

3b

# Detailed guidance for employers

Transitional period for schemes with defined benefits: Delaying automatic enrolment for eligible jobholders who meet certain conditions

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### The different types of worker

Diagram of the different categories of worker and the criteria for each category



### Employer duties and safeguards

At-a-glance summary of the duties and safeguards

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# About this guidance

This guidance is aimed at employers and professional advisers who will support employers to comply with the new employer duties.

It contains essential information that will help them to ensure they are compliant with the new employer duties and safeguards.

This guidance is the third in a subset of guidance on the assessment of a worker. The process of making the assessment is described in **Detailed guidance no. 3 – Assessing the workforce**. In conjunction with this guidance, employers should also read the following guidance:

- **Detailed guidance no. 1 – Employer duties and defining the workforce**
- **Detailed guidance no. 3 – Assessing the workforce**
- **Detailed guidance no. 4 – Pension schemes.**

If an employer chooses to use postponement to postpone automatic enrolment, in effect they postpone the assessment of their worker for a period of up to three months. An employer considering using postponement should read **Detailed guidance no. 3a – Postponement**.

Regardless of when the assessment is carried out, an employer will know, as a result of the assessment, whether the worker is an eligible jobholder, non-eligible jobholder or entitled worker. **Detailed guidance no. 3c – Having completed the assessment** describes the next steps for an employer once they have completed the assessment process. Employers should read 3c in conjunction with this guidance.

We recognise that many employers will already have pension provision for their workers, and that this will often match or exceed the minimum requirements contained in the duties. In these cases, such employers may just need to check that the minimum requirements are covered in their existing processes.


Use our automatic enrolment planner to understand what you need to do and when for automatic enrolment. It also summarises the main steps towards achieving compliance. Employers may find this helpful when navigating this guidance: [www.tpr.gov.uk/ae-planner](http://www.tpr.gov.uk/ae-planner).

It will be helpful to employers to be familiar with the different categories of workers. These are explained in detail in **Detailed guidance no. 1 – Employer duties and defining the workforce** or a quick reminder is available in the Key terms.



**Employers  
may find our  
automatic  
enrolment  
planner  
helpful**

This guidance forms part of the latest version of the detailed guidance for employers (published April 2014). On 1 November 2013, the Department for Work and Pensions (DWP) introduced a number of technical changes to the legislation. These include changes to the deadlines for the provision of information; which came into effect on 1 April 2014. These changes were previously identified by relevant footnotes. In this version of the guidance all references to the one month deadline with a footnote highlighting the change to take effect from 1 April 2014 have been updated to 'six weeks' and the footnote removed. These are the only changes since the last version.



**An employer  
must assess  
each member  
of their  
workforce**

# Introduction

1. The transitional period for schemes with defined benefits allows the employer to choose to delay automatic enrolment (until 30 September 2017). This is only applicable to employers who provide schemes with defined benefits and can only be used in respect of eligible jobholders who meet certain conditions (listed in paragraph 11).

## Important note

On 19 December 2012 the Government announced its intention to introduce retrospective legislation to clarify the law which sets out transitional arrangements for implementing automatic enrolment into workplace pension arrangements.

The transitional provisions differ depending on whether the jobholder is enrolled into a money purchase pension arrangement or is offered membership of a defined benefit pension arrangement. If the former is the case, then both employer and employee minimum contributions are phased in over a transitional period. If the latter, the employer can defer automatic enrolment until the end of a transitional period.

Under the current legislation, where a pension scheme offers both money purchase and defined benefit pensions under a single scheme (known as a hybrid scheme) an employer can postpone automatic enrolment for a jobholder who is eligible only to accrue money purchase benefits under a hybrid scheme.

The proposed amendments to section 30 of the PA 2008, in the current Pensions Bill before Parliament, state that postponement using the transitional period only applies where a defined benefit pension is offered to a jobholder (whether offered under a hybrid scheme or a defined benefit scheme).

The amendment will have retrospective effect. Any employer who has deferred automatic enrolment under section 30 for a jobholder who is entitled only to membership of a money purchase arrangement under a hybrid scheme will need to automatically enrol that jobholder and backdate employer contributions to 19 December 2012 (or their staging date if that is later). As now the jobholder will be able to choose whether they wish to pay their own contributions for the same period.

2. If an employer chooses to apply the transitional period, the automatic enrolment duty is modified for that eligible jobholder. The employer is required to make arrangements by which the eligible jobholder becomes an active member of an automatic enrolment scheme, which is a scheme with defined benefits, with effect from the end of the transitional period (unless the eligible jobholder is already an active member of a qualifying pension scheme with that employer on that date).
3. The transitional period lasts until 30 September 2017. For an employer who chooses to apply the transitional period to any eligible jobholder who meets the conditions, the start of the transitional period will be their first enrolment date (usually their staging date – see paragraph 16) and will end on 30 September 2017 as long as the conditions continue to be met throughout the period.
4. Practically, the transitional period removes the original automatic enrolment date and delays automatic enrolment for these eligible jobholders until after the end of the transitional period.
5. This means that an employer cannot then choose to automatically enrol these workers at an earlier date during the transitional period as the duty has been temporarily modified.
6. During the transitional period, the employer must monitor that the conditions (listed in paragraph 11) continue to be met because, if they do not at any time, the modification falls away and the transitional period ends.
7. An employer should note that the transitional period does not delay automatic enrolment for all their eligible jobholders; it only applies to those the employer chooses to apply it to.
8. The eligible jobholder is able to opt in to any automatic enrolment pension scheme during the transitional period, if they wish. More information on opting in is in **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**.



# Which eligible jobholders can the transitional period apply to?

9. An employer can choose to apply the transitional period for schemes with defined benefits to any of their workers who meet the criteria to be an eligible jobholder on the employer's first enrolment date and provided certain other conditions, described in paragraph 11, are met.
10. The way an employer exercises their choice is to give notice to the eligible jobholder who meets the conditions, within a prescribed period, of their intention to defer automatic enrolment.
11. The conditions that must be met are that:
  - a. the eligible jobholder has been employed by that employer for a continuous period before the employer's first enrolment date, and
  - b. at a point before the employer's first enrolment date, the eligible jobholder was entitled to become an active member of a pension scheme with defined benefits, and
  - c. the eligible jobholder is, and always has been since that point, entitled to become an active member of a pension scheme with defined benefits, and
  - d. the pension scheme with defined benefits is a qualifying scheme, as is any such pension scheme of which the eligible jobholder is entitled to become an active member, on or after the employer's first enrolment date.
12. For an employer who is considering using the transitional period for pension schemes with defined benefits, understanding and identifying their first enrolment date is a key task.

# Applying the transitional period

13. Once satisfied that the worker is an eligible jobholder and the conditions are all met, an employer can apply the transitional period to that eligible jobholder. They do this by giving notice to the eligible jobholder, within a prescribed period, of their intention to defer automatic enrolment.
14. An employer must give the notice before the end of the period of six weeks from the first enrolment date. If the notice is given after this date, the transitional period will not apply.
15. Unless the employer is issuing this notice before their staging date, the employer should identify their first enrolment date so that they can be confident the notice has been given before the end of the period of six weeks from the first enrolment date.

## Employer's first enrolment date

16. An employer's first enrolment date is the date that they first have an eligible jobholder. This will either be:
  - a. their staging date, if the assessment of their workers on this date identifies at least one eligible jobholder, or
  - b. in exceptional circumstances the automatic enrolment date of the first eligible jobholder identified after the staging date (the automatic enrolment date is the date the criteria to be an eligible jobholder are met for the first time and the date from which the employer must automatically enrol the eligible jobholder) ie if the employer has no eligible jobholders at staging.
17. In most cases, an employer will have been able to identify their staging date as their likely first enrolment date, from their initial assessment of their workforce, as part of getting ready. **Detailed guidance no. 2 – Getting ready** has more information.
18. If an employer intends to use postponement on their staging date in respect of all their workers, and is also considering using the transitional period for pension schemes with defined benefits, they will need to take care. Postponement is described in **Detailed guidance no. 3a – Postponement**.

19. This is because if the employer does not assess all of their workers until the end of the postponement period, the possibility exists that one of their postponed workers will meet the criteria to be an eligible jobholder for the first time during the postponement period. Therefore, the employer may miss their first enrolment date and may be unable to use the transitional period.
20. An employer who wishes to use postponement at staging and the transitional period for pension schemes with defined benefits in relation to their workers has three options:
  - a. They can use postponement and use the tailored postponement notice. This will mean that they need to assess their workforce on the staging date for postponement. If they identify any eligible jobholders who meet the conditions, they can apply the transitional period to these workers and apply postponement to the remainder of their workforce
  - b. They can use postponement and general notice A or B but assess their workforce on their staging date, and on the first day of each pay reference period during the postponement period, even though they are not required to do so. This would mean they could identify their first enrolment date. Any eligible jobholders on this date who meet the conditions could have the transitional period applied to them.
  - c. They can choose to assess their workforce on the staging date to identify those who are eligible jobholders and consider whether any meet the conditions. They may use postponement in respect of the remainder of their workforce. This is similar to (a) above, but allows the employer to use general notice A or B.

## Issuing the notice

21. The box below contains the information that must be included in the notice:

### **Mandatory information to be included in the notice for the transitional period for pension schemes with defined benefits**

- A statement that the employer intends to defer automatic enrolment in respect of that jobholder until the end of the transitional period for schemes with defined benefits

continued...

- A statement that the jobholder may, by giving written notice to the employer, require the employer to make arrangements for the jobholder to become an active member of an automatic enrolment scheme and that the employer will make contributions
- A statement that a written notice from the worker must be signed by the worker or, if it is given by means of an electronic communication, must include a statement that the worker personally submitted the notice
- A statement where further information about pensions and saving for retirement may be obtained.

22. The information must be given in writing. This can include information sent by email, but does not include merely signposting to an internet or intranet site or displaying a poster in the workplace.
23. Someone acting on the employer's behalf, such as an independent financial adviser, benefit consultant, accountant or bookkeeper can give the information, but it remains the employer's responsibility to make sure it is given, on time, and is correct and complete.
24. A template for this notice is available on our website at [www.tpr.gov.uk/eligible-pre-existing](http://www.tpr.gov.uk/eligible-pre-existing). This template is one way that an employer may choose to communicate the information. An employer may add their own wording or use their own templates as long as the underlying requirements in the box above are met.

## During the transitional period

25. During the transitional period, the employer must monitor that the conditions continue to be met for that eligible jobholder because, if they stop at any time, the modification falls away and the transitional period ends.

# When the transitional period ends

26. The transitional period ends on one of these dates:
  - a. 30 September 2017, or
  - b. The date any of the conditions cease to be met, where that is earlier than 30 September 2017.
27. The action an employer must take at the end of the transitional period in respect of that eligible jobholder differs, depending on when it ends.

## A. On the date set in law – 30 September 2017

28. At the end of the transitional period, the worker who has been subject to the transitional period is treated like a new starter for the employer, although the employer has the modified automatic enrolment duty in relation to such workers (ie to make arrangements by which the eligible jobholder becomes an active member of an automatic enrolment scheme which is a scheme with defined benefits, with effect from the end of the transitional period).
29. This means that the day after the end of the transitional period (1 October 2017) becomes the assessment date for that worker, and the employer must run the usual assessment of whether they are an eligible jobholder on that date.
30. If the worker meets the conditions of an eligible jobholder, then unless the eligible jobholder is already an active member of a qualifying scheme with that employer, the employer can choose to either automatically enrol the eligible jobholder into a scheme with defined benefits or apply a postponement period of up to three months.
31. If the eligible jobholder is an active member of qualifying scheme with that employer on 1 October 2017, the employer must tell them about their active membership of the scheme (if they have never previously given the information) (see **Detailed guidance no. 3c – Having completed the assessment**).

## B. The conditions stop being met before 30 September 2017

32. If, at any point from the employer's first enrolment date to 30 September 2017, the conditions for the transitional period stop being met, an alternative modification is applied to the automatic enrolment duty.
33. In these circumstances the employer must automatically enrol the eligible jobholder into an automatic enrolment scheme or choose to use postponement. The date from which membership will need to commence will depend upon the type of automatic enrolment scheme that the jobholder is going to be enrolled into.

### In a pension scheme with defined benefits

34. If an employer chooses to fulfil their duty using a pension scheme with defined benefits, the employer must make arrangements so that the eligible jobholder becomes an active member of such a pension scheme, with effect from the day after the conditions stopped being met (referred to as the closure date in the legislation).
35. Practically, this means that the employer must run the assessment of eligible jobholder status in the usual way, with a new assessment date of the day after the conditions stop being met.
36. If the worker is an eligible jobholder on that date then unless the eligible jobholder is already an active member of a qualifying scheme with that employer, the employer can choose to either automatically enrol the eligible jobholder into the automatic enrolment pension scheme with defined benefits, or apply a postponement period of up to three months.
37. If the eligible jobholder is an active member of qualifying scheme on the day after the conditions stopped being met, the employer must tell them about their active membership of the scheme (if they have never previously given the information).

## In a DC occupational or personal automatic enrolment pension scheme

38. If an employer chooses to fulfil their duty using a defined contribution (DC) occupational or personal pension automatic enrolment scheme, the employer must make arrangements so that the eligible jobholder becomes an active member of such a pension scheme, with effect from their automatic enrolment date.
39. The automatic enrolment date is the eligible jobholder's original automatic enrolment date, as if the transitional period had never applied. In practice, this will be the same date as the first enrolment date.
40. This means that the employer must run the assessment of eligible jobholder status in the usual way, with a new assessment date of the day after the conditions stop being met.
41. If the worker is an eligible jobholder on that date and is not already an active member of a qualifying pension scheme with that employer, the employer can choose to either automatically enrol the eligible jobholder into the DC automatic enrolment scheme or apply a postponement period of up to three months (which would run from the original automatic enrolment date).
42. Where automatic enrolment is triggered, the employer's contributions must be backdated to the original automatic enrolment date or the deferral date if postponement has been used.
43. If the eligible jobholder would be required under the pension scheme rules (in the case of a DC occupational scheme) or minimum requirements (in the case of a DC personal pension) to pay any contributions, this does not apply between that original automatic enrolment date (or deferral date) and the day the conditions ceased being met.
44. The eligible jobholder can, however, choose to pay the contributions that would have been payable in this period, if they wish. If they decide to do this, the employer and the jobholder enter into an arrangement for the payment of these contributions. The amount of the contributions in this agreement is set by the law – the amount of contributions due from the first enrolment date to the day the conditions stopped being met. The period over which these contributions must be paid is also set by the law. The length of the arrangement is either:
  - a. from the next pay reference period after the date the eligible jobholder asked the employer to make the arrangements for them to pay contributions to 30 June 2017, or
  - b. a shorter period, as agreed with the eligible jobholder.



45. For every pay reference period during the payment arrangement, the employer must deduct these contributions. The employer will need to establish the number of pay reference periods in the payment arrangement and the amount of contributions due, to work out the weekly or monthly (or whatever period the eligible jobholder is paid) payments.

**The  
amount of  
contributions  
in this  
agreement is  
set by law**

# What next?

The last guide in this subset, **Detailed guidance no. 3c – Having completed the assessment**, contains the next steps for an employer and should be read in conjunction with this guidance.

For employers who know they will, or are likely to have, an automatic enrolment duty, the next step should be to read **Detailed guidance no. 5 – Automatic enrolment**. It contains detailed information on the automatic enrolment process, from identifying who, when and how to automatically enrol, to an employer's ongoing responsibilities once the automatic enrolment process is complete.

# Key terms

## Summary of the different categories of worker

Category of worker	Description of worker
Worker	An employee or someone who has a contract to perform work or services personally, that is not undertaking the work as part of their own business.
Jobholder	A worker who: <ul style="list-style-type: none"><li>• is aged between 16 and 74</li><li>• is working or ordinarily works in the UK under their contract</li><li>• has qualifying earnings.</li></ul>
Eligible jobholder	A jobholder who: <ul style="list-style-type: none"><li>• is aged between 22 and state pension age</li><li>• has qualifying earnings above the earnings trigger for automatic enrolment.</li></ul>
Non-eligible jobholder	A jobholder who: <ul style="list-style-type: none"><li>• is aged between 16 and 21 or state pension age and 74</li><li>• has qualifying earnings above the earnings trigger for automatic enrolment</li></ul> or <ul style="list-style-type: none"><li>• is aged between 16 and 74</li><li>• has qualifying earnings below the earnings trigger for automatic enrolment.</li></ul>
Entitled worker	A worker who: <ul style="list-style-type: none"><li>• is aged between 16 and 74</li><li>• is working or ordinarily works in the UK under their contract</li><li>• does not have qualifying earnings.</li></ul>

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