

AUTOMATIC ENROLMENT GUIDE Local Government Pensions Committee (LGPC)	
Index	Page
Introduction	5
Disclaimer	10
Copyright	11
Background	11
Brief summary of the requirements	15
Matters for employers to consider – a checklist	17
Matters for Pension Fund administering authorities to consider – a checklist	24
Staged process for employers to be brought into the automatic enrolment regime	32
<ul style="list-style-type: none"> - ‘Staging dates’ for employers - ‘Staging dates’ for certain employers with less than 50 workers - How to determine the ‘staging date’ for existing employers - Employers with more than one PAYE scheme - Employers who share a PAYE scheme - Maintained schools - Academies - Employee led organisations - Takeovers, mergers, TUPE transfers, etc - Option to bring forward the ‘staging date’ 	32 32 32 33 33 33 34 34 35 37
Operating the automatic enrolment rules - general information	39
<ul style="list-style-type: none"> - Categories of worker - Rules for existing and new workers differ slightly - Multiple contracts - Seconded - Agency workers - Workers aged 75 or over - Changes to the LGPS to comply with automatic enrolment requirements - Requirements if no eligible jobholders 	39 40 40 40 41 41 41 43
Operating the automatic enrolment rules for workers who commence	43

<u>employment on or after the employer's 'staging date' - general</u>	
<u>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'</u>	44
- <u>Eligible jobholders and non-eligible jobholders</u>	44
- <u>Entitled workers</u>	45
- <u>Opt out procedure</u>	47
<u>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'</u>	47
<u>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 first time since commencing employment with the employer</u>	51
- <u>Information for the eligible jobholder</u>	58
- <u>Information for the Pensions Section</u>	59
- <u>Eligible jobholder wants to opt out after being automatically enrolled</u>	60
- <u>Eligible jobholder opts out - after being automatically enrolled and within the 'automatic enrolment opt out window'</u>	61
- <u>Eligible jobholder opts out - after being automatically enrolled but outside the 'automatic enrolment opt out window'</u>	62
<u>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 first time since commencing employment with the employer</u>	63
- <u>Information for the non-eligible jobholder - right to opt back into the LGPS</u>	64
- <u>Information for the non-eligible jobholder - if they opt back into the LGPS</u>	65
- <u>Information for the Pensions Section - if the non-eligible job holder opts back into the LGPS</u>	66
- <u>Opt out procedure - non-eligible jobholder who opts in wants to opt out</u>	67
- <u>Opt out procedure - non-eligible jobholder opts out after being enrolled and within the 'enrolment opt out window'</u>	68
- <u>Opt out procedure - non-eligible jobholder opts out after being enrolled but outside the 'enrolment opt out window'</u>	69
<u>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 first time since commencing employment with the employer</u>	70

- Information for the entitled worker - right to opt back into the LGPS	70
- Information for the Pensions Section - if the entitled worker opts back into the LGPS	72
- Opt out procedure - entitled worker opts out after being enrolled	73
Can the opt out procedures that apply under the LGPS and under the Pensions Act 2008 be aligned?	73
Re-enrolment rules - employees who commence employment on or after the employer's 'staging date'	77
Existing employees on the employer's 'staging date' – general	81
Existing employees who, on the employer's 'staging date', are already active members of the LGPS in relation to the contract	81
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	83
- Existing eligible jobholders - options	83
- The transitional delay period for existing eligible jobholders	84
- Reasons to use the transitional delay period for existing eligible jobholders	85
- Employer chooses to use the transitional delay period	87
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 that contract	91
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	92
- Eligible jobholders	92
- Non-eligible jobholders and entitled workers	93
Payment of contributions	93
Registration with The Pensions Regulator – completing a declaration of compliance	95
- Initial declaration of compliance	95
- Three yearly re-declaration of compliance	97
Records to be kept by employers	99

<u>Records to be kept by the Pension Fund administering authority</u>	102
<u>Prohibited recruitment conduct</u>	104
<u>Inducement to opt out of the LGPS (or any other qualifying scheme)</u>	104
<u>Unfair treatment of workers</u>	104
<u>Compliance</u>	105
- <u>Employer compliance notice</u>	105
- <u>Third party compliance notice</u>	106
- <u>Unpaid contributions notice</u>	106
- <u>Prohibited recruitment conduct compliance notice</u>	106
<u>Penalties</u>	106
- <u>Fixed penalty notice</u>	106
- <u>Escalating penalty notice</u>	107
- <u>Prohibited recruitment penalty notice</u>	107
<u>Wilful failure to comply</u>	107
<u>Can employers choose not to offer the LGPS?</u>	108
<u>Annex 1 – Glossary</u>	114
<u>Annex 2 – Table of ‘staging dates’</u>	124
<u>Annex 3 – Information requirements</u>	130
<u>Annex 4 – Opt-out form</u>	135
<u>Annex 5 – Copy of the Alternative Quality Test – Cost Accruals certificates for the LGPS England & Wales and the LGPS Scotland</u>	145
<u>Annex 6 – The “value” of contributions</u>	148
<u>Annex 7 – Flowcharts and sample letters</u>	151

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"> • the regulations governing the LGPS i.e. <ul style="list-style-type: none"> a) the Local Government Pension Scheme Regulations 2013 (as amended) [SI 2013/2356] b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended) [SI 2014/525] c) the Local Government Pension Scheme (Scotland) Regulations 2014 (as amended) [SSI 2014/164] d) the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014 (as amended) [SSI 2014/233] e) the LGPS (Transitional Provisions) (Scotland) Regulations 2008 (as amended) [SSI 2008/229] • the provisions of the Pensions Act 2008 (as amended by a correction slip and by the Pensions Act 2011 and the Pensions Act 2014) • related Statutory Instruments i.e. <ul style="list-style-type: none"> a) the Employers' Duties (Implementation) Regulations 2010 [SI 2010/4] b) the Employers' Duties (Registration and Compliance) Regulations 2010 [SI 2010/5] c) the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772] d) the Automatic Enrolment (Miscellaneous Amendments) Regulations 2012 [SI 2012/215] e) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 [SI 2012/1257] f) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 2) Regulations 2012 [SI 2012/1477] g) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2012 [SI 2012/1506] h) the Employers' Duties (Implementation) (Amendment) Regulations 2012 [SI 2012/1813] i) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 3) Regulations 2012 [SI 2012/2691] j) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2013 [SI 2013/2328] k) the Automatic Enrolment (Miscellaneous Amendments) Regulations 2013 [SI 2013/2556] 	

<p>l) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2014 [SI 2014/623]</p> <p>m) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2014 [SI 2014/715]</p> <p>n) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2015 [SI 2015/468]</p> <p>o) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2015 [SI 2015/501]</p> <p>p) the Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments Regulations 2016) [SI 2016/311]</p> <p>q) The Pensions Act 2014 (Abolition of Contracting – out for Salary Related Pension Schemes) (Consequential Amendments) Order 2016 [SI 2016/200]</p> <p>r) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2016 [SI 2016/435]</p> <p>s) the Occupational and Personal Pension Schemes (Automatic Enrolment)(Amendment) Regulations 2017 [SI 2017/79] effective from 6 March 2017</p> <p>t) the Employers’ Duties (Implementation)(Amendment) Regulations 2016 [SI 2016/719] (no changes necessary to the guide, effective from 1 October 2016)</p> <p>u) the Employers’ Duties (Implementation) (Amendment) Regulations 2017 [SI 2017/347] effective from 1 April 2017</p> <p>v) the Automatic Enrolment (Earnings Trigger and Qualifying Earnings Band) Order 2017 [SI 2017/394]</p> <ul style="list-style-type: none"> • guidance and information on automatic enrolment on The Pensions Regulator’s website • 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. <p>2. It should be noted that:</p> <ul style="list-style-type: none"> • 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 	
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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 (even when, for councillors in England, they cease the term of office they were serving on 1 April 2014 and cease to be eligible for membership of the LGPS). 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. However, the position is muddled somewhat in Scotland because councillors in Scotland are remunerated – see <http://www.scotland.gov.uk/Publications/2010/04/12120139/1> for further information. As part of the response to the DWP [consultation](#) on proposed technical changes to auto-enrolment the LGPC Secretariat had requested that the position of councillors be made certain. In its [response](#), the DWP said “Local authority councillors who do not have a worker’s contract are not covered by the employer duties. An exception [to the automatic enrolment duties] is not needed.” Furthermore, the Government, on page 10 of its [response](#) to the consultation on “Taxpayer-funded pensions for councillors and other elected local office holders” said “the Government does not believe, as some have argued, that councillors are employed by local authorities or that they are workers or part-time workers”.

- prior to 1 April 2015 there were three categories of teacher that were 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 could not 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 could not join the TPS in the part-time contract. However, this did not apply to any teachers who prior to that date had a part-time contract additional to full-time and who remained 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, part-time teachers under normal pension age in the TPS who retired on the grounds of ill-health prior to 1 April 1997, and were thus permitted to undertake a degree of teaching work without losing the entitlement to the

benefits involved, were not able to rejoin the TPS in respect of that part-time re-employment until they attained normal pension age.

However, as from 1 April 2015, the position changed to the following (which represents a change to (i) and (ii) above, but not to (iii) above):

- (i) in England and Wales, full-time teachers with an additional part-time teaching contract cannot join the TPS in the part-time contract whilst they are members of the TPS final salary pension scheme. However, upon ceasing to be eligible for membership of the TPS final salary pension scheme they will be eligible for membership of the TPS career average revalued earnings (CARE) scheme under both the full-time and the part-time teaching contracts (and so will, from that point onwards, not be eligible for membership of the LGPS in the teaching posts and have to be moved into the TPS CARE scheme in those posts),
- (ii) in Scotland, full-time teachers with an additional part-time teaching contract cannot join the TPS in the part-time contract whilst they are members of the TPS final salary pension scheme. However, upon ceasing to be eligible for membership of the TPS final salary pension scheme they will be eligible for membership of the TPS career average revalued earnings (CARE) scheme under both the full-time and the part-time teaching contracts (and so will, from that point onwards, not be eligible for membership of the LGPS in the teaching posts and have to be moved into the TPS CARE scheme in those posts), 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 attained normal pension age.

Those in category (i) are, therefore, eligible to join the LGPS in the part-time contract (until they cease the full-time contract or they move to the TPS CARE scheme) if they are employed by an employer participating in the LGPS in England or Wales under Part 1 of Schedule 2 of the LGPS Regulations 2013 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 or they move to the TPS CARE scheme) if they are employed by an employer participating in the LGPS in Scotland under Part 1 of Schedule 2 of the LGPS

(Scotland) Regulations 2014 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 and is still eligible for membership of the TPS final salary scheme, 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 might 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 might 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 Regulations 2013 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**

<p>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</p> <ul style="list-style-type: none"> • in this Guide: <ul style="list-style-type: none"> - 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 and the Pensions Act 2014, 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 <i>plum coloured font</i> 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 <i>worker</i> must be direct (i.e. via a letter, e-mail, payslip message) and must be personalised (e.g. Dear Mr. Smith) for <i>workers</i> not already in the LGPS, but can be non-personal (e.g. Dear Member) for employees already in the LGPS • the LGPS Career Average Revalued Earnings (CARE) scheme in England and Wales, operative from 1 April 2014, and the new LGPS Career Average Revalued Earnings (CARE) scheme in Scotland, operative from 1 April 2015, contain a 50/50 option. The 50/50 option enables members to pay half their normal contribution rate and, in return, they will build up half their normal pension during that period. The 50/50 option will operate in tandem with the automatic enrolment provisions. Members who elect for the 50/50 section of the scheme will be automatically enrolled back into the main section of the scheme upon the employer’s re-enrolment date under the Pensions Act 2008 (assuming they are still in the 50/50 section at that point in time and regardless of whether the member is an <i>entitled worker</i>, <i>non-eligible jobholder</i> or <i>eligible jobholder</i>) i.e. they will be enrolled into the main section approximately three years after the employer’s ‘staging date’ and again approximately every three years thereafter if they are in the 50/50 section at that time. 	
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<p>3. This Guide has been prepared by the LGPC Secretariat, a part of the</p>	

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<p>Background</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 introduced workplace pensions reforms in 2012.</p> <p>6. The Pensions Act 2008 set out the initial framework for these reforms.</p> <p>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.</p> <p>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</p>	

<p>Personal Pension Schemes (Automatic Enrolment) (Amendment) Regulations 2012 [SI 2012/1257], the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 2) Regulations 2012 [SI 2012/1477], the Employers' Duties (Implementation) (Amendment) Regulations 2012 [SI 2012/1813], the Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 3) Regulations 2012 [SI 2012/2691] and the Automatic Enrolment (Miscellaneous Amendments) Regulations 2013 [SI 2013/2556].</p> <p>9. The Pensions Act 2011 made changes to the Pensions Act 2008.</p> <p>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].</p> <p>11. In March 2012, the DWP issued a consultation paper "Revised implementation proposals for workplace pension reform" setting out:</p> <ul style="list-style-type: none"> • 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-<i>workers</i> 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. <p>Small employers are defined as organisations with less than 50 employees while medium-sized employers have between 50 and 249 employees.</p> <p>The proposals were enacted in the Employers' Duties (Implementation) (Amendment) Regulations 2012 [SI 2012/1813]</p> <p>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 <i>months</i> 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</p>	
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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](#)] and these have now been replaced by the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [[SI 2013/2734](#)]. 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, was 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 **month** 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 have complied 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 proposed 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 Occupational and Personal Pension Schemes (Automatic Enrolment) (Amendment) (No. 3) Regulations 2012 [[SI 2012/2691](#)].
14. On 25 March 2013 the DWP issued a [consultation](#) paper on proposed technical changes to auto-enrolment. Questions 23 and 24 in that paper raise the possibility that employers who contractually enrol all their workers into a **qualifying scheme** (such as the LGPS) could be certified, or be allowed to self-certify, that they are meeting the auto-enrolment policy objectives and thus be exempted from the explicit employer duties under the Pensions Act 2008. In its [response](#) to replies to the consultation paper, the DWP said that "there is a strong case for Government to permit employers not to enrol workers who:
 - have tax protected status for existing pension savings
 - are on the brink of leaving employment

- have given notice of imminent retirement
- recently cancelled membership after being contractually enrolled.”

However, this would not go as far as completely exempting the LGPS from the employer duties under the Pensions Act 2008.

14A. Further changes were introduced from November 2013 by [The Automatic Enrolment \(Miscellaneous Amendments\) Regulations 2013 \[SI 2013/2556\]](#). These aimed to simplify the worker assessment processes to better align with payroll processes and to amend the Test Scheme legislation to deliver greater consistency across the quality tests for various Defined Benefit (DB) schemes. The same SI also extended the deadline for appropriate information letters to be issued to *workers* from 1 *month* to 6 weeks, as from 1 April 2014.

14B. As a result of the March 2013 consultation, measures were included in the Pensions Act 2014 which amended the Pensions Act 2008 to further simplify automatic enrolment. These measures were designed to:

- introduce an alternative quality requirement for DB schemes
- simplify the information requirements for employers
- create exceptions to the employer duties in certain circumstances.

Between 1 December 2014 and 9 January 2015 the Government consulted on draft regulations to deliver the above measures and subsequently issued [the Occupational and Personal Pension Schemes \(Automatic Enrolment\) \(Amendment\) Regulations 2015 \[SI 2015/501\]](#), operative from 1 April 2015.

As a result of these regulations employers are not required to automatically enrol or re-enrol *eligible jobholders* :

- (a) who had opted out of the LGPS less than 12 months prior to what would have been the *eligible jobholder's* automatic enrolment or re-enrolment date in relation to the contract, or
- (b) where notice to terminate employment has been given before the end of the period of 6 weeks beginning with what would have been the *eligible jobholder's* enrolment or re-enrolment date in relation to the contract, or
- (c) where the employer has reasonable grounds to believe the *eligible jobholder*, on what would have been the *eligible jobholder's* enrolment or re-enrolment date in relation to the contract, holds Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014, or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016.

although in each of these cases the employer can nevertheless choose to automatically enrol or re-enrol the *eligible jobholder* into the LGPS.

It should be noted that as a result of the changes made by SI2015/501, *eligible jobholders* who had opted out of the LGPS more than 12 months prior to what would have been their automatic enrolment date cannot be automatically enrolled on that date. There is no discretion for employers to choose to automatically enrol such individuals. The LGPS Secretariat have queried this with the Pensions Regulator and DWP as it appears to go against the spirit of automatic enrolment and produces a number of counterintuitive impacts. For example, a person who opted out of a scheme more than 12 months ago (potentially many years ago) could not be automatically enrolled on their automatic enrolment date, whereas a person who opted out less than 12 months before their automatic enrolment could be automatically enrolled, but at the employer's discretion. Nevertheless, DWP have confirmed that this is the policy position and [TPR's guidance](#) on this matter (paragraphs 16 to 21) should be followed. Such individuals must still be brought into the LGPS at their automatic re-enrolment date if they are an *eligible jobholder* at that time.

The protections mentioned in (c) above are protections in respect of the lifetime allowance tax charge. The lifetime allowance is the maximum amount of pension savings that an individual can build up in registered pension schemes which benefit from favourable tax treatment.

Note:

The Lifetime Allowance for pension contributions was reduced from £1.25million to £1million with effect from 6 April 2016.

In their consultation response to the Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016, the Government confirmed with regards to fixed protection 2016 and individual protection 2016 that they *"are aware of the need to make a consequential amendment to our regulations that came into effect in April 2015, which provided for an exception to the employer duty where an employer has reasonable grounds to believe that a worker has transitional protection rights for their pension savings under HMRC legislation, to mirror this new tax protected status to be effective from the same date. This will allow for the policy intent to continue so employers can take advantage of this exception for individuals that are not the core target audience for automatic enrolment. This will also help prevent the risk of individuals being subjected to substantial tax charges should they fail to opt out. Our intention was to amend legislation to provide the discretion for employers under automatic enrolment legislation to be exempt from the duties in relation to anyone with the new tax protected status from 6 April 2016. It has, however, not proved possible to add the necessary provision to the Finance Act 2016, **which would have allowed the revised provisions to be backdated to 6 April 2016.** We therefore intend to introduce regulations at the earliest opportunity but cannot do so before the Finance Act 2016 becomes law. In the interim period, we have*

obtained agreement from HMRC to provide guidance in the Budget briefing on the steps individuals must take to protect their financial position in respect of their transitional protection rights for their pension savings under HMRC legislation. The Pensions Regulator will mirror this guidance their website. HMRC will also ensure their guidance is appropriately amended so that individuals are aware of the further exception under the new protections”.

The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI [2010/772](#)] were amended with effect from 6 March 2017 by the Occupational and Personal Pension Schemes (Automatic Enrolment)(Amendment) Regulations 2017 [SI [2017/79](#)]. During the period after 5 April 2016 and prior to 6 March 2017, an employer must have automatically enrolled or re-enrolled an *eligible jobholder* into the LGPS where that individual held fixed protection 2016 or individual protection 2016, and upon doing so an individual with fixed protection 2016 must have opted out of the LGPS to maintain their tax protection. An individual who held individual protection 2016 and was automatically enrolled after 5 April 2016 and prior to 6 March 2017 would not have lost their tax protection if they continued to save into the LGPS, though any pension savings taken in excess of their personal lifetime allowance (i.e. the lower of £1.25m and the value of their pension savings on 6 April 2016 would attract a lifetime allowance charge.

14C. Further changes were introduced from 6 April 2016 by The Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016 [SI [2016/311](#)]. The amendments: -

- Provide that, where the employer has no job holder who qualifies for automatic enrolment, the employer:
 - (1) does not have to seek agreement from the Scheme administrator to bring forward their automatic enrolment date, and
 - (2) may choose any date prior to the employer's staging date as the early automatic enrolment date.
- Provide that where a worker or job holder has received a winding up lump sum in the previous 12 months, the employer's duty to automatically enrol or re-enrol be turned into a discretion.
- Provide that where the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, the employer's duty to automatically enrol or re-enrol be turned into a discretion.
- Provide employers with an alternative quality requirement based on the cost of accruals, to provide an alternative test for a limited period following the ending of contracting-out.

14D. From 1 April 2017, further changes were implemented by the Employers' Duties (Implementation) (Amendment) Regulations 2017 [SI [2017/347](#)]. The amendments, effective from 1 April 2017:

- Changed the trigger date for the AE duties to apply to employers,

<p>who are:</p> <ul style="list-style-type: none"> - 'non-PAYE' employers and where the employer duties did not already apply to that employer on or after 1 April 2017, the trigger date is the day on which the employer's first worker begins to be employed by the employer. - 'PAYE' employers and where the employer duties do not already apply to that employer and the employer first pays PAYE income in respect of any worker on or after 1 October 2017, the trigger date is the day on which the employer's first worker begins to be employed by the employer. • Introduce a 3 month 'deferral' facility for workers affected by the above. This is in effect an extension of the 'postponement' facility that was already available to existing employers and which allows employers to automatically defer automatically enrolling new workers for a period of up to three months. Any further reference within this guide to a 'postponement period' should be taken to include a 'deferral period' 	
<p>Brief summary of the requirements</p>	
<p>15. Employers are required to comply with new pension duties which were introduced in stages from October 2012 (starting with the largest employers). Every employer in the UK was allocated a date from which the duties would first apply to the employer, known as the employer's 'staging date'. An employer's 'staging date' was based on the number of people in the employer's PAYE scheme on 1 April 2012 and covered new PAYE employers up to and including 30 September 2017. The Pensions Regulator will write to employers to notify them of their 'staging date' at 12 <i>months</i> and 3 <i>months</i> in advance of their 'staging date'. An additional notification will be issued to larger employers at 18 <i>months</i> 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. New PAYE employers on or after 1 October 2017 (as well as new non-PAYE employers after 1 April 2017) become subject to the automatic enrolment duties on the day their first <i>worker</i> becomes employed by the employer.</p> <p>16. Under the new duties, employers have to:</p> <p>a) 'automatically enrol' all <i>eligible jobholders</i> (other than certain</p>	

<p>excepted <i>eligible jobholders</i> who they can choose not to 'automatically enrol' from 1 April 2015 and 6 April 2016 into an <i>automatic enrolment scheme</i>, although the employer can apply a 3 <i>month</i> postponement period (or "waiting period") before doing so,</p> <ul style="list-style-type: none"> b) pay a minimum level of employer contributions or provide a minimum level of benefits for <i>eligible jobholders</i> who are enrolled into the <i>automatic enrolment scheme</i>, c) tell <i>eligible jobholders</i> they have been '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 <i>non-eligible jobholders</i> that they can join a <i>qualifying scheme</i>, provide specified information to them, and inform them that the employer will make a contribution to the <i>qualifying scheme</i> if they join it. Note that although, from 1 April 2015, <i>non-eligible jobholders</i> cannot require the employer to enrol them into a <i>qualifying scheme</i> under the Pensions Act 2008 if notice to terminate employment has been given before the end of the period of 6 weeks beginning with the enrolment date (unless the employer and the <i>non-eligible jobholder</i> agree that notice is to be withdrawn), the person has the right under the LGPS to elect to join the scheme from the beginning of the first pay period after electing to join, e) advise <i>entitled workers</i> that they can join a pension scheme (under the automatic enrolment legislation this does not have to be a <i>qualifying scheme</i> 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 <i>entitled worker</i> with specified information. Note that although, from 1 April 2015, <i>entitled workers</i> cannot require the employer to enrol them into a pension scheme under the Pensions Act 2008 if notice to terminate employment has been given before the end of the period of 6 weeks beginning with the enrolment date (unless the employer and the <i>entitled worker</i> agree that notice is to be withdrawn) the person has the right under the LGPS to elect to join the scheme from the beginning of the first pay period after electing to join, 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) <i>keep records</i> about the pension scheme(s) used to comply with their duties, i) monitor their <i>workers'</i> eligibility status for 'automatic enrolment' purposes, which will include keeping track of <i>workers'</i> age and <i>earnings</i> at all times, j) register with The Pensions Regulator within 4 <i>months</i> of their 'staging date' (or, from 1 April 2014, within 5 <i>months</i> 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 	<p>[Part 1A of SI 2010/772 as amended by SI 2016/311]</p>
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<p>an <i>entitled worker</i>, <i>non-eligible jobholder</i> or <i>eligible jobholder</i> to opt out of the pension scheme,</p> <p>l) not screen out job applicants on grounds relating to potential pension scheme membership as an <i>eligible jobholder</i> or suggest that a job applicant's success could depend on whether or not, should they become an <i>eligible jobholder</i>, they opt out of the pension scheme.</p> <p>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.</p>	
<p>Matters for employers to consider – a checklist</p>	
<p>18. Employers participating in the LGPS will need to understand and prepare for the challenges posed by the Pensions Act 2008. The Pensions Regulator has released an online tool to help employers planning for auto-enrolment. 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.</p> <p>The following is a checklist of matters for employers to consider:</p> <ul style="list-style-type: none"> ✓ 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* (or, from 1 April 2014, within 6 weeks) 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 from the beginning of the pay period following that in which 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 jobholder* for the first time after your 'staging date' (other than, from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol'),
 - b) the appropriate letter is sent to that person (e.g. by HR) within 1 *month* (or, from 1 April 2014, within 6 weeks) 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](#)).

[Part 1A of SI 2010/772 as amended by SI 2016/311]

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* (or, from 1 April 2014, within 6 weeks)

- a) of becoming an *entitled worker* for the first time after your 'staging date', or
 - b) of becoming a *non-eligible jobholder* for the first time after your 'staging date',
- issued with an appropriate letter (e.g. by HR) to remind them they can rejoin the scheme (see [paragraphs 55, 56, 63 and 64](#)).

Alternatively, rather than sending separate letters when a person meets (a) above and subsequently meets (b) above (or vice versa), the employer can, from 1 April 2015, issue (e.g. by HR) an appropriate combined letter on first meeting (a) or (b) which covers the information to be imparted to both an *entitled worker* and a *non-eligible jobholder*.

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](#))~~ [Requirement deleted from 1 April 2015]
- ✓ 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* (or, from 1 April 2014, within 6 weeks) of being brought into the scheme on your 'staging date' (other than, from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol') and joiner information is sent to the Pensions Section of the Pension Fund administering authority within that same period (see [paragraph 82\(a\)](#)).

[Part 1A of SI 2010/772 as amended by SI 2016/311]

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* (or, from 1 April 2014, within 6 weeks) 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](#)) (other than, from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol' at the end of the transitional delay period)

[Reg 33 of SI 2010/772 deleted by SI 2015/501]
[Part 1A of SI 2010/772 as amended by SI 2016/311]

- ✓ 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](#))

Alternatively, rather than sending separate letters to *entitled workers* and *non-eligible jobholders*, the employer can, from 1 April 2015, issue (e.g. by HR) an appropriate combined letter which covers the information to be imparted to both an *entitled worker* and a *non-eligible jobholder* thereby negating the need to issue a further letter if an *entitled worker subsequently becomes* a *non-eligible jobholder* or vice versa.

- ✓ 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* (or, from 1 April 2014, within 6 weeks) 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 from the beginning of the pay period following that in which 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* (or, from 1 April 2014, within 6 weeks) 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 (other than, from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol' at the end of the transitional delay period)

[Part 1A of SI 2010/772 as amended by SI 2016/311]

- ✓ for existing *workers* who
 - a) are *entitled workers* or *non-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* (or, from 1 April 2014, within 6 weeks) 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 from the beginning of the pay period following that in which 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* (or, from 1st April 2014, within 5 *months*) of your 'staging date' (and within 2 *months* 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 *workers* on your 'staging date' who are eligible to be in the LGPS but who have opted out / not joined. 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 (other than from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol'). 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 3rd anniversary of your 'staging date' / last re-enrolment date and ending 3 *months* after the 3rd 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

[Part 1A of SI 2010/772 as amended by SI 2016/311]

[Part 1A of SI 2010/772 as amended by SI 2016/311]

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 into the LGPS (other than, from 1 April 2015 and 6 April 2016, certain excepted *eligible jobholders* who you can choose not to 'automatically enrol') 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 *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 on or after 1 October 2012 so that they can continue with this practice (see [paragraph 38](#))

<p>i) if a person obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme they will lose the relevant protection if they become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If the person wishes to retain their Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary for them to opt out of the LGPS in England or Wales within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of the scheme.</p>	<p>[Finance Act 2016]</p>
<p>ii) if a person holds Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and they have previous benefits in the LGPS in England or Wales they will lose the relevant protection if they become a member of the LGPS in England or Wales and they do not aggregate their benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If the person wishes to retain their Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary for them to opt out of the LGPS in England or Wales within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p>	<p>[Finance Act 2016]</p>
<p>iii) if a person holds Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and they have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) they will lose the relevant protection if:</p> <ul style="list-style-type: none"> - they become a member of the LGPS in England or Wales, and - aggregate their benefits, and - HMRC were to deem this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits). 	<p>[Finance Act 2016]</p>
<p>However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a single arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and HMRC do not deem it to be a new pension 'arrangement' the person will not lose protection unless they have 'benefit</p>	

<p>accrual'. They would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm for more information on 'benefit accrual'.</p> <p>If the person wishes to make certain that they retain their Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary for them to opt out of the LGPS in England or Wales within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p> <p>iv) if a person holds Enhanced Protection and they have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) they will lose that protection if:</p> <ul style="list-style-type: none"> - they become a member of the LGPS in England or Wales, and - aggregate their benefits, and - HMRC were to deem this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits). <p>We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a single arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.</p> <p>If the DCLG view is correct and HMRC do not deem it to be a new pension 'arrangement' the person will not lose protection even if they then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of their 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). This is because the person would be able to notionally split the crystallisation of their defined benefit rights on retirement. This would allow them to reduce their tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. The person would lose the Enhanced Protection if they were to pay contributions into a money purchase pension</p>	<p>[Finance Act 2016]</p> <p>[- Finance Act 2016]</p>
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<p>arrangement (e.g. they were to 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 were to start a new pension arrangement, or if they were to transfer their LGPS benefits to another defined benefit pension scheme.</p> <p>If the person wishes to make certain that they retain their Enhanced Protection it will be necessary for them to opt out of the LGPS in England or Wales within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p> <p>v) if a person holds Fixed Protection 2014 or Fixed Protection 2016 and they are enrolled into the LGPS in England or Wales they will not lose Fixed Protection 2014 or Fixed Protection 2016 if:</p> <ul style="list-style-type: none"> - they do not opt out within 3 <i>months</i>, but - they have earlier LGPS membership in England or Wales which consists only of post 31 March 2014 membership, and - they aggregate the two periods of membership (as this will not constitute entering into a new arrangement) <p>provided they do not have ‘benefit accrual’.</p>	<p>[Finance Act 2016]</p>
<p>However, the person will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which ‘benefit accrual’ occurs (which could be immediately upon aggregation or at some point thereafter) - see http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm for more information on ‘benefit accrual’.</p> <p>For members of the LGPS in Scotland –</p>	<p>[Finance Act 2016]</p>
<p>i) if a person obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme they will lose the relevant protection if they become a member of the LGPS in Scotland (a new pension ‘arrangement’). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If the person wishes to retain their Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary for them to opt out of the LGPS in Scotland within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of the scheme.</p>	<p>[Finance Act 2016]</p>
<p>ii) if a person holds Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and they have previous benefits in the LGPS in Scotland they will lose the</p>	<p>[Finance Act 2016]</p>

<p>relevant protection if they become a member of the LGPS in Scotland and they do not aggregate their benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If the person wishes to retain their Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary for them to opt out of the LGPS in Scotland within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p>	<p>[Finance Act 2016]</p>
<p>iii) if a person holds Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and they have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) they will lose the relevant protection if:</p> <ul style="list-style-type: none"> - they become a member of the LGPS in Scotland, and - aggregate their benefits, and - HMRC were to deem this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits). 	<p>[Finance Act 2016]</p>
<p>However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a single arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the SPPA view is correct and HMRC do not deem it to be a new pension 'arrangement' the person will not lose protection unless they have 'benefit accrual'. They would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm for more information on 'benefit accrual'.</p>	<p>[Finance Act 2016]</p>
<p>If the person wishes to make certain that they retain their Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary for them to opt out of the LGPS in Scotland within 3 <i>months</i> of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p> <p>iv) if a person holds Enhanced Protection and they have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) they will lose that protection if:</p> <ul style="list-style-type: none"> - they become a member of the LGPS in Scotland, and 	<p>[Finance Act 2016]</p>

<ul style="list-style-type: none"> - aggregate their benefits, and - HMRC were to deem this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits). <p>We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a single arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.</p> <p>If the SPPA view is correct and HMRC do not deem it to be a new pension 'arrangement' the person will not lose protection even if they then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of their 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). This is because the person would be able to notionally split the crystallisation of their defined benefit rights on retirement. This would allow them to reduce their tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. The person would lose the Enhanced Protection if they were to pay contributions into a money purchase pension arrangement (e.g. they were to 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 were to start a new pension arrangement, or if they were to transfer their LGPS benefits to another defined benefit pension scheme.</p> <p>If the person wishes to make certain that they retain their Enhanced Protection it will be necessary for them to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring they are treated as never having been a member of that scheme.</p> <p>v) if a person holds Fixed Protection 2016 and they are enrolled into the LGPS in Scotland they will not lose Fixed Protection 2016 if:</p> <ul style="list-style-type: none"> - they do not opt out within 3 months, but - they have earlier LGPS membership in Scotland which consists only of post 31 March 2015 membership, and - they aggregate the two periods of membership (as this will not constitute entering into a new arrangement) <p>provided they do not have 'benefit accrual'.</p>	<p>[Finance Act 2016]</p>
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However, the person will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of their LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

- ✓ 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

Staged process for employers to be brought into the automatic enrolment regime	
<p>21. ‘Staging dates’ for employers: The ‘automatic enrolment’ regime began to be 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"> the ‘staging date’ for employers with 120,000 or more persons within their PAYE scheme on 1 April 2012 will be 1 October 2012 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 Annex 2. <p>The ‘staging date’ for any existing 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 the employer’s first <i>worker</i> begins to be employed by the employer.</p> <p>For new employers:</p> <ul style="list-style-type: none"> 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 Annex 2, and new employers with PAYE income first payable on or after 1 October 2017 and the employer is an employer to whom the employer duties do not already apply will have an immediate ‘staging date’ of the date on which the employer’s first <i>worker</i> begins to be employed by the employer. new employers who did 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 the employer’s first <i>worker</i> begins to be employed by the employer. <p>It should be noted that, when referring to the date that automatic enrolment duties first apply to an employer, the Pensions Regulator uses the term ‘duties start date’ instead of ‘staging date’ for post-staging employers (i.e. new PAYE employers on or after 1 October 2017 and new non-PAYE employers after 1 April 2017) - see section 2 of their detailed guidance document. Despite this, the term ‘staging date’ is often used in this guide as a shorthand for the date that automatic enrolment duties first apply to an employer and, where this is the case, this should be read to include the ‘duties start date’ for</p>	<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 inserted by SI 2017/347]</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 inserted by SI 2017/347]</p> <p>[Regs 2(9) and (10) of SI 2010/4, inserted by SI 2012/1813 inserted by SI 2017/347]</p>

<p>post-staging employers.</p> <p>22. ‘Staging dates’ for certain employers with less than 50 workers: It should be noted that an employer who, on 1 April 2012,</p> <ul style="list-style-type: none"> • had less than 50 <i>workers</i>, and • had, or was part of, one or more PAYE schemes in which there were 50 or more persons <p>can choose to use the alternative ‘staging date’ shown in the final column of the Table at Annex 2.</p> <p>23. How to determine the ‘staging date’ for existing employers: 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 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. Employers with more than one PAYE scheme: 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 paragraph 22).</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>25. Employers who share a PAYE scheme: Subject to the caveat in paragraph 22, 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>[Regs 2(1)(b)(ii), 2(1A) and 4A of SI 2010/4 as inserted by SI 2012/1813]</p> <p>[Regs 2(3) and (4) of SI 2010/4]</p> <p>[Reg 2(5) of SI 2010/4]</p> <p>[Reg 2(2) of SI 2010/4 as amended by SI 2012/215]</p>
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26. **Maintained schools:** Employees employed under a *contract of employment* in a **maintained community, voluntary controlled, community special or maintained nursery school** 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 [paragraph 24](#) above for the explanation. It is recommended that the Local Authority make any such school that has a separate PAYE scheme aware of this.

Although employees of a **foundation school (including a Trust school that is a foundation school), a voluntary aided school or a foundation special school** 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, 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](#). NB: please also see [paragraph 96](#) and [paragraph 98](#) regarding the completion of the declaration of compliance and the re-declaration of compliance by, or by an agent authorised by, a foundation school (including a Trust school that is a foundation school), a voluntary aided school or a foundation special school.

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 2.5 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 any transitional delay (see [paragraphs 83 and 84](#)) implemented by the old employer would lapse and could not be carried forward by the new 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, if the outsourcing body is not covered by the new Fair Deal policy published by the Government on 7 October 2013, only those staff who are active members of the LGPS at the point of transfer, 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 (if covered by The Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012) 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.

Where the body outsourcing the function is covered by the new Fair Deal policy (e.g. academies, including free schools, foundation schools, foundation special schools and voluntary aided schools in England) the contractor cannot cease to offer membership of the LGPS (or, in exceptional circumstances, 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

<p>with the exercise of a function of that body. Furthermore, by virtue of paragraph 2.3 of the new Fair Deal policy, staff who were eligible to participate in the LGPS immediately prior to the transfer, but had opted that their service should not be pensionable, have to be enrolled in the Scheme on the day that the new employment commences and so must, from the outset, be designated in the admission agreement.</p> <p>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 third column of the Table in Annex 2) can, if they wish, bring forward their ‘staging date’ to:</p> <ul style="list-style-type: none"> a) any earlier ‘staging date’ shown in the second 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 <p>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. However, if an employer brings forward their ‘staging date’ it appears that they cannot then issue a postponement notice (to, for example, those of their <i>workers</i> who have a contract of employment of less than 3 months). An alternative solution would be for the employer to retain their ‘staging date’ but issue all <i>workers</i> 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 <i>month</i> (or, from 1 April 2014, within 6 weeks) of the ‘staging date’ and the ‘deferral date’ can be any period up to a maximum of 3 <i>months</i>). However, if the employer wishes to apply the transitional delay period to <i>workers</i> who are <i>eligible jobholders</i> it would appear that the employer might be best advised not to issue a postponement notice to those <i>eligible jobholders</i> – see paragraphs 17-21 of Detailed Guidance no. 3b for more information.</p> <p>An employer who brings forward their ‘staging date’ can still apply the transitional delay period to those <i>workers</i> who are <i>eligible jobholders</i> on the employer’s new ‘staging date’ (see paragraphs 82 to 87).</p> <p>If an employer brings forward their ‘staging date’, the employer cannot revert back to their original ‘staging date’. Where two or more employers share a PAYE scheme, and therefore have the same ‘staging date’, each employer may bring forward their ‘staging date’ independently.</p>	<p>[Reg 3 of SI 2010/4 as amended by SI 2012/215]</p>
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<p>The only employers who can put back their normal 'staging date' to a later date are those employers covered by paragraph 22 who choose to put back their 'staging date' to the alternative 'staging date' shown in the third column of the Table in Annex 2.</p> <p>31. If an employer, with at least 1 jobholder that qualifies for auto enrolment, 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"> • if (a) in paragraph 30 above has been chosen, before the date in the second column of the Table at Annex 2, or • if (b) in paragraph 30 above has been chosen, before 1 November 2012, or • if (c) in paragraph 30 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' <p>If an employer decides to bring forward their 'staging date' and on the earlier date they have chosen they have no <i>eligible jobholders</i> who qualify for automatic enrolment, from 6 April 2016, they no longer need to 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. They have still to notify the Pensions Regulator of the earlier date they have chosen which they can do at any time.</p>	<p>[Reg 3(4) of SI 2010/4 as amended by SI 2012/215] [Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p>
<p>Operating the automatic enrolment rules - general information</p>	

32. **The different categories of worker:** All *workers* will fall into one of three categories:

- *eligible jobholders*,
- *non-eligible jobholders*
- *entitled workers*.

The category into which a *worker* falls is determined by their age and *earnings*. The definitions for each category are included in [Annex 1](#) as is a definition of *earnings*. A table summarising the different categories of *worker* for 'automatic enrolment' purposes is set out below.

2017/18 Age <i>Earnings</i> **	16 - 21	22 - <SPA*	SPA* - <75
Under lower earnings threshold (£5,876♦)	<i>Entitled worker</i>		
Between £5,876♦ and £10,000	<i>Non-eligible jobholder</i>		
Over earnings trigger for automatic enrolment (£10,000)	<i>Non-eligible jobholder</i>	<i>Eligible jobholder</i>	<i>Non-eligible jobholder</i>

* *State Pension Age*

** *Earnings*: separate contracts treated separately

♦ To align with National Insurance contributions lower earnings limit

[Pensions Act 2008 as amended by SI 2017/394]

The values per *pay reference period* for 2017/18 are:

Pay reference period	Lower earnings threshold p.a.	Earnings trigger for automatic enrolment
Annual	£5,876.00	£10,000.00
6 months	£2,938.00	£4,998.00
3 months	£1,469.00	£2,499.00
1 Month	£490.00	£833.00
4 weeks	£452.00	£768.00
Fortnight	£226.00	£384.00
1 week	£113.00	£192.00

[Pensions Act 2008 as amended by SI 2017/394]

The Secretary of State will review the above figures each tax year. It should be noted that the effective date for figures in each new tax year is 6 April. Thus, if an employer has staging date of 1 April then to determine whether a *worker* is an *eligible jobholder* on that date the employer should use the earnings factors applicable on 1 April; but if the *worker* becomes an *eligible jobholder* on or after 6 April

<p>(e.g. on attaining age 22) the employer should use the new earnings factors that apply from 6 April.</p> <p>33. Rules for existing and new workers differ slightly: The requirements relating to existing <i>eligible jobholders</i>, <i>non-eligible jobholders</i> and <i>entitled workers</i> on an employer's 'staging date' are slightly different to those relating to new <i>eligible jobholders</i>, <i>non-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 new <i>eligible jobholders</i>, <i>non-eligible jobholders</i> and <i>entitled workers</i> who commence on or after the employer's 'staging date' are covered in paragraphs 39 to 77.</p> <p>The requirements relating to existing <i>eligible jobholders</i>, <i>non-eligible jobholders</i> and <i>entitled workers</i> on an employer's 'staging date' are covered in paragraphs 78 to 91.</p> <p>34. Multiple contracts: In Detailed Guidance Note no. 2 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. Secondees: 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</p>	
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<p>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. Agency workers: 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 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. Workers aged 75 or over: 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 so that they are not an active member on their 75th birthday then the member has no right to opt back into LGPS membership. If, on the employer’s chosen re-enrolment date (see paragraphs 74 and 75) 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. Changes to the LGPS to comply with ‘automatic enrolment’ requirements: This paragraph (38) has been included for historical reference purposes only.</p> <p>Prior to 1 October 2012:</p> <ul style="list-style-type: none"> 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"> who were employed by a <i>Part 1 Scheduled body</i> were automatically brought into the LGPS (with the right to opt out), or 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 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 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 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 	<p>[s89 of the Act]</p> <p>[s1 and s9 of the Act ; reg 5(4) of SI 2013/2356; reg 4(3) of SSI 2014/164]</p>
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less than 3 *months* duration were not able to join the scheme unless and until the *contract of employment* was extended to be for 3 *months* or more.

However, to ensure the LGPS could comply with the 'automatic 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 confirmed that the policy intention behind regulation 13 of the LGPS (Administration) Regulations 2008 (as amended by SI 2012/1989) was 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." The SPPA made the appropriate amendment to the LGPS in Scotland in the LGPS (Miscellaneous Amendments) (Scotland) Regulations 2012 [SSI 2012/347], effective from 1 February 2013.

The Pensions Regulator pointed out that a further amendment was necessary as an *eligible jobholder* with a *contract of employment* of less than 3 *months* duration for whom the employer did not issue a postponement notice should not have to elect to join the scheme. The relevant regulatory changes were made by DCLG in the LGPS (Miscellaneous Amendments) Regulations 2014 [SI 2014/44], effective from 10 February 2014, and the SPPA made the appropriate amendment to the LGPS in Scotland in the LGPS (Miscellaneous Amendments) (Scotland) Regulations 2014 [SSI 2014/23], retrospectively effective to 1 February 2013.

These changes were carried forward into the LGPS Regulations 2013

<p>and the LGPS (Scotland) Regulations 2014.</p> <p>This means the LGPS in England & Wales and in Scotland are (provided employers issue a postponement notice to those <i>eligible jobholders</i> with a <i>contract of employment</i> of less than 3 <i>months</i> duration) fully compliant <i>qualifying schemes</i> and <i>automatic enrolment schemes</i> for the purposes of the Pensions Act 2008 in respect of those <i>workers</i> who are eligible to be enrolled into the scheme.</p> <p>It should be noted that where an <i>admission body</i> in England or Wales 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 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]. Please see paragraphs 122 and 123 which provide further information on this matter once the employer has attained its staging date.</p> <p>38A. Requirements if no <i>eligible jobholders</i>: Employers who do not have any <i>eligible jobholders</i> to 'automatically enrol' only have to put a pension scheme in place if they subsequently employ an <i>eligible jobholders</i> or an <i>entitled worker</i>, or <i>non-eligible jobholder</i> becomes an <i>eligible jobholder</i>, or an <i>entitled worker</i> or <i>non-eligible jobholder</i> wishes to join a pension scheme.</p> <p>However, even if an employer does not need to put a pension scheme in place, the employer will still need to write to their <i>workers</i> to let them know that they have not been 'automatically enrolled' but can ask to go into a pension scheme. The employer also has to complete a declaration of compliance (see paragraph 96).</p>	
<p>Operating the automatic enrolment rules for workers who commence employment on or after the employer's 'staging date' - general</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 not</p>	<p>[s3(3) and s7(1) of the Act only apply if the person is not an active</p>

<p>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 paragraphs 48, 55 and 63.</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 – 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 paragraphs 96 to 99); and the employer will be subject to the prohibition against inducing opt-outs, prohibited recruitment conduct and unfair dismissal and detrimental treatment safeguards (see paragraphs 106 to 108).</p> <p>40. A simple table is included in paragraph 32 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>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>
<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’</p>	
<p>41. Eligible jobholders and non-eligible jobholders: If an employee commences employment on or after the employer’s ‘staging date’, is an <i>eligible jobholder</i> or a <i>non-eligible jobholder</i> and has a <i>contract of employment</i> for 3 <i>months</i> 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.</p> <p>42. Over and above the existing information requirements set out in the</p>	<p>[Section 3(5)]</p>

<p>the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (see Annex 3), the legislation under the Pensions Act 2008 required, prior to 1 April 2015, that within 2 <i>months</i> of their start date the employer had to provide the following information in writing to an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> who was ‘contractually enrolled’ in the circumstances described in paragraph 41:</p> <ul style="list-style-type: none"> a) confirmation that they were an active member of a <i>qualifying scheme</i> (the LGPS) in relation to that contract, b) where to obtain further information about pensions and saving for retirement e.g. https://www.gov.uk/workplace-pensions, www.lgps.org.uk (in Scotland), www.lgpsmember.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc., and c) a statement that if they ceased 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 <i>automatic enrolment scheme</i> with effect from the day following that date that they ceased to be an active member of the LGPS. <p>However, as from 1 April 2015, it has no longer been necessary to provide the information in (a) to (c) above. In addition, as a consequence of the ending of contracting-out on 5 April 2016, from 6 April 2016 it is no longer necessary to provide the information set out in the Employment Rights Act 1996. It is only necessary to provide the information set out in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (see Annex 3).</p> <p>43. Entitled workers: If an employee commences employment on or after the employer’s ‘staging date’, is an <i>entitled worker</i> and has a <i>contract of employment</i> for 3 <i>months</i> 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.</p> <p>44. Prior to 1 April 2015, and in contrast to the position relating to an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> who commenced employment on or after the employer’s ‘staging date’ and prior to 1 April 2015, the legislation under the Pensions Act 2008 imposed no additional information requirements in relation to an <i>entitled worker</i> who commenced employment on or after the employer’s ‘staging date’ over and above those that existed under the Employment Rights</p>	<p>of ERA 1996 repealed by PA 2014] [Regs 33(1) and (2) of SI 2010/772 as inserted by SI 2012/215 and prior to its deletion by SI 2015/501]</p> <p>[Section 3(5) of ERA 1996 repealed by PA 2014] [Reg 33 of SI 2010/772 was deleted from 1 April 2015 by SI 2015/501]</p> <p>[<i>Entitled workers</i> were not mentioned in reg 33 of SI 2010/772 as amended by SI 2012/215 and prior to its</p>
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<p>Act 1996, the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (see Annex 3). It simply required that if the <i>earnings</i> of an <i>entitled worker</i> who was an active member of the LGPS subsequently increased so that in a <i>pay reference period</i> they became, 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) have provided the following information in writing to the person:</p> <ul style="list-style-type: none"> a) confirmation that they were an active member of a <i>qualifying scheme</i> (the LGPS) in relation to that contract, b) where to obtain further information about pensions and saving for retirement e.g. https://www.gov.uk/workplace-pensions, www.lgps.org.uk (in Scotland), www.lgpsmember.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc., and c) a statement that if they ceased 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. <p>From a practical point of view it seemed 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 was easier to simply issue a letter to the <i>entitled worker</i> on joining the LGPS saying that if they subsequently became 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 would apply. This seemed to be permitted as the legislation allowed 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 became a <i>non-eligible jobholder</i> or <i>eligible jobholder</i>.</p> <p>However, as from 1 April 2015, it has no longer been necessary to provide the information in (a) to (c) above. In addition, as a consequence of the ending of contracting-out on 5 April 2016, from 6 April 2016 it is no longer necessary to provide the information set out in the Employment Rights Act 1996. It is only necessary to provide the information set out in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (see Annex 3).</p>	<p>deletion by SI 2015/501]</p> <p>[Reg 33 of SI 2010/772 was deleted from 1 April 2015 by SI 2015/501] [Section 3(5) of ERA 1996 repealed by PA 2014]</p>
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<p>45. Opt out procedure: 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 not under the ‘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.</p> <p>It should be noted that DCLG confirmed that the wording in regulation 13(3) of the LGPS (Administration) Regulations 2008, as amended by SI 2012/1989, which appeared to allow an opt out election to be made before commencement of employment, was not intended to have this effect and was intended to only cover those who made such an election prior to 1 October 2012.</p> <p>Where a member takes flexible retirement but does not wish to remain in the LGPS post flexible retirement then, if the <i>worker</i> is issued with a new <i>contract of employment</i>, 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 <i>worker</i> is not issued with a new <i>contract of employment</i> 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).</p>	
<p>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’</p>	
<p>46. If an employee commences employment on or after the employer’s ‘staging date’, is an <i>eligible jobholder</i>, a <i>non-eligible jobholder</i> or an <i>entitled worker</i> and is employed under a <i>contract of employment</i> of less than 3 <i>months</i> (including any casual <i>workers</i> who are engaged under a <i>contract of employment</i> of less than 3 <i>months</i>), the employee is only required under the rules of the LGPS to be brought into the LGPS under that contract</p> <ul style="list-style-type: none"> • when the employee becomes entitled to join the LGPS as an <i>eligible jobholder</i>, or • from the first day of the payment period following an application to become a member, or • from the first day of the payment period following that in which 	

<p>the contract is extended to be for a period of 3 <i>months</i> or more</p> <p>This means that if the employee is an <i>eligible jobholder</i> on the first day of employment or becomes an <i>eligible jobholder</i> during the initial contract of employment, the employee would have to be enrolled into the scheme in the first <i>pay reference period</i> in which they are, or become, an <i>eligible jobholder</i> (with the right to opt out) unless either:</p> <ul style="list-style-type: none"> a) the <i>contract of employment</i> commences on or after 1 April 2015 and notice to terminate employment before the expiry of the fixed term contract has been given before the end of the period of 6 weeks beginning with the ‘enrolment’ date (although the employer can nevertheless choose to ‘automatically enrol’ the person), or b) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has, on the ‘enrolment’ date, Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and, from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016 (although the employer can nevertheless choose to ‘automatically enrol’ the person) and see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016, or c) the employer applies a 3 <i>month</i> postponement period (or “waiting period”), or d) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer’s duty to automatically enrol or re-enrol is discretionary, or e) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer’s duty to automatically enrol or re-enrol is discretionary. <p>To avoid having to enrol into the scheme any <i>eligible jobholders</i> who have a <i>contract of employment</i> of less than 3 <i>months</i>, and to cater for <i>non-eligible jobholders</i> and <i>entitled workers</i> who have a <i>contract of employment</i> of less than 3 <i>months</i>, employers can issue a postponement notice, but the employee would have the contractual right to elect to join the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer) and if they elect to join they would become a member from the first day of the payment period following the election.</p> <p>47. The postponement notice must be sent to the person within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) of their start date. It must be in writing and include the following statements:</p>	<p>[Reg 5B of SI 2010/772 as introduced by SI 2015/501]</p> <p>[Reg 5D of SI 2010/772 as introduced by SI 2015/501] [SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 24 of SI 2010/772 as amended by SI 2012/215 ,</p>
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<p>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 first day of the payment period following that in which the contract is extended to be for a period of 3 <i>months</i> or more,</p> <p>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 from the first day of the payment period following their application to join 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 paragraph 39]</p> <p>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,</p> <p>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 £10,000 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 paragraph 39]</p> <p>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,</p> <p>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, [Deleted from 1 April 2015]</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.</p>	<p>SI 2013/2556 and SI 2015/501]</p> <p>[Reg 3(4) of SI 2013/2356 and reg 3(3) of SSI 2014/164]</p> <p>[Deleted by amendments made to reg 24 of SI 2010/772 by SI 2015/501]</p> <p>[Deleted by amendments</p>
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<p>www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc.[Deleted from 1 April 2015]</p> <p>NB: it should be noted that casual workers engaged for periods of work as an employee will have to be sent a postponement notice each time they undertake work in cases where each period of work they are offered and accept forms a new period of continuous employment. If, for such workers, 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 which is the start of a new period of continuous employment 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 the LGPS in the first pay reference period in which they are or become an eligible jobholder (with the right to opt out). However:</p> <ul style="list-style-type: none"> a) to avoid this, and b) as employees have the right to opt to join the LGPS anyway if they so wish, and c) as casual workers usually have to complete a timesheet, <p>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. :</p> <p><i>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 continuous period of employment you undertake for us 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 continuous period of employment undertaken for us, be enrolled into LGPS but, if you are aged under 75, you have the right to opt to join the Local Government Pension Scheme if you so wish.</i></p> <p><i>If you want to join the LGPS, please contact [insert name of relevant person] in writing either by:</i></p> <ul style="list-style-type: none"> • <i>sending a letter, signed by you, to [insert address] stating the name of the post in which you wish to join the scheme; or</i> • <i>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]</i> 	<p>made to reg 24 of SI 2010/772 by SI 2015/501]</p>
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<p><i>You will then be sent further information on the scheme, including relevant forms to complete, and will be enrolled into the LGPS from the beginning of the payment period following your election to join the scheme.</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 £10,000 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, during your period of work your contract of employment is extended to be for a continuous period of 3 months we will enrol you into the Local Government Pension Scheme from the first day of the payment period following that in which your contract is extended.</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 www.scotlgps2015.org in Scotland or www.lgpsmember.org in England and Wales]</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 www.direct.gov.uk/workplacepensions. Deleted from 1 April 2015]</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 £5,772, immediately have to put you into another scheme that meets those government standards. [Deleted from 1 April 2015]</i></p>	<p>[Deleted by amendment made to reg 24 of SI 2010/772 by SI 2015/501]</p>
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<p>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</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</p> <ul style="list-style-type: none"> (i) decides to opt out of active membership of the scheme, and (ii) 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>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) unless (operative 1 April 2015):</p> <ul style="list-style-type: none"> (a) the person had opted out of the LGPS less than 12 months prior to becoming an <i>eligible jobholder</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts) (you cannot auto enrol an <i>eligible jobholder</i> who opted out more than 12 months prior to what would be the <i>eligible jobholder's</i> automatic enrolment date), or (b) notice to terminate employment has been given before the end of the period of 6 weeks beginning with the 'automatic enrolment' date, or (c) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016 though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016 (c) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or (e) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary. <p>although in these cases the employer can nevertheless choose to 'automatically enrol' the <i>eligible jobholder</i> into the LGPS, with the exception of the latter group mentioned in (a). As mentioned in paragraph 39 it is important that the employer monitors the category</p>	<p>[s3 of the Act]</p> <p>[s3(7) of the Act, reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p> <p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p>

<p>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) – unless (operative from 1 April 2015):</p> <ul style="list-style-type: none"> (a) the person had opted out of the LGPS less than 12 months prior to becoming an <i>eligible jobholder</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts) (you cannot auto enrol an <i>eligible jobholder</i> who opted out more than 12 months prior to what would be the <i>eligible jobholder’s</i> automatic enrolment date), or (b) notice to terminate employment has been given before the end of the period of 6 weeks beginning with the ‘automatic enrolment’ date, or (c) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016 though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016, or (d) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer’s duty to automatically enrol or re-enrol is discretionary, or (e) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer’s duty to automatically enrol or re-enrol is discretionary <p>although in these cases the employer can nevertheless choose to ‘automatically enrol’ the <i>eligible jobholder</i> into the LGPS, with the exception of the latter group mentioned in (a).</p> <p>Although employers can, from 1 April 2015, decide not to ‘automatically enrol’ a person who had opted out of the LGPS less than 12 months prior to becoming an <i>eligible jobholder</i> for the <u>first</u> time in relation to that contract (or consecutive string of contracts), that will involve an additional degree of record keeping for the employer in order to make this assessment. It is probably simpler,</p>	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p>
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despite the discretion given to employers from 1 April 2015, to nonetheless continue to ‘automatically enrol’ such cases, although making use of the discretion would overcome the issues set out in the scenarios below.

Note 1:

‘Automatically enrolling’ an optant out when they subsequently first become an *eligible jobholder* 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).

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 ‘automatically enrol’ her again from 26 May when she becomes an *eligible jobholder*.

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 *months* after 26 May) by issuing a postponement notice. Such a notice must include the information set out under Note 2 below. Alternatively, from 1 April 2015, the employer could choose not to ‘automatically enrol’ this person as they had opted out less than 12 months prior to becoming an *eligible jobholder*.

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 *non-eligible jobholder*. On 1 June he gets promoted and now earns £10,000 pa (£833.33 per month). His *earnings* in the *pay reference period* (1/6-30/6) are £833.33 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. Alternatively, from 1 April 2015, the employer could choose not to ‘automatically enrol’ this person as they had opted out less than 12 months prior to becoming an *eligible jobholder*.

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 £10,000 pa (£833.33 per month). His *earnings* in the *pay reference period* (1/6-30/6) are £666.67 so he is still a *non-eligible jobholder*. His *earnings* in the next *pay reference period* (1/7-31/7) are £833.33 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.

Alternatively, from 1 April 2015, the employer could choose not to 'automatically enrol' this person as they had opted out less than 12 months prior to becoming an *eligible jobholder*.

Scenario 4

A person starts 16 June on £10,000 pa, immediately opts out of 'contractual enrolment' and is aged 25. She earns £416.67 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 £833.33 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.

Alternatively, from 1 April 2015, the employer could choose not to 'automatically enrol' this person as they had opted out less than 12 months prior to becoming an *eligible jobholder*.

Of course, to avoid the employee being, understandably, annoyed by the above, the employer could, alternatively:

- alert the employee at the outset that they will have to complete another opt out form at the beginning of the following month (before payroll for that month closes) in order to avoid being brought into the scheme in that month; or
- alert the employee to the fact that if they do not opt out in the month of starting but do so at the beginning of the following month, the contributions collected in the first month can be refunded via payroll, the employee will be treated as never having been a member.

In both of the above, the employee will already have been an *eligible jobholder* when they opted out, and so they will not then have to be brought back into the scheme until the re-enrolment date (assuming that the employee is still an *eligible jobholder* on the re-enrolment date and the opt out had not occurred within the 12 months immediately preceding the re-enrolment date chosen by the employer).

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* (or, from 1 April 2014, within 6 weeks) 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

<p>employer, are aged at least 22 and under <i>State Pension Age</i>, and would have annualised equivalent <i>earnings</i> of more than £10,000 in respect of that contract,</p> <p>e) that if, during the period of deferment, the contract of employment is extended to be for a continuous period of 3 <i>months</i> the employer will enrol them into the Local Government Pension Scheme from the first day of the payment period following that in which the contract is extended to be for more than 3 <i>months</i>,</p> <p>f) 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>g) 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, [Deleted from 1 April 2015]</p> <p>h) 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>i) where the person may obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc. [Deleted from 1 April 2015]</p> <p>Alternatively, from 1 April 2015, the employer could choose not to 'automatically enrol' this person as they had opted out less than 12 months prior to becoming an <i>eligible jobholder</i>.</p> <p>Note 3</p> <p>If an <i>eligible jobholder</i> is 'automatically enrolled' then, before or within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) of the 'automatic enrolment' date, the employer must provide information to the <i>eligible jobholder</i> (see paragraph 50) 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 paragraph 51). 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> (or, from 1 April 2014, within 6 weeks) 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> (or, from 1 April 2014, within 6 weeks) deadline, the</p>	<p>[Deleted by amendments made to reg 24 of SI 2010/772 by SI 2015/501]</p> <p>[Deleted by amendments made to reg 24 of SI 2010/772 by SI 2015/501]</p>
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<p>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 paragraph 48 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 as amended by SI 2013/2556]</p>
<p>50. Information to provide to the eligible jobholder: The legislation made under the Pensions Act 2008 requires that before or within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) of the 'automatic enrolment' date the employer must provide the following information in writing to an <i>eligible jobholder</i> they are to enrol:</p> <ul style="list-style-type: none"> 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) 'enrol' them back into the LGPS (you cannot auto enrol an <i>eligible jobholder</i> who opted out more than 12 months prior to what would be the <i>eligible jobholder's</i> automatic enrolment date), b) the date the <i>eligible jobholder</i> was (or is to be) 'automatically enrolled' into the LGPS, c) the name, address, telephone number and electronic contact details of the scheme in respect of which the <i>eligible jobholder</i> is or will be an active member, [Deleted from 1 April 2015] 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 Annex 6 for details on, and issues connected with, the "value" of contributions), 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, f) confirmation that tax relief is or will be given on employee contributions, 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, [Deleted from 1 April 2015] h) a statement that the <i>eligible jobholder</i> has the right to opt out of 	<p>[Reg 2 of SI 2010/772 as amended by SI 2012/215 and SI 2015/501 and reg 7 of SI 2010/772 as amended by SI 2013/2556]</p> <p>[Deleted by amendments made to reg 2 of SI 2010/772 by SI 2015/501]</p> <p>[Deleted by amendments made to reg 2 of SI 2010/772 by SI 2015/501]</p>

<p>the LGPS during the opt out period i.e. during the ‘automatic enrolment opt out window’,</p> <ul style="list-style-type: none"> 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, j) where the opt out notice may be obtained (i.e. from the Pensions Section of the Pension Fund administering authority), 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, 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, 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, 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 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), 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), and p) a statement that an <i>eligible jobholder</i> who opts out or who ceases active membership of the LGPS will normally 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) but the employer can choose not to ‘automatically re-enrol’ them if they have opted out or ceased membership within 12 months of the ‘automatic re-enrolment’ date q) where the <i>eligible jobholder</i> can obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension 	<p>[Deleted by amendments made to reg 2 of SI 2010/772 by SI 2015/501]</p>
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<p>(see paragraph 48) 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 Annex 4) 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 paragraph 50 (which could be up to 1 <i>month</i> or, from 1 April 2014, 6 weeks after they were ‘automatically enrolled’, meaning that the opt out window can be anywhere between 1 <i>month</i> and 1 <i>month</i> and 6 weeks 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 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 paragraph 50. 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 paragraphs 69 to 71 for more information.</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>53. 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’: 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</p>	<p>[Reg 10 of SI 2010/772]</p> <p>[s8(2)(a) of</p>

<p>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 (see https://www.gov.uk/payroll-errors). 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 and 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 and 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 – see the further information from the Information Commissioner's Office at paragraph 101.</p>	<p>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. 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': If the <i>eligible jobholder</i> 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. If the person opts out after 3 <i>months</i> but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they have already met the 2 year vesting period in some other way (e.g. they already have an LGPS deferred pension or LGPS pension in payment) in which case they would be entitled to a deferred benefit. If the opt out was after 2 years, 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</p>	

<p>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 – see the further information from the Information Commissioner’s Office at paragraph 101).</p>	
<p>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</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> (or, from 1 April 2014, within 6 weeks) 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 paragraph 56 and the note below). As mentioned in paragraph 39 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>Note: if the <i>non-eligible jobholder</i> does not decide to opt into membership of the LGPS and subsequently becomes an <i>entitled worker</i> for the first time the employer should at that time issue another written notification to remind the <i>entitled worker</i> of their right to join the LGPS (see paragraphs 63 to 68). However, as from 1 April 2015, the legislation has permitted employers to dispense with this second notification if they covered the person’s right to opt in as an <i>entitled worker</i> in the same letter notifying them of their right to opt in as a <i>non-eligible jobholder</i>. Although this would simplify the process, employers can continue to send separate letters if they wish, and employers must recognise that a combined letter does not negate the need to continually monitor the person to see if they become an <i>eligible jobholder</i> for the first time (and hence have to be ‘automatically enrolled’ – see paragraphs 48 to 54).</p>	<p>[s7 of the Act]</p> <p>[Reg 21 of SI 2010/772 as amended by SI 2015/501]</p>

<p>56. Information to provide to the non-eligible jobholder about right to opt back into the LGPS: Either before or within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) 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 (subject to the note in paragraph 55) provide the <i>non-eligible jobholder</i> with the following information in writing:</p> <ul style="list-style-type: none"> 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>), 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, 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 d) where the <i>non-eligible jobholder</i> may obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc.[Deleted from 1 April 2015] 	<p>[Reg 21 of SI 2010/772 as amended by SI2015/501]</p> <p>[Deleted by reg 21 of SI 2015/501]</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> (or, from 1 April 2014, within 6 weeks) of the enrolment date, provide:</p> <ul style="list-style-type: none"> a) the <i>non-eligible jobholder</i> with the enrolment information in writing, and b) the Pensions Section of the Pension Fund administering authority with information on the <i>non-eligible jobholder</i> in writing. <p>Note: Although the employer is not required, under the 'automatic enrolment' legislation, to enrol the person if notice of termination of employment is given before the expiry of the period of 6 weeks beginning with the 'enrolment' date, the person would also be exercising their contractual right to be a member of the scheme under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer). Thus, the employer would have no option but to enrol the person into the LGPS from the beginning of the pay period immediately</p>	<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>[Reg 5B of SI 2010/772 as inserted by SI 2015/501] [Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>

<p>following receipt of the opt in notice.</p> <p>58. Information to provide to the non-eligible jobholder if they opt back into the LGPS: Before or within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) of the enrolment date the employer must provide the following information to the <i>non-eligible jobholder</i> in writing:</p> <ul style="list-style-type: none"> 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, b) the date the <i>non-eligible jobholder</i> was (or is to be) enrolled back into the LGPS, 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,[Deleted from 1 April 2015] 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 Annex 6 for details on, and issues connected with, the "value" of contributions), 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, f) confirmation that tax relief is or will be given on employee contributions, 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,[Deleted from 1 April 2015] 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', 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, j) where the opt out notice may be obtained (i.e. from the Pensions Section of the Pension Fund administering authority), 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, 	<p>[Reg 2 of SI 2010/772 as amended by SI 2012/215 and SI 2015/501, and regs 7 and 18(3) and (4) of SI 2010/772 as amended by SI 2013/2556] [Deleted by amendment made to reg 2 of SI 2010/772 by SI 2015/501]</p> <p>[Deleted by amendment made to reg 2 of SI 2010/772 by SI 2015/501]</p>
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<p>l) a statement that opting out within the opt out period means that the non-eligible jobholder 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 non-eligible jobholder will be refunded to the non-eligible jobholder by the employer,</p> <p>n) a statement that if the non-eligible jobholder opts out, the non-eligible jobholder may opt back in, in which case the employer will be required to arrange for that non-eligible jobholder to become an active member of an automatic enrolment scheme (i.e. the LGPS) once in any 12 month 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 month period will not apply in the LGPS),</p> <p>o) a statement that, if the non-eligible jobholder 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), and</p> <p>p) a statement that a non-eligible jobholder who opts out or who ceases active membership of the LGPS will normally be 'automatically re-enrolled' into an automatic enrolment scheme by the employer on [enter date] if they are an eligible jobholder 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) but the employer can choose not to 'automatically re-enrol' them if</p> <ul style="list-style-type: none"> - they had opted out of the LGPS less than 12 months prior to the 'automatic re-enrolment' date, or - notice to terminate employment has been given before the end of the period of 6 weeks beginning with the 'automatic re-enrolment' date, or <p>the employer has reasonable grounds to believe the eligible jobholder has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016 under the Finance Act 2016 (though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016).</p> <p>i. where the non-eligible jobholder can obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc. [Deleted from 1 April 2015]</p>	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2] [Deleted by amendment made to reg 2 of SI 2010/772 by SI 2015/501]</p>
<p>59. Information to provide to the Pensions Section if the non-eligible job holder opts back into the LGPS: The information to be given by</p>	<p>[Regs 3, 7 and 18(3) of</p>

<p>the employer in writing to the Pensions Section of the Pension Fund administering authority (before or within 1 <i>month</i> or, from 1 April 2014, within 6 weeks, of the enrolment date) is the <i>non-eligible jobholder's</i>:</p> <ul style="list-style-type: none"> a) name; b) date of birth; c) postal residential address; d) gender; e) enrolment date; f) national insurance number*; 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>**; 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 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 Annex 6 for details on, and issues connected with, the "value" of contributions); i) postal work address**; j) individual work e-mail address, where an individual work e-mail address is allocated to that <i>non-eligible jobholder</i>**; k) personal e-mail address, where the employer holds this information**. <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> (or, from 1 April 2014, within 6 weeks) 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>SI 2010/772 as amended by SI 2013/2556]</p>
<p>60. Opt out procedure if the non-eligible jobholder who opts in wants to opt out: 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 paragraph 55) 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 LGPS. 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</p>	<p>[Reg 18(5) of SI 2010/772]</p> <p>[Regs 19 and 9(1) of SI</p>

<p>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 Annex 4) 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 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 paragraph 58 (which could be up to 1 <i>month</i> or, from 1 April 2014, up to 6 weeks after they were enrolled, meaning that the opt out window can be anywhere between 1 <i>month</i> and 1 <i>month and 6 weeks</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 paragraph 58. 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 paragraphs 69 to 71 for more information.</p>	<p>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 and SI 2013/2556]</p> <p>[Regs 19 and 9(5) of SI 2010/772]</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. 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': 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 (see https://www.gov.uk/payroll-errors). A refund must be made within 1 <i>month</i> of the date the employer received the valid opt out form or, if</p>	<p>[Regs 19 and 10 of SI 2010/772]</p> <p>[s8(2)(a) of the Act]</p> <p>[Regs 19, 11(1) and (3) of SI 2010/772]</p> <p>[Regs 19, 11(2) and (3)]</p>

<p>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 and 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 and 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 (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 – see the further information from the Information Commissioner's Office at paragraph 101.</p>	<p>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>62. 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': 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. If the person opts out after 3 <i>months</i> but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they have already met the 2 year vesting period in some other way (e.g. they already have an LGPS deferred pension or LGPS pension in payment) in which case they would be entitled to a deferred benefit. If the opt out was after 2 years, 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 – see the further information from the Information Commissioner's Office at paragraph 101).</p>	

<p>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</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> (or, from 1 April 2014, within 6 weeks) 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 paragraph 39 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 <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>Note: if the <i>entitled worker</i> does not decide to opt into membership of the LGPS and subsequently becomes a <i>non-eligible jobholder</i> for the first time the employer should at that time issue another written notification to remind the <i>non-eligible jobholder</i> of their right to join the LGPS (see paragraphs 55 to 62). However, as from 1 April 2015, the legislation has permitted employers to dispense with this second notification if they covered the person's right to opt in as a <i>non-eligible jobholder</i> in the same letter notifying them of their right to opt in as an <i>entitled worker</i>. Although this would simplify the process, employers can continue to send separate letters if they wish, and employers must recognise that a combined letter does not negate the need to continually monitor the person to see if they become an <i>eligible jobholder</i> for the first time (and hence have to be 'automatically enrolled' – see paragraphs 48 to 54).</p> <p>64. Information to provide to the entitled worker about right to opt back into the LGPS: Either before or within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) 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 (subject to the note in paragraph 63) provide the <i>entitled worker</i> with the following information in writing:</p> <p>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</p>	<p>[s9 of the Act]</p> <p>[Reg 21 of SI 2010/772 as amended by SI 2015/501]</p> <p>[Reg 21 of SI 2010/772 as amended by SI 2012/215, SI 2013/2556 and 2015/501]</p>

<p>them that they may, by giving written notice to the employer, opt back into membership of the LGPS</p> <p>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,</p> <p>c) where the <i>entitled worker</i> may obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc.[Deleted from 1 April 2015]</p> <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 paragraph 56).</p>	<p>[Deleted by reg 21 of SI 2015/501]</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>Note: Although the employer is not required, under the 'automatic enrolment' legislation, to enrol the person if notice of termination of employment is given before the expiry of the period of 6 weeks beginning with the automatic enrolment date, the member would also be exercising their contractual right to be a member of the scheme under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer). Thus, the employer would have no option but to enrol the person into the LGPS from the beginning of the pay period immediately following receipt of the opt in notice.</p>	<p>[Reg 3(6) of SI 2013/2356; reg 3(5) of SSI 2014/164] [Regs 23(1)(a) and 22 of SI 2010/772]</p> <p>[Reg 5B of SI 2010/772 as inserted by SI 2015/501] [Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>
<p>66. Unlike in the case of a person who opts out of the LGPS and:</p> <p>a) is enrolled back into the LGPS upon becoming an <i>eligible jobholder</i> for the first time (you cannot auto enrol an <i>eligible jobholder</i> who opted out more than 12 months prior to what would be the <i>eligible jobholder's</i> automatic enrolment date), or</p> <p>b) opts back into the LGPS on or after becoming a <i>non-eligible jobholder</i> for the first time</p> <p>there is no requirement under the Pensions Act 2008 or the related Statutory Instruments to send information to a person who opts back</p>	<p>[Reg 23 of SI 2010/772]</p>

<p>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> (or, from 1 April 2014, within 6 weeks) of the <i>entitled worker's</i> enrolment date.</p>	
<p>67. Information to provide to the Pensions Section if the entitled worker opts back into the LGPS: 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> or, from 1 April 2014, within 6 weeks of the enrolment date) is the <i>entitled worker's</i>:</p> <ul style="list-style-type: none"> a) name; b) date of birth; c) postal residential address; d) gender; e) enrolment date*; f) national insurance number**; g) the gross <i>earnings</i> (not pensionable pay) due to the <i>entitled worker</i> in any applicable <i>pay reference period</i>***; 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 Annex 6 for details on, and issues connected with, the "value" of contributions); i) postal work address***; j) individual work e-mail address, where an individual work e-mail address is allocated to that <i>entitled worker</i>***; and k) personal e-mail address, where the employer holds this information***. 	<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 or, from 1 April 2015, 6 weeks.)</p> <p>*** With regard to items (g) to (k) above, the Pensions Section of the Pension Fund administering authority can decide not to obtain</p>	<p>[Reg 23(2) of SI 2010/772]</p> <p>[Reg 23(3) of SI 2010/772 as amended by SI 2015/501]</p> <p>[Reg 23(2) of</p>

<p>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>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 <i>entitled workers</i> 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 <i>eligible jobholders</i> and <i>non-eligible jobholders</i> is used for <i>entitled workers</i> (see Annex 4). If the <i>entitled worker</i> 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 <i>entitled worker</i> opts out 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. If the person opts out after 3 <i>months</i> but before 2 years, that person would be entitled to claim a refund via the Pension Fund unless they have already met the 2 year vesting period in some other way (e.g. they already have an LGPS deferred pension or LGPS pension in payment) in which case they would be entitled to a deferred benefit. If the opt out was after 2 years, 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 <i>eligible jobholder</i> who opts out in the ‘automatic enrolment opt out window’ or a <i>non-eligible jobholder</i> 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 <i>entitled worker</i> 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 – see the further information from the Information Commissioner’s Office at paragraph 101).</p>	<p>SI 2010/772]</p>
<p>Can the opt out procedures that apply under the LGPS and under the Pensions Act 2008 be aligned?</p>	
<p>69. An employee who commenced employment <u>before</u> 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</p>	

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. If the person opts out after 3 *months* but before 2 years, that person would be entitled to claim a refund via the

Pension Fund unless they have already met the 2 year vesting period in some other way (e.g. they already have an LGPS deferred pension or LGPS pension in payment) in which case they would be entitled to a deferred benefit. If the opt out was after 2 years, 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 (see the further information from the Information Commissioner's Office at [paragraph 101](#)), and
- f) as a member who opts out within 3 *months* of being enrolled is

<p>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).</p> <p>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:</p> <ol style="list-style-type: none"> look at all the opt out forms received in the period The Pensions Regulator is interested in determine how many of the forms in (a) relate to <i>eligible jobholders</i> to whom the employer had sent an automatic enrolment or re-enrolment letter containing the information in paragraph 50 or to <i>non-eligible jobholders</i> to whom the employer had sent an enrolment letter containing the information in paragraph 58) 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 determine how many of those in (c) received the refund via payroll within a <i>month</i> 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. <p>One further matter to note regarding opting out is the interrelationship with Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection Certificates.</p> <p>The archived guidance notes to the HMRC Fixed Protection 2012 or Fixed Protection 2014 application form (APSS227) contained the following information for those applying for Fixed Protection - <i>"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</i></p>	<p>[Finance Act 2016]</p>
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<p><i>your employer or prospective employer who will be able to tell you how you can opt out of the pension scheme</i>". However, this is not strictly correct and the LGPC Secretariat has received confirmation from HMRC that an <i>eligible jobholder</i>, <i>non-eligible jobholder</i>, or <i>entitled worker</i> who is enrolled into the LGPS will not lose their Fixed Protection 2012, Fixed Protection 2014 and lastly Fixed Protection 2016 provided they opt out within 3 <i>months</i> of being enrolled. This is because the LGPS contains a provision whereby a member who opts out within 3 <i>months</i> 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, there are other scenarios where a person may not lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 if they do not opt out within 3 <i>months</i> - see the "general rules" in paragraph 20.</p> <p>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 if the person opts out within 3 <i>months</i> of being enrolled into the LGPS. Furthermore, there are other scenarios where a person may not lose Enhanced Protection if they do not opt out within 3 <i>months</i> - see the "general rules" in paragraph 20.</p>	
<p>The re-enrolment rules applying to employees who commence employment on or after the employer's 'staging date'</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 paragraphs 74 and 75), 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:</p> <ul style="list-style-type: none"> (a) the <i>eligible jobholder</i> had opted out of the LGPS less than 12 months prior to the 'automatic re-enrolment' date, or (b) notice to terminate employment has been given before the end of the period of 6 weeks beginning with the 'automatic re-enrolment' date, or (c) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed protection 2016 or Individual Protection 2016 under the Finance Act 2016, though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016 	<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 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2]</p>

<p>d) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or</p> <p>e) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary.</p> <p>although in these cases the employer can nevertheless choose to 'automatically re-enrol' the <i>eligible jobholder</i> into the LGPS.</p> <p>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 paragraphs 50 to 54). 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 paragraphs 74 and 75)).</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> or is in receipt of no pay for the pay reference period in which the re-enrolment date falls, 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. There is no requirement to notify <i>eligible jobholders</i> in advance if the employer decides to bring forward or put back the re-enrolment date to a date within 3 <i>months</i> either side of the third anniversary date. However, the employer must, before or within 6 weeks of the chosen re-enrolment date, provide the information set out in paragraphs 50 to 54 (e.g. if the re-enrolment date is 1 March then the employer must re-enrol individuals by no later than 31 May).</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 choose which has to be a date within a period of within 3 <i>months</i> either side of the third anniversary of the previous re-enrolment date (e.g. if the re-enrolment date is 1 March then the employer must re-enrol individuals by no later than 31 May).</p>	<p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Regs 13, 15 and 16 of SI 2010/772 as amended by SI 2013/2556]</p> <p>[Reg 12(1)(a) of SI 2010/772 as amended by SI 2012/215, and s6(1)(b) of the Pensions Act 2008 as amended by section 7 of the Pensions Act 2011 and brought into force by SI 2015/676]</p> <p>[Reg 12(1)(b) of SI 2010/772 as amended by SI 2012/215, and s6(1)(b) of the Pensions Act 2008 as amended by</p>
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<p>(c) becomes a <i>non-eligible jobholder</i> or an <i>entitled worker</i> (because <i>earnings</i> have fallen for any reason, including a reduction in hours, or grade, or due to sickness or maternity, paternity or adoption leave, leave of absence, etc), 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) unless:</p> <p>(a) the <i>eligible jobholder</i> had opted out of the LGPS less than 12 months prior to the 'automatic re-enrolment' date, or</p> <p>(b) notice to terminate employment has been given before the end of the period of 6 weeks beginning with the 'automatic re-enrolment' date, or</p> <p>(c) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016, though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016</p> <p>d) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or</p> <p>e) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary</p> <p>although in these cases the employer can nevertheless choose to 'automatically re-enrol' the <i>eligible jobholder</i> into the LGPS.</p> <p>77A. It should be noted that an <i>eligible jobholder</i> who has been issued with a postponement notice (see paragraphs 46 and 47), which has the effect of postponing their automatic enrolment, does not have to be enrolled on the employer's re-enrolment date if that re-enrolment date falls within the postponement period.</p> <p>77B. Similarly, an <i>eligible jobholder</i> who has been issued with a transitional delay notice (see paragraphs 83 and 84), which has the effect of postponing their automatic enrolment until 1 October 2017,</p>	<p>[SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311]</p> <p>[s5(3A) of the Act]</p> <p>[s30(7)(c) of the Act]</p>
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<p>does not have to be enrolled on the employer's re-enrolment date if that re-enrolment date falls prior to 1 October 2017.</p>	
<p>Existing employees on the employer's 'staging date' – general</p>	
<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 paragraphs 79 to 91 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> <ul style="list-style-type: none"> i) those who are already active members of the LGPS 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 iii) those who are not active members of the LGPS because they have chosen to opt out of active membership. <p>The procedures relating to each of these categories are covered in the sections below.</p>	
<p>Existing employees who, on the employer's 'staging date', are already active members of the LGPS in relation to the contract of employment</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.</p> <p>If the employer's 'staging date' was prior to 1 April 2015 the employer had to 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"> a) confirmation that the <i>jobholder</i> is an active member of a <i>qualifying scheme</i> in relation to that contract, 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 	<p>[Reg 33 of SI 2010/772 as amended by SI 2012/215]</p>

<p>the day following the date they ceased to be an active member of the LGPS under that contract,</p> <p>c) where to obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgpsmember.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc.</p> <p>However, where an employer's 'staging date' is on or after 1 April 2015, the employer does not have to send the person the information in (a) to (c) above.</p> <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 paragraphs 69 to 71 for more information on the opt out rules, paragraphs 48 to 68 for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and paragraphs 72 to 77 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 employer simply writing to that person (within, say, 2 months of the employer's 'staging date') to:</p> <p>a) confirm that the <i>entitled worker</i> is an active member of a <i>qualifying scheme</i> in relation to that contract, and</p> <p>b) provide details of where to obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc.[Deleted as from 1 April 2015]</p> <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 paragraphs 69 to 71 for more information on the opt out rules, paragraphs 48 to 62 for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and paragraphs 72 to 77 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>[Reg 33 of SI 2010/772 as amended by SI 2012/215 and subsequently deleted by SI 2015/501]</p> <p>[Deleted by SI 2015/501]</p>
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<p>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</p>	
<p>82. Existing eligible jobholders - options: 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> <p>a) 'automatically enrol' that person into the LGPS on the employer's 'staging date', but the employer can choose not to 'automatically enrol' them if</p> <ul style="list-style-type: none"> - they had opted out of the LGPS less than 12 months prior to the 'automatic enrolment' date (you cannot auto enrol an <i>eligible jobholder</i> who opted out more than 12 months prior to what would be the <i>eligible jobholder's</i> automatic enrolment date), or - notice to terminate employment has been given before the end of the period of 6 weeks beginning with the 'automatic enrolment' date, or - the employer has reasonable grounds to believe the <i>eligible jobholder</i> has Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016, though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016. - On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or - On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary <p>Note, however, that if the employer chooses not to enrol those listed in the exceptions above (with the exception of those who opted out more than 12 months prior to what would have been the <i>eligible jobholders</i> automatic enrolment date), the person would nonetheless have the contractual right to elect to join the LGPS under the rules of the LGPS (assuming they are under age 75</p>	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2] [Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>

<p>and, if employed by a designation or admission body, have been designated for membership by their employer).</p> <p>If the employer does enrol the person, the information requirements, opt out procedures and re-enrolment procedures are the same as for new <i>eligible jobholders</i> who are 'automatically enrolled' (see paragraphs 50 to 54). 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 paragraphs 69 to 71 for more information on the opt out rules, paragraphs 48 to 68 for information on subsequent actions to take prior to the employer's chosen re-enrolment date, and paragraphs 72 to 77 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'), 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>[s30(3) of the Act]</p>
<p>83. The transitional delay period for existing eligible jobholders: 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>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>
<p>84. The employer can only apply the transitional delay period if:</p>	<p>[s30(1) and (2)]</p>

<p>a) the eligible jobholder 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 eligible jobholder, which is likely to be the employer's 'staging date'),</p> <p>b) the eligible jobholder had, at a time during that period, become entitled to join a defined benefit scheme (the LGPS),</p> <p>c) the person had, since that time, always been entitled to be an active member of the scheme (the LGPS), and</p> <p>d) the LGPS is, and continues to be, a qualifying scheme in respect of that worker, which the LGPS is (and so is any pension scheme offered by the employer of which the eligible jobholder is entitled to become an active member on or after the employer's first enrolment date).</p> <p>It should be noted that transitional delay can only be applied to a worker who is an eligible jobholder on the employer's first enrolment date. Thus, transitional delay cannot be applied to a worker who would normally have earnings at a level which would place them in the category of being an eligible jobholder but whose earnings on the employer's first enrolment date have dropped to below the eligible jobholder earnings trigger for automatic enrolment e.g. because of sick leave, child related leave, leave of absence, career break, reduction in excess hours or overtime worked, lower bonus payment, etc.</p>	<p>of the Act]</p>
<p>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 during that period (apart from in the case of any such person who opts in to the LGPS before the end of the transitional period). Furthermore, contracting out of the State Second Pension (S2P) ceased from April 2016. This means that from 6 April 2016 employees participating in the LGPS pay the standard rate of National Insurance contributions as does their employer (to the level of NICs paid if the employee had not been a member of a contracted-out occupational pension scheme). Most employees pay an extra 1.4% in NICs and, for employees aged 21 or over, the employer pays an extra 3.4% (on earnings between the lower earnings limit and the upper accrual point). From a perception point of view, if transitional delay is applied, the eligible jobholder and the employer will not notice a change in their NICs in 2017.</p> <p>If the employer applies the transitional delay period, the employer</p>	<p>[Pensions Act 2014]</p>

<p>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 (if the person is, at that time, still an <i>eligible jobholder</i> and is still employed by the employer) unless the <i>eligible jobholder</i>:</p> <ul style="list-style-type: none"> a) is already a member of the LGPS, or b) had joined the LGPS prior to 1 October 2017 and had subsequently opted out of the LGPS less than 12 months prior to that date (although the employer can choose to ‘automatically enrol’ the person), or c) notice to terminate employment has been given before the end of the period of 6 weeks beginning with 1 October 2017 (although the employer can choose to ‘automatically enrol’ the person), or d) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has, on 1 October 2017, Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016 (although the employer can choose to ‘automatically enrol’ the person) though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016. e) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer’s duty to automatically enrol or re-enrol is discretionary, or f) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer’s duty to automatically enrol or re-enrol is discretionary <p>Note, however, that if the employer chooses not to ‘automatically enrol’ those listed in (b), (c) or (d) above, the person would nonetheless have the contractual right to elect to join the LGPS under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer).</p> <p>An employer might, however, decide not to make use of the transitional delay period for various reasons, including:</p> <ul style="list-style-type: none"> a) administrative simplicity i.e. not having to run a dual track approach for <ul style="list-style-type: none"> 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 	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>
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<p>retirement as early as possible),</p> <p>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 <i>eligible jobholders</i> is small, or the employer considers that a significant proportion of the numbers of <i>eligible jobholders</i> to be automatically enrolled will opt out after enrolment),</p> <p>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.</p>	
<p>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 <i>eligible jobholder</i> within 1 <i>month</i> (or, from 1 April 2014, within 6 weeks) of the date on which the ‘automatic enrolment’ duties first apply to that employer (which will normally be the employer’s ‘staging date’) confirming:</p> <p>a) that the employer intends to defer ‘automatic enrolment’ for the 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.</p> <p>e) where the person may obtain further information about pensions and saving for retirement e.g. www.direct.gov.uk/workplacepensions, www.lgps.org.uk (in Scotland), www.lgps2014.org (in England and Wales), any local intranet sites provided by the Pensions Section of the Pension Fund administering authority, etc. [Deleted as from 1 April 2015]</p>	<p>[s30(3) of the Act and reg 27 of SI 2010/772 as amended by SI 2012/215, SI 2013/2556 and SI 2015/501]</p> <p>[Deleted by SI 2015/501]</p>
<p>87. If the employer provides the <i>eligible jobholder</i> with the transitional delay notice referred to in paragraph 86, the transitional delay period continues to apply provided the conditions in (c) and (d) of paragraph 84 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 (if the person is, at that time, still an <i>eligible jobholder</i> and is still employed by the employer) unless the</p>	<p>[s30(4) of the Act]</p> <p>[s30(3) of the Act]</p>

<p><i>eligible jobholder:</i></p> <ul style="list-style-type: none"> a) is already a member of the LGPS, or b) had joined the LGPS prior to 1 October 2017 and had subsequently opted out of the LGPS less than 12 months prior to that date (although the employer can choose to 'automatically enrol' the person), or c) notice to terminate employment has been given before the end of the period of 6 weeks beginning with 1 October 2017 (although the employer can choose to 'automatically enrol' the person), or d) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has, on 1 October 2017, Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 and Individual Protection 2016 (although the employer can choose to 'automatically enrol' the person) though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016. e) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or f) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary <p>Note, however, that if the employer chooses not to 'automatically enrol' those listed in (b), (c) or (d) above, the person would nonetheless have the contractual right to elect to join the LGPS under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer).</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 not 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 when the person is 'contractually enrolled' are simply those that apply under the Employment Rights Act 1996, the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014 (see Annex 3); and the opt out procedures are those that apply under the LGPS Regulations 2013 and the LGPS (Scotland) Regulations 2014.</p>	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p> <p>[Section 3(5) of ERA 1996 repealed by PA 2014]</p>
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<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 as for <i>eligible jobholders</i> who are ‘automatically enrolled’ (see paragraphs 50 to 54). 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 paragraphs 69 to 71 for more information on the opt out rules, paragraphs 48 to 68 for information on subsequent actions to take prior to the employer’s chosen re-enrolment date, and paragraphs 72 to 77 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>[s30(7)(b) of the Act]</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. 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 31 January 2019 (or a date within 3 <i>months</i> either side of that date chosen by the employer), not 1 October 2020, unless the <i>eligible jobholder</i>:</p> <ol style="list-style-type: none"> a) is already a member of the LGPS on that first ‘re-enrolment’ date, or b) had opted out of the LGPS less than 12 months prior to that first ‘re-enrolment’ date(although the employer can choose to ‘automatically re-enrol’ the person), or c) notice to terminate employment has been given before the end of the period of 6 weeks beginning with that first ‘re-enrolment’ date (although the employer can choose to ‘automatically re-enrol’ the person), or d) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has, on that first ‘re-enrolment’ date, Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016 (although the employer can choose to ‘automatically re-enrol’ the person) though see paragraph 14B regarding Fixed Protection 2016 and 	<p>[Regs 5B, 5C and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79 reg 2]</p> <p>[Reg 3(5)(d)]</p>

<p>Individual Protection 2016.</p> <p>e) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or</p> <p>f) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary</p> <p>The first 're-enrolment' date for those mentioned in (b) and (f) above would then be 3 years later in 2022 (unless any of the circumstances in (a) to (d) above then applied).</p> <p>Note, however, that if the employer chooses not to 'automatically re-enrol' those listed in (b), (c) or (d) above, the person would nonetheless have the contractual right to elect to join the LGPS under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer).</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 unless the circumstances in (a) to (d) above apply. Upon 'automatic enrolment' the information requirements and opt out procedures would then be the same as for <i>eligible jobholders</i> who are 'automatically enrolled' (see paragraphs 50 to 54).</p> <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"> — the <i>eligible jobholder</i> does not opt to join the LGPS during the transitional delay period, and — 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> 	<p>of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p> <p>[Reg 17(3)(b) of SI 2010/772 deleted by SI 2015/501]</p>
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<p>b) 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[Deleted as from 1 April 2015]if the employer issues an eligible jobholder with a transitional delay notice and</p> <ul style="list-style-type: none"> — the eligible jobholder decides to opt to join the LGPS during the transitional delay period, and — then opts out during the transitional delay period, and — the eligible jobholder's earnings subsequently drop during the transitional delay period to a level where the person becomes a non-eligible jobholder or an entitled worker <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[Deleted as from 1 April 2015]</p> <p>i) if the employer issues an eligible jobholder with a transitional delay notice and</p> <ul style="list-style-type: none"> - the eligible jobholder does not opt to join the LGPS during the transitional delay period, and - the eligible jobholder's earnings subsequently drop during the transitional delay period to a level where the person becomes a non-eligible jobholder or an entitled worker, and - the earnings then increase before the end of the transitional delay period to a level where the person again becomes an eligible jobholder <p>‘automatic enrolment’ does not apply at that point. The employer only has to ‘automatically enrol’ that person if they are an eligible jobholder at the end of the transitional delay period (unless the circumstances in (a) to (d) above apply).</p> <p>ii) if the employer issues an eligible jobholder with a transitional delay notice and the eligible jobholder 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 paragraph 29, the person is treated as a new employee of that new employer.</p>	<p>[Reg 17(3)(b) of SI 2010/772 deleted by SI 2015/501]</p> <p>[Reg 28 of SI 2010/772 as amended by SI 2013/2556]</p>
<p>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 that contract</p>	
<p>88. Existing non-eligible jobholders and entitled workers: If, on the employer’s ‘staging date’, an existing non-eligible jobholder or entitled worker (including those who are temporarily in one of those categories because earnings have fallen for any reason, including a reduction in hours, or due to sickness or maternity, paternity or adoption leave, leave of absence, etc) who has a contract of employment for 3 months or more is not an active member of the</p>	

<p>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 paragraphs 55 to 62 (<i>non-eligible jobholders</i>) and in paragraphs 63 to 68 (<i>entitled workers</i>), even if the person had opted out of the LGPS within the 12 <i>month</i> 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"> 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 paragraphs 48 to 54 (<i>eligible jobholders</i>), or 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 paragraphs 55 to 62 (<i>non-eligible jobholders</i>) unless the employer has issued a combined letter (see the Note in paragraph 55), or 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 paragraphs 63 to 68 (<i>entitled workers</i>) unless the employer has issued a combined letter (see the Note in paragraph 63). 	<p>[s30(1) of the Act]</p>
<p>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</p>	
<p>90. Eligible jobholders: 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 <i>months</i>, including casual employees with <i>contracts of employment</i> of less than 3 <i>months</i>, 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"> a) bring the employee into the LGPS unless: <ul style="list-style-type: none"> i) notice to terminate employment before the expiry of the fixed term contract has been given before the end of the period of 6 weeks beginning with the 'enrolment' date (although the employer can choose to 'automatically enrol' the person), or ii) the employer has reasonable grounds to believe the <i>eligible jobholder</i> has, on the 'enrolment' date, Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed 	<p>[Regs 5B and 5D of SI 2010/772 as inserted by SI 2015/501]</p> <p>[SI 2017/79]</p>

<p>Protection 2016 or Individual Protection 2016 (although the employer can choose to 'automatically enrol' the person) though see paragraph 14B regarding Fixed Protection 2016 and Individual Protection 2016, or</p> <p>iii) On or after 6 April 2016, the worker or job holder has received a winding up lump sum in the previous 12 months, in which case the employer's duty to automatically enrol or re-enrol is discretionary, or</p> <p>iv) On or after 6 April 2016, the job holder is a director of a company by which the job holder is employed, or a member of a limited partnership and the job holder is not treated for income tax purposes as being employed by the partnership, in which case the employer's duty to automatically enrol or re-enrol is discretionary.</p> <p>b) choose to apply the transitional delay period (in which case the procedures set out in paragraphs 86 to 87 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 <i>months</i> or more who are not in the LGPS (see paragraph 82), or</p> <p>c) issue the person with a notice of postponement (in which case the procedures set out in paragraph 47 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 paragraph 82).</p> <p>Note, however, that the person would nonetheless have the contractual right to elect to join the LGPS under the rules of the LGPS (assuming they are under age 75 and, if employed by a designation or admission body, have been designated for membership by their employer).</p> <p>91. Non-eligible jobholders and entitled workers: 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 paragraph 46), issue the person with a notice of postponement (in which case the procedures set out in paragraph 47 would apply).</p>	<p>reg 2]</p> <p>[Reg 3(5)(d) of SI 2010/4 as amended by SI 2016/311)]</p> <p>[Reg 3(6)(b) of SI 2013/2356 and reg 3(5)(b) of SSI 2014/164]</p>
<p>Payment of contributions</p>	
<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 19th of the month</p>	<p>[Reg 16 of SI 1996/1715, as</p>

<p>following the month in which they were deducted from pay.</p> <p>93. However, between 1 July 2012 and 30 October 2013:</p> <ul style="list-style-type: none"> a) if an <i>eligible jobholder</i> or <i>non-eligible jobholder</i> was enrolled (or re-enrolled) into the LGPS under the provisions of the Pensions Act 2008, the employee contributions deducted from pay during the opt out period under the Act had to be paid over to the LGPS by 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; or b) in any other case, the employee contributions deducted from pay has to be paid over to the LGPS by no later than the 22nd of the month following that in which they were deducted from pay if those contributions were remitted to the LGPS Fund electronically, or by the 19th of the month if remitted by any other means. <p>Pension Fund administering authorities could, of course, have required 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>amended]</p> <p>[Regs 1 and 48 of SI 2010/772 as amended by SI 2012/215 and reg 16 of SI 1996/1715, as amended]</p> <p>[Regs 39(3)(a) and 42(1) and (2)(a) of SI 2008/239 and regs 35(3)(a) and 38(1) and (2)(a) of SSI 2008/228]</p>
<p>94. From 1 November 2013:</p> <ul style="list-style-type: none"> a) if the employee is enrolled (or re-enrolled) into the LGPS under the provisions of the Pensions Act 2008, the employee contributions deducted from pay in the first 3 <i>months</i> have to be paid over to the LGPS, where the payment is by means of an electronic communication, by no later than 22 days from the end of the month falling 3 <i>months</i> from the date the employee became a member of the Scheme, or if paid by any other means, by no later than 19 days from the end of the month falling 3 <i>months</i> from the date the employee became a member of the Scheme; or b) in any other case (e.g. where the employee is contractually enrolled into the LGPS, or for contributions deducted from pay more than 3 <i>months</i> after being enrolled or re-enrolled under the provisions of the Pensions Act 2008), the employee contributions deducted from pay have had to be paid over to the LGPS where the payment is by means of an electronic communication, by no later than 22 days after the end of the month in which the contributions were deducted from pay, or if paid by any other means, by no later than 19 days after the end of the month in which the contributions were deducted from pay. <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 67(3)(a) and 69(1) of the LGPS Regulations 2013 and</p>	<p>[Reg 16(2) of SI 1996/1715, as amended]</p> <p>[Reg 16(1) of SI 1996/1715, as amended]</p> <p>[Regs 67(3)(a) and 69(1) and (2)(a) of SI 2013/2356]</p>

<p>regulations 65(3)(a) and 67(1) of the LGPS (Scotland) Regulations 2014.</p> <p>In order to ensure ease of administration and to avoid any potential for interest to be payable on late payment of contributions under regulation 71 of the LGPS Regulations 2013 or regulation 69 of the LGPS (Scotland) Regulations 2014 it is recommended that payments should be paid over by no later than the dates specified in (b) above, or such earlier time as the Pension Fund administering authority may require. As recommended in paragraphs 53 and 61, 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 if a refund of contributions has to be paid via the payroll (i.e. where an employee opts out within 3 months of joining) 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. 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. Prior to 1 April 2015, this did not apply in the case of contributions due to the LGPS. That was because the provision only applied where the managers of a scheme were required to prepare and maintain a schedule of contributions under s227 of the Pensions Act 2004. That section of the Pensions Act 2004 did 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]. Regulation 16A of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [SI 1996/1715] provided that LGPS administering authorities were exempt from having to notify The Pensions Regulator of a late pay over of pension contributions. However, the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [SI 2014/3138] removed, from 1 April 2015, the exemption for administering authorities to report to the Pensions Regulator the late pay over of member contributions by participating employers where the administering authority believes the failure is likely to be of 'material significance' to the Regulator.</p>	<p>and regs 35(3)(a) and 38(1) and (2)(a) of SSI 2008/228]</p>
<p>Registration with The Pensions Regulator – completing a declaration of compliance</p>	
<p>96. Initial declaration of compliance: Employers will be required to complete a declaration of compliance for The Pensions Regulator and provide specified information within 4 months of their 'staging date' (or, from 1st April 2014, within 5 months 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</p>	<p>[Regs 2 and 3 of SI 2010/5 as amended by SI 2012/215 and SI 2013/2556]</p>

the Banking and Financial Dealings Act 1971) or other public holiday, by the end of the next working day. If the employer uses postponement to postpone the automatic enrolment duties relating to a *worker*, it's important to be aware that this won't change the employer's declaration of compliance deadline, which will remain the same – i.e. five months after their staging date.

The Pensions Regulator has designed an [online declaration process](#). It is the employer's duty to complete the declaration, 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).

It should be noted that although employees of a foundation school (including a Trust school that is a foundation school), a voluntary aided school or a foundation special school 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 be responsible for completing the declaration, but they may authorise an agent to carry out the activity on their behalf, if they wish. However, if the authorised agent is the local authority (because, for example, it is providing a payroll service) the local authority must complete a declaration as an employer in its own right and a separate declaration for each foundation, foundation special or voluntary aided school (or, indeed, any other employer) in respect of which it is acting as an agent. 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)

NB: it is understood that where a person has multiple contracts which the employer is **not** treating as a single employment relationship then each contract should be treated separately (i.e. as if each contract were for a different person) when determining the numbers falling in each of the above categories.

- 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 'automatically enrol' **eligible jobholders** i.e.
 - 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
 - the name and address of the provider of any personal pension scheme so used
 - the employer's pension scheme reference (for personal pensions and NEST).

The Pensions Regulator also asks for the following additional information:

- 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
- g) PAYE scheme references for all PAYE schemes the employer uses
- h) the Scheme's Pension Scheme Registry Number (PSRN). This is an 8 digit number starting with 1 and each of the 100 LGPS Funds has its own 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 <https://exchange.thepensionsregulator.gov.uk> which will

<p>bring up the name of the scheme and the PSRN]</p> <p>i) the Employer Pension Scheme Reference (EPSR). This is a reference number allocated to the employer by the administering authority. For example, it could be the employer code used by the administering authority to identify the employer on the pensions administration system used by the administering authority.</p> <p>97. The information provided on the initial declaration must be accompanied by a statement that the information is, to the best of the employer's belief and knowledge, correct and complete.</p> <p>98. Three yearly re-declaration of compliance: 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 2 <i>months</i> of the re-enrolment date.</p> <p>It is the employer's duty to complete the declaration, 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).</p> <p>It should be noted that although employees of a foundation school (including a Trust school that is a foundation school), a voluntary aided school or a foundation special school 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 be responsible for completing the declaration, but they may authorise an agent to carry out the activity on their behalf, if they wish. However, if the authorised agent is the local authority (because, for example, it is providing a payroll service) the local authority must complete a declaration as an employer in its own right and a separate declaration for each foundation, foundation special or voluntary aided school (or, indeed, any other employer) in respect of which it is acting as an agent.</p> <p>If, however, the employer has no <i>eligible jobholders</i> to re-enrol at the re-enrolment date, then the employer (or the agent authorised to act on the employer's behalf) 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-declaration).</p> <p>In either case, the information to be provided to The Pensions Regulator is:</p> <p>a) the employer's name, address and post code, and</p> <ul style="list-style-type: none"> - 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 	<p>[Reg 3(4) of SI 2010/5]</p> <p>[Reg 4 of SI 2010/5 as amended by SI 2012/215 and SI 2013/2556]</p>
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<p>that does not exist</p> <ul style="list-style-type: none"> - the employer's registered charity number or, where that does not exist - the employer's VAT registration number (if any) <p>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</p> <p>c) the number of</p> <ul style="list-style-type: none"> - workers 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 qualifying scheme or, if the employer has more than one such qualifying scheme, the number in each such scheme - eligible jobholders 'automatically re-enrolled' into an automatic enrolment scheme 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, and the 'automatic re-enrolment' date chosen by the employer - the number of eligible jobholders to whom any transitional delay period applied by the employer still applies [NB: if a local authority, on its original compliance declaration, said it had applied transitional delay to 1,000 employees (and had inadvertently included within that number 10 employees of a Foundation school), the local authority's re-declaration following their re-enrolment date (if this is before the end of the transitional delay period) would have to show how many of the 990 local authority employees to whom transitional delay had been applied were still subject to the transitional delay notice on the local authority's re-enrolment date and the separate re-declaration for the Foundation school (if the authority is acting as authorised agent for the Foundation school) would have to show how many of the 10 Foundation School employees to whom transitional delay had been applied were still subject to the transitional delay notice on the Foundation school's re-enrolment date] - the number of any other workers in the employer's PAYE scheme <p>d) the pension scheme details for any scheme (or schemes) used to 'automatically re-enrol' eligible jobholders i.e.</p> <ul style="list-style-type: none"> - 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 - the name and address of the provider of any personal pension scheme so used - the employer's pension scheme reference. <p>99. The information provided on each three yearly re-declaration must be accompanied by a statement 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>
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Records to be kept by employers	
<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"> 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 authority), b) the employer pension scheme reference, c) Prior to 6 April 2016, the contracting-out certificate issued for the LGPS (see copy at Annex 5), and after 5 April 2016 the Alternative Quality Test Certificate for the LGPS England & Wales or LGPS Scotland as appropriate (see copies 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 <i>eligible jobholder</i> 'automatically enrolled' into the LGPS (see paragraphs 48, 86, 87 and 90), plus their gross <i>earnings</i> in any relevant <i>pay reference period</i>, the employer contributions due during each relevant <i>pay reference period</i> (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 <i>non-eligible jobholder</i> who opted to join the LGPS (see paragraphs 57, 88 and 91), plus their gross <i>earnings</i> in any relevant <i>pay reference period</i>, the employer contributions due during each relevant <i>pay reference period</i> (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 <i>entitled worker</i> who opted to join the LGPS (see paragraphs 65, 88 and 91), plus their gross <i>earnings</i> in any relevant <i>pay reference period</i>, the employer contributions due during each relevant <i>pay reference period</i> (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 <i>eligible jobholder</i> or <i>non-eligible jobholder</i> (see paragraphs 53, 	<p>[Reg 5 of SI 2010/5, and reg 6 of SI 2010/5 as amended by SI 2012/215]</p> <p>[SI Regulation 32M of 2010/772 as amended by SI 2016/311]</p>

[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).

101. The records must be kept for 6 years, apart from the original of any valid opt-out notice given by an *eligible jobholder* or *non-eligible jobholder*, 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 *entitled workers* should also be retained.

It should be noted that the LGPC Secretariat raised the following question of retention periods for opt out forms with the Information Commissioner's Office (ICO):

"Principle 5 of the Data Protection principles says that personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes. Although the Pensions Act 2008 only statutorily requires employers to retain pension opt out forms for 4 years, would the ICO accept that it is reasonable for employers to retain the opt out forms indefinitely as documentary proof that a person had opted out of the pension scheme should that person, perhaps many years later, claim that they had not done so and seek to claim that they are due a pension?"

The ICO responded as follows:

"As you may be aware, the Information Commissioner regulates the Data Protection Act 1998 (DPA). The DPA is based upon eight Principles of good information handling. The DPA also creates

[Reg 8 of SI 2010/5]

<p><i>statutory rights for individuals in relation to their personal information and imposes certain obligations on organisations responsible for processing that information.</i></p> <p><i>Firstly, I should explain that the ICO are not able to state or confirm for certain that a particular approach will lead to compliance of the DPA as the ICO is only able to provide general advice on compliance. We are not able to endorse specific policies or procedures as this may prejudice our position in the event that we receive a complaint from an individual. Ultimately, it is a data controller's responsibility to ensure that it has processed data in accordance with the 8 principles of the Act.</i></p> <p><i>In relation to your email received, under the DPA a data controller must comply with the 8 principles of the Act. Principle one of the DPA requires that a data controller should ensure that they have at least one legitimate basis for processing all personal data, that the processing is 'lawful' and they must ensure that any such processing is 'fair'. Principle two states that personal data shall be obtained for one or more specified and lawful purpose and shall not be further processed in any manner incompatible with those purposes.</i></p> <p><i>A key theme of the DPA is that of openness and transparency. When we talk about fair processing we generally mean ensuring that the data subject is made fully aware, wherever possible, of anything that is going to happen to their data which they wouldn't necessarily expect. To be compliant with the first principle of the DPA we would expect this 'fair processing information' (also sometimes referred to as a 'fair processing notice'), to be provided at the earliest opportunity and usually before the intended processing occurs. It is important to note that a fair processing notice does not necessarily need to be in writing.</i></p> <p><i>In addition, Principle 5 of the DPA states that:</i></p> <p><i>'Personal data kept for any purpose(s) shall not be kept longer than is necessary for that purpose(s)'.</i></p> <p><i>The DPA does not define how long is 'necessary' as it would be impractical for the DPA to be able to give specific retention periods for every type of organisation that must comply with the DPA. Therefore the fifth principle means in practice that once it is no longer necessary for a data controller to retain data collected for a particular purpose, they should take the appropriate steps to dispose of it.</i></p> <p><i>Therefore, in relation to your enquiry, I would advise that you need to ensure that the processing of personal data is compliant with the principles of the Act. It also important that the data controller is satisfied that the processing of personal data is aligned with the DPA."</i></p> <p>Where a contracted-out certificate was issued under S7 of PSA1993</p>	<p>[Article 27 of SI 2016/200</p>
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<p>(as it had effect before 5 April 2016) the employer must continue to retain that certificate until 5 April 2022.</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>inserts regulation 8 into SI 2010/5]</p> <p>[Regs 5(1)(c) and (7) of SI 2010/5]</p>
<p>Records to be kept by the Pension Fund administering authority</p>	
<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> <ul style="list-style-type: none"> a) the employer pension scheme reference, 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, 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, d) whether the person is an active member, 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. <p>NB: It should be noted that:</p> <ul style="list-style-type: none"> - 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 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 - 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 	<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>with the record keeping requirements set out in (a) to (e) above and in paragraphs 104 and 105. Wearing its employing authority hat it must, separately, also comply with the employer record keeping requirements set out in paragraphs 100 to 102.</p> <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 – see the further information from the Information Commissioner’s Office at paragraph 101.</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>
<p>Prohibited recruitment conduct</p>	
<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>
<p>Inducement to opt out of the LGPS (or any other qualifying scheme)</p>	
<p>107. As from July 2012 an employer is not allowed to take any action the sole or main purpose of which is to:</p> <ul style="list-style-type: none"> - induce a person who is eligible to join the LGPS (or any other <i>qualifying scheme</i>) to opt not to be enrolled into the scheme, or - induce a member of the LGPS (or any other <i>qualifying scheme</i>) to opt out of the scheme (without immediately enrolling them into an alternative scheme that complies with the requirements of the Pensions Act 2008). 	<p>[s54 of the Act]</p>

<p>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 not to join / do not opt-out. It is the action taken by the employer with a view to inducing a <i>worker</i> to:</p> <ul style="list-style-type: none"> - opt not to join, or - opt out without becoming an active member of another <i>qualifying scheme</i> <p>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>Unfair treatment of workers</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>Compliance</p>	
<p>109. Employer compliance notice: 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"> calculate the amount of any unpaid employee and employer contributions, 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 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 	<p>[s35 and s54 of the Act]</p> <p>[s38 of the Act and reg 9 of SI 2010/5]</p>

<p>It is not clear how such a notice would operate in the relation to the LGPS, given that:</p> <ul style="list-style-type: none"> 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 b) an unpaid contributions notice (see paragraph 111) cannot be issued in relation to contributions due to the LGPS for the reasons stated in paragraph 95. <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"> a) 6 <i>months</i> before the time when a complaint was made to the Regulator about the contravention, or 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. 	<p>[s54 of the Act and reg 16 of SI 2010/5]</p>
<p>110. Third party compliance notice: 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 anything. 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>[s36 of the Act]</p>
<p>111. Unpaid contributions notice: 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 paragraph 95.</p>	<p>[s37 of the Act and reg 50 of SI 2010/772 as amended by SI 2012/215 and SI 2013/2556]</p>
<p>112. Prohibited recruitment conduct compliance notice: 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>[s51 of the Act]</p>

Penalties	
<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. Fixed penalty notice: 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. Escalating penalty notice: 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. Prohibited recruitment penalty notice: 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</p>	<p>[s52 of the Act and reg 14 of SI 2010/5 as amended by SI 2012/215]</p>

<p>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 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> <tr> <th><u>Number of persons</u></th><th><u>Penalty (£)</u></th></tr> <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> </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										
Wilful failure to comply											
<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>	[s45, s46 and s47 of the Act]										
Can employers choose not to offer the LGPS?											
<p>118. The LGPC Secretariat has been asked by a number of employers whether, from their 'staging date', they can cease offering the LGPS</p>											

<p>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. Employers covered by Part 1 of Schedule 2 to the LGPS Regulations 2013 and by Part 1 of Schedule 2 to the LGPS (Scotland) Regulations 2014: These employers must, by law, 'contractually enrol' into the LGPS their employees who:</p> <ul style="list-style-type: none"> a) are under age 75, and b) have a <i>contract of employment</i> for 3 <i>months</i> or more, or are <i>eligible jobholders</i> who have a <i>contract of employment</i> of less than 3 <i>months</i> and to whom the employer has not issued a postponement notice, and c) who are not eligible for membership of another public service pension scheme <p>They must also, by law, offer membership of the LGPS to their employees who:</p> <ul style="list-style-type: none"> d) are under age 75, and e) have a <i>contract of employment</i> for less than 3 <i>months</i> and who are either <i>non-eligible jobholders</i> or <i>entitled workers</i> or are <i>eligible jobholders</i> to whom the employer has issued a postponement notice, and f) who are not eligible for membership of another public service pension scheme <p>120. Employers covered by Part 2 of Schedule 2 to the LGPS Regulations 2013: These employers may, following their 'staging date', 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 Regulations 2013 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>Should such an employer decide not to offer membership of the LGPS to new employees they will need to check their designation wording and amend as necessary e.g. to cease any blanket designation that states that all employees are eligible for the LGPS; or all employees within a specified class of employees are eligible for membership the LGPS; or all employees occupying specified posts are eligible for membership of the LGPS, etc.</p> <p>If, however, such an employer wishes to offer a choice of the LGPS or</p>	<p>[Part 1 of Schedule 2 to SI 2013/2356 and Part 1 of Schedule 2 of SSI 2014/164]</p> <p>[Reg 3 of SI 2013/2356, reg 3 of SSI 2014/164]</p>
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an alternative qualifying scheme to new employees they would need to specify which scheme is the default qualifying scheme into which new employees will be enrolled.

For example, the employer might specify that the alternative scheme is the default scheme for automatic enrolment. However, if a new employee were to elect before commencement of employment to join the LGPS instead, the employer would designate the employee, before the first day of employment, for membership of the LGPS. The employee would thus be contractually enrolled into the LGPS (and automatic enrolment into the alternative scheme would not apply). If a new employee did not elect before commencement of employment to join the LGPS then the alternative scheme would be the automatic enrolment scheme. The employer could, if they wished, still permit the employee to make a subsequent election to move from the alternative scheme into the LGPS. If the employer permits such a move they would, upon an election being made by the employee, need to then designate the employee for membership of the LGPS (enabling that employee to be removed from the alternative qualifying scheme and contractually enrolled into the LGPS, which is also a qualifying scheme).

If the employer does specify the alternative scheme as the default qualifying scheme the employer will need to change their designation wording to provide (if it does not already so provide) that only those individual employees who the employer designates from time to time will be eligible for membership of the LGPS i.e. those employees who choose the LGPS in preference to the employer's alternative qualifying scheme will be the employees the employer designates.

121. Employers covered by Part 4 of Schedule 2 to the [LGPS Regulations 2013](#)

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 and matters for consideration mentioned in [paragraph 120](#) would equally apply.

122. Employers covered by regulation 3(5) of, and paragraphs 1(a) to (c) and 1(e) of Part 3 of Schedule 2 to, the [LGPS Regulations 2013](#) and by regulation 3(4) of, and paragraphs 1(a) to (c) and 1(e) of Part 2 of Schedule 2 to, the [LGPS \(Scotland\) Regulations 2014](#):

These employers are Community 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. 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.

If the employer wishes to offer a choice of the LGPS or an alternative qualifying scheme to new employees they would need to specify which scheme is the default qualifying scheme into which new employees will be enrolled.

For example, the employer might specify that the alternative scheme is the default scheme for automatic enrolment. However, if a new employee were to elect before commencement of employment to join the LGPS instead, the employer would designate the employee, before the first day of employment, for membership of the LGPS. The employee would thus be contractually enrolled into the LGPS (and automatic enrolment into the alternative scheme would not apply). If a new employee did not elect before commencement of employment to join the LGPS then the alternative scheme would be the automatic enrolment scheme. The employer could, if they wished, still permit the employee to make a subsequent election to move from the alternative scheme into the LGPS. If the employer permits such a move they would, upon an election being made by the employee, need to then designate the employee for membership of the LGPS (enabling that employee to be removed from the alternative qualifying scheme and contractually enrolled into the LGPS, which is also a qualifying scheme).

If the employer does want to specify the alternative scheme as the default qualifying scheme the employer would need to agree an amendment to their admission agreement with the Pension Fund administering authority so it provides (if it does not already do so) that only those individual employees who the employer designates from time to time will be eligible for membership of the LGPS i.e. those employees who choose the LGPS in preference to the employer's alternative qualifying scheme will be the employees the employer designates.

123. Employers covered by regulation 3(5) of, and paragraph 1(d) of Part 3 of Schedule 2 to, the [LGPS Regulations 2013](#) and by regulation 3(4) of, and paragraph 1(d) of Part 2 of Schedule 2 to,

the [LGPS \(Scotland\) Regulations 2014](#): 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), including contracts covering employees in a maintained community school, maintained community special school, maintained nursery school or maintained voluntary controlled school, or with a police authority in Wales, and
- the Welsh Authorities Staff Transfers (Pensions) Direction 2012, a Transferee *Admission Body* with an open or closed admission agreement that relates to a contract with a Welsh improvement authorities and community councils

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.

It should also be noted that, by virtue of [the Fair Deal policy](#) published by the Government on 7 October 2013 a Transferee *Admission Body* with an open or closed admission agreement that relates to a contract covering employees of academies (including free schools), foundation schools, foundation special schools and voluntary aided schools in England cannot cease to offer membership of the LGPS (or, in

exceptional circumstances, 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 body.

It should further be noted that a Transferee *Admission Body* 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 [Statutory Guidance to Local Authorities on Contracting](#) 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.

Subject to the three paragraphs above, if the employer wishes to offer a choice of the LGPS or an alternative qualifying scheme to employees they would need to specify which scheme is the default qualifying scheme into which the employees will be enrolled.

For example, the employer might specify that the alternative scheme is the default scheme for automatic enrolment. However, if a new employee were to elect before commencement of employment to join the LGPS instead, the employer would designate the employee, before the first day of employment, for membership of the LGPS. The employee would thus be contractually enrolled into the LGPS (and automatic enrolment into the alternative scheme would not apply). If a new employee did not elect before commencement of employment to join the LGPS then the alternative scheme would be the automatic enrolment scheme. The employer could, if they wished, still permit the employee to make a subsequent election to move from the alternative scheme into the LGPS. If the employer permits such a move they would, upon an election being made by the employee, need to then designate the employee for membership of the LGPS (enabling that employee to be removed from the alternative qualifying scheme and contractually enrolled into the LGPS, which is also a qualifying scheme).

If the employer does want to specify the alternative scheme as the default qualifying scheme the employer would need to agree an amendment to their admission agreement with the Pension Fund administering authority so it provides (if it does not already do so) that only those individual employees who the employer designates from time to time will be eligible for membership of the LGPS i.e. those employees who choose the LGPS in preference to the employer’s alternative qualifying scheme will be the employees the employer designates.

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, regulation 3(5) of the [LGPS Regulations 2013](#) or, in Scotland, regulations 3(4) of the [LGPS \(Scotland\) Regulations 2014](#).

Automatic enrolment scheme: [s17 of the Act and regulation 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 Part 4 of Schedule 2 to the [LGPS Regulations 2013](#).

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 is not pensionable under the LGPS in Scotland) 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 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 LGPS 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 £10,000 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 £5,824 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, 15th September it must be sent before 15th 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 £5,824 or more but less than or equal to £10,000 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 £10,000 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 Part 1 of Schedule 2 to the [LGPS Regulations 2013](#) or, in Scotland, under Part 1 of Schedule 2 to the [LGPS \(Scotland\) Regulations 2014](#).

Pay reference period: [Reg 4(1) of SI 2010/772 as amended by SI 2012/215 and SI 2013/2556]

This is either 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 15th 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

or a pay period aligned to tax weeks or months. Employers with a staging date on or after 1 November 2013 will be able to choose either approach.

There is nothing that prevents an employer using one definition for some workers and the other definition for other workers. Employers with a staging date before 1 November 2013 will be using the definition of a pay reference period aligned to the period by reference to which a person is paid their regular wage or salary. From 1 November 2013 they can choose to change to using the definition aligned to tax weeks or months at any point on or after 1 November 2013. More information on pay reference periods is available on the [Pensions Regulator website](#).

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 £5,824, and
- (b) not more than £43,000.

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

Qualifying scheme: [s16(1), s21(1), s22, s23, 23A and s28 of the Act and regulations 32A to 32D, 32L, 32M and 36 of SI 2010/772 as amended by SI 2012/1257, SI 2014/715, SI 2015/501 and SI 2016/311]

Until 5 April 2016 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** (but see note 2 below).

2. In April 2014 the Department for Work and Pensions issued updated [guidance](#) for employers on certifying that a defined benefit pension scheme meets the quality requirement for being a *qualifying scheme*. The updated guidance says:

The legislation provides that defined benefit schemes meet the quality requirements in relation to jobholders who are in contracted-out employment. The contracting-out certificate is taken as evidence that the scheme satisfies the quality requirement provided that all relevant jobholders are in contracted-out employment. Where some of the jobholders are not in contracted-out employment (e.g. because they are over State Pension Age (SPA) and thus not paying National Insurance) it will be necessary for the scheme to satisfy the test scheme standard in respect of those jobholders.

When determining whether a contracted-out scheme satisfies the test scheme standard in relation to a jobholder who is not in contracted-out employment a simplified approach can be used. It will be sufficient to establish that the benefits to be provided for that jobholder and any other members of the scheme who are not in contracted-out employment are calculated in the same way as the benefits which would be provided for the other members of the scheme who are in contracted-out employment. This means that there must be no differences in normal retirement age, accrual rate, definition of pensionable pay, maximum service periods, methods of indexation and revaluation, etc.

If there is no difference in treatment between members who are in contracted-out employment and those who are not, then the scheme satisfies the test scheme standard. If there are any such differences, then the standard approach as set out in the rest of this guidance must be applied.

A career average scheme, whether contracted-out or not, must also provide for at least minimum level revaluation of benefits in-service to be a qualifying scheme. That additional requirement is separate from the process of determining whether a scheme has satisfied the test scheme standard.

Thus, the LGPS prior to 6 April 2016 satisfied the quality requirement for relevant *jobholders* who were under *State Pension Age* as they were in contracted-out employment (as evidenced by [Annex 5](#)). It also satisfied the test scheme standard for those who were over *State Pension Age* because it was a defined benefit contracted-out scheme and there is no difference in treatment between members under and over *State Pension Age*.

3. Regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772, as amended by SI 2012/1257, SI 2012/2691 and SI 2014/715] requires that, for a public service Career Average Revalued Earnings (CARE) pension

scheme established under section 1 of the Public Service Pensions Act 2013, each year's accrued benefit is revalued by the percentage increase or decrease specified in the order issued by HM Treasury under section 9(2) of that Act.

Until 5 April 2016 the LGPS CARE scheme introduced from 1 April 2014 in England and Wales, and the LGPS CARE scheme introduced from 1 April 2015 in Scotland and Northern Ireland, were a *qualifying scheme* and satisfied the test scheme standard because they were a defined benefit contracted-out scheme, there was no difference in treatment between members under and over *State Pension Age*, and the minimum level of revaluation of in-service benefits was met.

4. The Secretary of State may by order provide that a scheme did not satisfy the quality requirement in relation to a *jobholder* who was in contracted-out employment unless it satisfied 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 was made.

As from 6 April 2016, the LGPS ceased to be a contracted-out scheme coinciding with the introduction of the new State Pension. This means the LGPS would have to meet the Test Scheme Standard set out in section 23 of the Pensions Act 2008 or the Alternative Quality Requirements set out in section 23A of the Pensions Act 2008 and regulations 32L and 32M of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772 as amended by SI 2015/501 and SI 2016/311].

The key features of the Test Scheme for a defined benefits scheme that provides for a pension are:

- pensions are payable for life
- pensions are payable from the 'appropriate' age. The 'appropriate age' is 65 or, for a member whose pensionable age (the age from which entitlement to State Pension Age begins) is higher than that, the age at which the member attains pensionable age.
- pensions accrue at 1/120th of final qualifying earnings, per year
- pensions accrue for every year of pensionable service, up to a maximum of 40 years
- when a person leaves the scheme before normal pension age their pension rights in the scheme are increased by at least the minimum rate required by law
- pensions in payment are increased by at least the minimum rate required by law.

In addition, as a career average pension scheme, the LGPS must also provide for at least minimum level revaluation of benefits in-service to be a qualifying scheme. That additional requirement is separate from the process of determining whether a scheme has satisfied the Test Scheme Standard.

Regulation 36 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 [SI 2010/772, as amended by SI 2012/1257, SI 2012/2691 and SI 2014/715] requires that, for a public service Career Average Revalued Earnings (CARE) pension scheme established under section 1 of the Public Service Pensions Act 2013, each year's accrued benefit is revalued by the percentage increase or decrease specified in the order issued by HM Treasury under section 9(2) of that Act.

The LGPS therefore meets the Test Scheme Standard.

The Alternative Quality Requirement test for a scheme such as the LGPS is that the cost of providing the benefits accruing to active members over a relevant period requires contributions to be made of a total amount equal to at least the percentage shown in the table below of the members' total relevant earnings over that period.

"Total relevant earnings" are the earnings which the scheme uses to determine pensionable earnings. The "relevant period" is the period shown in the last actuarial report which the actuary has used to assess the future service cost or, in any other case, any period of 12 months.

Pensionable earnings are equal to or more than basic pay	11%
Pensionable earnings are equal to or more than basic pay and, for all members of the scheme, their pensionable earnings are at least 85% of their total earnings	10%
Pensionable earnings are equal to all the member's earnings	9%

Basic pay is pay excluding commission, bonuses, overtime or similar payments, shift premium, any reasonable allowance for:

- duties such as fire or bomb warden,
- relocation expenses,
- the purchase, lease or maintenance of a vehicle or other item, or
- the delivery of a service to the member.

Where the cost of providing benefits to different groups of members is certified by an actuary as being materially different (e.g. in the LGPS the cost of providing benefits to members in the 50/50 section is different to the cost of providing benefits to members in the main section) the assessment of whether the scheme meets the Alternative Quality Requirement test has to be undertaken for each separate group of members.

In the case of a multi-employer scheme, such as the LGPS, the test can be undertaken by looking at the active membership across the whole scheme. However, to accommodate schemes that break down the analysis or wish to break it down by individual employers, the participating employers can choose to apply the test only in respect of their workers.

The Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016 [SI 2016/311] provide, for a limited period only, the facility for Schemes who ceased to be contracted-out

on 5 April 2016 and whose rules have not been amended that would mean that the Scheme would no longer satisfy the former contracting-out requirements, to obtain a written report from the Actuary. This becomes the Alternative Quality Test based on the cost of accruals for the purpose of Auto Enrolment. The LGPS has met this test and copies of the certificates (England & Wales and Scotland) can be found at Annex 5.

By meeting the Test Scheme Standard and the Alternative Quality Test, the LGPS remains a qualifying scheme for automatic enrolment purposes from 6th April 2016 onwards.

DWP have issued guidance on the alternative quality requirement for DB schemes – see <https://www.gov.uk/government/publications/automatic-enrolment-alternative-quality-requirements-for-defined-benefit-and-hybrid-pension-schemes> .

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 and will reach 65 by November 2018.

State pension age equalisation timetable for women

Date of Birth	New State Pension Age
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 2026 and 2028 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 above age 67 will be linked to increases in life expectancy. For full details of legislated and announced increases to State Pension Age see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181343/spa-timetable.pdf.

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 (applicable to England and Wales) 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." In Scotland, section 31A(1) of the Local Government (Scotland) Act 1973 says "A person elected a member of a local authority who is the holder of any paid office or employment or other place of profit in the gift or disposal of the authority is disqualified from remaining a member of the authority after the relevant day...". 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. However, the position is muddled somewhat in Scotland because councillors in Scotland are remunerated – see <http://www.scotland.gov.uk/Publications/2010/04/12120139/1> for further information. As part of the response to the DWP [consultation](#) on proposed technical changes to auto-enrolment the LGPC Secretariat had requested that the position of councillors be made certain. In its [response](#), the DWP said "Local authority councillors who do not have a worker's contract are not covered by the employer duties. An exception [to the automatic enrolment duties] is not needed." Furthermore, the Government, on page 10 of its [response](#) to the consultation on "Taxpayer-funded pensions for councillors and other elected local office holders" said "the Government does not believe, as some have argued, that councillors are employed by local authorities or that they are workers or part-time workers".

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] and The Occupational and Personal Pension Schemes (Automatic Enrolment) (Miscellaneous Amendments) Regulations 2016 [SI 2016/311].

[SI 2016/311 deleted the following areas in this annex from 6 April 2016]

- ~~(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.~~

~~“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].~~

- (3) 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 1st 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

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 1st 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>
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
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	1st 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)	Date before which notification to automatically enrol early must be sent	Staging date (subject to qualification in the final column)	Alternative staging date which an employer may choose if on 1 st 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
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)	Date before which notification to automatically enrol early must be sent	Staging date (subject to qualification in the final column)	Alternative staging date which an employer may choose if on 1 st 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
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 October 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,	1st December 2016	1st January 2017	

Employer (by <i>PAYE</i> scheme size or other description)	Date before which notification to automatically enrol early must be sent	Staging date (subject to qualification in the final column)	Alternative staging date which an employer may choose if on 1 st 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
9A-9Z, U1-U9, V1-V9, W1-W9, UA-UZ, 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	1st July 2017	1st August 2017	

Employer (by <i>PAYE</i> scheme size or other description)	Date before which notification to automatically enrol early must be sent	Staging date (subject to qualification in the final column)	Alternative staging date which an employer may choose if on 1 st 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
March 2015)			
New employer (<i>PAYE</i> income first payable between 1st April 2015 and 31st December 2015)	1st September 2017	1st October 2017	
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

[As the Scheme is no longer contracted-out, section 3(5) of ERA 1996 has been repealed by PA 2014 as has section 7 of PSA 1993.]

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 comply:

- a) with the provision of information requirements contained in The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [SI 2013/2734]. Those requirements can be 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 at www.lgpsregs.org), and
- b) with regulation 9 of the LGPS Regulations 2013 and with regulation 9 of the LGPS (Scotland) Regulations 2014 which, respectively, say:

9 Contributions [payable by active members - England and Wales]

- ~~(1) Subject to Regulation 10 (temporary reduction in contributions), an active member must pay contributions to the Scheme in respect of an employment at the contribution rate applicable to the annual pensionable pay that member is receiving in the pay period in which 1st April falls for that employment (or in the case of an active member whose membership commences after 1st April in any year, on the annual pensionable pay the member receives at the commencement of that membership).~~
- ~~(2) The contribution rate applicable to an employment is as specified in the following table, with the contribution rate specified in the third column~~

applicable to the band of pensionable pay specified in the second column into which the active member's annual pensionable pay, rounded down to the nearest whole pound, falls:

Annual pensionable pay	Employee Contribution rate
Up to £13,600	5.5%
£13,601 to £21,200	5.8%
£21,201 to £34,400	6.5%
£34,401 to £43,500	6.8%
£43,501 to £60,700	8.5%
£60,701 to £86,000	9.9%
£86,001 to £101,200	10.5%
£101,201 to £151,800	11.4%
£151,801 or more	12.5%

[The figures in the above table are those shown in the Regulations. However, the range figures were subsequently increased on 1 April 2015 ,remained static on 1 April 2016 and increased on 1 April 2017]

- (3) *Where there is a change in employment, or a material change which affects the member's pensionable pay in the course of a financial year, the Scheme employer may determine that a contribution rate from a different band should be applied and the Scheme employer shall inform the member of the contribution rate applicable and the date from which it is to be applied.*
- (6) *For the purposes of identifying which is the applicable contribution rate under this regulation and regulation 10, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—*
 - (a) *the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;*
 - (b) *child-related leave;*
 - (c) *leave of absence with permission;*
 - (d) *sick leave;*
 - (e) *leave due to injury;*
 - (f) *reserve forces service leave; or*
 - (g) *absence due to a trade dispute.*

9 Contributions payable by active members [Scotland]

- 9.—(1) *Subject to paragraph (8) and regulation 10 (temporary reduction in contributions), 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*

scheme employer at the commencement of the person's membership and at the commencement of each scheme year [SSI 2015/87] 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.

Band	Range	Contribution rate
1	On earnings up to and including £20,500	5.5%
2	On earnings above £20,500 and up to £25,000	7.25%
3	On earnings above £25,000 and up to £34,400	8.5%
4	On earnings above £34,400 and up to £45,800	9.5%
5	On earnings above £45,800	12%

[The figures in the above table are those shown in the Regulations. However, the range figures were subsequently increased on 1 April 2015 ,remained static on 1 April 2016 and increased on 1 April 2017]

- (3) The figures in the second column of the table in paragraph (2) ("Range") are—
 - (a) to be increased each year [SSI 2015/87] by any increase applied to pensions under the Pensions (Increase) Act 1971 and rounded down to the nearest £100; and
 - (b) to be treated for the purposes of paragraph (3)(a) as if they were applied to pensions beginning on 1st April 2014 [SSI 2015/87].
- (4) 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~~ Scheme employer [SSI 2015/448] must determine that the contribution rate to be applied in that case is to be recalculated in accordance with paragraph (2) and in such a case, the ~~authority~~ Scheme employer [SSI 2015/448] shall inform the member of the contribution rate applicable to the member, and the date from which it is to be applied.
- ~~(5) Where an active member is a part-time employee, [SSI 2015/87] The member's contribution rate shall be calculated on actual pensionable pay.~~
- ~~(6) A whole time term-time worker is not a part-time employee for the purposes of this regulation. [Deleted by SSI 2015/87]~~
- (7) The amount of an employee's pensionable pay for the purposes of this regulation is calculated in accordance with regulation 20 (meaning of "pensionable pay").
- (8) An active member does not make contributions after the day before the member's 75th birthday.

- (9) *A person who is an active member in more than one employment must make contributions for each of those employments at the rate applicable to the person's pensionable pay in each such employment.*
- (10) *The active member's appropriate ~~employing authority~~ Scheme employer [SSI 2015/448] may decide the intervals at which the contributions are made.*
- (11) *For the purposes of this regulation any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—*
- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;*
 - (b) child-related leave;*
 - (c) leave of absence with permission;*
 - (d) sick leave;*
 - (e) leave due to injury;*
 - (f) reserve forces service leave;*
 - (g) absence due to trade dispute.*

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] as amended by SI 2012/215 and SI 2013/2556, prescribe that the following information must be included in an opt out form:

- the jobholder's name
- the jobholder's national insurance number or date of birth
- the jobholder's signature or, where the notice is in an electronic format, a statement confirming the jobholder personally submitted the notice
- the date the notice is completed
- a statement from the jobholder to the effect that the jobholder wishes to opt out of pension saving and understands that, in doing so, the jobholder will lose the right to pension contributions from the employer and may have a lower income upon retirement, and
- the wording shown below

WHAT YOU NEED TO KNOW

Your employer cannot ask you or force you to opt out.

If you are asked or forced to opt out you can tell The Pensions Regulator - see www.thepensionsregulator.gov.uk.

If you change your mind you may be able to opt back in - write to your employer if you want to do this.

If you stay opted out your employer will normally put you back into pension saving in around 3 years.

If you change 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 \[SI 2010/772\], as amended, 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], as amended.

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 if they opt out. Furthermore, [if you opt out of the LGPS in an employment \(other than a concurrent employment\) on or after 11 April 2015 with an entitlement to a deferred benefit and subsequently rejoin the scheme you will not be able to aggregate your periods of membership.](#)

Rather than opting out you might want to consider an alternative option which is to elect to move to the 50/50 section of the scheme. The 50/50 section allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. A 50/50 option form is available from [*Pension Fund administering authority to insert details of where to obtain the form*].

If you want to know more about the costs and benefits of being a member of the Local Government Pension Scheme or of moving to the 50/50 section you can [*Pension Fund administering authority to insert details of where to find information / who to contact e.g. the member can visit* www.lgpsmember.org *which includes both a cost and a benefits calculator*]. 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 dependents.

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:

From the beginning of my next pay period

Please tick
the relevant
box

From [the date entered
cannot be before the date you sign this form]

If you wish to opt out of membership of the LGPS, please assume you wish to opt out of membership of the LGPS in all of those posts. However, if you hold more than one post with us and only wish to opt out of membership in some but not all of those posts, please indicate in the box below the name of the post (or posts) from which you wish to opt out of membership of the LGPS.

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):

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
- * **cover for my family upon my death** – including a survivor's pension for my spouse, civil partner or eligible cohabiting partner as well as children's pensions

and, once I've met the two years vesting period in the scheme:

- * **voluntary early retirement** – from age 55 (even though the scheme's normal pension age is the same as my State pension age but with a minimum of age 65). 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

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:

Date:

Please sign, date and return this form. 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 meeting the two years vesting period in the scheme, have not brought a transfer into the LGPS from a scheme that does not permit a refund and do not already have a deferred benefit, or pension in payment, from the LGPS in England or Wales, 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 former State Second Pension scheme (S2P) in respect of membership prior to 6 April 2016 . If you opt out after meeting the two years qualifying period in the scheme 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 the scheme's normal pension age (which is the same as your State pension age but with a minimum of age 65) or from age 55 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.**
8. **If you opt out of the LGPS in an employment (other than a concurrent employment) on or after 11 April 2015 with an entitlement to a deferred benefit and subsequently rejoin the scheme you will not be able to aggregate your periods of membership.**

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 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 e.g. the member can visit www.scotlgps2015.org/ which includes both a cost and a benefits calculator]*.

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.

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 dependents.

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:

From when do you wish to opt out of membership of the LGPS:

From the beginning of my next pay period

Please tick
the relevant
box

From [the date entered
cannot be before the date you sign this form]

If you hold more than one post with us we will assume you wish to opt out of membership of the LGPS in all of those posts. However, if you hold more than one post with us and only wish to opt out of membership in some but not all of those posts, please indicate in the box below the name of the post (or posts) from which you wish to opt out of membership of the LGPS.

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):

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
- * **cover for my family upon my death** – including a survivor's pension for my spouse, civil partner or nominated cohabiting partner as well as children's pensions

and, once I've met the two years vesting period in the scheme:

- * **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 I was paying into the LGPS on 5 April 2006)

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:

Date:

Please see the notes on the next page regarding when you can sign, date and return this form. 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 from a scheme that does not permit a refund and do not already have a deferred benefit, or pension in payment, from 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 former State Second Pension scheme (S2P) in respect of membership prior to 6 April 2016.. 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 the scheme's normal pension age (which is the same as your State pension age but with a minimum of 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

Annex 5 – After 5 April 2016: Copy of Alternative Quality Test - Cost Accruals Certificate for the LGPS:

LGPS England & Wales

Certificate given for the purposes of certifying that a defined benefit and/or hybrid scheme satisfies the test scheme standard

Name of scheme: LGPS (England & Wales)¹

Type of scheme: Career average or final salary pension

Name and Address of employer: Certificate covers all participating employers

Effective Date: 6 April 2016

Satisfaction of the cost of accruals test

I certify that, in my opinion, the above scheme satisfies the cost of accruals test in relation to the jobholders employed by all participating employers who are relevant members of that scheme.

In determining whether this scheme meets the cost of accruals test, I confirm that I have complied with the relevant statutory requirements and with the guidance issued under those requirements by the Secretary of State for Work and Pensions which is for the time being in force.



Signature:

Position and qualification: Fellow of the Institute of Actuaries

In what capacity signed: Actuary

Name: Ian Boonin

Date: 12 May 2016

¹ Governing regulations can be found at

<http://www.lensreps.org/index.php/reps-legislation/timeline-regulations-2014>

LGPS Scotland

Certificate given for the purposes of certifying that a defined benefit and/or hybrid scheme satisfies the test scheme standard

Name of scheme: LGPS (Scotland)¹

Type of scheme: Career average or final salary pension

Name and Address of employer: Certificate covers all participating employers

Effective Date: 6 April 2016

Satisfaction of the cost of accruals test

I certify that, in my opinion, the above scheme satisfies the cost of accruals test in relation to the jobholders employed by all participating employers who are relevant members of that scheme.

In determining whether this scheme meets the cost of accruals test, I confirm that I have complied with the relevant statutory requirements and with the guidance issued under those requirements by the Secretary of State for Work and Pensions which is for the time being in force.

Signature:

Position and qualification: Fellow of the Institute of Actuaries

In what capacity signed: Actuary


Name: Ian Boonin

Date: 16 May 2016

¹ Governing regulations can be found at <http://www.lgpsregs.org/index.php/scotland/lgpsregs2014-resources/lgpsregs-2014>

Prior to 6 April 2016: 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: **ECON: 3900002R**
Secretary of State for the Environment
Local Government Pensions
2nd Floor Ashdown House
123 Victoria St
London
SW1E 6DE **COSR SCON:**


Company registration number:

It is hereby certified that, with effect from the start of 06/04/1997 all employments mentioned below, in respect of earners 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 Pensions 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 2017/18 are shown below.

England and Wales

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Scotland

The following pay ranges and employee contribution rates will apply to the LGPS in Scotland on and after 1 April 2017.

Whole-time equivalent pensionable pay	Employee Contribution rate
On earnings up to and including £20,700	5.5%
On earnings above £20,700 and up to £25,300	7.25%
On earnings above £25,300 and up to £34,700	8.5%
On earnings above £34,700 and up to £46,300	9.5%
On earnings above £46,300	12%

In Scotland, a composite employee contribution rate can be ascertained from the table issued by the Scottish Public Pensions Agency – see [version 11](#) for 2017/18.

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 schemes¹). 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

¹ 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.

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 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 contribution if the scheme is a money purchase or personal pension scheme.

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

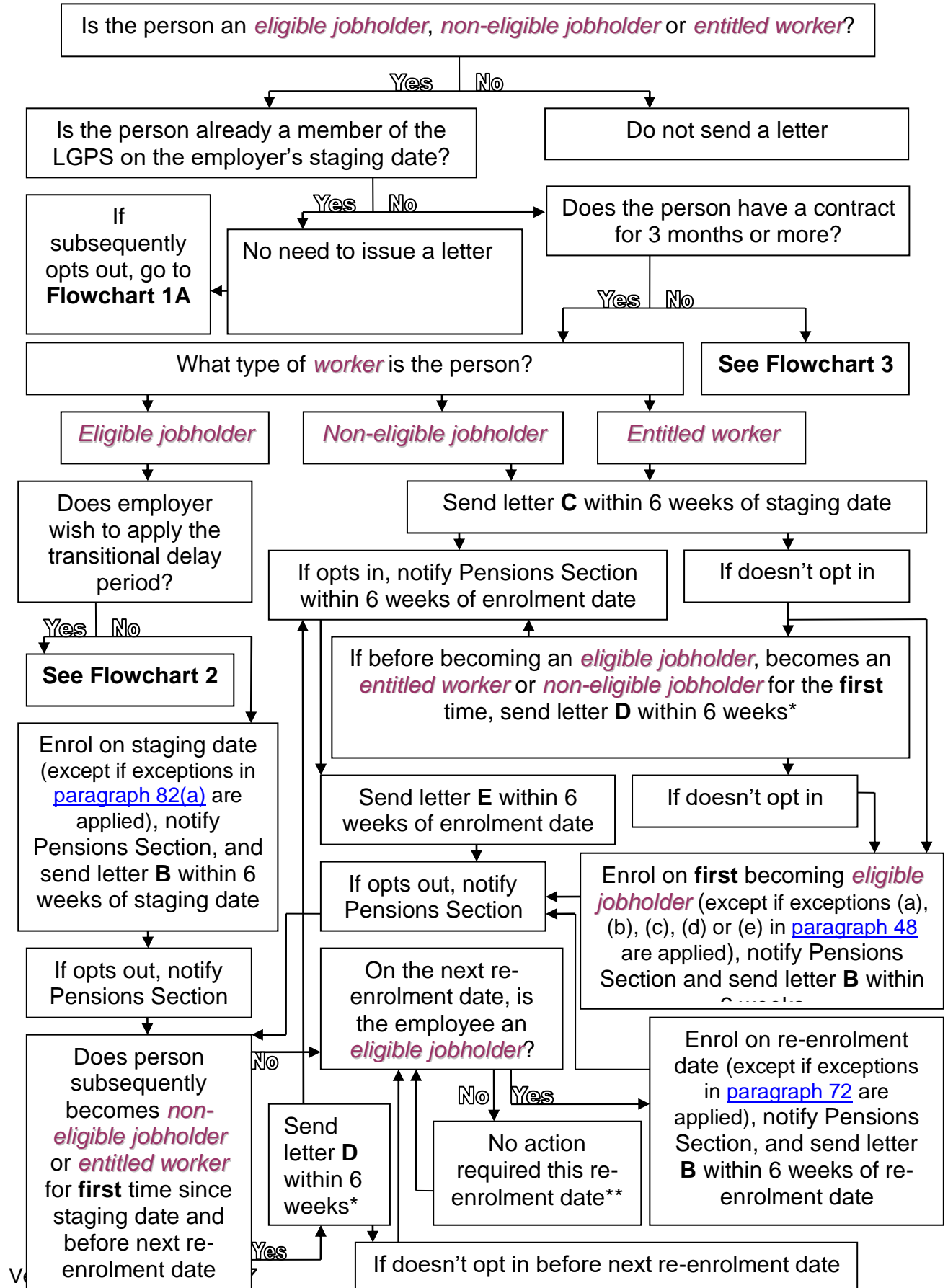
Annex 7 – Flowcharts and sample letters

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

* unless a combined letter has previously been sent – see note in [paragraphs 55 and 63](#)

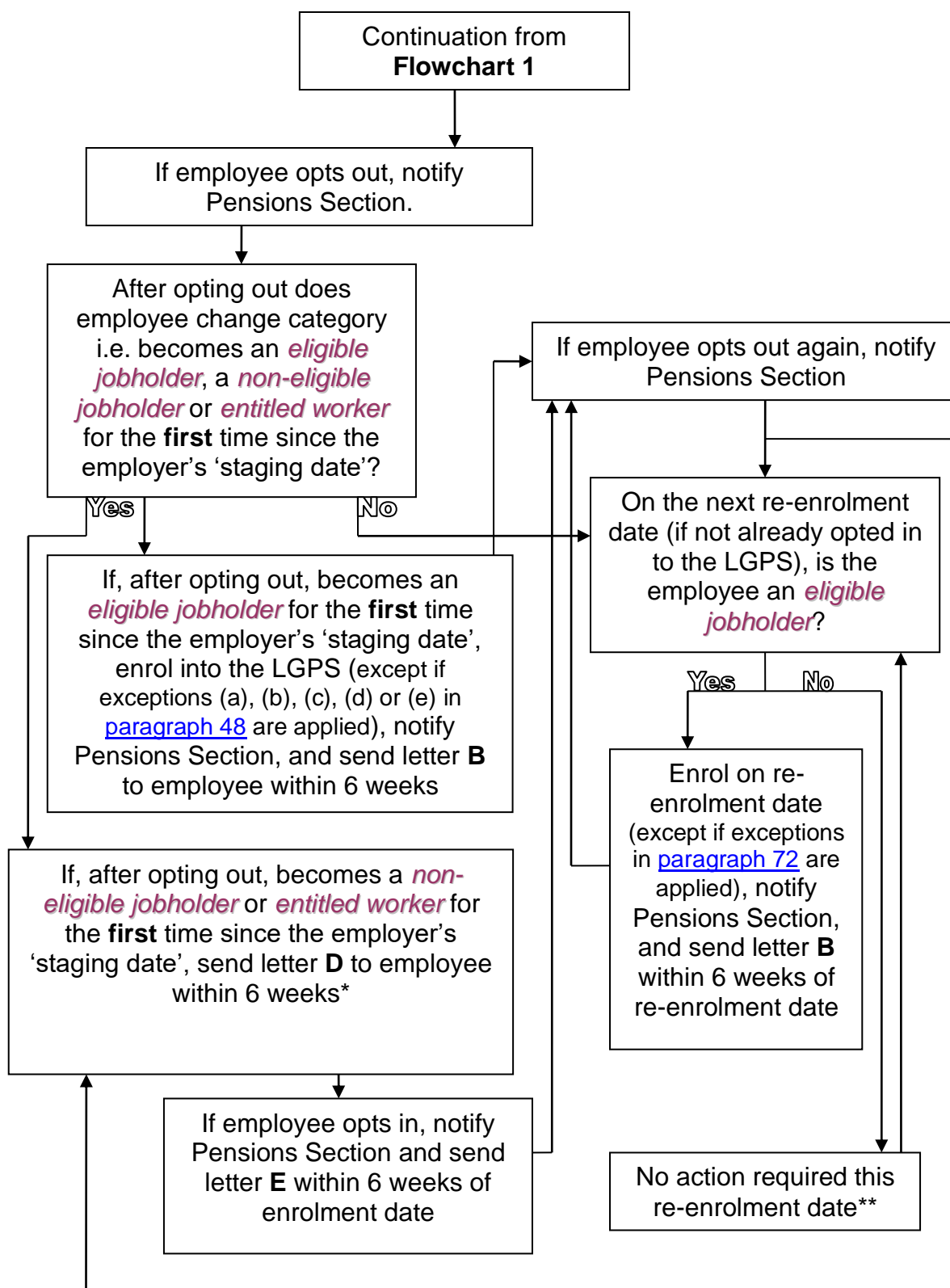
** but the employer may choose to remind the person that they can opt into the LGPS if they wish.

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).
NB: all references below to "6 weeks" were, prior to 1 April 2014, "1 month"



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

NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”



NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”

Is the person an *eligible jobholder*?

Yes

No

Yes

Send letter **1**

Yes

No

Yes	No
-----	----

Yes

Send letter **E** within
6 weeks of
enrolment date

If opts out, notify
Pensions Section

No

Yes

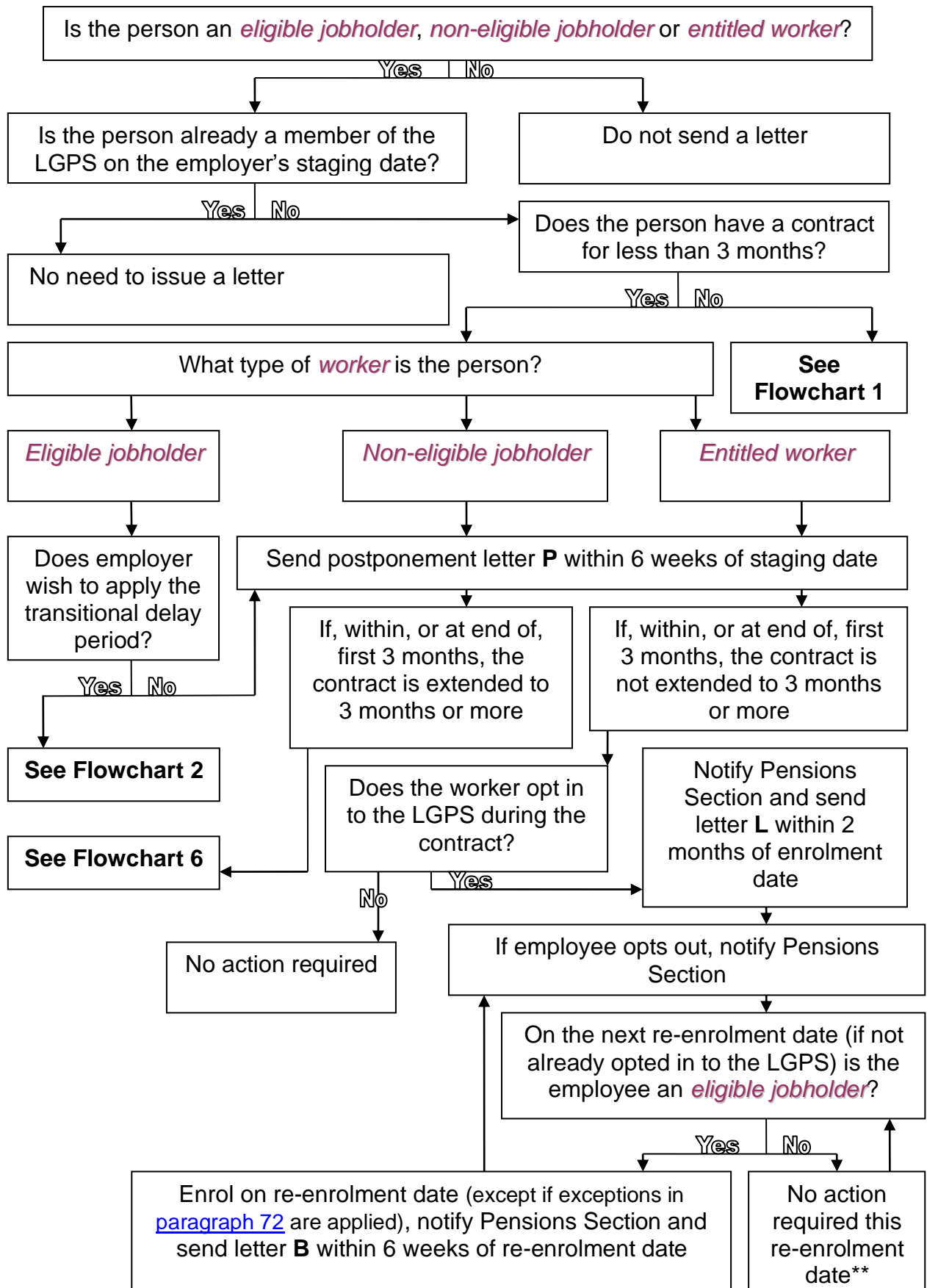
	No	Yes
1. Do you have a current driver's license?		
2. Do you have a current vehicle insurance policy?		
3. Do you have a current vehicle registration?		
4. Do you have a current vehicle inspection certificate?		
5. Do you have a current vehicle title?		
6. Do you have a current vehicle sales tax certificate?		
7. Do you have a current vehicle license plate?		
8. Do you have a current vehicle title transfer fee?		
9. Do you have a current vehicle license fee?		
10. Do you have a current vehicle title transfer fee?		
11. Do you have a current vehicle license fee?		
12. Do you have a current vehicle title transfer fee?		
13. Do you have a current vehicle license fee?		
14. Do you have a current vehicle title transfer fee?		
15. Do you have a current vehicle license fee?		
16. Do you have a current vehicle title transfer fee?		
17. Do you have a current vehicle license fee?		
18. Do you have a current vehicle title transfer fee?		
19. Do you have a current vehicle license fee?		
20. Do you have a current vehicle title transfer fee?		

action

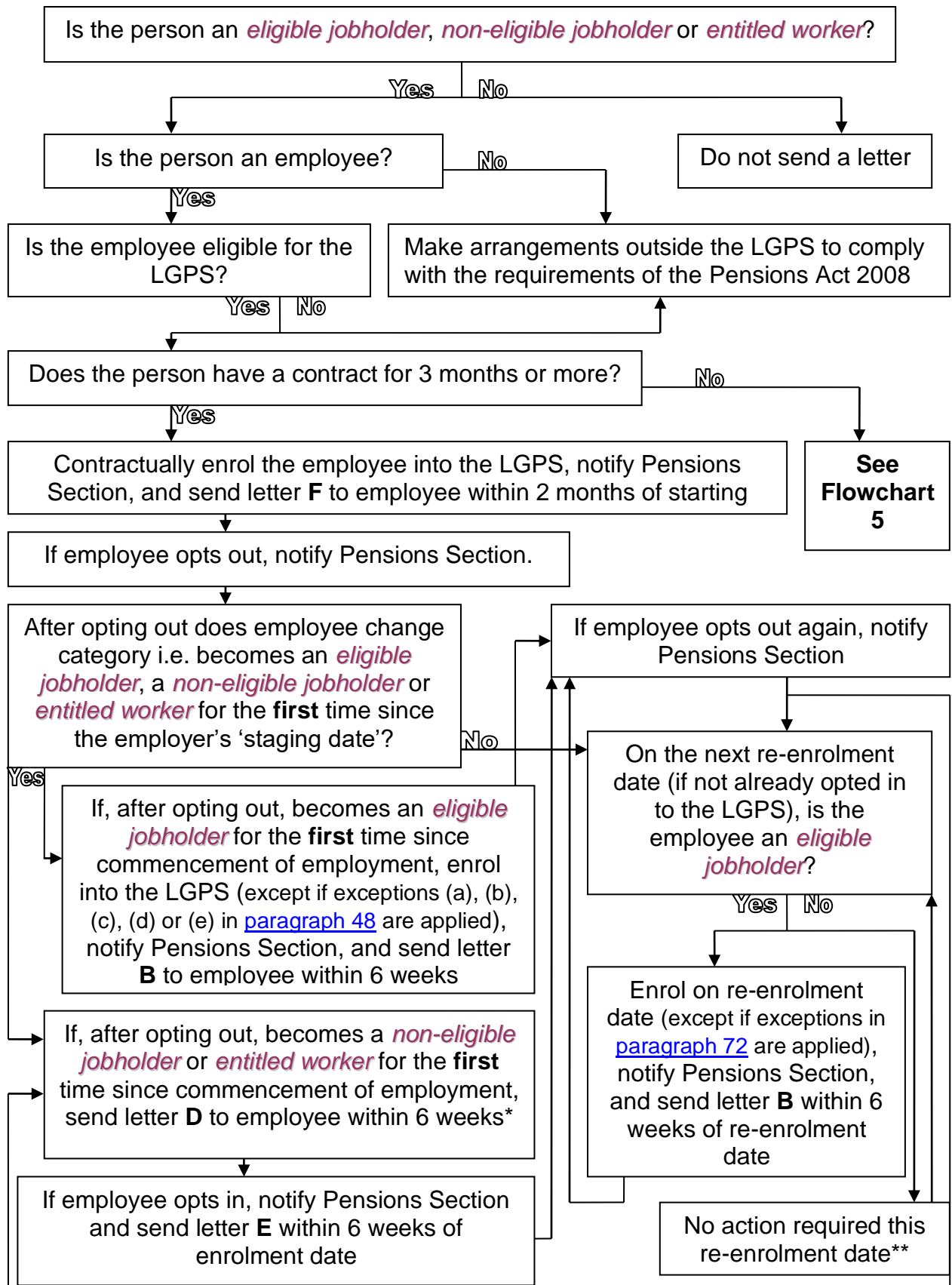
If doesn't opt in

Enrol on re-enrolment date (except if exceptions in [paragraph 72](#) are applied), notify Pensions Section, and send letter **B** within 6 weeks of re-enrolment date

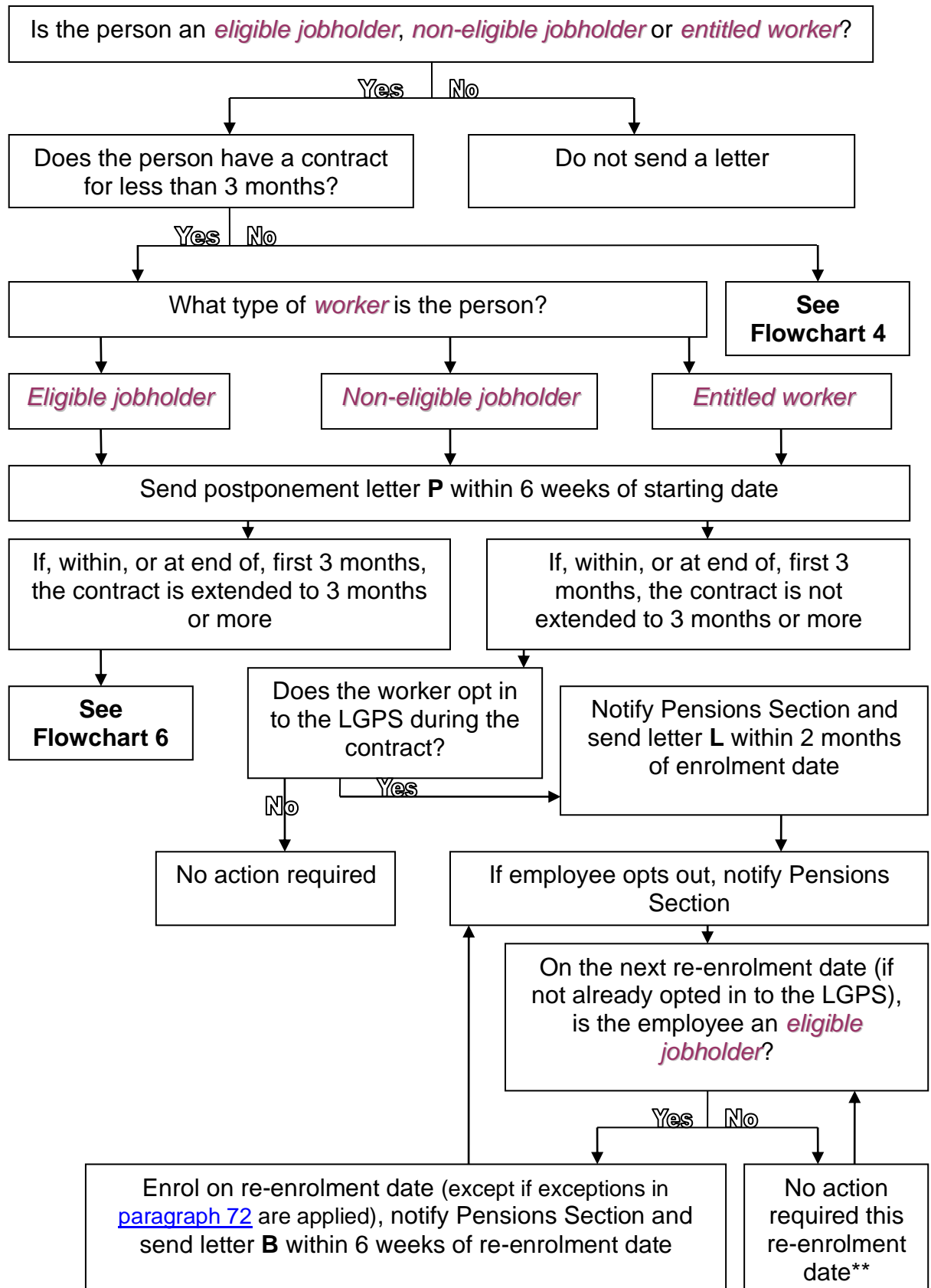
Annex 7 – Flowchart 3 – Existing *Workers* on the Employer’s Staging Date with a contract for less than 3 months (but see [paragraph 47](#) re NOMO casuals).
NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”



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).
NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”

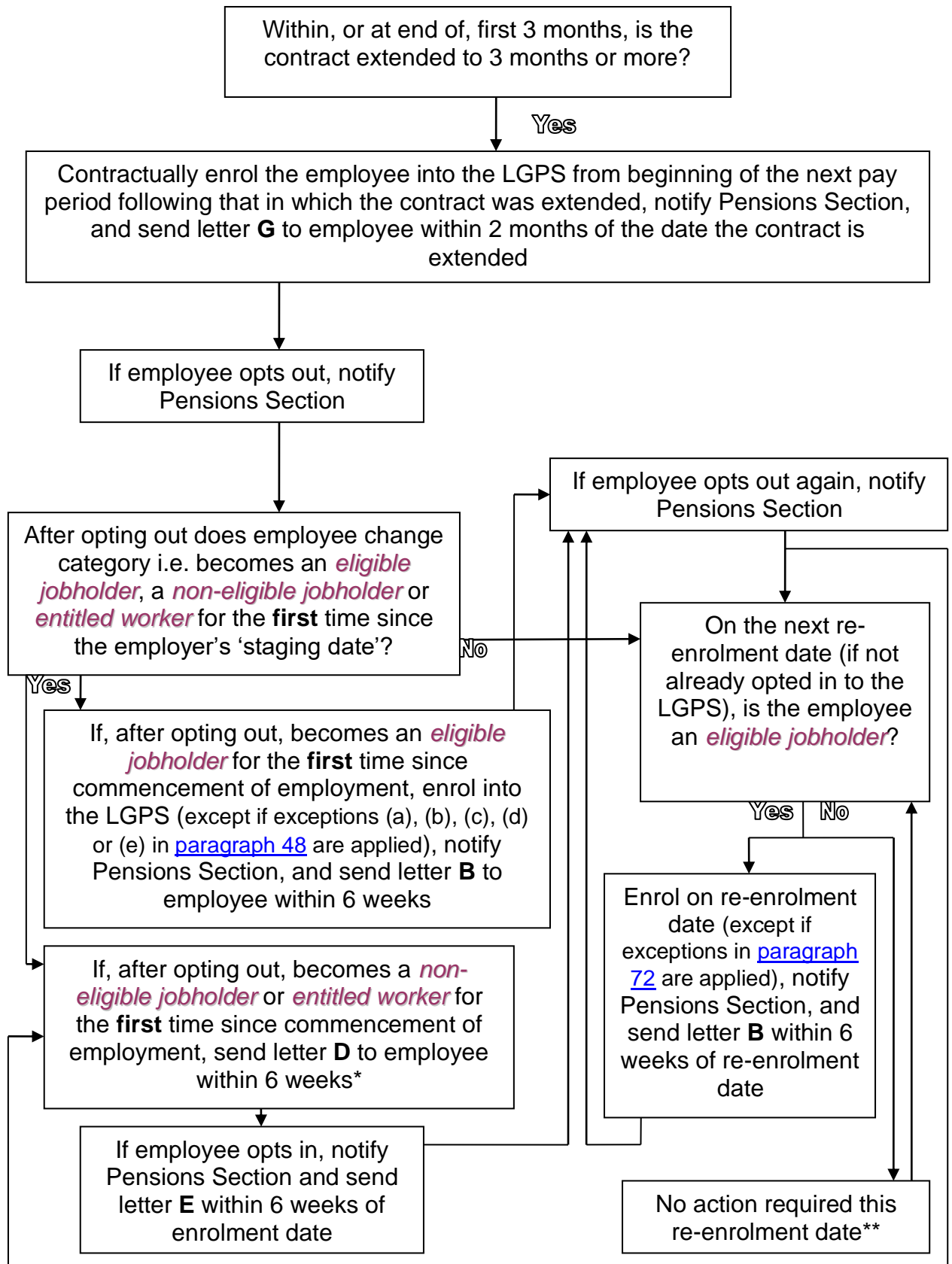


Annex 7 – Flowchart 5 – New *Workers* on or after the Employer’s Staging Date with a contract for less than 3 months (but see [paragraph 47](#) re NOMO casuals)
NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”



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

NB: all references below to “6 weeks” were, prior to 1 April 2014, “1 month”



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 can be found on www.lgpsregs.org under [LGPS branding](#).

Letter A was deleted as from 1 April 2015 due to changes introduced by SI 2015/501

~~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 £10,000 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 £5,824, 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.lgps2014.org in England and Wales or www.scotlgps2015.org/ in Scotland]~~

~~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.~~

~~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 £10,000 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 Pension Contributions (APCs) 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 for those who reached State pension age prior to 6 April 2016 in 2017/18 is £122.30 a week for a single person. For those who reach State pension age after 5 April 2016 the full New State pension in 2017/18 is £159.55. The State pension will only provide for a very basic standard of living in retirement. The government is therefore encouraging people to save more for their retirement through workplace pensions so that they can enjoy a better quality of retirement.

Employers are required to enrol their eligible 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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Notes:

1. The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.

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 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 e.g. if the employer will review the contribution rate during the year if there is a permanent material change in the person's terms and conditions of employment that affects their pensionable pay]*

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

You will automatically receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. You don't need to do anything to get the tax relief paid into your pension. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead.

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]* forms to *[enter relevant address]*.

If you want to stay in the pension scheme but feel you cannot afford to make the full contributions, you could initially join the main section of the scheme but then elect to move to the 50/50 section. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. If you move to the 50/50 section you can opt back into the main section whenever you wish. A 50/50 option form is available from *[insert details of where to obtain the form]*. In the meantime, even if you wish to move to the 50/50 section of the scheme, please complete and return the forms mentioned in the paragraph above.

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 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HMRC 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 – please see the attached appendix to this letter for more information.

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 £10,000 (current figure), or pro-rata per pay period, unless we choose not automatically re-enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to the “re-enrolment date”, or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the “re-enrolment date”, or
- (c) we have reasonable grounds to believe that you have applied for and, on the “re-enrolment date”, have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016, or
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically re-enrol you is discretionary, or

- (d) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically re-enrol you is discretionary.

The “re-enrolment date” is a date chosen by us and will be within a period of 3 months either side of every 3rd 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;

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

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 spouse 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 *[In Scotland, amend the three references to 'adjudicator' below to 'nominated person']*

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 'adjudicator')*, 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 adjudicator who is required to give you a decision in writing.

If the adjudicator 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 *[In Scotland, amend the seven references to 'adjudicator' below to 'nominated person']*

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 adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the adjudicator 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 adjudicator's decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator 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]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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 £10,000 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 £10,000 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.

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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Note: The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.

Scotland – employee contribution tables for 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377

6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 2 years 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 55 (even though the scheme’s normal pension age is the same as your State pension age but with a minimum of age 65) *[or, in Scotland, “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
- If you choose to voluntarily retire before your normal pension age, 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 your normal pension age, although you have to draw your benefits by age 75. Benefits drawn after your normal pension age 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 spouse, registered civil partner or eligible 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 a defined benefit scheme, which means your benefits are based on your pensionable pay and the number of years you have been a member of the scheme and are not dependent on share prices and stock market fluctuations.
- 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 Pension Contributions (APCs).

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HM Revenue and Customs then, as a general rule, you will lose that Protection if you opt to join the LGPS. There are, however, exceptions to this

general rule – please see the attached appendix to this letter for more information.

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.

What to do if you want to join the Local Government Pension Scheme but feel you can't presently afford to pay the full contributions

If you want to join the pension scheme but feel you cannot presently afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. You would initially have to join the main section of the scheme by following the procedure set out above but could then immediately elect to move to the 50/50 section. A 50/50 option form is available from *[insert details of where to obtain the form]*. If you join the 50/50 section you can opt back into the main section whenever you wish.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

Yours sincerely
[Insert name of signatory]

Q: I earn less than £10,000.01 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 £10,000.00 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 £10,000.00 a year or pro-rata per pay period), you will normally 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. However, we can choose not to automatically enrol you if:

- (a) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the date we otherwise have had to automatically enrol you, or
- (b) we have reasonable grounds to believe that you have applied for and hold Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016, or
- (c) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically enrol you is discretionary, or
- (d) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically enrol you is discretionary.

If you are automatically enrolled, 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 £10,000.00 a year or pro-rata per pay period) in your post when you reach 22, you will normally be automatically enrolled into our workplace pension scheme (the LGPS) from your 22nd birthday.

However, we can choose not to automatically enrol you if:

- (a) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the date we otherwise have had to automatically enrol you, or
- (b) we have reasonable grounds to believe that you have applied for and hold Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017, Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016, or
- (c) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically enrol you is discretionary, or
- (d) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically enrol you is discretionary.

If you are automatically enrolled we will write to you again, nearer to your 22nd 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.

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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 £5,824 (or pro-rata per pay period), or
- aged at least 16 and under age 75 first earns £5,824 or more but less than or equal to £10,000 (or pro-rata per pay period), or
- aged at least 16 and under age 22 first earns more than £10,000 (or pro-rata per pay period), or
- aged State Pension Age or over but under age 75 first earns more than £10,000 (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.

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 2017/18

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£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Note: The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.

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6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
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6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022

6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 2 years 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 55 (even though the scheme’s normal pension age is the same as your State pension age but with a minimum of age 65) *[or, in Scotland, “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.

- If you choose to voluntarily retire before your normal pension age, 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 your normal pension age, although you have to draw your benefits by age 75. Benefits drawn after your normal pension age 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 spouse, registered civil partner or eligible 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 a defined benefit scheme, which means your benefits are based on your pensionable pay and the number of years you have been a member of the scheme and are not dependent on share prices and stock market fluctuations.
- 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 Pension Contributions (APCs).

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HM Revenue and Customs then, as a general rule, you will lose that Protection if you opt to join the LGPS. There are, however, exceptions to this general rule – please see the attached appendix to this letter for more information.

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.

What to do if you want to join the Local Government Pension Scheme but feel you can't presently afford to pay the full contributions

If you want to join the pension scheme but feel you cannot presently afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. You would initially have to join the main section of the scheme by following the procedure set out above but could then immediately elect to move to the 50/50 section. A 50/50 option form is available from *[insert details of where to obtain the form]*. If you join the 50/50 section you can opt back into the main section whenever you wish.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

Yours sincerely

[Insert name of signatory]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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 Pension Contributions (APCs) 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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Notes:

1. The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.
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 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893

6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 e.g. if the employer will review the contribution rate during the year if there is a permanent material change in the person's terms and conditions of employment that affects their pensionable pay]*

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

You will automatically receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. You don't need to do anything to get the tax relief paid into your pension. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead.

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]* forms to *[enter relevant address]*.

If you subsequently decide that, whilst wishing to be a member of the scheme, you cannot afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. A 50/50 option form is available from *[insert details of where to obtain the form]*. If you join the 50/50 section you can opt back into the main section whenever you wish.

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 wish 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 £10,000 (current figure), or pro-rata per pay period, *unless* we choose not automatically re-enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to the “re-enrolment date”, or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the “re-enrolment date”, or
- (c) we have reasonable grounds to believe that you have applied for and, on the “re-enrolment date”, have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016 under the Finance Act 2016, or
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically re-enrol you is discretionary, or
- (e) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically re-enrol you is discretionary.

The “re-enrolment date” is a date chosen by us and will be within a period of 3 months either side of every 3rd 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.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

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 spouse 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 *[In Scotland, amend the three references to 'adjudicator' below to 'nominated person']*

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 'adjudicator')*, 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 adjudicator who is required to give you a decision in writing.

If the adjudicator 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 [In Scotland, amend the seven references to ‘adjudicator’ below to ‘nominated person’]

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 adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the adjudicator 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 adjudicator’s decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator 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]* 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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%

£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Notes:

1. The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.
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 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826

8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 e.g. if the employer will review the contribution rate during the year if there is a permanent material change in the person's terms and conditions of employment that affects their pensionable pay]*

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 and the Pensions Act 2008.

If you want to stay in the pension scheme but feel you cannot afford to make the full contributions, you could initially join the main section of the scheme but then elect to move to the 50/50 section. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. If you move to the 50/50 section you can opt back into the main section whenever you wish. A 50/50 option form is available from *[insert details of where to obtain the form]*.

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HMRC then 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 - please see the attached appendix to this letter for more information.

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 £10,000 (current figure) or pro-rata per pay period, unless we choose not automatically re-enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to the "re-enrolment date", or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the "re-enrolment date", or
- (c) we have reasonable grounds to believe that you have applied for and, on the "re-enrolment date", have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 or Individual Protection 2016 under the Finance Act 2016, or
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically re-enrol you is discretionary, or
- (e) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically re-enrol you is discretionary.

The "re-enrolment date" is a date chosen by us and will be within a period of 3 months either side of every 3rd 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.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

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 spouse 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 *[In Scotland, amend the three references to 'adjudicator' below to 'nominated person']*

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 ‘adjudicator’)*, 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 adjudicator who is required to give you a decision in writing.

If the adjudicator 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 *[In Scotland, amend the seven references to ‘adjudicator’ below to ‘nominated person’]*

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 adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the adjudicator 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 adjudicator’s decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator 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]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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 from the beginning of the pay period following that in which your contract was extended, 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]* 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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%

£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Notes:

1. The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.
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 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826

8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 e.g. if the employer will review the contribution rate during the year if there is a permanent material change in the person's terms and conditions of employment that affects their pensionable pay]*

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 and the Pensions Act 2008.

If you want to stay in the pension scheme but feel you cannot afford to make the full contributions, you could initially join the main section of the scheme but then elect to move to the 50/50 section. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. If you move to the 50/50 section you can opt back into the main section whenever you wish. A 50/50 option form is available from *[insert details of where to obtain the form]*.

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HMRC then 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 - please see the attached appendix to this letter for more information.

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 £10,000 (current figure) or pro-rata per pay period, unless we choose not automatically re-enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to the "re-enrolment date", or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with the "re-enrolment date", or
- (c) we have reasonable grounds to believe that you have applied for and, on the "re-enrolment date", have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016.
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically re-enrol you is discretionary, or
- (e) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically re-enrol you is discretionary.

The "re-enrolment date" is a date chosen by us and will be within a period of 3 months either side of every 3rd 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.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

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 spouse 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 *[In Scotland, amend the three references to 'adjudicator' below to 'nominated person']*

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 ‘adjudicator’)*, 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 adjudicator who is required to give you a decision in writing.

If the adjudicator 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 [In Scotland, amend the seven references to ‘adjudicator’ below to ‘nominated person’]

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 adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the adjudicator 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 adjudicator’s decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator 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]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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

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]* 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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Notes:

1. The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.
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 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169
5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 e.g. if the employer will review the contribution rate during the year if there is a permanent material change in the person's terms and conditions of employment that affects their pensionable pay]*

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

You will automatically receive tax relief on those contributions, and on any extra contributions you choose to pay to the LGPS. You don't need to do anything to get the tax relief paid into your pension. Tax relief means some of your money that would have gone to the government as tax now goes into your pension instead.

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 Pension Contributions (APCs) 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 and the Pensions Act 2008.

If you want to stay in the pension scheme but feel you cannot afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. This flexibility may be useful during times of financial hardship and it allows you to remain in the scheme, building up valuable pension benefits, as an alternative to opting out of the scheme. If you move to the 50/50 section you can opt back into the main section whenever you wish. A 50/50 option form is available from *[insert details of where to obtain the form]*.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*

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 spouse 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 *[In Scotland, amend the three references to 'adjudicator' below to 'nominated person']*

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 ‘adjudicator’)*, 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 adjudicator who is required to give you a decision in writing.

If the adjudicator 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 *[In Scotland, amend the seven references to ‘adjudicator’ below to ‘nominated person’]*

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 adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since your lodged your complaint,
- it is one month after the date by which the adjudicator 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 adjudicator’s decision, or
- within 9 months from the date you submitted your complaint if the adjudicator has not given you a decision within 3 months of the date you originally submitted your complaint, or
- if the adjudicator gives you an interim decision but not a final decision, within 7 months of the date the adjudicator 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

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HM Revenue and Customs then you will, as a general rule, lose that Protection if you opt to join the LGPS. There are, however, exceptions to this

general rule - please see the attached appendix to this letter for more information.

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 beginning of the pay period after the date the contract is extended.

If your contract is extended so that the total continuous period of employment 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.

Alternatively, if you wanted to stay in the pension scheme but felt you could not afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

If you have any questions about the scheme or you think that we have incorrectly determined your status because you believe you have a period of

continuous 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]*

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.

Yours sincerely

[Insert name of signatory]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a

position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other

than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

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

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 £10,000 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 (unless we choose not automatically enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to that date (if you opted out more than 12 months prior to what would be your automatic enrolment date you will not be automatically enrolled), or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with that date, or
- (c) we have reasonable grounds to believe that you have applied for and, on that date, have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016, or
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically enrol you is discretionary, or
- (e) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax

purposes as being employed by the partnership, in which case our duty to automatically enrol you is discretionary.

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.

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 2017/18

Annual pensionable pay	Employee Contribution rate
Up to £13,700	5.5%
£13,701 to £21,400	5.8%
£21,401 to £34,700	6.5%
£34,701 to £43,900	6.8%
£43,901 to £61,300	8.5%
£61,301 to £86,800	9.9%
£86,801 to £102,200	10.5%
£102,201 to £153,300	11.4%
£153,301 or more	12.5%

Note: The intention is that contribution rates and / or pay bands will be reviewed periodically and may change in the future.

Scotland – employee contribution tables for 2017/18

Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max	Contribution rate	Actual Pensionable Pay Min	Actual Pensionable Pay Max
5.5	Up to	21,308	8.4	59,809	61,492
5.6	21,309	22,640	8.5	61,493	63,275
5.7	22,641	24,150	8.6	63,276	65,164
5.8	24,151	25,603	8.7	65,165	67,169

5.9	25,604	26,607	8.8	67,170	69,301
6.0	26,608	27,693	8.9	69,302	71,573
6.1	27,694	28,872	9.0	71,574	74,000
6.2	28,873	30,155	9.1	74,001	76,596
6.3	30,156	31,558	9.2	76,597	79,381
6.4	31,559	33,097	9.3	79,382	82,377
6.5	33,098	34,762	9.4	82,378	85,607
6.6	34,763	35,982	9.5	85,608	89,102
6.7	35,983	37,290	9.6	89,103	92,893
6.8	37,291	38,698	9.7	92,894	97,022
6.9	38,699	40,215	9.8	97,023	101,534
7.0	40,216	41,857	9.9	101,535	106,487
7.1	41,858	43,638	10.0	106,488	111,948
7.2	43,639	45,577	10.1	111,949	118,000
7.3	45,578	46,946	10.2	118,001	124,742
7.4	46,947	47,978	10.3	124,743	132,303
7.5	47,979	49,056	10.4	132,304	140,838
7.6	49,057	50,183	10.5	140,839	150,551
7.7	50,184	51,364	10.6	150,552	161,703
7.8	51,365	52,602	10.7	161,704	174,640
7.9	52,603	53,901	10.8	174,641	189,826
8.0	53,902	55,265	10.9	189,827	207,904
8.1	55,266	56,701	11.0	207,905	229,789
8.2	56,702	58,213	11.1	229,790	256,823
8.3	58,214	59,808	11.2	256,824	and above

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 2 years 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 55 (even though the scheme's normal pension age is the same as your State pension age but with a minimum of age 65) *[or, in Scotland, "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 .
- If you choose to voluntarily retire before your normal pension age, 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 your normal pension age, although you have to draw your benefits by age 75. Benefits drawn after your normal pension age 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 spouse, registered civil partner or eligible 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 a defined benefit scheme, which means your benefits are based on your pensionable pay and the number of years you have been a member of the scheme and are not dependent on share prices and stock market fluctuations.
- 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 Pension Contributions (APCs).

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, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection certificate from HM Revenue and Customs then you will, as a general rule, lose that Protection if you opt to join the LGPS. There are, however, exceptions to this general rule - please see the attached appendix to this letter for more information.

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.lgpsmember.org in England and Wales or www.scotlgps2015.org/ in Scotland]*

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]*.

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.

If you want to join the pension scheme but feel you cannot presently afford to make the full contributions, the LGPS offers a 50/50 option. The 50/50 section of the scheme allows you to pay half your normal contributions and build up half your normal pension during the time you are in that section. You would initially have to join the main section of the scheme by following the procedure set out above but could then immediately elect to move to the 50/50 section. A 50/50 option form is available from *[insert details of where to obtain the form]*.

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 (unless we choose not automatically enrol you because:

- (a) you had opted out of the LGPS less than 12 months prior to that date (if you opted out more than 12 months prior to what would be your automatic enrolment date you will not be automatically enrolled), or
- (b) notice to terminate your employment has been given before the end of the period of 6 weeks beginning with that date, or
- (c) we have reasonable grounds to believe that you have applied for and, on that date, have Primary Protection, Enhanced Protection, Fixed Protection 2012, Fixed Protection 2014 or Individual Protection 2014 under the Finance Acts 2004, 2011, 2013 or 2014 and from 6 March 2017 Fixed Protection 2016 and Individual Protection 2016 under the Finance Act 2016, or
- (d) you have received a winding up lump sum in the previous 12 months, in which case our duty to automatically enrol you is discretionary, or
- (e) you are a director of a company by which you are employed, or you are a member of a limited partnership and you are not treated for income tax purposes as being employed by the partnership, in which case our duty to automatically enrol you is discretionary.

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]

Appendix

If you applied to HMRC for, and hold, Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection, please read the following notes.

[Enter the following if the employee is being enrolled into the LGPS in England or Wales]

As you are being enrolled into the LGPS in England or Wales, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in England or Wales (a new pension 'arrangement'). It should be noted that the LGPS in Scotland, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in England and Wales. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in England or Wales you will lose the relevant protection if you become a member of the LGPS in England or Wales and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and

- **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

However, we understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in England or Wales (based on a period of membership which includes pre 1 April 2014 membership) you will lose that protection if:
 - you become a member of the LGPS in England or Wales, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2014 final salary benefits and some post 31 March 2014 career average revalued earnings benefits).

We understand that the Department for Communities and Local Government, being the department responsible to the relevant Minister (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the DCLG view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to pay contributions into a money purchase pension arrangement (e.g. you were to pay into the LGPS AVC facility) other than to a life assurance policy providing death benefits that started before 6 April 2006, or if you were to start a new pension arrangement, or if you were to transfer your LGPS benefits to another defined benefit pension scheme.

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in England or Wales within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2014 or Fixed Protection 2016 and you are enrolled into the LGPS in England or Wales you will **not** lose Fixed Protection 2014 or Fixed Protection 2016 if:
- you do not opt out within 3 months, but
 - you have earlier LGPS membership in England or Wales which consists **only** of post 31 March 2014 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see

<http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in Scotland , Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W, re-join the LGPS in E&W and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in E&W which includes pre 1.4.14 membership, re-join the LGPS in E&W and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in E&W only in respect of post 31.3.14 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

[Enter the following if the employee is being enrolled into the LGPS in Scotland]

As you are being enrolled into the LGPS in Scotland, then:

- i) if you obtained Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection whilst a member of a different pension scheme you will lose the relevant protection if you become a member of the LGPS in Scotland (a new pension 'arrangement'). It should be noted that the LGPS in England and Wales, the LGPS in Northern Ireland and the LGPS in the Isle of Man are all different pension schemes to the LGPS in Scotland. If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of the scheme.
- ii) if you hold Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection and you have previous benefits in the LGPS in Scotland you will lose the relevant protection if you become a member of the LGPS in Scotland and you **do not aggregate** your benefits (as the new period of membership in the LGPS will be treated as a new pension 'arrangement'). If you wish to retain your Fixed Protection 2012, Fixed Protection 2014, Fixed Protection 2016 or Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.
- iii) if you hold Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose the relevant protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

However, we understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) take the view that the relevant LGPS Regulations

provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view. If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection unless you have 'benefit accrual'. You would lose Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

If you wish to make certain that you retain your Fixed Protection 2012, Fixed Protection 2014 or Fixed Protection 2016 it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- iv) if you hold Enhanced Protection and you have previous benefits in the LGPS in Scotland (based on a period of membership which includes pre 1 April 2015 membership) you will lose that protection if:
 - you become a member of the LGPS in Scotland, and
 - **aggregate** your benefits, and
 - **HMRC were to deem** this to be a new pension 'arrangement' (because the aggregated benefits include some pre 1 April 2015 final salary benefits and some post 31 March 2015 career average revalued earnings benefits).

We understand that the Scottish Public Pensions Agency, being the body responsible to the Scottish Ministers (the 'responsible authority' under the Public Service Pensions Act 2013) takes the view that the relevant LGPS Regulations provide a **single** arrangement within a single scheme. HMRC have indicated that, in individual cases, they are not in a position to say whether or not they agree with that view.

If the SPPA view is correct and **HMRC do not deem** it to be a new pension 'arrangement' you will not lose protection even if you then have 'relevant benefit accrual' (i.e. benefits at retirement exceed the value of your 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 your pensionable pay). This is because you would be able to notionally split the crystallisation of your defined benefit rights on retirement. This would allow you to reduce your tax liability by crystallising benefits below the 'relevant benefit accrual' limit so Enhanced Protection would be retained during that crystallisation. When the remaining benefits are crystallised, Enhanced Protection on those benefits would be lost. You would lose the Enhanced Protection if you were to

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

If you wish to make certain that you retain your Enhanced Protection it will be necessary to opt out of the LGPS in Scotland within 3 months of being enrolled, thereby ensuring you are treated as never having been a member of that scheme.

- v) if you hold Fixed Protection 2016 and you are enrolled into the LGPS in Scotland you will **not** lose Fixed Protection 2016 if:
- you do not opt out within 3 *months*, but
 - you have earlier LGPS membership in Scotland which consists **only** of post 31 March 2015 membership, and
 - you **aggregate** the two periods of membership (as this will not constitute entering into a new arrangement)

provided you do not have 'benefit accrual'.

However, you will lose Fixed Protection 2016 at the point at which 'benefit accrual' occurs (which could be immediately upon aggregation of your LGPS membership or at some point thereafter) - see <http://www.hmrc.gov.uk/manuals/ptmanual/ptm093500.htm> for more information on 'benefit accrual'.

The above is summarised in the following table:

<i>Assuming you do not opt out within 3 months</i>	HMRC position	Fixed Protection 12	Fixed Protection 14	Fixed Protection 16	Enhanced Protection
You join the LGPS from a different scheme (including from the LGPS in England or Wales, Northern Ireland or Isle of Man)	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland, re-join the LGPS in Scotland and you do not aggregate benefits	n/a	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if separate arrangement	lost	lost	lost	lost
You have a deferred benefit in the LGPS in Scotland which includes pre 1.4.15 membership, re-join the LGPS in Scotland and you aggregate benefits	if same arrangement	lost if benefit accrual occurs	lost if benefit accrual occurs	lost if benefit accrual occurs	not lost - notional split benefits
You have a deferred benefit in the LGPS in Scotland only in respect of post 31.3.15 membership and you aggregate benefits	n/a	n/a	lost if benefit accrual occurs	lost if benefit accrual occurs	n/a
If you opt out within 3 months you would be treated as never having been a member of the scheme and your protection would not be lost.					

