on the number of persons on the employer's PAYE scheme who are employed by the employer or, where the employer has more than one PAYE scheme, the total number of persons within those schemes who are employed by the employer i.e.</p> <table border="1"> <thead> <tr> <th><u>Number of persons</u></th> <th><u>Penalty (£)</u></th> </tr> </thead> <tbody> <tr> <td>1 – 4</td> <td>1,000</td> </tr> <tr> <td>5 – 49</td> <td>1,500</td> </tr> <tr> <td>50 – 249</td> <td>2,500</td> </tr> <tr> <td>250 or more</td> <td>5,000</td> </tr> </tbody> </table>	<u>Number of persons</u>	<u>Penalty (£)</u>	1 – 4	1,000	5 – 49	1,500	50 – 249	2,500	250 or more	5,000	
<u>Number of persons</u>	<u>Penalty (£)</u>										
1 – 4	1,000										
5 – 49	1,500										
50 – 249	2,500										
250 or more	5,000										
<b>Wilful failure to comply</b>											
<p>117. An employer who wilfully fails to comply with duties under section 3(2) (automatic enrolment), section 5(2) (automatic re-enrolment), or section 7(3) (<i>jobholder's</i> right to opt in) of the Pensions Act 2008 is committing an offence and is liable on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or both; or on summary conviction to a fine not exceeding the statutory maximum. The statutory maximum is set out in s32(9) of the Magistrates' Courts Act 1980. As from 1 October 1992, the amount is £5,000. If the offence committed by the employer (as a body corporate) is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the employer, or to be attributable to any neglect on the part of any such person, the officer, as well as the body corporate, is guilty of the offence and is liable to be proceeded against and punished accordingly. Similarly, if an offence committed by a partnership is proved to have been committed with the consent or connivance of a partner, or to be attributable to any neglect on the part of a partner, the partner, as well as the partnership, is guilty of the offence and is liable to be proceeded against and punished accordingly; and if an offence committed by an unincorporated association is proved to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or to be attributable to any neglect on the part of any such person, that person, as well as the association, is guilty of the offence and is liable to be proceeded against and punished accordingly.</p>	<p>[s45, s46 and s47 of the Act]</p>										
<b>Can employers choose not to offer the LGPS?</b>											
<p>118. The LGPC Secretariat has been asked by a number of employers whether, from their 'staging date', they can cease offering the LGPS to their employees and offer a cheaper alternative instead e.g. NEST. The view of the Secretariat is set out in the paragraphs below although employers may wish to obtain their own legal advice.</p>											

<p>119. <b>Employers covered by Part 1 of Schedule 2 to the <a href="#">LGPS (Administration) Regulations 2008</a> and by Schedule 2 to the <a href="#">LGPS (Administration) (Scotland) Regulations 2008</a>:</b> These employers must, by law, 'contractually enrol' into the LGPS their employees who:</p> <ul style="list-style-type: none"> <li>a) are under age 75, and</li> <li>b) have a <i>contract of employment</i> for 3 <i>months</i> or more, and</li> <li>c) who are not eligible for membership of another public service pension scheme</li> </ul> <p>They must also, by law, offer membership of the LGPS to their employees who:</p> <ul style="list-style-type: none"> <li>d) are under age 75, and</li> <li>e) have a <i>contract of employment</i> for less than 3 <i>months</i>, and</li> <li>f) who are not eligible for membership of another public service pension scheme</li> </ul> <p>120. <b>Employers covered by Part 2 of Schedule 2 to the <a href="#">LGPS (Administration) Regulations 2008</a>:</b> These employers may consider the option of ceasing to designate new employees for membership of the LGPS. However, if they do so, they need to consider the potential impact on their employer contribution rate resulting from a diminishing active membership base in the LGPS and the consequences of a crystallisation of any funding deficit should they cease at some point to have any active members of the LGPS. Employers covered by Part 2 of Schedule 2 to the LGPS (Administration) Regulations 2008 who may be considering ceasing to designate new employees for membership of the LGPS should liaise with their Pension Fund administering authority when considering the potential consequences.</p> <p>121. <b>Employers covered by regulation 8 of the <a href="#">LGPS (Administration) Regulations 2008</a>:</b> A local authority may consider the option of ceasing to designate new employees of a voluntary school, a foundation school, a foundation special school, a technical institute or similar institution, or a federated school for membership of the LGPS. However, they can only cease to designate if the relevant employer agrees. The potential consequences mentioned in <a href="#">paragraph 120</a> would equally apply.</p> <p>122. <b>Employers covered by regulation 5 of the <a href="#">LGPS (Administration) Regulations 2008</a> and by regulation 4 of the <a href="#">LGPS (Administration) (Scotland) Regulations 2008</a>:</b> These employers are Community Admission Bodies who participate in the LGPS under an admission agreement. If their admission agreement:</p> <ul style="list-style-type: none"> <li>a) is one under which they individually nominate employees for membership of the LGPS, they may consider the option of ceasing to designate new employees for membership of the LGPS, or</li> </ul>	<p>[Part 1 of Schedule 2 to SI 2008/239 and Schedule 2 of SSI 2008/228]</p> <p>[Reg 2 of SI 2007/116, reg 12 of SI 2008/239, reg 3 of SSI 2008/230 and reg 9 of SSI 2008/228]</p>
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- b) is one that is open to named posts, or is open to all employees, they may consider the option of negotiating an amendment to their admission agreement with the Pension Fund administering authority so that it becomes a closed admission agreement or provides that only new employees who the employer wishes to designate for membership will be eligible for membership

However, the body will need to consider the potential impact on their employer contribution rate resulting from a diminishing active membership base in the LGPS and the consequences of a crystallisation of any funding deficit should they cease at some point to have any active members of the LGPS. Community Admission Bodies who may be considering either of the options above should liaise with their Pension Fund administering authority when considering the potential consequences.

123. **Employers covered by regulation 6 of the [LGPS \(Administration\) Regulations 2008](#) and by regulation 5 of the [LGPS \(Administration\) \(Scotland\) Regulations 2008](#):** These employers are Transferee Admission Bodies who participate in the LGPS under an admission agreement. If their admission agreement:

- a) is one under which they individually nominate employees for membership of the LGPS, they may consider the option of ceasing to designate new employees for membership of the LGPS, or
- b) is one that is open to named posts, or is open to all employees, they may consider the option of negotiating an amendment to their admission agreement with the Pension Fund administering authority so that it becomes a closed admission agreement or provides that only new employees who the employer wishes to designate for membership will be eligible for membership

However, the body will need to consider the potential impact on their employer contribution rate resulting from a diminishing active membership base in the LGPS and the consequences of a crystallisation of any funding deficit should they cease at some point to have any active members of the LGPS. Transferee Admission Bodies who may be considering either of the options above should liaise with their Pension Fund administering authority when considering the potential consequences.

It should be noted that, by virtue of the [Best Value Authorities Staff Transfers \(Pensions\) Direction 2007](#), a Transferee *Admission Body* with an open or closed admission agreement that relates to a contract with a best value authority in England (listed in section 1 of the Local Government Act 1999) or with a police authority in Wales cannot cease to offer membership of the LGPS (or membership of a broadly comparable scheme) to the “transferring employees” or “transferring original employees” for so long as those employees are employed in connection with the provision of a service or assets in connection with the exercise of a function of that authority.

<p>It should also be noted that a Transferee <i>Admission Body</i> with an open or closed admission agreement that relates to a contract with a local authority in Scotland (i.e. Scottish councils constituted under s2 of the Local Government etc (Scotland) Act 1994, Joint Fire and Rescue Boards and joint police boards) may be contractually obliged to offer membership of the LGPS (or membership of a broadly comparable scheme) to the transferred staff under the terms of the <a href="#">Statutory Guidance to Local Authorities on Contracting</a> for so long as those employees are employed in connection with the provision of a service or assets in connection with the exercise of a function of that authority.</p>	
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## Annex 1

### Glossary

#### **Admission body:**

This is an employer participating in the LGPS as a Community Admission Body (CAB) or Transferee Admission Body (TAB) under, respectively, regulations 5 or 6 of the [Local Government Pension Scheme \(Administration\) Regulations 2008](#) or, in Scotland, regulations 4 or 5 of the [Local Government Pension Scheme \(Administration\) \(Scotland\) Regulations 2008](#).

**Automatic enrolment scheme:** [s17 of the Act and reg 35 of SI 2010/772 as amended by SI 2012/1257]

A pension scheme is an 'automatic enrolment' scheme in relation to a **jobholder** if -

- a) it is an occupational pension scheme that has its main administration in the UK,
- b) it is a **qualifying scheme** in relation to the **jobholder**,
- c) no provision of the scheme prevents the employer from 'automatically enrolling' any **eligible jobholder** who meets the requirements for 'automatic enrolment' or prevents a **non-eligible jobholder** from opting in to the scheme
- d) no provision of the scheme requires the **jobholder** to express a choice in relation to any matter (e.g. about where their contributions should be invested), or to provide any information, in order to become or remain an active member (e.g. to complete an application form to join the scheme or to give consent to joining the scheme).

Note: the LGPS is an 'automatic enrolment' scheme.

**Contract of employment:** [s88 of the Act]

This means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether oral or in writing.

#### **Designation body:**

This is an employer participating in the LGPS as a Designation Body under regulation 8 or under regulation 4(3) of, and Part 2 of Schedule 2 to, the [Local Government Pension Scheme \(Administration\) Regulations 2008](#).

**Earnings:** [s13(3) of the Act]

This is the sum of any of the following descriptions that are payable to the person in connection with the person's employment –

- a) salary, wages, commission, bonuses and overtime;
- b) statutory sick pay under Part 11 of the Social Security Contributions and Benefits Act 1992 (c. 4);
- c) statutory maternity pay under Part 12 of that Act;
- d) ordinary statutory paternity pay or additional statutory paternity pay under Part 12ZA of that Act;
- e) statutory adoption pay under Part 12ZB of that Act;

- f) sums prescribed for the purposes of section 13 of the Pensions Act 2008.

Notes:

1. Not all of the above are pensionable under the LGPS (e.g. non-contractual overtime) but count nonetheless as *earnings* for the purposes of determining who is an *eligible jobholder*.
2. Whereas a part-time employee's contribution rate under the LGPS 2008 (or LGPS 2009 in Scotland) is determined by reference to the whole-time equivalent pensionable pay rate, for the purpose of determining whether a *worker* is an *entitled worker*, *non-eligible jobholder* or *eligible jobholder*, only the actual *earnings* count (i.e. not the whole-time equivalent *earnings*).
3. If the *earnings* of a *worker* drop because, for example, the *worker* is on sick leave, only the *earnings* actually received in a *pay reference period* count towards determining whether the *worker* is an *eligible jobholder*, *non-eligible jobholder* or *entitled worker* i.e. the *earnings* are not grossed up to what would have been paid had the *worker* not been sick.
4. *Earnings* from genuinely separate *contracts of employment* are treated separately i.e. they are not aggregated.
5. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website.
6. The LGPC Secretariat sought a view from The Pensions Regulator as to whether the Secretariat's assumption that the value of P11D benefits and the value of benefits derived from a salary sacrifice (e.g. the value of Child Care vouchers) would not count as *earnings*. The response from The Pensions Regulator was as follows: "*The definition of qualifying earnings is contained in section 13 of the Pensions Act 2008. It is a closed list of pay elements. It is therefore for the employer to decide whether elements of pay or remuneration that they provide fall within the definition set out i.e. does the pay element fit within the definition of salary, wages, commission, bonuses etc. The Pensions Regulator cannot express a view on whether certain pay elements are qualifying earnings or not as these pay elements are often defined and treated differently by each employer. An employer will need to decide whether they consider P11D benefits to fall within the definition in section 13.*"

**Eligible jobholder:** [s1 and s3(1) of the Act]

This is a *worker* –

- a) who is working or ordinarily works in Great Britain under the *worker's* contract, and
- b) who is aged at least 22 and under *State Pension Age*, and
- c) to whom *earnings* of more than the annualised equivalent of £8,105 are payable by the employer in the relevant *pay reference period*. It should be noted that if a *worker* has genuinely separate contracts then the *earnings* from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the *worker* is an

*entitled worker*, a *non-eligible jobholder* or an *eligible jobholder*. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website.

**Entitled worker:** [s9(1) of the Act]

This is a *worker* –

- a) who is working or ordinarily works in Great Britain under the *worker's* contract, and
- b) who is aged at least 16 and is under age 75, and
- c) to whom *earnings* of less than the annualised equivalent of £5,564 are payable by the employer in the relevant *pay reference period*. It should be noted that if a *worker* has separate contracts then the *earnings* from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the *worker* is an *entitled worker*, a *non-eligible jobholder* or an *eligible jobholder*. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website.

**Jobholder:** [s1 of the Act]

This is a term that covers both *eligible jobholders* and *non-eligible jobholders*.

**Month:**

This means a calendar month. For example, if something has to be sent within a month of, say, 15<sup>th</sup> September it must be sent before 15<sup>th</sup> October.

**Non-eligible jobholder:** [s1, s7(1) and s7(2) of the Act]

This is a *worker* –

- a) who is working or ordinarily works in Great Britain under the *worker's* contract, and
- b) who is aged at least 16 and is under age 75 and to whom annualised equivalent *earnings* of £5,564 or more but less than or equal to £8,105 are payable by the employer in the relevant *pay reference period*, or
- c) who is aged at least 16 and under age 22, or has attained *State Pension Age* and is under age 75, and to whom annualised equivalent *earnings* of more than £8,105 are payable by the employer in the relevant *pay reference period*. It should be noted that if a *worker* has separate contracts then the *earnings* from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the *worker* is an *entitled worker*, a *non-eligible jobholder* or an *eligible jobholder*. Information and examples on how to determine *earnings* in a *pay reference period* can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website.

**Part 1 Scheduled body:**

This is an employer participating in the LGPS under regulation 4(2) of, and Part 1 of Schedule 2 to, the [Local Government Pension Scheme \(Administration\) Regulations 2008](#) or, in Scotland, under regulation 3(2) of, and Schedule 2 to, the [Local Government Pension Scheme \(Administration\) \(Scotland\) Regulations 2008](#).

**Pay reference period:** [Reg 4(1) of SI 2010/772 as amended by SI 2012/215]

This is the person's normal pay period i.e.

- a) a week in the case of a person who is paid their regular wage or salary weekly, or
- b) in the case of a person who is paid their regular wage or salary by reference to a period longer than a week, that period (e.g. a month if the person is paid monthly). For example, you may pay your employees on the 15<sup>th</sup> of January but if the payment is for the whole of January the **pay reference period** will be the 31 days for the whole month of January.

**Qualifying earnings:** [s13 of the Act]

This is that part (if any) of the gross **earnings** payable to a person in a **pay reference period** of 12 months that is -

- (a) more than £5,564, and
- (b) not more than £42,475.

These figures align with the National Insurance contributions lower and upper earnings limits.

**Qualifying scheme:** [s16(1) and s21(1) of the Act and reg 36 of SI 2010/772 as amended by SI 2012/1257]

A contracted out defined benefit pension scheme is a **qualifying scheme** in relation to a **jobholder** if:

- a) the scheme is an occupational pension scheme,
- b) the scheme is a registered pension scheme with HMRC for tax purposes under Chapter 2 of Part 4 of the Finance Act 2004, and
- c) while the **jobholder** is an active member, the **jobholder** is in contracted-out employment i.e. a certificate has been issued in respect of the **jobholder** under section 7(1) of the Pension Schemes Act 1993 stating that the employment of the **jobholder** is contracted-out employment by reference to the scheme.

Notes:

1. The LGPS is a contracted-out defined benefit scheme which is registered with HMRC for tax purposes and so, whilst it is a final salary scheme, is a **qualifying scheme**.
2. The Department for Work and Pensions has issued [guidance](#) for employers on certifying that a defined benefit pension scheme meets the quality requirement for being a **qualifying scheme**. Employers using the LGPS as a **qualifying scheme** will not have to certify that the LGPS meets the quality requirement as the contracting-out certificate (see [Annex 5](#)) is taken as evidence that the LGPS satisfies that requirement.

3. If / when the LGPS becomes a contracted-out defined benefit Career Average Revalued Earnings (CARE) scheme, regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772, as amended by SI 2012/1257 and SI 2012/2691] requires that each year's accrued benefit is revalued by a minimum of:
  - a) the percentage increase in the retail prices index for the year by reference to which the revaluation is made;
  - b) the percentage increase in the general level of prices in Great Britain (determined in such manner as the Secretary of State thinks fit) for the year by reference to which the revaluation is made; or
  - c) 2.5%,

whichever is the lesser or the least.

If the revaluation rate provided for in the LGPS CARE scheme is less than this the LGPS would cease to be a *qualifying scheme*.

4. The Secretary of State may by order provide that a scheme does not satisfy the quality requirement in relation to a *jobholder* who is in contracted-out employment unless it satisfies a test scheme standard in relation to that *jobholder* (as described in section 23 of the Pensions Act 2008, with the substitution of a higher fraction, not exceeding 1/80th, for the fraction of 1/120th in section 23(4)(a)). No such order has been made.

### **State Pension Age:**

The State pension age is currently age 65 for men. The State pension age for women is currently being increased to be equalised with that for men. The Government has announced that it will speed up the pace of State pension age equalisation for women, so that women's State pension age will reach 65 by November 2018.

### **State pension age equalisation timetable for women**

<b>Date of Birth</b>	<b>New State Pension Age</b>
Before 6 April 1950	60
6 April 1950 - 5 April 1951	In the range 60 - 61
6 April 1951 - 5 April 1952	In the range 61 - 62
6 April 1952 - 5 April 1953	In the range 62 - 63
6 April 1953 - 5 August 1953	In the range 63 - 64
6 August 1953 - 5 December 1953	In the range 64 - 65

The State pension age will then increase to 66 for both men and women from December 2018 to October 2020.

## Increase in State pension age from 65 to 66 for men and women

Date of Birth	New State Pension Age
6 December 1953 - 5 October 1954	In the range 65 – 66
After 5 October 1954	66

Under current legislation the State pension age is due to rise to 67 between 2034 and 2036 and to 68 between 2044 and 2046. However the government has announced plans to revise the legislation so that the date when the State Pension Age rises to 67 is between 2026 and 2028 and that rises above age 67 will be linked to increases in life expectancy. Information on the State Pension Age can be found on the [Direct Gov](#) website.

**Worker:** [s88(3) of the Act]

This means an individual who ordinarily works in Great Britain under –

- a) a **contract of employment** (i.e. an employee), or
- b) any other contract by which the individual undertakes to do work or perform services personally for another party to the contract (i.e. they cannot send a substitute or sub-contract the work) and the individual is not undertaking the work as part of their own business.

Notes:

1. **Worker** excludes office holders. It is believed Councillors are not **workers** as they do not have a **contract of employment** nor any other contract by which they undertake to do work or perform services personally for another party to the contract. They are elected to hold office and provide services as an elected representative. Furthermore, the responsibilities under the Pensions Act 2008 fall to the employer which section 88 of the Act defines as the person by whom the **worker** is employed and, it is argued, councillors are not employed in the general sense of employment. Section 80 of the Local Government Act 1972 says that a person shall be disqualified for being elected or being a member of a local authority if he / she "holds any paid office or employment (other than the office of chairman, vice-chairman or deputy chairman or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive) appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or holds employment in a company which is under the control of the local authority." It would therefore seem surprising if councillors were to be regarded as employees of their local authority when employment with the local authority is something which could disqualify them from serving as members of the local authority.
2. The physical location of the employer is not a determining factor considering an individual's status as a **worker** e.g. the employer may be based outside Great Britain.

3. Advice on determining whether a *worker* ordinarily works in Great Britain can be found in [Detailed Guidance no. 3](#) on The Pensions Regulator's website. Employers might wish to obtain legal advice to confirm whether or not, in any case where they believe a person is a *worker* but not an employee, the person is actually an employee and thus eligible for membership of the LGPS).
4. An individual who is paid a fee as a self-employed contractor under a contract for services is not normally a *worker*.
5. A person who holds the office of police constable or an appointment as a police cadet is a *worker*. [s95 of the Act]
6. [Detailed Guidance Note no. 1](#) on The Pensions Regulator's website offers the following guidance in relation to the distinction between a 'contract for services' and a 'contract of service' which is much debated in employment law. The guidance says "*employers will be used to making the assessment of employee status for employment rights and tax purposes. However, employers should not rely solely on a person's tax status when assessing whether they are a worker. An individual considered by HM Revenue and Customs (HMRC) as self-employed for tax purposes may still be classed as a worker under the Pensions Act 2008 if they are, in fact, working under a personal contract of services. No single factor, by itself, is capable of being conclusive in determining whether a contract is 'for services' or 'of service'. However, individuals are likely to be considered as personal service workers (workers under a 'contract of service') if most, or all, of the following statements are true:*

- *the employer relies on the individual's expertise and expects them to perform the work themselves.*
- *there is an element of subordination between the employer and the individual, for example the individual reports to the employer's managers or directors in respect of the specific operation or project on which they are contracted to work.*
- *the contractual provisions state that the contract is not a contract for services between the employer and the individual's own business.*
- *the contract provides for employee benefits such as holiday pay, sick pay, notice, fees, expenses, etc.*
- *there is a mutual obligation set down in the contract to provide or do the work.*
- *the individual does not incur any financial risk in carrying out the work.*
- *the employer provides tools, equipment and other requirements to the individual to carry out the work.*

*This list is not exhaustive. Just as when they are assessing an individual's status for tax purposes, an employer must take into account all relevant considerations."*

## Annex 2

### Table of ‘Staging Dates’

- (1) The table below sets out the dates for the application of the employers’ duties as set out in regulations 4 and 4A of the Employers’ Duties (Implementation) Regulations 2010 [SI 2010/4], as amended / introduced by the Employers’ Duties (Implementation) (Amendment) Regulations 2012 [SI 2012/1813].
- (2) Where a date prescribed in the following tables falls on a day which is not a working day that date is to be treated as the next working day.
- (3) “Working day” means a day which is not a Saturday, Sunday, bank holiday or other public holiday and “bank holiday” means a day specified in paragraphs 1 and 2 of Schedule 1 to the Banking and Financial Dealings Act 1971 [1971 c.80. Paragraph 2 was amended by the St. Andrew’s Day Bank Holiday (Scotland) Act 2007, section 1].
- (4) The Pensions Regulator also has a useful [‘staging date’ calculator](#) on their website.

**Table**

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
120,000 or more	1st September 2012	1st October 2012	1st August 2015
50,000-119,999	1st October 2012	1st November 2012	1st August 2015
30,000-49,999	1st December 2012	1st January 2013	1st October 2015
20,000-29,999	1st January 2013	1st February 2013	1st October 2015
10,000-19,999	1st February 2013	1st March 2013	1st January 2016
6,000-9,999	1st March 2013	1st April 2013	1st January 2016
4,100-5,999	1st April 2013	1st May 2013	1st February 2016
4,000-4,099	1st May 2013	1st June 2013	1st February 2016

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
3,000-3,999	1st June 2013	1st July 2013	1st March 2016
2,000-2,999	1st July 2013	1st August 2013	1st March 2016
1,250-1,999	1st August 2013	1st September 2013	1st April 2016
800-1,249	1st September 2013	1st October 2013	1st April 2016
500-799	1st October 2013	1st November 2013	1st May 2016
350-499	1st December 2013	1st January 2014	1st May 2016
250-349	1st January 2014	1st February 2014	1 <sup>st</sup> July 2016
160-249	1st March 2014	1st April 2014	1st July 2016
90-159	1st April 2014	1st May 2014	1st September 2016
62-89	1st June 2014	1st July 2014	1st September 2016
61	1st July 2014	1st August 2014	1st November 2016
60	1st September 2014	1st October 2014	1st November 2016
59	1st October 2014	1st November 2014	1st February 2017
58	1st December 2014	1st January 2015	1st February 2017
54-57	1st February 2015	1st March 2015	1st April 2017
50-53	1st March 2015	1st April 2015	1st April 2017
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 92, A1-	1st May 2015	1st June 2015	

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
A9, B1-B9, AA-AZ, BA-BW, M1-M9, MA-MZ, Z1-Z9, ZA-ZZ, 0A-0Z, 1A-1Z or 2A-2Z			
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers BX	1st June 2015	1st July 2015	
40-49	1st July 2015	1st August 2015	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers BY	1st August 2015	1st September 2015	
30-39	1st September 2015	1st October 2015	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers BZ	1st October 2015	1st November 2015	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 02-04,C1-C9, D1-D9, CA-CZ, or DA-DZ	1st December 2015	1st January 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 00, 05-07, E1-E9 or EA-EZ	1st January 2016	1st February 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 01, 08-11, F1-F9, G1-G9, FA-FZ or GA-GZ	1st February 2016	1st March 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 12-16, 3A-3Z, H1-H9 or HA-HZ	1st March 2016	1st April 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers I1-I9 or	1st April 2016	1st May 2016	

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
IA-IZ			
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 17-22, 4A-4Z, J1-J9 or JA-JZ	1st May 2016	1st June 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 23-29, 5A-5Z, K1-K9 or KA-KZ	1st June 2016	1st July 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 30-37, 6A-6Z, L1-L9 or LA-LZ	1st July 2016	1st August 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers N1-N9 or NA-NZ	1st August 2016	1st September 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 38-46, 7A-7Z, O1-O9 or OA-OZ	1st September 2016	1st September 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 47-57, 8A-8Z, Q1-Q9, R1-R9, S1-S9, T1-T9, QA-QZ, RA-RZ, SA-SZ or TA-TZ	1st September 2016	1st November 2016	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 58-69, 9A-9Z, U1-U9, V1-V9, W1-W9, UA-UZ,	1st December 2016	1st January 2017	

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
VA-VZ or WA-WZ			
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 70-83, X1-X9, Y1-Y9, XA-XZ, or YA-YZ	1st January 2017	1st February 2017	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers P1-P9 or PA-PZ	1st February 2017	1st March 2017	
Less than 30 with the last 2 characters in their <i>PAYE</i> reference numbers 84-91 or 93-99	1st March 2017	1st April 2017	
Less than 30 persons in the <i>PAYE</i> scheme not meeting any other description contained in the first column of this table	1st March 2017	1st April 2017	
Employer who does not have a <i>PAYE</i> scheme	1st March 2017	1st April 2017	
New employer ( <i>PAYE</i> income first payable between 1st April 2012 and 31st March 2013)	1st April 2017	1st May 2017	
New employer ( <i>PAYE</i> income first payable between 1st April 2013 and 31st March 2014)	1st June 2017	1st July 2017	
New employer ( <i>PAYE</i> income first payable between 1st April 2014 and 31st March 2015)	1st July 2017	1st August 2017	
New employer ( <i>PAYE</i> income first	1st September 2017	1st October 2017	

Employer (by <i>PAYE</i> scheme size or other description)	<i>Date before which notification to automatically enrol early must be sent</i>	<i>Staging date (subject to qualification in the final column)</i>	<i>Alternative staging date which an employer may choose if on 1<sup>st</sup> April 2012 the employer had fewer than 50 workers and had, or was part of, a <i>PAYE</i> scheme in which there were 50 or more persons</i>
payable between 1st April 2015 and 31st December 2015)			
New employer ( <i>PAYE</i> income first payable between 1st January 2016 and 30th September 2016	1st October 2017	1st November 2017	
New employer ( <i>PAYE</i> income first payable between 1st October 2016 and 30th June 2017	1st December 2017	1st January 2018	
New employer ( <i>PAYE</i> income first payable between 1st July 2017 and 30th September 2017	1st January 2018	1st February 2018	

## **Annex 3 – Information Requirements under the Employment Rights Act 1996**

The Employment Rights Act 1996 contains the following provisions:

### **1 Statement of initial employment particulars**

- (1) *Where an employee begins employment with an employer, the employer shall give to the employee a written statement of particulars of employment.*
- (2) *The statement may (subject to section 2(4)) be given in instalments and (whether or not given in instalments) shall be given not later than two months after the beginning of the employment.*
- (4) *The statement shall ....contain particulars, as at a specified date not more than seven days before the statement (or the instalment containing them) is given, of—*
  - (d) *any terms and conditions relating to any of the following—*
    - (iii) ***pensions and pension schemes,***
- (5) ***Subsection (4)(d)(iii) does not apply to an employee of a body or authority if—***
  - (a) ***the employee's pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under any Act, and***
  - (b) ***any such provision requires the body or authority to give to a new employee information concerning the employee's pension rights or the determination of questions affecting those rights.***

### **2 Statement of initial particulars: supplementary**

- (2) *A statement under section 1 may refer the employee for particulars of any of the matters specified in subsection (4)(d) ... (iii) of that section to the provisions of some other document which is reasonably accessible to the employee.*
- (6) *A statement shall be given to a person under section 1 even if his employment ends before the end of the period within which the statement is required to be given.*

### **3 Note about disciplinary procedures and pensions**

- (1) *A statement under section 1 shall include a note-*
- (5) *The note shall .... state whether there is in force a contracting-out certificate (issued in accordance with Chapter 1 of Part III of the Pension Schemes Act 1993) stating that the employment is contracted-out employment (for the purposes of that Part of that Act).*

Section 7 of Chapter I of Part III of the Pension Schemes Act 1993 says:

## **7 Issue of contracting-out certificates**

- (1) *Regulations shall provide for HMRC to issue certificates stating that the employment of an earner in employed earner's employment is contracted-out employment by reference to an occupational pension scheme.*
- (1A) *In this Act such a certificate is referred to as "a contracting-out certificate".*
- (2) *The regulations shall provide for contracting-out certificates to be issued to employers and to specify-*
  - (a) *the employments which are to be treated, either generally or in relation to any specified description of earners, as contracted-out employments; and*
  - (b) *the occupational pension schemes by reference to which those employments are to be so treated.*
- (3) *An occupational pension scheme is a contracted-out scheme in relation to an earner's employment if it is for the time being specified in a contracting-out certificate in relation to that employment; and references in this Act to the contracting-out of a scheme are references to its inclusion in such a certificate.*

So, provided the **contract of employment** states that the LGPS is contracted-out of the State Second Pension (S2P) scheme and, whilst the employee is a member of the LGPS they will be contracted-out of the State Second Pension (S2P) scheme, the employer will have satisfied the requirements of the Employment Rights Act 1996.

The employer must also comply:

- a) with the provision of information requirements contained in The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 [SI 1996/1655]. Those requirements can be complied with by providing a scheme guide (i.e. the guide available from the Pension Fund administering authority, although nationally produced guides are available on the [Local Government Employer's website](#)), and
- b) with regulation 3 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 and with regulation 4 of the LGPS (Benefits, Membership and Contributions) (Scotland) Regulations 2008 which, respectively, say:

## **3 Contributions payable by active members [England and Wales]**

- (1) *Subject to paragraph (9), each active member shall make contributions to the Scheme at the contribution rate from his pensionable pay in each employment in which he is an active member.*
- (2) *Subject to paragraph (4) the annual contribution rate to be applied to a person who becomes an active member is determined by his employing authority at the commencement of his membership on the basis of his pensionable pay in accordance with the following table.*

Whole-time equivalent pay rate	Employee Contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

*Note: the above table is that applicable to 2012/13.*

- (4)(a) *Where there has been a permanent material change to the terms and conditions of a member's employment which affect his pensionable pay in the course of a financial year, his employing authority may determine that the contribution rate to be applied in his case is not to be calculated in accordance with paragraph (2).*
- (b) *In such a case, the authority shall inform the member of the contribution rate applicable to him, and the date from which it is to be applied.*

#### **4 Contributions payable by active members [Scotland]**

- (1) *Subject to paragraph (9), each active member shall make contributions to the Scheme at the contribution rate from that member's pensionable pay in each employment in which the member is an active member.*
- (2) *Subject to paragraph (4), the annual contribution rate to be applied to a person who becomes an active member is determined by the person's employing authority at the commencement of the person's membership on the basis of the person's pensionable pay-*

- (a) *in accordance with the following table; and*
- (b) *having regard to guidance issued by the Scottish Ministers.*

Whole-time equivalent pay	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

*Note: the above table is that applicable to 2012/13.*

- (4)(a) *Where there has been a permanent material change to the terms and conditions of a member's employment which affect the member's pensionable pay in the course of a financial year, the member's employing authority may determine that the contribution rate to be*

*applied in that case is not to be calculated in accordance with paragraph (2); and*  
*(b) in such a case, the authority shall inform the member of the contribution rate applicable to the member, and the date from which it is to be applied.*

## **Annex 4 – Opting out of pension saving**

Regulations 9, 15 and 19 and schedule 1 to the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772] prescribe that the following information must be included in an opt out form:

### ***Notice to opt out of pension saving***

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

*Your full name:.....*

*Your employer's name:.....*

*Your national insurance number or date of birth: .....*

*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.*

**SIGNED .....**

**DATE .....**

### ***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](http://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 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.*

It should be noted that the relevant legislation also prescribes that:

- in the 'automatic enrolment opt out' window, the opt out form can only be obtained from the Pensions Section of the Pension Fund administering authority, although they can make this available on their website for downloading. If the opt out form is to be made available on their website then it will be necessary, given that the administering authority will also be an employing authority, to make it clear that the Pension Section's part of the website (or the part of the website on which the opt out form resides) is provided by the authority in its role as the administering authority, and not in its role as an employing authority. This is because unless an occupational pension scheme, within its trust instrument, expressly delegates its pensions administration function to the employer (which the LGPS does not) the employer is not legally allowed to issue the opt out form to a person seeking to opt out in the 'automatic enrolment opt out' window. This also means that an employer is not permitted to download an opt out form on behalf of the scheme member from the website of the Pension Section of the Pension Fund administering authority and hand this to the scheme member.
- the opt out form can only be completed and signed by the scheme member or, where the notice is in an electronic format, it must include a statement confirming that the scheme member personally submitted the form.

The following sample opt out form has been designed to meet the requirements prescribed above and to enable the potential optant out to be aware of the benefits they would be giving up. [The information that the Occupational and Personal Pension Schemes \(Automatic Enrolment\) Regulations 2010 \[SI 2010/772\] state must be included in an opt out form is indicated in blue.](#) Pension Fund administering authorities may, of course, choose to design their own opting out forms (provided they comply with the requirements of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772]).

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## **Opting out of the Local Government Pension Scheme in England or Wales - Notice to opt out of pension saving**

The Local Government Pension Scheme (LGPS) allows you to save while you are working in order to enjoy a pension once you retire. It is one of the best occupational pension schemes in the UK. What's more, the LGPS is provided by your employer who meets a large part of the cost of providing the excellent range of secure benefits, so it's an extremely valuable and important part of your employment package.

You might be thinking of opting out of the LGPS for a variety of reasons. Whatever the reason, it's worth taking some time to look at the benefits you could be giving up. A brief summary of these is included in the "Declaration" section of this form.

Opting out won't save you as much in take home pay as you may think. In most cases, you will pay more tax and National Insurance if you opt out of the LGPS. A basic rate tax payer paying pension contributions of £100 a month will pay £20 more tax and their NI will go up by about the same if they opt out.

If you want to know more about the costs and benefits of being a member of the Local Government Pension Scheme you can [*Pension Fund administering authority to insert details of where to find information / who to contact*].

Although changes to the LGPS are planned for 2014 (for details see the national LGPS web site at [www.lgps.org.uk](http://www.lgps.org.uk)) please remember that the LGPS is, and will continue to be, one of the best occupational pension schemes in the UK.

Whatever your reasons for considering opting out of the scheme, we ask that you give this matter careful consideration before making a final decision. You may wish to take financial advice before making a decision to opt out. If you are opting out of the LGPS due to advice you have received you should ask for this advice in writing.

[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 \[www.thepensionsregulator.gov.uk\]\(http://www.thepensionsregulator.gov.uk\).](#)

Equally, no one can force you to remain a member of the scheme but, if you elect not to be a member, you should understand the implications both for you and your dependants.

**Your Personal Details (please complete this form in black ink)**

Surname:

First name(s):

Title: Mr. / Mrs. / Miss / Ms. / Other (please specify)

Your home address:

Post code:

Your national insurance number:

Your date of birth:

Your employer's name:

Job title - Post 1:

Payroll reference number for that job (if known):

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Job title - Post 2:

Payroll reference number for that job (if known):

Job title - Post 3:

Payroll reference number for that job (if known):

Job title - Post 4:

Payroll reference number for that job (if known):

**Declaration:**

I declare that by opting out of the Local Government Pension Scheme (LGPS) I am knowingly giving up the opportunity to participate in the LGPS which would provide a guaranteed package of benefits which are backed by law including:

- \* **a secure pension** – payable for life that increases with the cost of living
- \* **tax free cash** – the option to exchange part of my pension for some tax-free cash at retirement
- \* **life cover** – with a lump sum of three times my final pay if I die in service
- \* **voluntary early retirement** – from age 60 (even though the scheme's normal pension age is 65) or from as early as age 55 provided my employer agrees. Benefits drawn before normal pension age may be reduced for early payment.
- \* **serious ill-health cover** – if I have to retire due to a serious illness I could receive immediate benefits based on an enhanced period of scheme membership
- \* **redundancy cover** – with the early payment of pension benefits if I am made redundant or retired on business efficiency grounds at 55 or over
- \* **cover for my family upon my death** – including a survivor's pension for my husband, wife, civil partner or nominated cohabiting partner as well as children's pensions

I have read the above and understand that the choices I make now are important in planning for my retirement. [I confirm that I wish to opt out of pension saving in the post\(s\) I have indicated on this form.](#)

[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.](#)

Signed:

**Please see the notes on the next page regarding when you can sign, date and return this form.**

Date:

**It is important to fully complete this form. An incomplete form will not be accepted as a valid option out and the form will be returned to you for completion.**

## Notes:

1. **You can only sign and date this opt out form once you have commenced employment in the post from which you wish to opt out of membership of the LGPS. You cannot sign and date the form before then as it will be treated as an invalid opt out.**
2. The completed opt out form should be returned to your employer's Payroll Section or Human Resource department.
3. If you have another job with another employer, that employer might also put you into pension saving, now or in the future. This opt out notice only opts you out of LGPS pension saving in relation to the employer and jobs you have named on this form. A separate opt out notice must be filled out and given to any other employer you work for if you wish to opt out of pension saving with that employer as well. You will need to obtain the opt out form for employment with that employer from the pension administrators for the scheme provided by that employer.
4. If you opt out of the LGPS before completing three months membership you will be treated as never having been a member and will receive a refund of any contributions deducted from your pay. If you opt out after three months you will be entitled to a deferred pension benefit in the LGPS which, unless you transfer the benefits to another pension scheme, would normally be payable from age 65 (or from age 60 at your choice).
5. If you decide to opt out of membership of the LGPS and subsequently change your mind you will be able to rejoin the scheme provided you are under age 75 and you remain in an employment that qualifies you for membership of the scheme. You will need to write to your employer if you want to opt back into the scheme.
6. If you stay opted out your employer will normally automatically put you back into the LGPS approximately three years from the date they have to comply with the automatic enrolment provisions of the Pensions Act 2008. You will, however, again be entitled at that time to opt out of membership of the scheme.
7. If you change employer your new employer will normally put you back into pension saving straight away.

## Purpose for which this form will be used

This form, once completed and returned to your employer's Payroll Section or Human Resource department will be used to cease your active membership of the Local Government Pension Scheme as per your instructions on this form. The form will be retained as a record of your election to cease membership of the Local Government Pension Scheme or, if you hold more than one post with us, as a record of your election to cease membership in the job or jobs you have indicated on the form.



## **Opting out of the Local Government Pension Scheme in Scotland - Notice to opt out of pension saving**

The Local Government Pension Scheme (LGPS) allows you to save while you are working in order to enjoy a pension once you retire. It is one of the best occupational pension schemes in the UK. What's more, the LGPS is provided by your employer who meets a large part of the cost of providing the excellent range of secure benefits, so it's an extremely valuable and important part of your employment package.

You might be thinking of opting out of the LGPS for a variety of reasons. Whatever the reason, it's worth taking some time to look at the benefits you could be giving up. A brief summary of these is included in the "Declaration" section of this form.

Opting out won't save you as much in take home pay as you may think. In most cases, you will pay more tax and National Insurance if you opt out of the LGPS. A basic rate tax payer paying pension contributions of £100 a month will pay £20 more tax and their NI will go up by about the same if they opt out.

If you want to know more about the costs and benefits of being a member of the Local Government Pension Scheme you can [*Pension Fund administering authority to insert details of where to find information / who to contact*].

Whatever your reasons for considering opting out of the scheme, we ask that you give this matter careful consideration before making a final decision. You may wish to take financial advice before making a decision to opt out. If you are opting out of the LGPS due to advice you have received you should ask for this advice in writing.

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](http://www.thepensionsregulator.gov.uk).

Equally, no one can force you to remain a member of the scheme but, if you elect not to be a member, you should understand the implications both for you and your dependants.

**Your Personal Details (please complete this form in black ink)**

Surname:

First name(s):

Title: Mr. / Mrs. / Miss / Ms. / Other (please specify)

Your home address:

Post code:

Your national insurance number:

Your date of birth:

Your employer's name:

Job title - Post 1:

Payroll reference number for that job (if known):

Job title - Post 2:

Payroll reference number for that job (if known):

Job title - Post 3:

Payroll reference number for that job (if known):

Job title - Post 4:

Payroll reference number for that job (if known):

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**Declaration:**

I declare that by opting out of the Local Government Pension Scheme (LGPS) I am knowingly giving up the opportunity to participate in the LGPS which would provide a guaranteed package of benefits which are backed by law including:

- \* **a secure pension** – payable for life that increases with the cost of living
- \* **tax free cash** – the option to exchange part of my pension for some tax-free cash at retirement
- \* **life cover** – with a lump sum of three times my final pay if I die in service
- \* **voluntary early retirement** – from age 60 (even though the scheme's normal pension age is 65) or from as early as age 55 provided my employer agrees. Benefits drawn before normal pension age may be reduced for early payment.
- \* **serious ill-health cover** – if I have to retire due to a serious illness I could receive immediate benefits based on an enhanced period of scheme membership
- \* **redundancy cover** – with the early payment of pension benefits if I am made redundant or retired on business efficiency grounds at 55 or over (aged 50 or over if you were paying into the LGPS on 5 April 2006)
- \* **cover for my family upon my death** – including a survivor's pension for my husband, wife, civil partner or nominated cohabiting partner as well as children's pensions

I have read the above and understand that the choices I make now are important in planning for my retirement. I confirm that [I wish to opt out of pension saving in the post\(s\) I have indicated on this form.](#)

[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.](#)

Signed:

**Please see the notes on the next page regarding when you can sign, date and return this form.**

Date:

**It is important to fully complete this form. An incomplete form will not be accepted as a valid option out and the form will be returned to you for completion.**

## Notes:

1. **You can only sign and date this opt out form once you have commenced employment in the post from which you wish to opt out of membership of the LGPS. You cannot sign and date the form before then as it will be treated as an invalid opt out.**
2. The completed opt out form should be returned to your employer's Payroll Section or Human Resource department.
3. If you have another job with another employer, that employer might also put you into pension saving, now or in the future. This opt out notice only opts you out of LGPS pension saving in relation to the employer and jobs you have named on this form. A separate opt out notice must be filled out and given to any other employer you work for if you wish to opt out of pension saving with that employer as well. You will need to obtain the opt out form for employment with that employer from the pension administrators for the scheme provided by that employer.
4. If you opt out of the LGPS before completing three months membership you will be treated as never having been a member and will receive a refund of any contributions deducted from your pay. If you opt out after three months and before two years, have not brought a transfer into the LGPS and do not already have a deferred benefit in the LGPS in Scotland, you will normally be able to take a refund of your contributions. There will be a deduction for tax and the cost, if any, of buying you back into the State Second Pension scheme (S2P). If you opt out after two years you will be entitled to a deferred pension benefit in the LGPS which, unless you transfer the benefits to another pension scheme, would normally be payable from age 65 (or from age 60 at your choice).
5. If you decide to opt out of membership of the LGPS and subsequently change your mind you will be able to rejoin the scheme provided you are under age 75 and you remain in an employment that qualifies you for membership of the scheme. You will need to write to your employer if you want to opt back into the scheme.
6. If you stay opted out your employer will normally automatically put you back into the LGPS approximately three years from the date they have to comply with the automatic enrolment provisions of the Pensions Act 2008. You will, however, again be entitled at that time to opt out of membership of the scheme.
7. If you change employer your new employer will normally put you back into pension saving straight away.

## **Purpose for which this form will be used**

This form, once completed and returned to your employer's Payroll Section or Human Resource department will be used to cease your active membership of the Local Government Pension Scheme as per your instructions on this form. The form will be retained as a record of your election to cease membership of the Local Government Pension Scheme or, if you hold more than one post with us, as a record of your election to cease membership in the job or jobs you have indicated on the form.

**Annex 5 - Copy of Contracting-Out Certificate for the LGPS**

Received: 31/10/02 15:49;

02079446019 -> EO-IDEA; Page 2

DETR LGPD

Fax:02079446019

31 Oct '02 15:22

P.02/04



An Executive Agency of  
the Department of Social Security

**Contracting-out certificate  
for a salary-related scheme**

Issued to:

Secretary of State for the Environment  
Local Government Pensions  
2nd Floor Ashdown House  
123 Victoria St  
London  
SW1E 6DE

ECON:

3900002R

COSR SCON:

Company registration number:

It is hereby certified that, with effect from the start of 06/04/1997 the employments mentioned below, in respect of who qualify for GMP/post '97 COSR rights\* under

**LOCAL GOVERNMENT PENSION SCHEME**

with the exception of those employments, if any, specifically excluded below, are to be treated as contracted-out employments by reference to the scheme for the purposes of Part III of the Pension Schemes Act 1993 / Pension Schemes (Northern Ireland) Act 1993.

Employments:

All employments of persons participating in the scheme

Date of issue 12/06/98

Post '97 COSR rights are rights to pensions provided in accordance with section 9(2B) of the Pension Schemes Act 1993/Pension Schemes(Northern Ireland) Act 1993.



Issued by the Contributions Agency on behalf of the Secretary of State for Social Security

CA7000

## Annex 6 – the “value” of contributions

As will be seen from [paragraphs 50](#) and [58](#) the employer is required on certain occasions to provide an *eligible jobholder* or *non-eligible jobholder* with information on the “value” of any contributions payable to the LGPS by the employer and by the *eligible jobholder* or *non-eligible jobholder* in any applicable *pay reference period*.

Similarly, it will be seen from [paragraphs 51](#), [59](#) and [67](#) that the employer may on certain occasions be requested by the Pensions Section of the Pension Fund administering authority to provide them with the value of any contributions payable to the LGPS by the employer and by the *eligible jobholder*, *non-eligible jobholder* or *entitled worker* in any applicable *pay reference period* (where this information is available to the employer).

In either case, the value of contributions may be expressed as a fixed amount or a percentage of any *qualifying earnings* or of pensionable pay due to the *eligible jobholder*, *non-eligible jobholder* or *entitled worker*, as the case may be, in any applicable *pay reference period*.

Clearly, it will be easy to provide information on the value of the contributions payable by the *eligible jobholder*, *non-eligible jobholder* or *entitled worker*, as this will simply be expressed as the relevant percentage of pensionable pay payable by the person in accordance with the current contribution table. The contribution tables for 2012/13 are shown below.

### England and Wales

Whole-time equivalent pay rate	Employee Contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

### Scotland

Whole-time equivalent pay	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

In Scotland, a composite employee contribution rate can be ascertained from the table issued by the Scottish Public Pensions Agency – see [version 6 for 2012/13](#).

The employer contribution rate may, however, be more problematic. For example, how will this be expressed where the employer's rate is made up of two elements – for example, a percentage future service rate and a flat sum to pay for a funding deficit? At the Technical Group meeting on 12 June 2012 the view was expressed that, to avoid any confusion between the employer's percentage contribution rate on payroll and what the real rate would be if the flat sum were also converted into a percentage, employers might wish to simply quote the percentage rate used on their payroll system.

The LGPC has concerns that expressing employer contributions to a defined benefit scheme as a percentage of pensionable pay (or of *qualifying earnings*) is not entirely appropriate. In its response to the initial draft regulations that were consulted on before the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 were made and laid the LGPC said:

*Providing employer contribution information in this form for a defined benefit scheme is, at best, somewhat irrelevant and, at worst, highly misleading. Let us take, as an example, two members of the Local Government Pension Scheme (the statutory regulations for which govern the 100 separate LGPS final salary, defined benefit schemes<sup>1</sup>). Both members commence employment on the same day and on the same starting salary. One is employed by Employer A and the other by Employer B, and both employers participate in LGPS Fund X. The employer contribution rate paid by Employer A is 10%, although the underlying employer rate is actually 14%. The rate is 10% because the employer's share of the Fund is currently in surplus. The employer contribution rate paid by Employer B is 20%, although the underlying employer rate is actually 14%. The rate is 20% because the employer's share of the Fund is currently in deficit. If we show the employer contribution as an amount or a percentage of pay this could lead the employee of Employer B to think one of the following:*

- i) "my pension benefit is worth much more than that offered by Employer A"; or*
- ii) "as my employer is having to put in twice as much in contributions as Employer A, perhaps my scheme and my benefits are at risk".*

*In fact, neither is true. The value of the defined benefit is exactly the same and, being a statutory scheme, the benefits are not in jeopardy.*

*Now let's assume that the employee of Employer B moves to Employer C. The employer contribution rate paid by Employer C is 15%, although the underlying employer rate is actually 14%. The rate is 15% because the employer's share of the Fund is currently slightly in deficit. However, on being informed of the 15% employer contribution rate one can hear the member*

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<sup>1</sup> There are 3 schemes, one for England and Wales, one for Scotland and one for Northern Ireland. These are administered by 100 separate administering authorities.

*saying “If I’d known that the employer is only paying three quarters of the contribution that my old employer paid, I wouldn’t have taken the job”. In fact, the value to the employee of the defined benefit promise is greater, due to the increase in salary.*

*Thus, to give the value of employer contributions as a fixed amount or as a percentage of the employee’s pensionable pay is clearly misleading.*

*It is vitally important that, in trying to develop a strategy to inform people of the value of their pension rights and what the cost to the employer is, that a distinction is made between defined benefit and defined contribution schemes. Clearly, showing the employer contribution made to a defined contribution scheme is vitally important. It is not important in relation to a defined benefit scheme and, as shown above, can be positively misleading.*

*Quoting the employer contribution to a defined benefit scheme as an amount or a percentage of pensionable pay also suffers from the fact that it is inconsistent with other legislation and thus potentially misleading and confusing for scheme members. For example, valuing a benefit in one way for the purposes of the Automatic Enrolment Regulations, another for the HMRC Annual Allowance test, another for the HMRC Lifetime Allowance test, another for the purposes of the Accounts and Audit Regulations 2003 [SI 2003/533] (where there are proposals to disclose the value of benefits, including pensions, of senior officers in public bodies) and perhaps yet another for the purposes of Total Rewards Statements issued by employers, will be highly confusing for a scheme member.*

*When we met with DWP officials we were told that the regulations were to be amended in relation to defined benefit schemes so that the requirement would be to inform the employee of the accrual rate rather than the employer contribution. This seemed to be a sensible approach and we suggest that either the draft regulations be amended accordingly or regulation 2 is amended to mirror regulation 18(2)(d) which only requires employers to provide the value of the employer contribution if the scheme is a money purchase or personal pension scheme.*

*Sadly, DWP did not ultimately take this suggestion on board.*

## **Annex 7 – Flowcharts and sample letters**

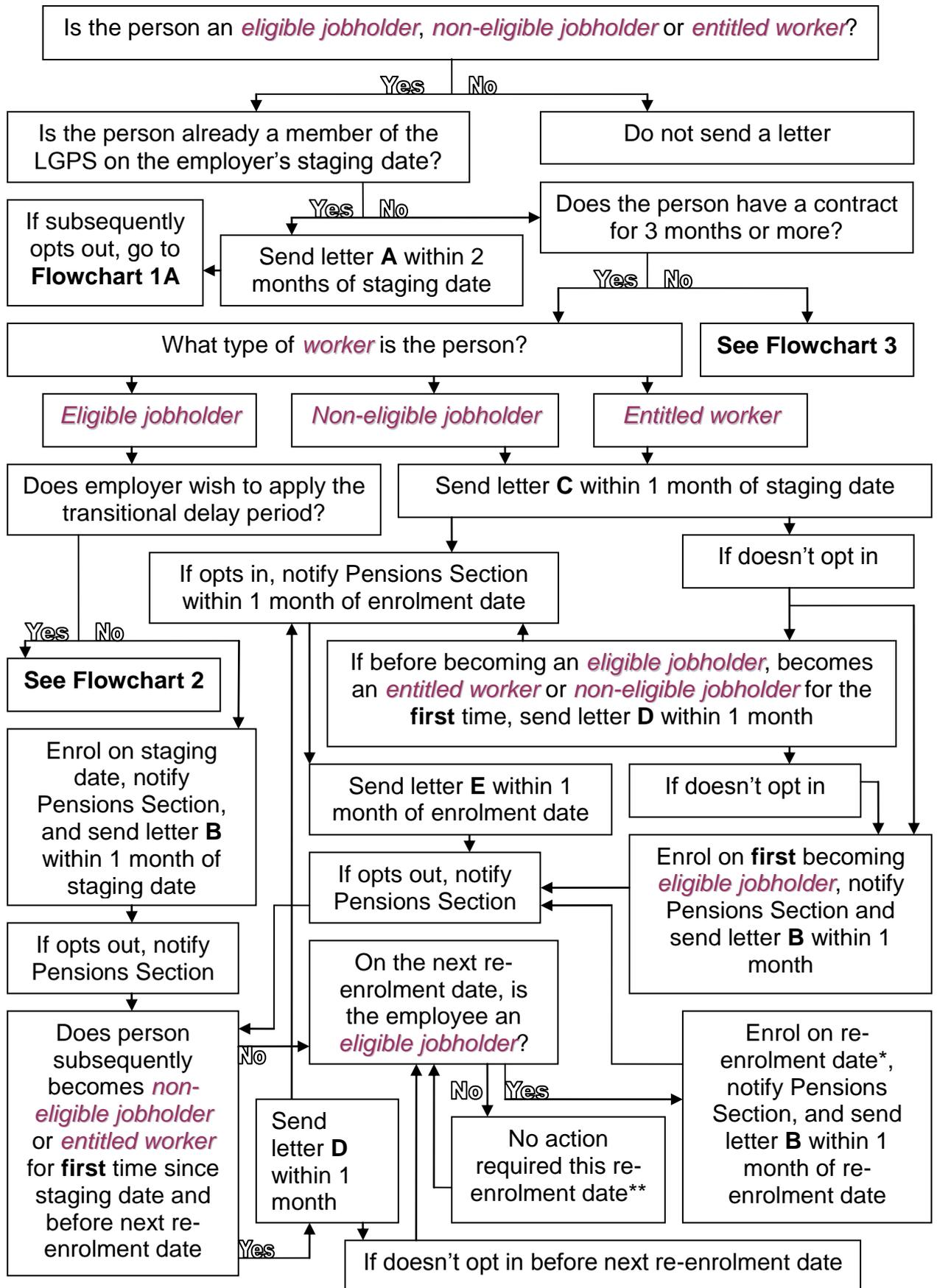
Please note that the following qualifications apply to those boxes in the flowcharts that contain asterisks:

\* unless the eligible jobholder had opted out within the previous 12 months

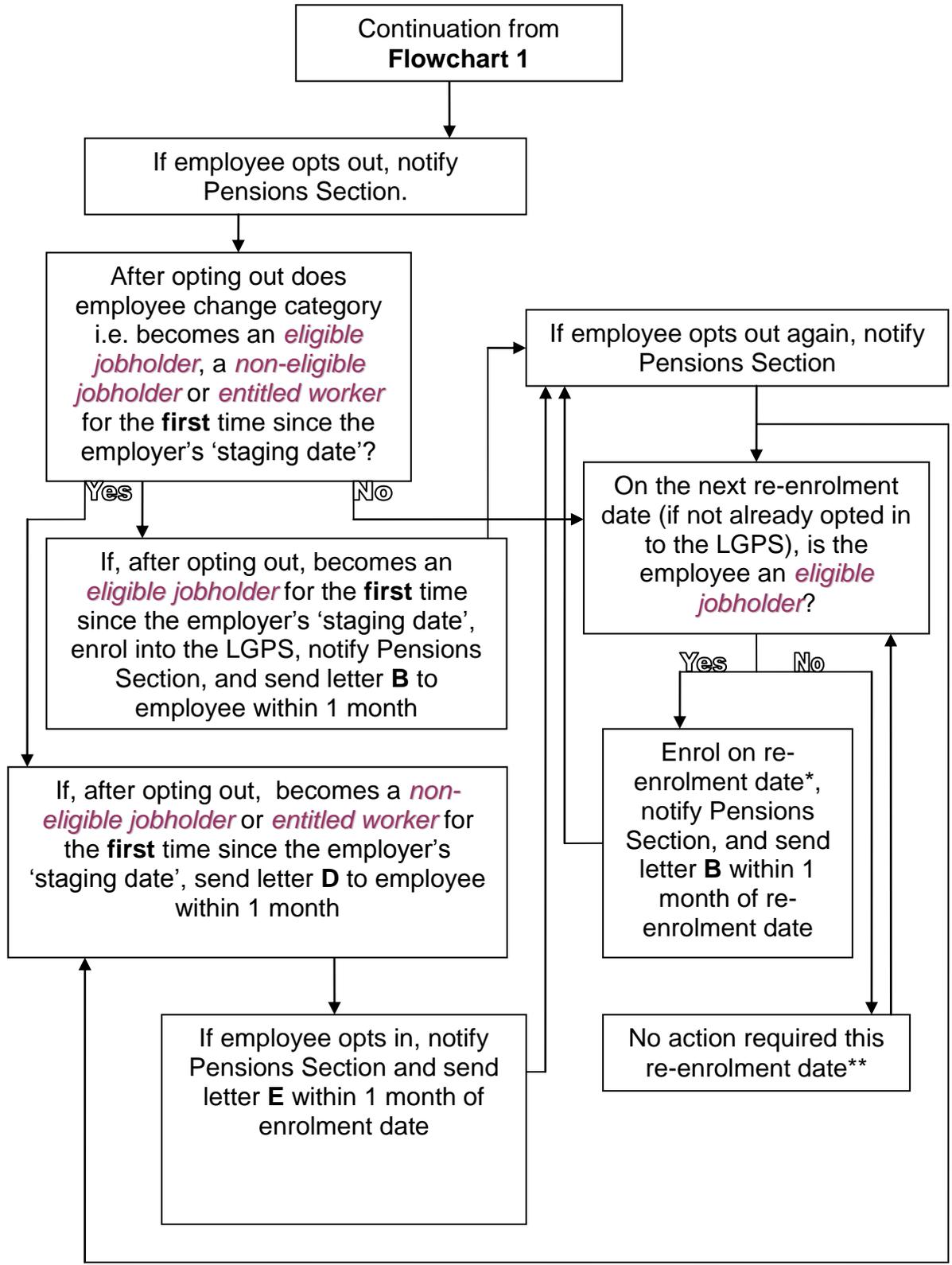
\*\* but the employer may choose to remind the person that they can opt into the LGPS if they wish.

**Annex 7 – Flowchart 1 – Existing *Workers* on the Employer’s Staging Date with a contract for 3 months or more (including casuals with open ended contracts).**

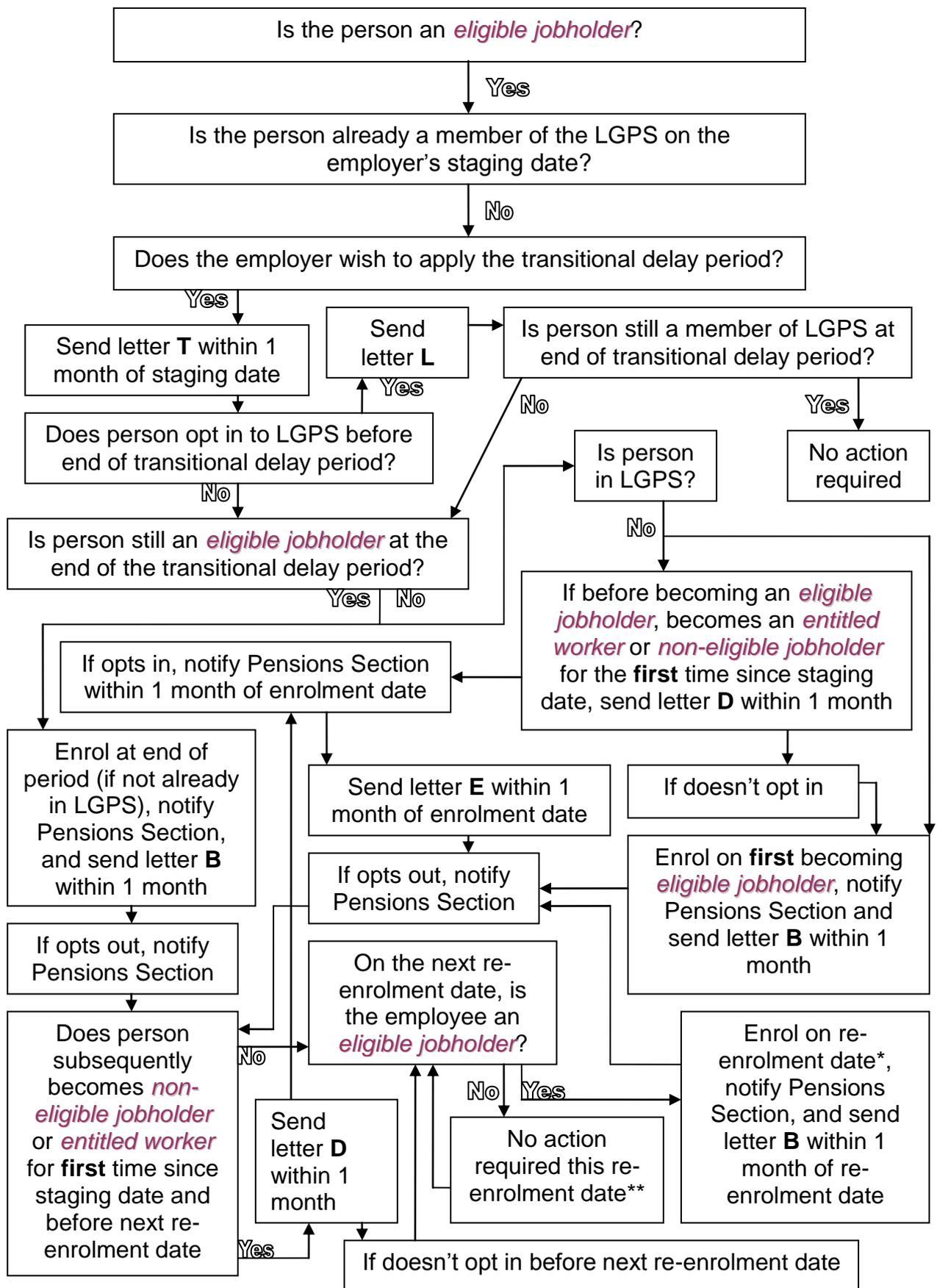
This flowchart goes beyond what is strictly required in relation to the information to be provided to *entitled workers* (but the LGPC Secretariat believes it simplifies the process for employers).



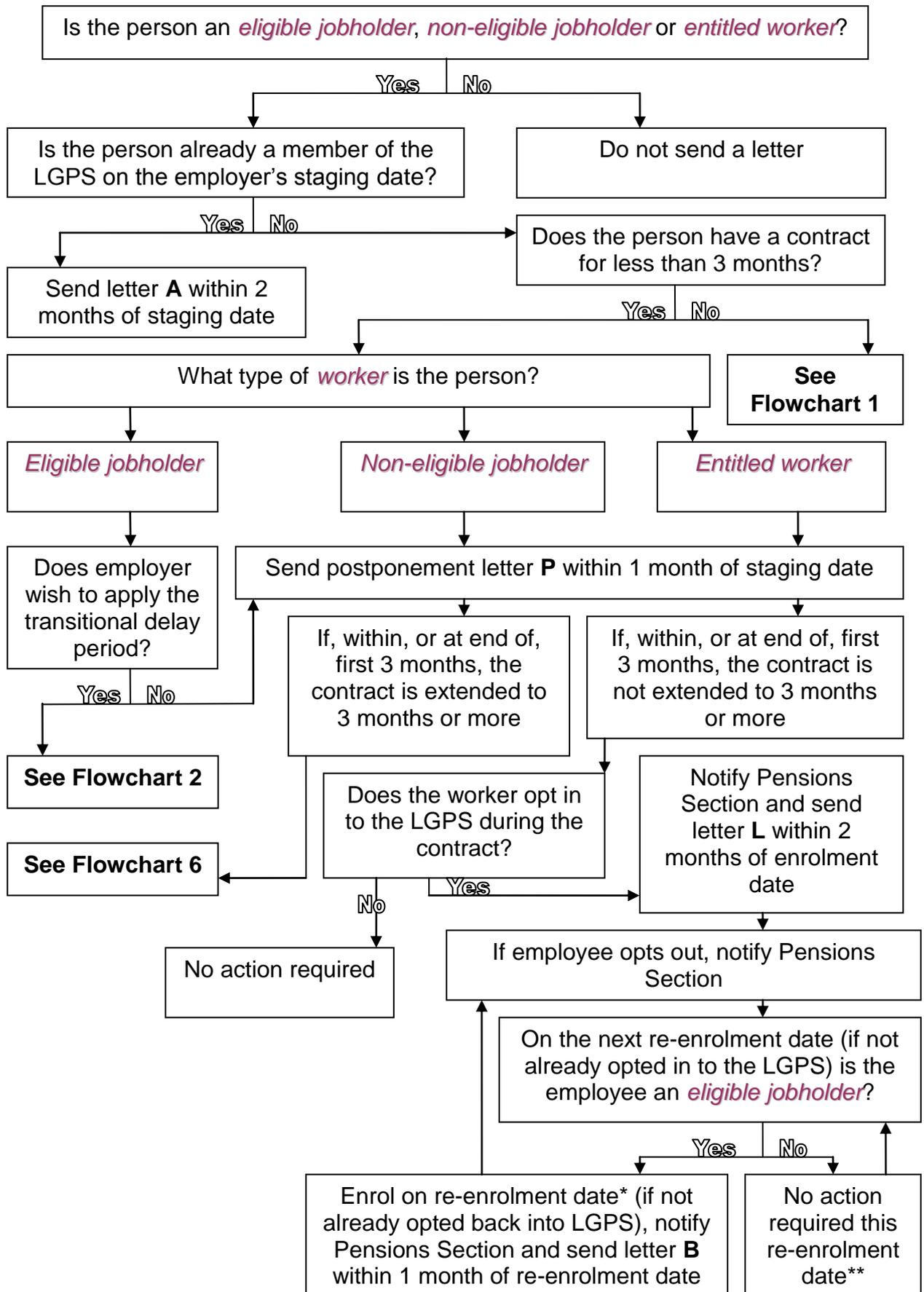
**Annex 7 – Flowchart 1A – Existing *Workers* who are members of the LGPS on the Employer’s Staging Date and who subsequently opt out of membership of the LGPS**



**Annex 7 – Flowchart 2 – Existing *Eligible Jobholders* on the Employer’s Staging Date who are not active members of the LGPS and the Employer wishes to apply the Transitional Delay period.**

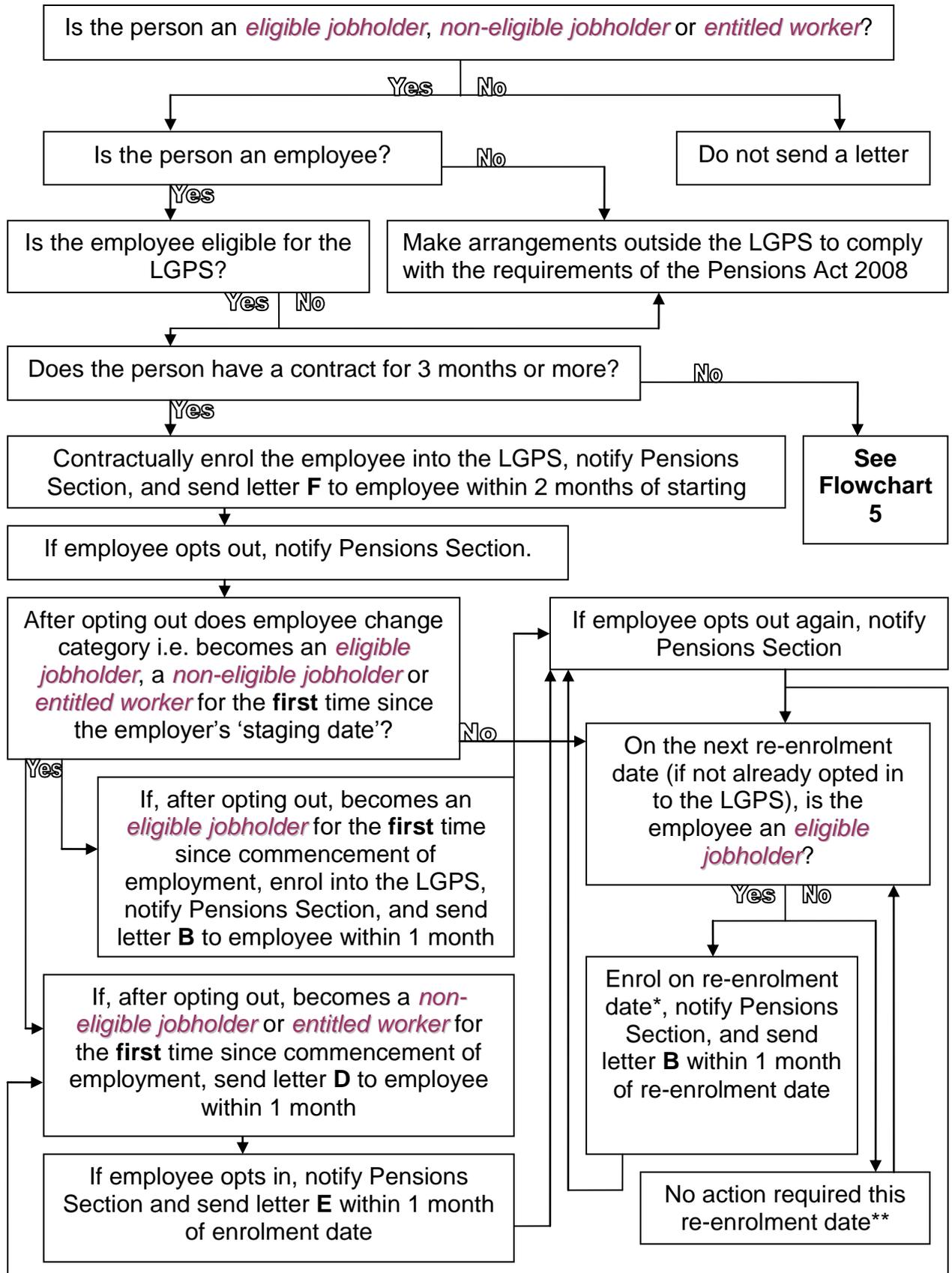


**Annex 7 – Flowchart 3 – Existing *Workers* on the Employer’s Staging Date with a contract for less than 3 months (but see [paragraph 47](#) re NOMO casuals).**

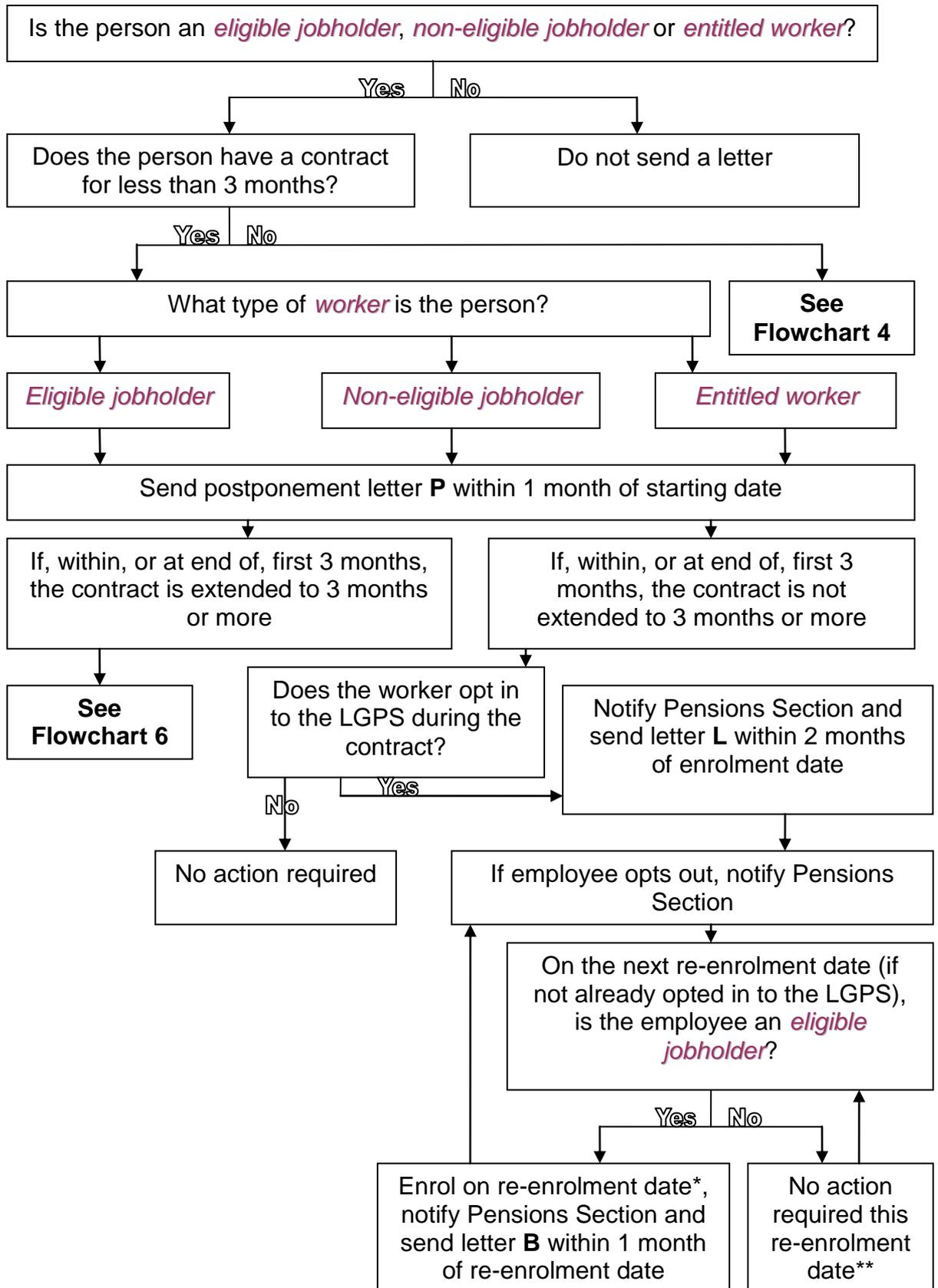


**Annex 7 – Flowchart 4 – New *Workers* on or after the Employer’s Staging Date with a contract for 3 months or more (incl. casuals with open ended contracts).**

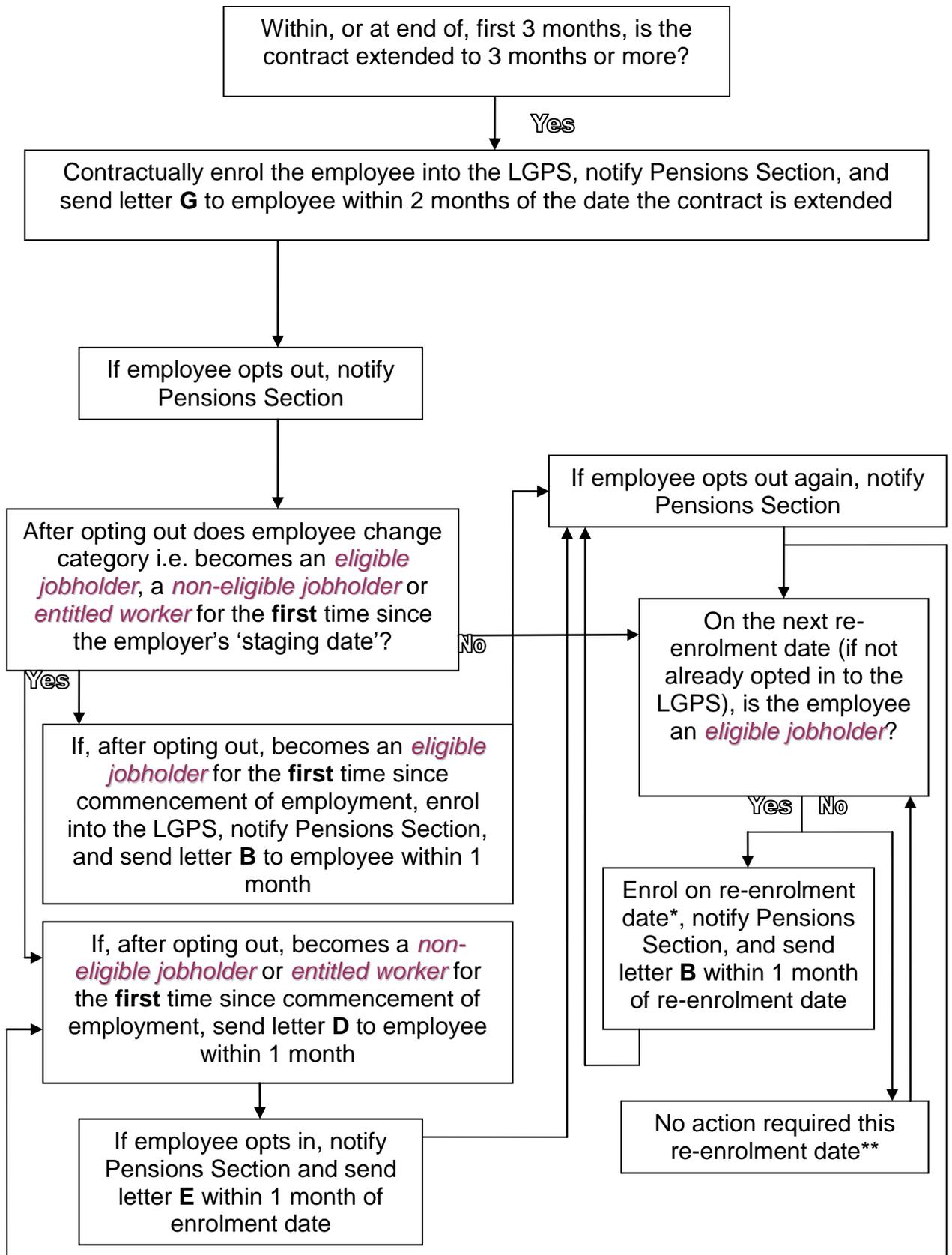
This flowchart goes beyond what is strictly required in relation to the information to be provided to *entitled workers* (but the LGPC Secretariat believes it simplifies the process for employers).



**Annex 7 – Flowchart 5 – New *Workers* on or after the Employer’s Staging Date with a contract for less than 3 months (but see [paragraph 47](#) re NOMO casuals)**



**Annex 7 – Flowchart 6 – *Worker* whose contract is extended to 3 months or more**



## Guidance for using the sample letters

You can use these sample letters as they are, or adapt them. You might, for example, want to take out some elements, if you feel your *workers* have the information already. Additionally, you might need to change some elements of the sample letters to make them accurate for your organisation. For example, some of the sample letters (letters B, E, F, G and L) contain information on the appeal process under the Internal Dispute Resolution Procedure (IDRP). Employers may need to alter the sample IDRP wording to that which their pension fund administering authority would prefer them to use.

These sample letters contain the key information needed by *workers* to help them to understand what is happening and why.

The elements that are required by law are shown in blue.

The sample letters contain instructions in square brackets. For example, *[insert date]* or *[Select as appropriate]*. At these points you need to tailor the template with the correct information for your circumstances.

You might also wish to add your authority / company logo and / or the LGPS logo to the sample letters. The LGPS logo and guidelines for its use can be found on the [LGE website](#).

**Annex 7 – Letter A – to be issued to *workers* who, on the employer’s ‘staging date’, are already members of the LGPS.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Confirmation of your membership of the Local Government Pension Scheme**

---

Dear

We will shortly be enrolling / have recently enrolled *[select as appropriate]* into the Local Government Pension Scheme (LGPS) all workers who are / were *[select as appropriate]* not already members of the scheme. The government has introduced a law that requires all employers to do this for workers who are aged 22 or over and under State Pension Age and who are earning over £8,105.00 a year (or pro-rata per pay period).

As you are already a member of the Local Government Pension Scheme in your post as *[enter name of post – if the person participates in the LGPS in more than one post with the employer, enter the titles of all the posts in which the person participates in the LGPS]* I am writing to confirm this change does not affect you in relation to that post / those posts *[select as appropriate]*. However, under the new law we are required to provide you with the following information:

- a) the Local Government Pension Scheme is a qualifying pension scheme, which means it meets or exceeds the government’s new standards;
- b) we must continue to maintain your membership of the LGPS (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards;
- c) if your membership of the LGPS ends (and it is not because of something you do or fail to do) or we change the scheme in such a way that it no longer meets the government standards we would, if you are under age 75 and earn more than £5,564, immediately have to put you into another scheme that meets those government standards.

### **Further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund’s website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

Yours sincerely

*[insert name of signatory]*

**Annex 7 – Letter B – to be issued to *eligible jobholders* who are being automatically enrolled into the LGPS under the automatic enrolment rules.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Local Government Pension Scheme - A change in the law that affects you**

---

Dear

To help people save more for their retirement, the government now requires employers to enrol their workers into a workplace pension scheme. This applies to those who aren't already in one in respect of any of their employments and who, in respect of that employment:

- earn over £8,105 a year (or pro-rata per pay period),
- are aged 22 or over, and
- are under State Pension Age.

The workplace pension scheme we provide is the Local Government Pension Scheme (LGPS) and I am pleased to confirm that the LGPS is a qualifying pension scheme, which means it meets or exceeds the government's standards.

We are therefore enrolling / enrolled *[select as appropriate]* you into the LGPS on *[insert automatic enrolment date]* in your post as *[enter name of post – if the person participates in the LGPS in more than one post with the employer, enter the titles of all the posts in which the person participates in the LGPS]*.

Once a year you will get a statement indicating how much your pension has built up and how much you might get when you reach retirement age.

A copy of the employees' guide to the LGPS is enclosed / can be obtained from ..... / can be viewed at ..... *[select as appropriate and enter relevant details]*. This provides full details of the benefits of belonging to the scheme.

As a member of the scheme you can, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional Regular Contributions (ARCs) and details of these options are included in the employees' guide to the LGPS.

The contact details for the LGPS are as follows:

*[enter the address, telephone number and electronic contact details for the Pensions Section of the Pension Fund administering authority].*

### **Why is this happening?**

The government's aim is for more people to have another income, on top of the State Pension, when they come to retire. The full basic State Pension in 2012-13 is £107.45 a week for a single person. This is intended to be a foundation - you may want more.

Employers are enrolling their workers automatically into a scheme to make it easier for people to start saving.

### **What does this mean for you?**

We will contribute to the LGPS on your behalf, with our employer contribution to the scheme being determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary. Our current contribution rate is an amount equal to ... % *[enter percentage]* of your pensionable pay.

The contributions you personally make to the LGPS will be in accordance with the following table:

#### **England and Wales – employee contribution tables for 2012/13**

<b>Whole-time equivalent pay rate in the post</b>	<b>Employee Contribution rate</b>
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

#### **Notes:**

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

## Scotland – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

### Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

Your contributions to the LGPS will be deducted from the pensionable pay paid to you each pay period.

You will receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead. In the LGPS, tax relief is given under the net pay arrangements (in accordance with section 193 of the Finance Act 2004). This means you don't need to do anything to get the tax relief paid into your pension. It will happen automatically. Information on how 'net pay' works can be found at: [www.direct.gov.uk/workplacepensiontaxrelief](http://www.direct.gov.uk/workplacepensiontaxrelief)

### **What you need to do now**

**If you want to stay in the pension scheme**, please complete and return the enclosed *[enter details e.g. personal information form to enable details to be entered on your pension record, a death grant expression of wish form, nominated cohabitee form]* forms to ..... *[enter relevant address]*.

**If you want to opt out of the pension scheme**, follow the instructions below.

You have the right to opt out of the LGPS during the 'opt out period' which is 3 months from the date you were enrolled into the LGPS. If you make a valid option out in that period you will be treated for all purposes as not having become an active member of the LGPS on this occasion and we will refund to you the contributions paid by you. Please note that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HMRC (which protects the total value of all

pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate then, as a general rule, you will lose that Protection if you do not opt out within 3 months of being enrolled into the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Fixed Protection if you choose to aggregate that earlier period with your current period of membership **provided** you do not have ‘benefit accrual’. However, you will lose Fixed Protection at the point at which ‘benefit accrual’ occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on ‘benefit accrual’ can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Enhanced Protection if you choose to aggregate that earlier period with your current period of membership.

If you do not opt out within the ‘opt out period’ mentioned above, you will still be able to opt out of the LGPS at any time in the future and be entitled to whatever benefits are due under the rules of the LGPS.

Should you decide to opt out, the opt out form may be obtained from *[insert address of Pensions Section of the Pension Fund administering authority or website address of the Pension Fund administering authority]*, and should be returned to *[enter employer’s address where opt out form is to be returned to]*.

The opt out form would have to be signed by you or, if it is given by means of an electronic communication, it would have to include a statement that you personally submitted the opt out notice. If you are in the LGPS in more than one post you will need to indicate the name of the post or posts from which you wish to opt out of membership of the LGPS.

### **If I opt out, can I re-join the LGPS at a later date?**

Yes. Should you decide at any time to opt out, you have the right to opt to rejoin the LGPS from the beginning of the next available pay period after electing to rejoin (subject, of course, to meeting the normal requirements for being eligible for membership of the scheme and being under age 75 at the time). To do so, contact *[insert who to contact]* in writing by sending a letter, which has to be signed by you. Or, if sending it electronically, it has to contain the phrase “I confirm I personally submitted this notice to join the Local Government Pension Scheme”. *[Insert instructions on where to send the letter/email, or how to find and submit an e-form, as appropriate]*.

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

## **Regular re-enrolment**

If you decide at any time to opt out of membership of the LGPS you will automatically be re-enrolled into the scheme on what is called the “re-enrolment date” if, on that date, you are aged at least 22, under State Pension Age and earning more than £8,105 (current figure), or pro-rata per pay period, unless you had opted out within 12 months prior to the “re-enrolment date”. The “re-enrolment date” is a date chosen by us and will be within a period of 3 months either side of every 3<sup>rd</sup> anniversary of *[enter employer’s staging date]*. We will contact you when this happens, and you can opt out if it’s still not right for you. Please remember to keep us informed of any change in your home address so that we can contact you when necessary.

## **A commitment from us**

We must continue to maintain your membership of the LGPS (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards;

If we were ever to cease to offer you membership the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564 (current figure) or pro-rata per pay period, immediately have to put you into another scheme that meets those government standards.

## **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund’s website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, including any queries about your contribution rate, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

## **Right of Appeal**

If you have sought further information or clarification from the sources shown above but you are not satisfied with any decision affecting you made in

relation to the Local Government Pension Scheme, you have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make should be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### First stage

If you need to make a formal complaint, you should make it:

- in writing to *[insert job title and address of the person your organisation has nominated to hear stage one appeals] (the 'nominated person')*, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the nominated person who is required to give you a decision in writing.

If the nominated person finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

### Second Stage

You can ask the pension scheme administering authority *[or, in Scotland, amend to "You can ask the Scottish Ministers"]* to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the nominated person's first-stage decision,
- you have not received a decision or an interim letter from the nominated person, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority *[or, in Scotland, amend to “to the Scottish Ministers”]*:

- within 6 months of the date of the nominated person’s decision, or
- within 9 months from the date you submitted your complaint if the nominated person has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the nominated person gives you an interim decision but not a final decision, within 7 months of the date the nominated person had promised to give you a final decision.

The administering authority *[or, in Scotland, amend to “The Scottish Ministers”]* will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's *[or, in Scotland, amend to “the Scottish Ministers”]* second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Yours sincerely

*[Insert name of signatory]*

**Annex 7 – Letter C - to be issued to existing *non-eligible jobholders* and *entitled workers* who, on the employer's staging date, are not members of the LGPS, have a contract of employment for 3 months or more and are entitled to opt to join the LGPS under the automatic enrolment rules.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Membership of the Local Government Pension Scheme - A change in the law that affects you**

---

Dear

The government has introduced a law designed to help people save more for their retirement. It requires all employers to enrol workers into a workplace pension scheme if they:

- are not already in one in respect of an employment,
- earn over £8,105.00 a year (or pro-rata per pay period) in that employment,
- are aged 22 or over, and
- are under State Pension Age.

The workplace pension scheme we provide is the Local Government Pension Scheme (LGPS) and I am pleased to confirm that the LGPS is a qualifying pension scheme, which means it meets or exceeds the government's standards.

Had you met all the criteria above we would have automatically enrolled you on *[enter date]*, being the date from which we are required to comply with this law. However, as on that date you either:

- will not / did not\* earn over £8,105.00 a year (pro-rata per pay period), or
- will be / were\* under 22 years old on that date, or
- will be / were\* State Pension Age or older on that date

in your post as *[enter name of post – if the person meets the criteria in more than one post with the employer, enter the titles of all the posts in which the person meets the criteria]* you **will not / have not\*** become a member of the scheme automatically in that post / those posts\*. This is because you do not meet the criteria set by the government.

*\*[Select as appropriate]*

[However, you have the right to join the Local Government Pension Scheme if you want to.](#) If you have more than one post with us, you can choose in which posts you wish to join the scheme.

## **What would joining the pension scheme mean for you?**

Each time you are paid both you and we [would pay money into the Local Government Pension Scheme](#) to provide you with pension benefits when you retire.

If you are a taxpayer, the government would also be contributing to your pension through tax relief and, if you pay National Insurance, you would pay a lower rate of National Insurance.

As a member of the scheme you would be required to contribute the percentage of your salary as set out in the table below *[Delete either the England and Wales table and Note, or the Scotland table and Note]*. [The employer's contribution to the scheme would be determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.](#)

### **England and Wales – employee contribution tables for 2012/13**

<b>Whole-time equivalent pay rate in the post</b>	<b>Employee Contribution rate</b>
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

Note: The pensionable pay figures will be increased annually in line with the cost of living

### **Scotland – employee contribution tables for 2012/13**

<b>Whole-time equivalent pay in the post</b>	<b>Employee Contribution rate</b>
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Note: The pensionable pay figures will be increased annually in line with the cost of living

The LGPS is one of the best ways to plan for retirement with an excellent range of benefits that both full-time and part-time employees can enjoy.

These include, after 3 months *[amend to 2 years in Scotland]* in the scheme:

- A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This could give you benefits, paid straight away, and which could be paid at an increased rate if you are unlikely to be capable of gainful employment within 3 years of leaving *[or, in Scotland “A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This gives graded levels of benefit based on how likely you are to be capable of gainful employment after you leave, with a higher level of benefit for those more seriously ill”].*
- Early payment of benefits if you are made redundant or retired on business efficiency grounds and you are aged 55 or over.
- The right to voluntarily retire from age 60, even though the scheme’s normal pension age is 65. You can even retire from as early as age 55, provided your employer agrees.
- Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. Provided your employer agrees, you can draw some or all of your benefits – helping you ease into your retirement *[or, in Scotland, “Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. You can draw some or all of your benefits – helping you ease into your retirement – but you need your employer’s permission if you are under age 60].*
- If you choose to voluntarily retire before 65, or take flexible retirement before then, your benefits would normally be reduced to account for them being paid for longer.
- You can even stay in the LGPS if you carry on working beyond age 65, although you have to draw your benefits by age 75. Benefits drawn after age 65 will be paid at an increased rate.

There is also:

- Life cover from the moment you join, with a lump sum of 3 years’ pay being paid if you die in service.
- Cover for your family, with a pension for your husband, wife, registered civil partner or nominated cohabiting partner and for eligible children if you die in service or die after leaving with a pension entitlement.

On retirement:

- You would get a pension for life that increases with the cost of living, and
- You can exchange part of your annual pension for a one off tax-free cash payment.

What's more:

- It's currently a final salary scheme, which means your benefits would normally be based on your final year's pensionable pay and the number of years you have been a member of the scheme.
- Once a year you would get a statement indicating how much your pension has built up so far and how much you might get when you reach retirement age.
- As a member of the scheme you could, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional Regular Contributions (ARCs).

**Please note**, however, that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HM Revenue and Customs (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate then, as a general rule, you will lose the Fixed or Enhanced Protection if you opt to join the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Fixed Protection if you opt to join the LGPS and aggregate that earlier period with your new period of membership **provided** you do not have 'benefit accrual'. However, you will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on 'benefit accrual' can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Enhanced Protection if you opt to join the LGPS and aggregate that earlier period with your current period of membership.

### **What to do if you want to join the Local Government Pension Scheme**

If you want to join the LGPS, please contact *[insert name of relevant person]* in writing either by:

- sending a letter, signed by you, to *[insert address]* stating the name of the post in which you wish to join the scheme; or
- sending an email with your request containing the phrase "I confirm I personally submitted this notice to join a workplace pension scheme" to *[insert email address]*

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

## **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund's website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme or you think that we have incorrectly determined your status because you meet the criteria in the first four bullet points of this letter, please contact *[insert relevant contact details]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

Yours sincerely  
*[Insert name of signatory]*

**Q: I earn less than £8,105.01 a year in my post (pro-rata per pay period): if I don't join the pension scheme now, what happens if I start to earn more than £8,105.00 a year (pro-rata per pay period) in my post in the future?**

**A:** If in any pay period you start earning above the minimum (currently £8,105.00 a year or pro-rata per pay period), you will be automatically enrolled into our workplace pension scheme (the LGPS), so long as you are aged 22 or over and are under State Pension Age.

If this happens, we will write to you again to give you all the information you need. You can choose to **opt out** of the scheme at that time if you want to, but if you stay in both we and you would pay money into the LGPS to provide you with pension benefits when you retire.

**Q: I am younger than 22: if I don't join the pension scheme now, what happens when I reach 22?**

**A:** If you are earning over the minimum (currently £8,105.00 a year or pro-rata per pay period) in your post when you reach 22, you will be automatically enrolled into our workplace pension scheme (the LGPS) from your 22<sup>nd</sup> birthday. We will write to you again, nearer to your 22<sup>nd</sup> birthday, to give you all the information you need.

You can choose to **opt out** of the scheme at that time if you want to, but if you stay in both we and you would pay money into the LGPS to provide you with pension benefits when you retire.

Annex 7 – Letter D - to be issued to **workers** who, after commencement of employment, and after the employer’s ‘staging date’, become a **non-eligible jobholder** or an **entitled worker** for the first time, are not members of the LGPS and have a contract of employment for 3 months or more.

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **The Local Government Pension Scheme - A change in the law that affects you**

---

Dear

The government has introduced a law designed to help people save more for their retirement.

The law requires that when, in an employment, a worker:

- aged at least 16 and under age 75 first earns less than £5,564 (or pro-rata per pay period), or
- aged at least 16 and under age 75 first earns £5,564 or more but less than or equal to £8,105 (or pro-rata per pay period), or
- aged at least 16 and under age 22 first earns more than £8,105 (or pro-rata per pay period), or
- aged State Pension Age or over but under age 75 first earns more than £8,105 (or pro-rata per pay period)

the employer must offer the worker membership of a pension scheme.

The workplace pension scheme we offer is the Local Government Pension Scheme (LGPS).

As you are not currently a member of the LGPS and have now met one of the above criteria in your post as *[enter name of post – if the person meets the criteria in more than one post with the employer, enter the titles of all the posts in which the person meets the criteria]*, **I am writing to let you know that you have the right to join the scheme if you want to** in that post / those posts\*. *[Select as appropriate]*

If you have more than one post with us, you can choose in which posts you wish to join the scheme.

### **What would joining the pension scheme mean for you?**

Each time you are paid both you **and we would pay money into the Local Government Pension Scheme** to provide you with pension benefits when you retire.

If you are a taxpayer, the government would also be contributing to your pension through tax relief and, if you pay National Insurance, you would pay a lower rate of National Insurance.

As a member of the scheme you would be required to contribute the percentage of your salary as set out in the table below *[Delete either the England and Wales table and Note, or the Scotland table and Note]*. [The employer's contribution to the scheme would be determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.](#)

**England and Wales** – employee contribution tables for 2012/13

Whole-time equivalent pay rate in the post	Employee Contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

Note: The pensionable pay figures will be increased annually in line with the cost of living

**Scotland** – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Note: The pensionable pay figures will be increased annually in line with the cost of living

The LGPS is one of the best ways to plan for retirement with an excellent range of benefits that both full-time and part-time employees can enjoy.

These include, after 3 months *[amend to 2 years in Scotland]* in the scheme:

- A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This could give you benefits, paid straight away, and which could be paid at an increased rate if you are unlikely to be capable of gainful employment within 3 years of leaving *[or, in Scotland “A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This gives graded*

*levels of benefit based on how likely you are to be capable of gainful employment after you leave, with a higher level of benefit for those more seriously ill”].*

- Early payment of benefits if you are made redundant or retired on business efficiency grounds and you are aged 55 or over.
- The right to voluntarily retire from age 60, even though the scheme’s normal pension age is 65. You can even retire from as early as age 55, provided your employer agrees.
- Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. Provided your employer agrees, you can draw some or all of your benefits – helping you ease into your retirement *[or, in Scotland, “Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. You can draw some or all of your benefits – helping you ease into your retirement – but you need your employer’s permission if you are under age 60].*
- If you choose to voluntarily retire before 65, or take flexible retirement before then, your benefits would normally be reduced to account for them being paid for longer.
- You can even stay in the LGPS if you carry on working beyond age 65, although you have to draw your benefits by age 75. Benefits drawn after age 65 will be paid at an increased rate.

There is also:

- Life cover from the moment you join, with a lump sum of 3 years’ pay being paid if you die in service.
- Cover for your family, with a pension for your husband, wife, registered civil partner or nominated cohabiting partner and for eligible children if you die in service or die after leaving with a pension entitlement.

On retirement:

- You would get a pension for life that increases with the cost of living, and
- You can exchange part of your annual pension for a one off tax-free cash payment.

What’s more:

- It’s currently a final salary scheme, which means your benefits would normally be based on your final year’s pensionable pay and the number of years you have been a member of the scheme.

- Once a year you would get a statement indicating how much your pension has built up so far and how much you might get when you reach retirement age.
- As a member of the scheme you could, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional Regular Contributions (ARCs).

**Please note**, however, that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HM Revenue and Customs (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate then, as a general rule, you will lose the Fixed or Enhanced Protection if you opt to join the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Fixed Protection if you opt to join the LGPS and aggregate that earlier period with your new period of membership **provided** you do not have 'benefit accrual'. However, you will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on 'benefit accrual' can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Enhanced Protection if you opt to join the LGPS and aggregate that earlier period with your current period of membership.

### **What to do if you want to join the Local Government Pension Scheme**

If you want to join the LGPS, please contact *[insert name of relevant person]* in writing either by:

- sending a letter, signed by you, to *[insert address]* stating the name of the post in which you wish to join the scheme; or
- sending an email with your request containing the phrase "I confirm I personally submitted this notice to join a workplace pension scheme" to *[insert email address]*

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund's website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme or you think that we have incorrectly determined your status because you do not meet any of the criteria in the first four bullet points of this letter, please contact *[insert relevant contact details]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

Yours sincerely

*[Insert name of signatory]*

**Annex 7 – Letter E - to be issued to *workers* who, after commencement of employment, and after the employer’s ‘staging date’, opt to join the LGPS under the automatic enrolment rules.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Membership of the Local Government Pension Scheme**

---

Dear

Thank you for your election to join the Local Government Pension Scheme (LGPS) in your post as *[enter name of post – if the election was in respect of more than one post with the employer, enter the titles of all the posts to which the election relates]* to help you save for your retirement.

I can confirm that you were enrolled / will be enrolled *[delete as appropriate]* into the LGPS as from *[enter date]*.

A copy of the employees' guide to the LGPS is enclosed / can be obtained from ..... / can be viewed at ..... *[select as appropriate and enter relevant details]*. This provides full details of the benefits of belonging to the scheme.

Once a year you will get a statement indicating how much your pension has built up and how much you might get when you reach retirement age.

As a member of the scheme you can, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional Regular Contributions (ARCs) and details of these options are included in the employees' guide to the LGPS.

The contact details for the LGPS are as follows:

*[enter the address, telephone number and electronic contact details for the Pensions Section of the Pension Fund administering authority]*.

### **What does this mean for you?**

We will contribute to the LGPS on your behalf, with our employer contribution to the scheme being determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary. Our current contribution rate is an amount equal to ... % *[enter percentage]* of your pensionable pay.

The contributions you personally make to the LGPS will be in accordance with the following table:

### England and Wales – employee contribution tables for 2012/13

Whole-time equivalent pay rate in the post	Employee Contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

#### Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

### Scotland – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

#### Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

Your contributions to the LGPS will be deducted from the pensionable pay paid to you each pay period.

You will receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead. In the LGPS, tax relief is given under the net pay arrangements (in accordance with section 193 of the Finance Act 2004). This means you don't need to do anything to get the tax relief paid into your pension. It will happen automatically. Information on how 'net pay' works can be found at: [www.direct.gov.uk/workplacepensiontaxrelief](http://www.direct.gov.uk/workplacepensiontaxrelief)

### **What you need to do now**

**Now that you have joined the pension scheme**, if you have not already done so, please complete and return the enclosed *[enter details e.g. personal information form to enable details to be entered on your pension record, a death grant expression of wish form, nominated cohabitee form]* forms to ..... *[enter relevant address]*.

**If you subsequently decide that you want to opt out of the pension scheme**, follow the instructions below.

*[If the person opted in as a non-eligible jobholder, include the following paragraphs on opting out]*

You have the right to opt out of the LGPS during the 'opt out period' which is 3 months from the date you were enrolled into the LGPS. If you make a valid option out in that period, you will be treated for all purposes as not having become an active member of the LGPS on this occasion and we will refund to you the contributions paid by you.

If you do not opt out within the 'opt out period' mentioned above, you will still be able to opt out of the LGPS at any time in the future and be entitled to whatever benefits are due under the rules of the LGPS.

Should you decide to opt out, the opt out form may be obtained from *[insert address of Pensions Section of the Pension Fund administering authority or website address of the Pension Fund administering authority]*, and should be returned to *[enter employer's address where opt out form is to be returned to]*.

The opt out form would have to be signed by you or, if it is given by means of an electronic communication, it would have to include a statement that you personally submitted the opt out notice. If you are in the LGPS in more than one post you will need to indicate the name of the post or posts from which you which to opt out of membership of the LGPS.

*[If the person opted in as an entitled worker, include the following paragraphs on opting out]*

You have the right to opt out of the LGPS at any time in the future in accordance with the opt out rules of the LGPS (and be entitled to whatever benefits are due under the rules of the LGPS at that time).

Should you decide to opt out, the opt out form may be obtained from *[insert address of Pensions Section of the Pension Fund administering authority or*

*website address of the Pension Fund administering authority], and should be returned to [enter employer's address where opt out form is to be returned to].*

The opt out form would have to be signed by you or, if it is given by means of an electronic communication, it would have to include a statement that you personally submitted the opt out notice. If you are in the LGPS in more than one post you will need to indicate the name of the post or posts from which you wish to opt out of membership of the LGPS.

### **If I opt out, can I re-join the LGPS at a later date?**

Yes. Should you decide at any time to opt out, you have the right to opt to rejoin the LGPS from the beginning of the next available pay period after electing to rejoin (subject, of course, to meeting the normal requirements for being eligible for membership of the scheme and being under age 75 at that time). To do so, contact *[insert who to contact]* in writing by sending a letter, which has to be signed by you. Or, if sending it electronically, it has to contain the phrase "I confirm I personally submitted this notice to join the Local Government Pension Scheme". *[Insert instructions on where to send the letter/email, or how to find and submit an e-form, as appropriate].*

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

### **Regular re-enrolment**

If you decide at any time to opt out of membership of the LGPS you will automatically be re-enrolled into the scheme on what is called the "re-enrolment date" if, on that date, you are aged at least 22, under State Pension Age and earning more than £8,105 (current figure), or pro-rata per pay period, unless you had opted out within 12 months prior to the "re-enrolment date". The "re-enrolment date" is a date chosen by us and will be within a period of 3 months either side of every 3<sup>rd</sup> anniversary of *[enter employer's staging date]*. We will contact you when this happens, and you can opt out if it's still not right for you. Please remember to keep us informed of any change in your home address so that we can contact you when necessary.

### **A commitment from us**

We must continue to maintain your membership of the LGPS (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards.

If we were ever to cease to offer you membership of the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564 (current figure) or pro-rata per pay period, immediately have to put you into another scheme that meets those government standards.

## **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund's website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, including any queries about your contribution rate, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

## **Right of Appeal**

If you have sought further information or clarification from the sources shown above but you are not satisfied with any decision affecting you made in relation to the Local Government Pension Scheme, you have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make should be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### First stage

If you need to make a formal complaint, you should make it:

- in writing to *[insert job title and address of the person your organisation has nominated to hear stage one appeals] (the 'nominated person')*, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the nominated person who is required to give you a decision in writing.

If the nominated person finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

### Second Stage

You can ask the pension scheme administering authority *[or, in Scotland, amend to “You can ask the Scottish Ministers”]* to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the nominated person's first-stage decision,
- you have not received a decision or an interim letter from the nominated person, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority *[or, in Scotland, amend to “to the Scottish Ministers”]*:

- within 6 months of the date of the nominated person’s decision, or
- within 9 months from the date you submitted your complaint if the nominated person has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the nominated person gives you an interim decision but not a final decision, within 7 months of the date the nominated person had promised to give you a final decision.

The administering authority *[or, in Scotland, amend to “The Scottish Ministers”]* will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's *[or, in Scotland, amend to “the Scottish Ministers”]* second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Yours sincerely

*[insert signatory]*



## Annex 7 – Letter F – to be sent to employees ‘contractually enrolled’ into the LGPS

*[Please note: The elements that are required by law are shown in blue. Employers will need to decide whether to use this letter as a stand alone letter / addendum to the contract of employment or whether to incorporate the information into the contract of employment]*

[Insert Date]

### Membership of the Local Government Pension Scheme

---

Dear

I am writing to confirm that we provide membership of the Local Government Pension Scheme (LGPS) to employees aged under 75 who have a contract of employment that is for at least 3 months.

As this applies to you, you will be automatically entered into membership of the LGPS in your post as *[enter name of post – if the person participates in the LGPS in more than one post with the employer, enter the titles of all the posts in which the person participates in the LGPS]*, but have the right to opt out.

*A copy of the employees' guide to the LGPS is enclosed / can be obtained from ..... / can be viewed at ..... [select as appropriate and enter relevant details]*

If you have not already done so, please complete and return the enclosed *[enter details e.g. personal information form to enable details to be entered on your pension record, a death grant expression of wish form, nominated cohabitee form]* forms to ..... *[enter relevant address]*

*As a member of the scheme you will be required to contribute the percentage of your salary as set out in the table below [Delete either the England and Wales table and Notes, or the Scotland table and Notes]. We will also contribute to the scheme on your behalf, with the employer contribution to the scheme being determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.*

#### England and Wales – employee contribution tables for 2012/13

<b>Whole-time equivalent pay rate in the post</b>	<b>Employee Contribution rate</b>
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%

£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

### Scotland – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

### The pension scheme

The Local Government Pension Scheme in which you participate is provided by *[insert name of Pension Fund administering authority]*. The LGPS is a registered public service scheme under Chapter 2 of Part 4 of the Finance Act 2004 and I am pleased to confirm that it is a qualifying pension scheme, which means it meets or exceeds the government's standards. The scheme complies with the relevant provisions of the Pension Schemes Act 1993, the Pensions Act 1995, the Pensions Act 2004, the Pensions Act 2008 and is contracted-out of the State Second Pension (S2P) scheme. Whilst you are a member of the LGPS you will be contracted-out of the State Second Pension (S2P) scheme.

## **Can I opt out of the scheme?**

If you do not wish to be a member of the scheme (or decide at some later date that you do not wish to be a member), you can obtain an opting out form from ..... *[enter details of where person can obtain a form from the Pensions Section of the Pension Fund administering authority or where the form is available for downloading from the Pension Section's website]*. Please note, however, that you cannot sign and date the opting out form until, at the earliest, the first day of membership of the scheme. **If you make a valid option out within 3 months of being enrolled you will be treated for all purposes as not having become an active member of the LGPS on this occasion and we will refund to you the contributions paid by you.** If you opt out after then you will be entitled to whatever benefits are due under the rules of the LGPS.

Please note that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HMRC (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate you will, as a general rule, lose that Protection if you do not opt out within 3 months of being enrolled into the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Fixed Protection if you choose to aggregate that earlier period with your current period of membership **provided** you do not have 'benefit accrual'. However, you will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on 'benefit accrual' can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"]* you will not lose Enhanced Protection if you choose to aggregate that earlier period with your current period of membership.

## **If I opt out, can I re-join the LGPS at a later date?**

Yes. Should you decide at any time to opt out, you have the right to opt to rejoin the LGPS from the beginning of the next available pay period after electing to rejoin (subject, of course, to meeting the normal requirements for being eligible for membership of the scheme and being under age 75 at that time). To do so, contact *[insert who to contact]* in writing by sending a letter, which has to be signed by you. Or, if sending it electronically, it has to contain the phrase "I confirm I personally submitted this notice to join the Local Government Pension Scheme". *[Insert instructions on where to send the letter/email, or how to find and submit an e-form, as appropriate]*.

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

### **Regular re-enrolment**

If you decide at any time to opt out of membership of the LGPS you will automatically be re-enrolled into the scheme on what is called the “re-enrolment date” if, on that date, you are aged at least 22, under State Pension Age and earning more than £8,105 (current figure) or pro-rata per pay period, unless you had opted out within 12 months prior to the “re-enrolment date”. The “re-enrolment date” is a date chosen by us and will be within a period of 3 months either side of every 3<sup>rd</sup> anniversary of *[enter employer’s staging date]*. We will contact you when this happens, and you can opt out if it’s still not right for you. Please remember to keep us informed of any change in your home address so that we can contact you when necessary.

### **A commitment from us**

We must continue to maintain your membership of the LGPS (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards.

If we were ever to cease to offer you membership the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564 (current figure) or pro-rata per pay period, immediately have to put you into another scheme that meets those government standards.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund’s website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, including any queries about your contribution rate, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

### **Right of Appeal**

If you have sought further information or clarification from the sources shown above but you are not satisfied with any decision affecting you made in relation to the Local Government Pension Scheme, you have the right to ask

for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make should be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### First stage

If you need to make a formal complaint, you should make it:

- in writing to *[insert job title and address of the person your organisation has nominated to hear stage one appeals] (the 'nominated person')*, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the nominated person who is required to give you a decision in writing.

If the nominated person finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

### Second Stage

You can ask the pension scheme administering authority *[or, in Scotland, amend to "You can ask the Scottish Ministers"]* to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the nominated person's first-stage decision,
- you have not received a decision or an interim letter from the nominated person, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority *[or, in Scotland, amend to “to the Scottish Ministers”]*:

- within 6 months of the date of the nominated person’s decision, or
- within 9 months from the date you submitted your complaint if the nominated person has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the nominated person gives you an interim decision but not a final decision, within 7 months of the date the nominated person had promised to give you a final decision.

The administering authority *[or, in Scotland, amend to “The Scottish Ministers”]* will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's *[or, in Scotland, amend to “the Scottish Ministers”]* second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Yours sincerely

*[insert signatory]*

**Annex 7 – Letter G – to be sent to employees enrolled into the LGPS when their initial contract of employment of less than 3 months is extended to 3 months or more**

*[Please note: The elements that are required by law are shown in blue. Employers will need to decide whether to use this letter as a stand alone letter / addendum to the contract of employment or whether to incorporate the information into the contract of employment]*

[Insert Date]

**Membership of the Local Government Pension Scheme**

---

Dear

I am writing to confirm that we provide membership of the Local Government Pension Scheme (LGPS) to employees aged under 75 who have a contract of employment that is for at least 3 months.

As your contract was extended on *[enter date]* to be for 3 months or more, you will be automatically entered into membership of the LGPS in respect of that contract, but have the right to opt out.

*A copy of the employees' guide to the LGPS is enclosed / can be obtained from ..... / can be viewed at ..... [select as appropriate and enter relevant details]*

If you have not already done so, please complete and return the enclosed *[enter details e.g. personal information form to enable details to be entered on your pension record, a death grant expression of wish form, nominated cohabitee form]* forms to ..... *[enter relevant address]*

*As a member of the scheme you will be required to contribute the percentage of your salary as set out in the table below [Delete either the England and Wales table and Notes, or the Scotland table and Notes]. We will also contribute to the scheme on your behalf, with the employer contribution to the scheme being determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.*

**England and Wales – employee contribution tables for 2012/13**

<b>Whole-time equivalent pay rate in the post</b>	<b>Employee Contribution rate</b>
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%

More than £85,300	7.5%
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Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

### Scotland – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

### The pension scheme

The Local Government Pension Scheme in which you participate is provided by *[insert name of Pension Fund administering authority]*. The LGPS is a registered public service scheme under Chapter 2 of Part 4 of the Finance Act 2004 and I am pleased to confirm that it is a qualifying pension scheme, which means it meets or exceeds the government's standards. The scheme complies with the relevant provisions of the Pension Schemes Act 1993, the Pensions Act 1995, the Pensions Act 2004, the Pensions Act 2008 and is contracted-out of the State Second Pension (S2P) scheme. Whilst you are a member of the LGPS you will be contracted-out of the State Second Pension (S2P) scheme.

### Can I opt out of the scheme?

If you do not wish to be a member of the scheme (or decide at some later date that you do not wish to be a member), you can obtain an opting out form from ..... *[enter details of where person can obtain a form from the Pensions Section of the Pension Fund administering authority or where the form is available for downloading from the Pension Section's website]*. Please

note, however, that you cannot sign and date the opting out form until, at the earliest, the first day of membership of the scheme. **If you make a valid option out within 3 months of being enrolled you will be treated for all purposes as not having become an active member of the LGPS on this occasion and we will refund to you the contributions paid by you.** If you opt out after then you will be entitled to whatever benefits are due under the rules of the LGPS.

Please note that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HMRC (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate you will, as a general rule, lose that Protection if you do not opt out within 3 months of being enrolled into the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Fixed Protection if you choose to aggregate that earlier period with your current period of membership **provided** you do not have ‘benefit accrual’. However, you will lose Fixed Protection at the point at which ‘benefit accrual’ occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on ‘benefit accrual’ can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and do not opt out within 3 months but have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Enhanced Protection if you choose to aggregate that earlier period with your current period of membership.

### **If I opt out, can I re-join the LGPS at a later date?**

Yes. Should you decide at any time to opt out, you have the right to opt to rejoin the LGPS from the beginning of the next available pay period after electing to rejoin (subject, of course, to meeting the normal requirements for being eligible for membership of the scheme and being under age 75 at that time). To do so, contact *[insert who to contact]* in writing by sending a letter, which has to be signed by you. Or, if sending it electronically, it has to contain the phrase “I confirm I personally submitted this notice to join the Local Government Pension Scheme”. *[Insert instructions on where to send the letter/email, or how to find and submit an e-form, as appropriate]*. You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

### **Regular re-enrolment**

If you decide at any time to opt out of membership of the LGPS you will automatically be re-enrolled into the scheme on what is called the “re-enrolment date” if, on that date, you are aged at least 22, under State Pension Age and earning more than £8,105 (current figure) or pro-rata per pay period,

unless you had opted out within 12 months prior to the “re-enrolment date”. The “re-enrolment date” is a date chosen by us and will be within a period of 3 months either side of every 3<sup>rd</sup> anniversary of *[enter employer’s staging date]*. We will contact you when this happens, and you can opt out if it’s still not right for you. Please remember to keep us informed of any change in your home address so that we can contact you when necessary.

### **A commitment from us**

We must continue to maintain your membership of the LGPS (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards.

If we were ever to cease to offer you membership the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564 (current figure) or pro-rata per pay period, immediately have to put you into another scheme that meets those government standards.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund’s website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, including any queries about your contribution rate, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

### **Right of Appeal**

If you have sought further information or clarification from the sources shown above but you are not satisfied with any decision affecting you made in relation to the Local Government Pension Scheme, you have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make should be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### First stage

If you need to make a formal complaint, you should make it:

- in writing to *[insert job title and address of the person your organisation has nominated to hear stage one appeals] (the 'nominated person')*, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the nominated person who is required to give you a decision in writing.

If the nominated person finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

### Second Stage

You can ask the pension scheme administering authority *[or, in Scotland, amend to "You can ask the Scottish Ministers"]* to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the nominated person's first-stage decision,
- you have not received a decision or an interim letter from the nominated person, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority *[or, in Scotland, amend to "to the Scottish Ministers"]*:

- within 6 months of the date of the nominated person's decision, or
- within 9 months from the date you submitted your complaint if the nominated person has not given you a decision within 3 months of the date you originally submitted your complaint, or

- if the nominated person gives you an interim decision but not a final decision, within 7 months of the date the nominated person had promised to give you a final decision.

The administering authority [*or, in Scotland, amend to “The Scottish Ministers”*] will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's [*or, in Scotland, amend to “the Scottish Ministers”*] second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Yours sincerely  
*[insert signatory]*

**Annex 7 – Letter L – to be sent to employees who opt to join the LGPS during the postponement or transitional delay periods**

*[Please note: The elements that are required by law are shown in blue.]*

[Insert Date]

**Membership of the Local Government Pension Scheme**

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Dear

I am writing to confirm that, as per your written request, you have been entered into membership of the LGPS in your post as *[enter name of post – if the person participates in the LGPS in more than one post with the employer, enter the titles of all the posts in which the person participates in the LGPS]*, as from .....*[enter date from which person has become a member of the scheme]*.

*A copy of the employees' guide to the LGPS is enclosed / can be obtained from ..... / can be viewed at ..... [select as appropriate and enter relevant details]*

If you have not already done so, please complete and return the enclosed *[enter details e.g. personal information form to enable details to be entered on your pension record, a death grant expression of wish form, nominated cohabitee form]* forms to ..... *[enter relevant address]*

*As a member of the scheme you will be required to contribute the percentage of your salary as set out in the table below [Delete either the England and Wales table and Notes, or the Scotland table and Notes]. We will also contribute to the scheme on your behalf, with the employer contribution to the scheme being determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.*

**England and Wales – employee contribution tables for 2012/13**

<b>Whole-time equivalent pay rate in the post</b>	<b>Employee Contribution rate</b>
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

**Scotland** – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Notes:

1. The pensionable pay figures will be increased annually in line with the cost of living.
2. It is our policy to set contribution rates based on pensionable pay as at 1 April each year and not to make any changes during the year. So, even if your pensionable pay were to change during the year such that it fell into a different contribution band, your contribution rate would not change until re-assessment the following 1 April. *[If the employer's policy differs from this approach, please enter appropriate wording relating to your policy]*

Your contributions to the LGPS will be deducted from the pensionable pay paid to you each pay period.

You will receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead. In the LGPS, tax relief is given under the net pay arrangements (in accordance with section 193 of the Finance Act 2004). This means you don't need to do anything to get the tax relief paid into your pension. It will happen automatically. Information on how 'net pay' works can be found at: [www.direct.gov.uk/workplacepensiontaxrelief](http://www.direct.gov.uk/workplacepensiontaxrelief)

Once a year you will get a statement indicating how much your pension has built up and how much you might get when you reach retirement age.

As a member of the scheme you can, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional

Regular Contributions (ARCs) and details of these options are included in the employees' guide to the LGPS.

### **The pension scheme**

The Local Government Pension Scheme in which you participate is provided by *[insert name of Pension Fund administering authority]*. The LGPS is a registered public service scheme under Chapter 2 of Part 4 of the Finance Act 2004. The scheme complies with the relevant provisions of the Pension Schemes Act 1993, the Pensions Act 1995, the Pensions Act 2004, the Pensions Act 2008 and is contracted-out of the State Second Pension (S2P) scheme. Whilst you are a member of the LGPS you will be contracted-out of the State Second Pension (S2P) scheme.

### **Can I opt out of the scheme?**

If you decide at some later date that you do not wish to be a member you can obtain an opting out form from ..... *[enter details of where person can obtain a form from the Pensions Section of the Pension Fund administering authority or where the form is available for downloading from the Pension Section's website]*. If you make a valid option out within 3 months of being enrolled you will be treated for all purposes as not having become an active member of the LGPS on this occasion and we will refund to you the contributions paid by you. If you opt out after then you will be entitled to whatever benefits are due under the rules of the LGPS.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund's website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme, please contact *[insert relevant contact details]*

If you have any other queries, including any queries about your contribution rate, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

### **Right of Appeal**

If you have sought further information or clarification from the sources shown above but you are not satisfied with any decision affecting you made in relation to the Local Government Pension Scheme, you have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint you make should be treated seriously, and considered thoroughly and fairly.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### First stage

If you need to make a formal complaint, you should make it:

- in writing to *[insert job title and address of the person your organisation has nominated to hear stage one appeals] (the 'nominated person')*, and
- normally within 6 months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by the nominated person who is required to give you a decision in writing.

If the nominated person finds in your favour, the body that made the original decision about which you made the complaint will be required to reconsider their decision.

### Second Stage

You can ask the pension scheme administering authority *[or, in Scotland, amend to "You can ask the Scottish Ministers"]* to take a fresh look at your complaint in any of the following circumstances:

- you are not satisfied with the nominated person's first-stage decision,
- you have not received a decision or an interim letter from the nominated person, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision.

You will need to send your complaint in writing to the pension scheme administering authority *[or, in Scotland, amend to "to the Scottish Ministers"]*:

- within 6 months of the date of the nominated person's decision, or

- within 9 months from the date you submitted your complaint if the nominated person has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the nominated person gives you an interim decision but not a final decision, within 7 months of the date the nominated person had promised to give you a final decision.

The administering authority [*or, in Scotland, amend to “The Scottish Ministers”*] will consider your complaint and give you their decision in writing.

If you are still unhappy following the administering authority's [*or, in Scotland, amend to “the Scottish Ministers”*] second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you had complained.

Yours sincerely

*[insert signatory]*

**Annex 7 – Letter P – to be issued to *workers* who have a contract of employment for less than 3 month (but see [paragraph 47](#) re casual employees) for whom the employer wishes to postpone the automatic enrolment duties.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Membership of the Local Government Pension Scheme - A change in the law that affects you**

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Dear

To help people save more for their retirement, the government requires employers to provide their workers with access to a workplace pension scheme.

As an employee with a contract of employment that is for less than 3 months we are, as allowed by law, postponing for a period of 3 months from the commencement of your employment a decision about bringing you into the Local Government Pension Scheme under that contract. You will therefore not, from the commencement of employment, be enrolled into the Local Government Scheme (LGPS) in relation to that contract.

However, you have the right to opt to join the Local Government Pension Scheme in respect of that contract if you so wish.

### **What do I have to do if I want to join the Local Government Pension Scheme now**

If you want to join the LGPS, please contact *[insert name of relevant person]* in writing either by:

- sending a letter, signed by you, to *[insert address]* stating the name of the post in which you wish to join the scheme; or
- sending an email with your request containing the phrase “I confirm I personally submitted this notice to join a workplace pension scheme” to *[insert email address]*

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

**Please note**, however, that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HM Revenue and Customs (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate then you will, as a general rule, lose the Fixed or Enhanced Protection if you opt to join the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and you have earlier LGPS membership in England or Wales [*or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"*] you will not lose Fixed Protection if you opt to join the LGPS and aggregate that earlier period with your new period of membership **provided** you do not have 'benefit accrual'. However, you will lose Fixed Protection at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on 'benefit accrual' can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and you have earlier LGPS membership in England or Wales [*or, if this letter is being sent to a member in Scotland, replace the words "England or Wales with "Scotland"*] you will not lose Enhanced Protection if you opt to join the LGPS and aggregate that earlier period with your current period of membership.

If you join the LGPS then both you and [we will pay into the LGPS each pay period](#) and the government will also contribute through tax relief. The employer will make the required employer contribution to the scheme as determined at each triennial valuation of the Fund by the Pension Fund's appointed actuary.

[The LGPS complies with the requirements of the Pensions Act 2008 to be both an automatic enrolment scheme and a qualifying scheme, which means it meets or exceeds the government's standards.](#)

**What will happen if, before or at the end of the 3 month period, my contract is extended and I have not already opted to join the LGPS?**

If, before or at the end of the end of the 3 month period, your contract is extended so that the total period is for 3 months or more and you have not already opted to join the LGPS, you will be contractually enrolled into the LGPS as from the date the contract is extended.

If your contract is extended so that the total period is for 3 months or more and you do not wish to be a member of the scheme (or decide at some later date that you do not wish to be a member), you will be able to obtain an opting out form from ..... [*enter details of where person can obtain a form from the Pensions Section of the Pension Fund administering authority or where the form is available for downloading from the Pension Section's website*]. Please note, however, that you will not be able to sign and date the opting out form until, at the earliest, the first day of membership of the scheme. [If you make a valid option out within 3 months of being enrolled into the LGPS you would be treated for all purposes as not having become an active member of the LGPS on that occasion and we would refund to you the contributions paid by you.](#) If you were to opt out after then you would be entitled to whatever benefits are due under the rules of the LGPS.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund's website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme or you think that we have incorrectly determined your status because you believe you have a contract of employment that is for 3 months or more, please contact *[insert relevant contact details]*

If you have any other queries, please contact *[insert contact details of appropriate person in your organisation]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

### **A commitment from us**

If you join the Local Government Pension Scheme we must continue to maintain your membership of it (unless you personally choose to opt out of membership of the scheme or cease to be eligible for membership), and we must ensure the scheme continues to meet certain government standards.

If you join the Local Government Pension Scheme and we were ever to cease to offer you membership the scheme, or you cease to be eligible for membership of it whilst in our employment, or we change the scheme in such a way that it no longer meets the government standards, we would, if you are under age 75 and earn more than £5,564 (current figure) or pro-rata per pay period, immediately have to put you into another scheme that meets those government standards.

Yours sincerely

*[Insert name of signatory]*

**Annex 7 – Letter T – to be issued to existing *eligible jobholders* who, on the employer’s ‘staging date’, are not contributing to the LGPS, and the employer has decided to apply the transitional delay period.**

*[Please note: The elements that are required by law are shown in blue]*

[Insert Date]

## **Membership of the Local Government Pension Scheme - A change in the law that affects you**

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Dear

The government has introduced a new law designed to help people save more for their retirement. It requires all employers to enrol workers into a workplace pension scheme if they:

- are not already in one in respect of an employment,
- earn over £8,105.00 a year (or pro-rata per pay period) in that employment,
- are aged 22 or over, and
- are under State Pension age.

The workplace pension scheme we provide is the Local Government Pension Scheme (LGPS) which I am pleased to confirm is a qualifying pension scheme, which means it meets or exceeds the government’s standards

On *[enter date]*, the date we are required to comply with this new law, you meet the criteria to be automatically enrolled into the LGPS in your post as *[enter name of post – if the person meets the criteria in more than one post with the employer, enter the titles of all the posts in which the person is eligible to be automatically enrolled into the LGPS]*. However, the law allows employers to delay automatic enrolment until 1 October 2017 and we have decided to apply this delay in your case. This means you will not be automatically enrolled into the LGPS on *[enter date]* but **we will enrol you into the LGPS on 1 October 2017** if you meet the criteria above on that date.

**However, you have the right to join the Local Government Pension Scheme if you want to in the meantime.** If you have more than one post with us, you can choose in which posts you wish to join the scheme.

### **What would joining the pension scheme mean for you?**

Each time you are paid both you **and we would pay money into the Local Government Pension Scheme** to provide you with pension benefits when you retire.

If you are a taxpayer, the government would also be contributing to your pension through tax relief and, if you pay National Insurance, you would pay a lower rate of National Insurance.

As a member of the scheme you would be required to contribute the percentage of your salary as set out in the table below *[Delete either the England and Wales table and Note, or the Scotland table and Note]*. The employer's contribution to the scheme would be determined at each triennial valuation of the Pension Fund by the Fund's appointed actuary.

**England and Wales** – employee contribution tables for 2012/13

Whole-time equivalent pay rate in the post	Employee Contribution rate
Up to £13,500	5.5%
£13,501 to £15,800	5.8%
£15,801 to £20,400	5.9%
£20,401 to £34,000	6.5%
£34,001 to £45,500	6.8%
£45,501 to £85,300	7.2%
More than £85,300	7.5%

Note: The pensionable pay figures will be increased annually in line with the cost of living

**Scotland** – employee contribution tables for 2012/13

Whole-time equivalent pay in the post	Employee Contribution rate
On earnings up to and including £19,400	5.5%
On earnings above £19,400 and up to £23,700	7.25%
On earnings above £23,700 and up to £32,500	8.5%
On earnings above £32,500 and up to £43,300	9.5%
On earnings above £43,300	12%

Note: The pensionable pay figures will be increased annually in line with the cost of living

The LGPS is one of the best ways to plan for retirement with an excellent range of benefits that both full-time and part-time employees can enjoy.

These include, after 3 months *[amend to 2 years in Scotland]* in the scheme:

- A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This could give you benefits, paid straight away, and which could be paid at an increased rate if you are unlikely to be capable of gainful employment within 3 years of leaving *[or, in Scotland “A tiered ill health retirement package if you have to leave work at any age due to permanent ill health. This gives graded levels of benefit based on how likely you are to be capable of gainful employment after you leave, with a higher level of benefit for those more seriously ill”]*.

- Early payment of benefits if you are made redundant or retired on business efficiency grounds and you are aged 55 or over.
- The right to voluntarily retire from age 60, even though the scheme's normal pension age is 65. You can even retire from as early as age 55, provided your employer agrees.
- Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. Provided your employer agrees, you can draw some or all of your benefits – helping you ease into your retirement *[or, in Scotland, “Flexible retirement from age 55 if you reduce your hours, or move to a less senior position. You can draw some or all of your benefits – helping you ease into your retirement – but you need your employer’s permission if you are under age 60].*
- If you choose to voluntarily retire before 65, or take flexible retirement before then, your benefits would normally be reduced to account for them being paid for longer.
- You can even stay in the LGPS if you carry on working beyond age 65, although you have to draw your benefits by age 75. Benefits drawn after age 65 will be paid at an increased rate.

There is also:

- Life cover from the moment you join, with a lump sum of 3 years' pay being paid if you die in service.
- Cover for your family, with a pension for your husband, wife, registered civil partner or nominated cohabiting partner and for eligible children if you die in service or die after leaving with a pension entitlement.

On retirement:

- You would get a pension for life that increases with the cost of living, and
- You can exchange part of your annual pension for a one off tax-free cash payment.

What's more:

- It's currently a final salary scheme, which means your benefits would normally be based on your final year's pensionable pay and the number of years you have been a member of the scheme.
- Once a year you would get a statement indicating how much your pension has built up so far and how much you might get when you reach retirement age.

- As a member of the scheme you could, if you wish, increase your pension benefits by paying Additional Voluntary Contributions (AVCs) or Additional Regular Contributions (ARCs).

**Please note**, however, that if you are one of the relatively small number of people who applied for, obtained and still hold a Fixed Protection certificate from HM Revenue and Customs (which protects the total value of all pension benefits you can have at £1.8 million without triggering an excess benefits tax charge) or an Enhanced Protection certificate then you will, as a general rule, lose the Fixed or Enhanced Protection if you opt to join the LGPS. There are, however, exceptions to this general rule which are:

- a) if you hold a Fixed Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Fixed Protection if you opt to join the LGPS and aggregate that earlier period with your new period of membership **provided** you do not have ‘benefit accrual’. However, you will lose Fixed Protection at the point at which ‘benefit accrual’ occurs (which could be immediately upon aggregation of your benefits or at some point thereafter). Information on ‘benefit accrual’ can be found on the HMRC website at <http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM11101530.htm#IDAY1VKC>
- b) if you hold an Enhanced Protection certificate and you have earlier LGPS membership in England or Wales *[or, if this letter is being sent to a member in Scotland, replace the words “England or Wales with “Scotland”]* you will not lose Enhanced Protection if you opt to join the LGPS and aggregate that earlier period with your current period of membership.

### **Where to go for further information**

For further information on the Local Government Pension Scheme please visit: *[enter local LGPS Fund’s website address or, alternatively, point to [www.lgps.org.uk](http://www.lgps.org.uk)]*

If you have any questions about the scheme or you think that we have incorrectly determined your status because you do not meet the criteria in the first four bullet points of this letter, please contact *[insert relevant contact details]*

For more general information about pensions and saving for retirement please visit [www.direct.gov.uk/workplacepensions](http://www.direct.gov.uk/workplacepensions).

### **What you need to do now**

This depends on what you want to do. You have three options:

**1 - If you want to join the Local Government Pension Scheme now** please contact *[insert name of relevant person]* in writing either by:

- sending a letter, signed by you, to *[insert address]* stating the name of the post in which you wish to join the scheme; or

- sending an email with your request containing the phrase “I confirm I personally submitted this notice to join a workplace pension scheme” to *[insert email address]*

You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS.

**2 - If you want to join the Local Government Pension Scheme on 1 October 2017** you don't need to do anything. It will happen automatically if you still meet the automatic enrolment criteria on that date. We will write to you again at that time. If on 1 October 2017 you don't meet the criteria, you'll not be automatically enrolled. However, you will still have the right to join the Local Government Pension Scheme if you want (subject to still meeting the eligibility conditions for membership of the scheme) and we will write to you again at that time. Please remember to keep us informed of any change in your home address so that we can contact you when necessary.

**3 - If you do not want to join the Local Government Pension Scheme** you don't need to do anything before 1 October 2017. If you meet the automatic enrolment criteria on that date and are automatically enrolled at that time you will be able to opt out. Instructions on how to do this will be sent to you nearer the time.

Yours sincerely

*[Insert name of signatory]*