

3b

# Detailed guidance for employers

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

# Publications in the series

- 1 **Employer duties and defining the workforce**  
An introduction to the new employer duties
- 2 **Getting ready**  
First steps to prepare for the new employer duties
- 3 **Assessing the workforce**  
How to identify the different categories of worker
- 3a **Postponement**
- 3b Transitional period for schemes with defined benefits**
- 3c **Having completed the assessment**
- 4 **Pension schemes**  
Pension schemes under the new employer duties
- 5 **Automatic enrolment**  
An explanation of the automatic enrolment process
- 6 **Opting in, joining and contractual enrolment**  
How to process pension scheme membership outside of the automatic enrolment process
- 7 **Opting out**  
How to process 'opt-outs' from workers who want to leave a pension scheme
- 8 **Safeguarding individuals**  
The new safeguards for workers
- 9 **Keeping records**  
Records that must be kept by law under the new employer duties
- 10 **Information to workers**
- 11 **Automatic re-enrolment**

## Accompanying resources



### Information to workers

Summary of information requirements in a quick-reference table format



### The different types of worker

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



### Employer duties and safeguards

At-a-glance summary of the duties and safeguards

# Contents

	page
About this guidance	5
Introduction	6
What is the effect of the transitional period?	7
Automatic enrolment	8
Which eligible jobholders can the transitional period apply to?	9
Employer's first enrolment date	10
What the conditions mean	11
Applying the transitional period	11
During the transitional period	13
At the end of the transitional period	14
When the transitional period ends on the date set in law – 30 September 2017	15
If the employer chooses to use postponement to delay assessment beyond 1 October 2017	16
If the employer chooses to assess the worker from 1 October 2017	26
When the transitional period ends before 30 September 2017 as the conditions stop being met	29
Employers using schemes with defined benefits for workers where the transitional period has been applied	30
Employers using defined contribution schemes for workers where the transitional period has been applied	32
What next?	40
Changes since last version	41
Key terms: Summary of the different categories of worker	42

# About this guidance

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

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

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

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

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

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

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

This guidance forms part of the latest version of the detailed guidance for employers (published April 2017). The transitional period ends on 30 September 2017. This guidance has been updated with further information for employers on what steps to take at the end of the transitional period. The section 'Changes from last version' has a list of these alterations.



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

# Introduction

1. The transitional period for schemes with defined benefits allows the employer to choose to delay automatic enrolment until 30 September 2017. This is only applicable to employers who provide schemes with defined benefits, including hybrid schemes where a defined benefit pension is offered. It can only be used in respect of eligible jobholders who meet certain conditions (listed in paragraph 18).
2. For an employer who chooses to apply the transitional period to any eligible jobholder who meets the conditions, the transitional period will start on their first enrolment date (usually their staging date - see paragraph 20) and will end on 30 September 2017, as long as the conditions continue to be met throughout the period.
3. The way an employer exercises their choice is to give notice to the eligible jobholder of their intention to defer automatic enrolment, within a prescribed period.
4. The eligible jobholder is able to opt in to any automatic enrolment pension scheme during the transitional period, if they wish. More information on opting in is in **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**.
5. If an employer chooses to apply the transitional period, the automatic enrolment duty is amended for that eligible jobholder. This amended duty (see paragraph 9 below) means that when automatic enrolment is triggered after the end of the transitional period and the conditions have continued to be met, the worker must be automatically enrolled into a scheme with defined benefits.
6. During the transitional period, the employer must monitor that the conditions (listed in paragraph 18) continue to be met. If they fail to be met at any time, the transitional period ends and the employer must automatically enrol the workers. In this case, the employer's automatic enrolment duty is amended again. More information on what happens if the transitional period ends early because the conditions stop being met can be found in paragraphs 86 to 129.
7. An employer should note that the transitional period does not delay automatic enrolment for all their eligible jobholders; it only applies to those who meet the criteria and who the employer chooses to apply it to.
8. After the end of the transitional period on 30 September 2017 the transitional period for schemes with defined benefits is no longer available as a choice for employers. Any employer with a first enrolment date on or after 1 October 2017 cannot choose to apply the transitional period to any of their workers.

# What is the effect of the transitional period?

9. If an employer chooses to apply the transitional period, the duty is amended for the eligible jobholder to whom they give notice. Under the usual automatic enrolment duty, the eligible jobholder becomes an active member of an automatic enrolment pension scheme from their automatic enrolment date. Where the amended duty applies, the employer must make arrangements so that the eligible jobholder becomes, either:
  - a. an active member of a defined benefits automatic enrolment scheme from the end of the transitional period, or
  - b. a 'defined benefits member' of a hybrid automatic enrolment scheme from the end of the transitional period.
10. A 'defined benefits member' of a hybrid automatic enrolment scheme is an active member of that scheme where all the benefits accruing in respect of their membership are not money purchase benefits.
11. The key differences between the amended duty and the usual duty are the type of scheme that must be used for automatic enrolment, and the date from which active membership of that scheme must start. When automatic enrolment is triggered after the end of the transitional period, it must be into a scheme where defined benefits are provided in respect of the individual. Not all defined benefits automatic enrolment schemes or hybrid schemes can be used for this purpose. More information on the types of automatic enrolment scheme to be used can be found in paragraphs 66 to 72.
12. Practically, where the transitional period is applied, the original automatic enrolment date is removed and automatic enrolment for these eligible jobholders is delayed until after the end of the transitional period.
13. This also means that an employer cannot then choose to apply the automatic enrolment duty to these workers at an earlier date during the transitional period as the duty has been amended. The worker is able to opt in to any automatic enrolment pension scheme during the transitional period, if they wish.

## Automatic re-enrolment

14. The automatic re-enrolment duty is also amended. If the employer's cyclical automatic re-enrolment date falls on or before the end of the transitional period, the automatic re-enrolment duty does not apply in respect of the worker to whom the transitional period has been applied. Where this date falls after the end of the transitional period the automatic re-enrolment duty is not amended and applies as usual. This means that workers can be automatically re-enrolled into any type of automatic enrolment scheme.
15. It is less likely that an immediate automatic re-enrolment date would be triggered for the worker as it could only happen after the worker had become an active member of a qualifying scheme (eg because they opted in). However, in the event that immediate re-enrolment is triggered, then a similar provision applies. If the immediate automatic re-enrolment date falls on or before the end of the transitional period, the re-enrolment duty does not apply in respect of the worker. For more information on automatic re-enrolment, see **Detailed guidance no.11 – Automatic re-enrolment**.
16. The amendment to the automatic enrolment and re-enrolment duties means that the employer does not need to continually assess the worker to whom they have applied the transitional period during the transitional period. They will only need to assess the worker during the transitional period if the worker gives them an opt-in or joining notice.

# Which eligible jobholders can the transitional period be applied to?

17. An employer can choose to apply the transitional period for schemes with defined benefits to any of their workers who meet:
  - a. the criteria to be an eligible jobholder on the employer's first enrolment date (see paragraph 20) and
  - b. certain other conditions, described in paragraph 18.
18. The conditions that must be met are that:
  - a. the eligible jobholder has been employed by that employer for a continuous period before the employer's first enrolment date, and
  - b. at a point before the employer's first enrolment date, the eligible jobholder was entitled to become either:
    - an active member of a pension scheme with defined benefits or,
    - a defined benefits member (see paragraph 10) of a hybrid automatic enrolment scheme, and
  - c. the eligible jobholder is, and always has been since that point, entitled to become an active member of that pension scheme with defined benefits, and
  - d. that pension scheme with defined benefits is a qualifying scheme, as is any such pension scheme of which the eligible jobholder is entitled to become an active member, on or after the employer's first enrolment date.
19. For an employer who is considering using the transitional period for pension schemes with defined benefits, understanding and identifying their first enrolment date is a key task.

## Employer's first enrolment date

20. An employer's first enrolment date is the date that they first have an eligible jobholder. This will either be:
  - a. their staging date, if the assessment of their workers on this date identifies at least one eligible jobholder, or
  - b. in exceptional circumstances (ie if the employer has no eligible jobholders at staging), the automatic enrolment date of the first worker who meets the eligible jobholder criteria after the staging date (the automatic enrolment date is the date the criteria to be an eligible jobholder are met for the first time and the date from which the employer must automatically enrol the eligible jobholder).
21. In most cases, an employer will have been able to identify their staging date as their likely first enrolment date, from their initial assessment of their workforce. **Detailed guidance no. 2 – Getting ready** has more information.
22. If an employer intends to use postponement on their staging date in respect of all their workers (see **Detailed guidance no. 3a – Postponement**), and is also considering using the transitional period for pension schemes with defined benefits, they will need to take care.
23. This is because if the employer does not assess all of their workers until the end of the postponement period, the possibility exists that one of their postponed workers will meet the criteria to be an eligible jobholder for the first time during the postponement period. Therefore, the employer may miss their first enrolment date and may be unable to use the transitional period. This is because, in order to use the transitional period, they must give notice to the worker within six weeks of the employer's first enrolment date.
24. An employer who wishes to use postponement at staging and the transitional period for pension schemes with defined benefits in relation to their workers has two options.
  - a. They can assess their workforce on the staging date for postponement. If they identify any eligible jobholders who meet the conditions set out at paragraph 18, they can apply the transitional period to these workers and apply postponement to the remainder of their workforce.
  - b. They can use postponement but assess their workforce on their staging date, and on the first day of each pay reference period during the postponement period, meaning they could identify their first enrolment date. Any eligible jobholders on this date who meet the conditions set out at paragraph 18 could have the transitional period applied to them.

## What the conditions mean

25. The conditions in paragraph 17a and paragraph 18a and b mean that an employer cannot choose to apply the transitional period to a worker who meets the eligible jobholder criteria for the first time after the first enrolment date. This includes:
  - any eligible jobholder on the first enrolment date who the employer chose not to apply the transitional period to
  - any worker in employment on the first enrolment date who meets the eligible jobholder criteria for the first time after the first enrolment date
  - any new starters after the first enrolment date.
26. The conditions in paragraph 18b, c and d above include a defined benefits or hybrid automatic enrolment scheme that is permitted to meet the money purchase qualifying requirements in order to be a qualifying scheme. For more information on the qualifying requirements for defined benefit and hybrid pension schemes see **Detailed guidance no. 4 – Pension schemes**.
27. However, employers should note that when it comes to automatic enrolment after the end of the transitional period, such a defined benefits or hybrid automatic enrolment scheme cannot be used. More information on the types of automatic enrolment scheme to be used after the end of the transitional period can be found in paragraphs 66 to 72.
28. Any employer with a first enrolment date on or after 1 October 2017 cannot choose to apply the transitional period to any of their workers.

## Applying the transitional period

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

32. The table below contains the information that must be included in the notice:

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

- A statement that the employer intends to defer automatic enrolment in respect of that jobholder until the end of the transitional period for schemes with defined benefits.
- A statement that by giving written notice to the employer, the worker who is aged at least 16 and under 75 and:
  - a. who earns now or at any future time more than the lower threshold of qualifying earnings (and the amount must be specified) and is not an active member of a qualifying scheme, may opt in to an automatic enrolment scheme and will be entitled to employer's contributions; or
  - b. who earns now or at any future time no more than the lower threshold of qualifying earnings (and the amount must be specified) and is not an active member of a pension scheme, may require the employer to make arrangements for the worker to become an active member of a pension scheme but will not be entitled to employer's contributions
- A statement that a written notice from the worker must be signed by the worker or, if it is given by means of an electronic communication, must include a statement that the worker personally submitted the notice.

33. The employer is given the choice to be able to include only the information about the right to opt in rather than the information about both the right to opt in and join as described in the second bullet in the table above. This choice is available to allow an employer with a staging date before 1 April 2015, who has not had their first enrolment date before 1 April 2015, to minimise the change to their existing systems and processes.
34. Where an employer makes use of this facility then the statement required in the second bullet in the table above is substituted with:

A statement that the jobholder may, by giving written notice to the employer, require the employer to make arrangements for them to become an active member of an automatic enrolment scheme and that the jobholder will be entitled to employer's contributions.

35. It will also mean that they will still be required to give the worker information about the right to join the first time that the worker meets the criteria to be an entitled worker.
36. The information (whether that under paragraph 32 or 34) must be given in writing. This can include information sent by email, but does not include merely signposting to an internet or intranet site, or displaying a poster in the workplace.
37. Someone acting on the employer's behalf, such as an independent financial adviser, benefit consultant, accountant or bookkeeper can give the information, but it remains the employer's responsibility to make sure it is given, on time, and is correct and complete.

## During the transitional period

38. During the transitional period, the employer must monitor that the conditions in paragraph 18c and d continue to be met for that eligible jobholder because, if they stop at any time, the transitional period ends and the employer's automatic enrolment duty is amended again.

# At the end of the transitional period

39. The transitional period ends on one of these dates:
  - a. 30 September 2017, or
  - b. the date either of the conditions in paragraph 18c or d ceases to be met, where that is earlier than 30 September 2017.
40. When the transitional period ends, irrespective of whether that is 30 September 2017 or earlier, those workers to whom the employer had decided to apply the transitional period and who are still with the employer must now be included in the usual assessment process for each pay reference period.
41. The next guidance in the series; **Detailed guidance no. 3c – Having completed the assessment** describes the actions for an employer when they have completed their very first assessment of the worker. This completes the guidance on the employer's usual assessment process.
42. However, when it comes to the assessment at the end of the transitional period and the pay reference periods after that, there are some differences in the process when assessing a worker to whom the transitional period has been applied. There are also differences in some of the actions the employer must take as a result of the assessment, and in the use of postponement.
43. This section of the guidance describes what the employer must do when they have completed their next assessment of the worker at the end of the transitional period. A summary of the key differences between this assessment and the assessment of a worker to whom the transitional period has not been applied can be found at Appendix A.

# When the transitional period ends on the date set in law – 30 September 2017

44. The transitional period ends on 30 September 2017. This means that the day after the end of the transitional period (1 October 2017) becomes the assessment date for that worker, and the employer must assess whether they are an eligible jobholder on that date.
45. Under the amended automatic enrolment duty, the employer will be required to make arrangements by which the eligible jobholder becomes either:
  - a. an active member of a defined benefits automatic enrolment scheme from the day after the end of the transitional period (1 October 2017), or
  - b. a defined benefits member (see paragraph 10) of a hybrid automatic enrolment scheme from the day after the end of the transitional period (1 October 2017).
46. Postponement can be applied to a worker to whom they have applied the transitional period at the end of the transitional period to delay the assessment of the worker. If postponement is used, the deferral date is any date of the employer's choosing up to three months and one day after 1 October 2017. Essentially, this postponement extends the transitional period for the worker for a period of up to three months (eg up to 1 January 2018).
47. However, the employer should note that the postponement requirements are also amended by the application of the transitional period. The employer has only this one occasion at the end of the transitional period where postponement can be used. If on the deferral date the worker does not meet the criteria to be an eligible jobholder then the next time that they do meet the criteria postponement cannot be used again to delay automatic enrolment.
48. If postponement is used, and on the deferral date the worker meets the eligible jobholder criteria, then under the amended automatic enrolment duty, the employer will be required to make arrangements by which the eligible jobholder becomes either:
  - a. an active member of a defined benefits automatic enrolment scheme from the deferral date, or
  - b. a defined benefits member (see paragraph 10) of a hybrid automatic enrolment scheme from the deferral date

49. If the worker does not meet the eligible jobholder criteria on the deferral date then the amended duty in paragraph 45 will apply in respect of the worker the next time that they meet the eligible jobholder criteria.

## **If the employer chooses to use postponement to delay assessment beyond 1 October 2017**

50. If the employer wishes to use postponement in respect of a worker to whom they have applied the transitional period to delay the next assessment of that worker beyond 1 October 2017, then they must give the worker a postponement notice on or before 1 October 2017. This is different from other uses of postponement where the employer has six weeks after the date postponement is applied in which to give the notice.
51. When deciding whether they wish to use postponement to essentially extend the transitional period, an employer should be aware of the interaction of postponement with the amended automatic enrolment duty and with the 'joining window'. Detailed guidance no.5 - Automatic enrolment process describes the process that is required by law to complete automatic enrolment. The employer has a six week period to complete these steps, known as the 'joining window'.
52. In the case of a worker to whom the transitional period has been applied, the joining window runs from 1 October 2017 to 11 November 2017. If the employer chooses a deferral date after 11 November 2017, the joining window will have already ended in respect of any worker who meets the eligible jobholder criteria on the deferral date.
53. As a result, unless the employer can be sure that no worker will meet the eligible jobholder criteria on the deferral date, the choice of deferral date is restricted to a period of up to six weeks from 1 October 2017 so that the employer can comply with any automatic enrolment duty on the deferral date.
54. The employer should also be aware that, even if they choose a deferral date within this six week period, they will be reducing the amount of time they have to complete the necessary steps for automatic enrolment. For example, if the deferral date was 10 November 2017, the employer would have one day left of the joining window in which to complete the steps required for automatic enrolment (see example 1 below).

**Examples 1a and 1b use the same facts. In example 1a the definition of a pay reference period is aligned to tax weeks or months. In example 1b the definition of a pay reference period is aligned to the period by reference to which the worker is paid their regular wage or salary.**

### **Example 1a where the definition of a pay reference period is aligned to tax weeks or months**

XYZ Ltd applied the transitional period to Christina on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of Christina's regular wage or salary is monthly and so her pay reference periods are monthly starting on 6th of each month.

In September 2017, as the end of the transitional period approaches, XYZ Ltd decide to use postponement for Christina to delay the next assessment of her age and earnings to see what category of worker she is. They give Christina a postponement notice on 28 September 2017. The deferral date is 6 November 2017.

On the deferral date Christina meets the eligible jobholder criteria. This means XYZ Ltd must automatically enrol her. As they had applied the transitional period they must make arrangements so that Christina becomes an active member of an automatic enrolment scheme with defined benefits with effect from 6 November 2017. Accrual in the scheme with defined benefits must start from this date.

XYZ Ltd must complete the process of automatic enrolment by 11 November 2017.

### **Example 1b where the definition of a pay reference period is aligned to the period by reference to which a worker is paid their regular wage or salary**

XYZ Ltd applied the transitional period to Christina on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to the period by reference to which she is paid her regular wage or salary. She is paid monthly in respect of work done between the first calendar day of the month and the last.

In September 2017, as the end of the transitional period approaches, XYZ Ltd decide to use postponement for Christina to delay the next assessment of her age and earnings to see what category of worker she is. They give Christina a postponement notice on 28 September 2017. The deferral date is 1 November 2017.

On the deferral date Christina meets the eligible jobholder criteria. This means XYZ Ltd must automatically enrol her. As they had applied the transitional period they must make arrangements so that Christina becomes an active member of an automatic enrolment scheme with defined benefits with effect from 1 November 2017. Accrual in the scheme with defined benefits must start from this date.

XYZ Ltd must complete the process of automatic enrolment by 11 November 2017.

55. If, on the deferral date, the assessment of the worker identifies that they are an eligible jobholder, the next steps for the employer depend upon whether the eligible jobholder:
  - a. is an active member of a qualifying scheme with that employer on the deferral date, or
  - b. meets the conditions for any of the exceptions from the employer's automatic enrolment duty.
56. This is discussed further in paragraphs 57 to 72 below. For more information on the action for the employer if the worker does not meet the eligible jobholder criteria on the deferral date see paragraphs 73 to 78.

## Worker is an eligible jobholder on the deferral date

57. If the eligible jobholder is already an active member of a qualifying scheme that the employer provides, the automatic enrolment duty does not apply in relation to that jobholder. The qualifying scheme can be of any benefit type - a defined contribution or a defined benefits scheme. The employer will only need to assess the worker again if active membership of the qualifying scheme ceases.
58. If the eligible jobholder meets the conditions for any of the exceptions from the employer's automatic enrolment duty, automatic enrolment may either not apply in respect of that eligible jobholder, or the employer has the discretion to choose whether to automatically enrol the eligible jobholder or not. Which it is depends upon the particular exception.
59. The employer is not required to automatically enrol an eligible jobholder if they:
- opted out or ceased active membership of a qualifying scheme (or a scheme that would have been a qualifying scheme) more than 12 months before the assessment date, or
  - were paid a winding up lump sum<sup>1</sup> more than 12 months before the assessment date whilst in employment with the employer and then, during the 12 month period that started on the date the payment was made:
    - ceased employment and was subsequently re-employed by the same employer, or
  - meet the definition of a 'qualifying person' for the purposes of cross border pension requirements<sup>2</sup>.
60. The assessment date in this case is the deferral date.

1  
Under HMRC provisions the trustees of defined contribution (DC) occupational pension schemes in wind up are allowed to commute sums of under £18,000 provided certain conditions are met. The payment of this commuted sum is known as a 'winding-up lump sum payment'.

2  
See paragraph 120 of **Detailed guidance no.1 – Employer duties and defining the workforce.**

61. The employer can choose whether to automatically enrol an eligible jobholder if they meet any of the conditions of the exceptions below.

- They opted out or ceased active membership of a qualifying scheme (or a scheme that would have been a qualifying scheme) at their own request within the 12 months before the assessment date.
- They were paid a winding-up lump sum within the 12 months before the assessment date whilst in employment with the employer, ceased employment, and were subsequently re-employed by the same employer.
- They have given in their notice to end their employment (resignation or retirement) or been given notice of dismissal by the employer where:
  - a. the employer's first enrolment date falls within the period 19 August 2017 to 30 September 2017, and
  - b. the notice to end employment was given before the end of the six week period from the first enrolment date, and
  - c. automatic enrolment is triggered for the worker to whom the transitional period has been applied before the end of the six week period from the first enrolment date.
- Where the employer has reasonable grounds to believe that the worker has Primary, Enhanced or Fixed protection from tax charges on their pension savings.
- They hold the office of director with the employer<sup>3</sup>.
- They are a partner in a Limited Liability Partnership, which is the employer, and are not treated for income tax purposes as falling within HMRC's 'salaried member' rules.

62. Again the assessment date is the deferral date.

63. If the automatic enrolment duty does not apply, or if the employer chooses not to automatically enrol them where one of the exceptions in paragraph 61 applies, in practice, the employer does not need to assess earnings again until their next re-enrolment date. The employer will only need to assess the worker again before this date if they are given an opt-in or joining notice.

64. If the eligible jobholder does not meet any of the conditions of the exceptions from the employer's automatic enrolment duty, the employer must automatically enrol them with effect from the deferral date. The process of automatic enrolment must be completed by 11 November 2017.

<sup>3</sup> Paragraph 32 of Detailed guidance no.1 – Employer duties and defining the workforce explains what it means to hold office as a director.

65. If the employer must automatically enrol the eligible jobholder or if they choose to do so where one of the exceptions in paragraph 61 applies, they should note that they are still subject to the amended automatic enrolment duty in respect of the eligible jobholder as described in paragraph 48. This means that they must automatically enrol the eligible jobholder into a certain type of automatic enrolment scheme described below.

## The automatic enrolment scheme to be used

66. Under the amended automatic enrolment duty, the employer is required to make arrangements by which the eligible jobholder becomes either:
- a. an active member of a defined benefits automatic enrolment scheme, or
  - b. a defined benefits member (see paragraph 10) of a hybrid automatic enrolment scheme.
67. Certain defined benefits automatic enrolment schemes are permitted to meet the defined contribution qualifying requirements in order to be a qualifying scheme, provided the scheme meets certain conditions. For more information on the qualifying requirements for defined benefit pension schemes see paragraphs 80 to 97 of **Detailed guidance no. 4 – Pension schemes**.
68. If the defined benefit automatic enrolment scheme being used is one of these schemes and does not also meet the test standard or the other alternative qualifying requirements for a defined benefit scheme, it cannot be used to fulfil the amended automatic enrolment duty above at the end of the transitional period.
69. There is similar provision if the appropriate qualifying requirements for the provisions of the hybrid automatic enrolment scheme which apply to a defined benefits member are the defined benefit qualifying requirements. Certain of these hybrid automatic enrolment schemes are also permitted to meet the money purchase qualifying requirements in respect of those provisions in order to be a qualifying scheme.
70. If this is the case and those provisions also do not meet the test standard or the other alternative qualifying requirements for a defined benefit scheme, then this hybrid automatic enrolment scheme cannot be used to fulfil their automatic enrolment duties at the end of the transitional period for any worker to whom it was applied. For more information on the qualifying requirements for hybrid pension schemes see paragraphs 98 to 101 of **Detailed guidance no. 4 – Pension schemes**.

71. In both cases, this restriction on the ability to use the scheme for the automatic enrolment duty applies, even if the scheme was originally used in order to apply the transitional period. In other words, even if the entitlement to become a member of this particular scheme was one of the conditions that were met in order for the transitional period to be applied in the first place, it still cannot be used to fulfil the automatic enrolment duty now.
72. Most defined benefit or hybrid automatic enrolment schemes are not expected to fall into this category. However, in the event that the employer is using an automatic enrolment scheme that does they will have to put in place an alternative defined benefit automatic enrolment scheme or hybrid scheme where a defined benefit pension is offered to fulfil their automatic enrolment duty in paragraph 48.

## Worker is not an eligible jobholder on the deferral date

73. If the worker does not meet the criteria to be an eligible jobholder on the deferral date then the employer must keep assessing the worker on day one of the following pay reference periods as usual.
74. The worker can opt in to an automatic enrolment scheme or join a pension scheme at any time. If the employer is given an opt-in or joining notice then they should take the same steps as are required for any other worker. For more information on the steps to take when given an opt in or joining notice see **Detailed guidance no.6 – Opt in, joining and contractual enrolment**.
75. If the eligible jobholder criteria are met at any point after the deferral date then the next steps for the employer are the same as described in paragraphs 57 to 72. The employer cannot choose to use postponement again at the date the eligible jobholder criteria were met. This is true for as long as the worker remains a worker with the employer.
76. In this case, when applying paragraphs 57 to 72, the assessment date is the same date that identified the date the eligible jobholder criteria were met. In other words the first date after the deferral date that the eligible jobholder criteria are met (see example 2 below).

## Example 2

Employer A applied the transitional period to worker 1 (W1). The employer has chosen to use the definition of pay reference periods aligned to tax weeks or months. The usual interval between payments of W1's regular wage or salary is monthly and so their pay reference periods are monthly starting on 6th of each month.

Before the end of the transitional period the employer gives W1 a postponement notice. The deferral date is 6 November 2017.

The employer assesses W1's age and earnings as at 6 November 2017. W1 does not meet the eligible jobholder criteria. His employer knows that they must keep assessing them to identify the first time after the end of the transitional period that the eligible jobholder criteria are met.

In December the employer does their next assessment. The assessment date is the first day of the pay reference period - ie 6 December 2017. On this assessment date W1 meets the eligible jobholder criteria. The employer knows that as they had applied the transitional period to W1 and the transitional period ended on 30 September 2017, that they cannot apply postponement again at the date the eligible jobholder criteria were met. They must automatically enrol W1 unless W1 meets any of the conditions for the exceptions in paragraph 59 or paragraph 61. When applying paragraphs 59 and 61 to W1, the assessment date to use is 6 December 2017.

77. If the employer must automatically enrol the eligible jobholder or if they choose to do so where one of the exceptions in paragraph 61 applies, they should note that the amended automatic enrolment duty described in paragraph 45 continues to apply in relation to the worker, and the joining window remains 1 October 2017 to 11 November 2017.
78. This means that, irrespective of the date that the eligible jobholder criteria are met after 1 October 2017, the duty that applies to the employer is to make arrangements by which the eligible jobholder becomes an active member of that automatic enrolment scheme with effect from 1 October 2017. In other words, active membership of the automatic enrolment scheme with defined benefits must be backdated to start from 1 October 2017 (see example 3 below). Automatic enrolment must be into an automatic enrolment scheme as described in paragraph 66 to 72.

**Examples 3a and 3b use the same facts. In example 3a the definition of a pay reference period is aligned to tax weeks or months. In example 3b the definition of a pay reference period is aligned to the period by reference to which the worker is paid their regular wage or salary.**

### **Example 3a where the definition of a pay reference period is aligned to tax weeks or months**

XYZ Ltd also applied the transitional period to Jose on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of Jose's regular wage or salary is monthly and so his pay reference periods are monthly starting on 6th of each month.

In September 2017, as the end of the transitional period approaches, they decide to use postponement for Jose to delay the next assessment of his age and earnings to see what category of worker he is. They give Jose a postponement notice on 28 September 2017. The deferral date is 6 November 2017.

On the deferral date Jose does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means XYZ Ltd must continue to assess him at the start of each pay reference period.

On 6 February 2018 Jose meets the criteria to be an eligible jobholder. As XYZ Ltd had applied the transitional period and the transitional period ended on 30 September 2017 they cannot use postponement at the date the eligible jobholder criteria are met and must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 6 February 2018.

Jose does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty they must make arrangements so that Jose becomes an active member of an automatic enrolment scheme with defined benefits with effect from 1 October 2017. Accrual in the scheme with defined benefits must start from 1 October 2017.

### **Example 3b where the definition of a pay reference period is aligned to the period by reference to which a worker is paid their regular wage or salary**

XYZ Ltd also applied the transitional period to Jose on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to the period by reference to which he is paid his regular wage or salary. He is paid monthly in respect of work done between the first calendar day of the month and the last.

In September 2017, as the end of the transitional period approaches, they decide to use postponement for Jose to delay the next assessment of his age and earnings to see what category of worker he is. They give Jose a postponement notice on 28 September 2017. The deferral date is 1 November 2017.

On the deferral date Jose does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means XYZ Ltd must continue to assess him at the start of each pay reference period.

On 1 February 2018 Jose meets the criteria to be an eligible jobholder. As XYZ Ltd had applied the transitional period and the transitional period ended on 30 September 2017 they cannot use postponement at the date the eligible jobholder criteria are met and must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 1 February 2018.

Jose does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty they must make arrangements so that Jose becomes an active member of an automatic enrolment scheme with defined benefits with effect from 1 October 2017. Accrual in the scheme with defined benefits must start from 1 October 2017.

## If the employer chooses to assess the worker from 1 October 2017

79. If the employer chooses not to use postponement to delay the assessment of the worker, the day after the end of the transitional period (ie 1 October 2017) becomes the assessment date for that worker. The employer must assess whether they are an eligible jobholder on that date as described in paragraphs 57 to 72 (using the assessment date of 1 October 2017 in place of the deferral date).
80. If this assessment identifies that they are an eligible jobholder, the next steps for the employer are the same as described in paragraphs 57 to 72 where the worker was an eligible jobholder on the deferral date. When applying these paragraphs:
  - the assessment date is 1 October 2017
  - references to the amended duty in paragraph 48 should be taken to refer to the amended duty in paragraph 45.
81. If the worker does not meet the eligible jobholder criteria on 1 October 2017, the employer must keep assessing them on day one of the following pay reference periods as usual.
82. The worker can opt in to an automatic enrolment scheme or join a pension scheme at any time. If the employer is given an opt-in or joining notice then they should take the same steps as are required for any other worker.
83. If the eligible jobholder criteria are met at any point after the deferral date then the next steps for the employer are the same as described in paragraphs 57 to 72. The employer cannot choose to use postponement again at the date the eligible jobholder criteria were met. This is true for as long as the worker remains a worker with the employer.
84. If the eligible jobholder criteria are met at any point after 1 October 2017, the next steps for the employer are the same as described in paragraphs 57 to 72. The employer cannot choose to use postponement again at the date the eligible jobholder criteria were met. In this case, when applying paragraphs 57 to 72:
  - the assessment date is the same assessment date that identified the date the eligible jobholder criteria were met (as explained in paragraph 76)
  - references to the amended duty in paragraph 48 should be taken to refer to the amended duty in paragraph 45.

**Examples 4a and 4b use the same facts. In example 4a the definition of a pay reference period is aligned to tax weeks or months. In example 4b the definition of a pay reference period is aligned to the period by reference to which the worker is paid their regular wage or salary.**

### **Example 4a where the definition of a pay reference period is aligned to tax weeks or months**

XYZ Ltd also applied the transitional period to Elliot on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of Elliot's regular wage or salary is 4-weekly and so his pay reference periods are 4-weekly starting every fourth tax week (see 4 weekly calendar in Appendix A of **Detailed guidance no.3 – Assessing the workforce.**)

XYZ Ltd chose not to apply postponement at the end of the transitional period to Elliot.

On 1 October 2017 (the day after the end of the transitional period) Elliot does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means XYZ Ltd must continue to assess him at the start of each pay reference period.

On 11 January 2018 Elliot meets the criteria to be an eligible jobholder. As XYZ Ltd had applied the transitional period and the transitional period ended on 30 September 2017 they cannot use postponement at the date the eligible jobholder criteria are met and must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 11 January 2018.

Elliot does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty they must make arrangements so that Elliot becomes an active member of an automatic enrolment scheme with defined benefits with effect from 1 October 2017. Accrual in the scheme with defined benefits must start from 1 October 2017.

### **Example 4b where the definition of a pay reference period is aligned to the period by reference to which a worker is paid their regular wage or salary**

XYZ Ltd also applied the transitional period to Elliot on their staging date in April 2013. They have chosen to use the definition of a pay reference period aligned to the period by reference to which he is paid his regular wage or salary. He has a 4-weekly pay reference period from a Monday to the fourth Sunday.

XYZ Ltd chose not to apply postponement at the end of the transitional period to Elliot.

On 1 October 2017 (the day after the end of the transitional period) Elliot does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means XYZ Ltd must continue to assess him at the start of each pay reference period.

On 1 January 2018 Elliot meets the criteria to be an eligible jobholder. As XYZ Ltd had applied the transitional period and the transitional period ended on 30 September 2017 they cannot use postponement at the date the eligible jobholder criteria are met and must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 1 January 2018.

Elliot does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty they must make arrangements so that Elliot becomes an active member of an automatic enrolment scheme with defined benefits with effect from 1 October 2017. Accrual in the scheme with defined benefits must start from 1 October 2017.

85. Appendix B contains a flow chart of this assessment process when the transitional period ends on 30 September 2017.

# When the transitional period ends before 30 September 2017 as the conditions stop being met

86. If, at any point from the employer's first enrolment date to 30 September 2017, either of the conditions in paragraph 18c or d stop being met, the transitional period is ended. This means that the day after the conditions stop being met becomes the assessment date for that worker and the employer must assess them to see if they are eligible for automatic enrolment.
87. When the transitional period ends early because the conditions stopped being met, the employer is not restricted to using an automatic enrolment scheme with defined benefits for workers to whom they had applied the transitional period. The employer can choose to use a defined contribution automatic enrolment scheme or the defined contribution benefits in a hybrid scheme.
88. The first step for an employer, therefore, once they are aware that the conditions have stopped being met or are about to stop being met, is to decide on what type of automatic enrolment scheme they want to use for these workers.
89. This is important as the choice of benefit type determines:
  - a. what date active membership must start from under the amended automatic enrolment duty, and
  - b. whether postponement can be used after the end of the transitional period.
90. Broadly, if the employer chooses to use a scheme where the eligible jobholder will accrue benefits that are not solely defined benefits, then active membership must be with effect from the eligible jobholder's automatic enrolment date.
91. The automatic enrolment date is the eligible jobholder's original automatic enrolment date. Essentially, the benefits of using the transitional period are removed as the worker needs to be enrolled as if the transitional period never applied.
92. Paragraphs 93 to 103 below describe the actions for an employer who chooses to use an automatic enrolment scheme with defined benefits for workers to whom the transitional period was applied. More information on using a defined contribution automatic enrolment scheme to enrol such workers can be found in paragraphs 104 to 129.

## Employers using schemes with defined benefits for workers where the transitional period has been applied

93. If the employer chooses to use an automatic enrolment scheme where the eligible jobholder will accrue benefits that are solely defined benefits and the transitional period ends early, the automatic enrolment duty described in paragraph 9 is amended again.
94. Under this amended duty the employer must make arrangements so that the eligible jobholder becomes, either:
  - a. an active member of a defined benefits automatic enrolment scheme from the day after the conditions stopped being met, or
  - b. a 'defined benefits member' (see paragraph 10) of a hybrid automatic enrolment scheme from the day after the conditions stopped being met.
95. Postponement can only be used at the end of the transitional period. If postponement is used, and on the deferral date the worker meets the eligible jobholder criteria, then under the amended automatic enrolment duty, the employer will be required to make arrangements by which the eligible jobholder becomes either:
  - a. an active member of a defined benefits automatic enrolment scheme from the deferral date, or
  - b. a defined benefits member (see paragraph 10) of a hybrid automatic enrolment scheme from the deferral date
96. If, on the deferral date, the worker does not meet the criteria to be an eligible jobholder, then the next time that they do meet the criteria postponement cannot be used again to delay automatic enrolment, and the amended duty in paragraph 94 will apply in respect of the worker.
97. The employer cannot use an automatic enrolment scheme with defined benefits to meet this duty where:
  - the scheme meets the conditions so that it is permitted to meet the defined contribution qualifying requirements in order to be a qualifying scheme, and
  - the defined benefit provisions of the scheme do not meet the test standard or the other alternative qualifying requirements for a defined benefit scheme.

98. The next step for the employer is to decide whether they are going to use postponement at the end of the transitional period to essentially extend the transitional period by up to three months. If the employer wishes to use postponement in respect of a worker to whom they have applied the transitional period, then they must give the worker a postponement notice on or before day the conditions stopped being met.
99. When deciding whether to use postponement, an employer should be aware that, if they choose a postponement period of longer than six weeks, they will be in breach of the prescribed automatic enrolment process in respect of any worker who meets the eligible jobholder criteria on the deferral date. This is because the joining window (the six week period in which the employer must complete the automatic enrolment process) when the transitional period ends early is the six week period that starts on the day after the conditions stopped being met. A postponement period of longer than six weeks will mean the joining window will have already ended in respect of any worker who meets the eligible jobholder criteria on the deferral date.
100. As a result, unless the employer can be sure that no worker will meet the eligible jobholder criteria on the deferral date, the choice of deferral date is restricted to a period of up to six weeks from the day after the conditions stopped being met so that the employer can comply with any automatic enrolment duty on the deferral date.
101. The employer should also be aware that, even if they choose a deferral date within this six week period, they will be reducing the amount of time they have to complete the necessary steps for automatic enrolment.
102. Having chosen to use an automatic enrolment scheme with defined benefits, and decided whether to use postponement, the employer must assess whether their workers are eligible jobholders on the day after the conditions stopped being met. This is described in paragraphs 57 to 78 (where the employer chooses to use postponement at the end of the transitional period), and paragraphs 79 to 84 (where they choose not to use postponement).
103. When applying these paragraphs:
  - the assessment date in paragraphs 79 to 84 is the day after the day the conditions stopped being met
  - references to the amended duty in paragraph 45 or 48 should be taken to refer to the corresponding amended duty in paragraph 94 or 95 (where postponement was used and the eligible jobholder criteria were met on the deferral date), and
  - the joining window is the six week period that starts on the day after the conditions stopped being met.

## Employers using defined contribution schemes for workers where the transitional period has been applied

104. If the employer chooses to use a defined contribution automatic enrolment scheme where the eligible jobholder will accrue benefits that are not solely defined benefits, and the transitional period ends early, the automatic enrolment duty described in paragraph 9 is amended again.
105. Under this amended duty the employer must make arrangements so that the eligible jobholder becomes either:
- a. an active member of a defined contribution or personal pension automatic enrolment scheme, with effect from the eligible jobholder's automatic enrolment date or the deferral date if postponement is used, or
  - b. an active member of a hybrid automatic enrolment scheme where all the benefits accruing in respect of their membership are money purchase, with effect from the eligible jobholder's automatic enrolment date or the deferral date if postponement is used, or
  - c. an active member of a defined benefits or hybrid automatic enrolment scheme, with effect from the eligible jobholder's automatic enrolment date or the deferral date if postponement is used, where:
    - other scheme meets the conditions so that it is permitted to meet the money purchase qualifying requirements in order to be a qualifying scheme, and
    - other defined benefit provisions of the scheme do not meet the test standard or the other alternative qualifying requirements for a defined benefit scheme.
106. As noted above, the automatic enrolment date is the eligible jobholder's original automatic enrolment date - ie the same date as the first enrolment date.
107. Postponement can be used at the end of the transitional period. Unlike when the transitional period ends on the date set out in law or where the employer chooses to use a scheme with defined benefits when the transitional period ends, this is not the only occasion that postponement can be used. If, on the deferral date, the worker does not meet the criteria to be an eligible jobholder, then the next time that they do meet the criteria postponement can be used again to delay automatic enrolment.

108. The next step for the employer is to decide whether they are going to use postponement at the end of the transitional period to essentially extend the transitional period by up to three months.
109. When deciding whether to use postponement, an employer should have the same consideration as described in paragraphs 99 to 101. This is because the joining window (the six week period in which the employer must complete the automatic enrolment process) in these circumstances is also the six week period that starts on the day after the conditions stopped being met.
110. Having chosen to use one of these types of automatic enrolment schemes so that the amended duty in paragraph 105 applies, the employer must assess whether the worker is an eligible jobholder on the day after the conditions stopped being met, or the deferral date if they have chosen to use postponement at the end of the transitional period.
111. The action for an employer if the worker does meet the eligible jobholder criteria is discussed further in paragraphs 112 to 118 below. For more information on the action for the employer if the worker does not meet the eligible jobholder criteria on the deferral date, see paragraphs 119 to 129.

## Worker is an eligible jobholder

112. Where the worker to whom the transitional period was applied meets the eligible jobholder criteria on the day after the conditions are met, or the deferral date if postponement at the end of the transitional period was used, paragraphs 52 to 78 set out the next steps for the employer.
113. When applying these paragraphs:
- the assessment date is the day after the day the conditions stopped being met, or the deferral date if postponement was used
  - references to the amended duty in paragraph 45 or 48 should be taken to refer to the amended duty in paragraph 105
  - the joining window is the six week period that starts on the day after the conditions stopped being met.
  - where postponement is not used at the end of the transitional period, active membership must start from the eligible jobholder's original automatic enrolment date.

114. If the employer has chosen not to use postponement and active membership must start from the eligible jobholder's automatic enrolment date, contributions will be due under the scheme, unless the scheme rules provide otherwise, from that original automatic enrolment date.
115. However, where the employer has chosen to use an automatic enrolment scheme so that the amended duty in paragraph 105a applies, the employer is required to backdate their employer contributions but any requirement under the scheme rules, governing documentation or agreements (in the case of personal pensions) on the eligible jobholder to pay contributions does not apply to them between that original automatic enrolment date and the day the conditions ceased being met.
116. The eligible jobholder can choose to pay the contributions that would have been payable in this period, if they wish. If they decide to do this, the employer and the jobholder enter into an arrangement for the payment of these contributions. The amount of the contributions in this agreement is set by law. It is the amount due from the first enrolment date to the day the conditions stopped being met. The period over which these contributions must be paid is also set by law. The length of the arrangement is either:
- a. from the next pay reference period after the date the eligible jobholder asked the employer to make the arrangements for them to pay contributions to 30 June 2017, or
  - b. a shorter period, as agreed with the eligible jobholder.
117. For every pay reference period during the payment arrangement, the employer must deduct these contributions. The employer will need to establish the number of pay reference periods in the payment arrangement and the amount of contributions due, to work out the weekly or monthly (or whatever period the eligible jobholder is paid) payments.
118. This legislative overwriting of the scheme rules does not apply where the conditions stopped being met between 1 July 2017 and 30 September 2017. Nor does it apply where the employer chooses to use a scheme that means the amended duty in paragraph 105b or c applies. This means that, in either of these circumstances where postponement was not used, both the employer's and eligible jobholder's contributions must be backdated to the original automatic enrolment date.

## Worker is not an eligible jobholder

119. If the worker does not meet the eligible jobholder criteria on the day after the conditions stopped being met, or the deferral date if postponement at the end of the transitional period was used, the employer must keep assessing them on day one of the following pay reference periods as usual.
120. If the eligible jobholder criteria are met at any point after the deferral date, the next steps for the employer depend upon whether:
  - the eligible jobholder is already an active member of a qualifying scheme with that employer, or
  - the eligible jobholder meets the conditions for any of the exceptions from the employer's automatic enrolment duty.
121. If the eligible jobholder is already an active member of a qualifying scheme that the employer provides, the automatic enrolment duty does not apply in relation to that jobholder.
122. If the eligible jobholder meets any of the conditions in paragraph 59, the automatic enrolment duty does not apply in relation to that jobholder. The assessment date is the same assessment date on which the eligible jobholder criteria were assessed as being met.
123. If the eligible jobholder meets any of the conditions in paragraph 61, the automatic enrolment duty becomes optional for the employer. Again, the assessment date is the same assessment date on which the eligible jobholder criteria were assessed as being met.
124. If any of these conditions in paragraph 61 are met, on this assessment date, the employer can choose to:
  - automatically enrol the eligible jobholder under their amended automatic enrolment duty in paragraph 105
  - apply a postponement period of up to three months (unless the assessment date is the deferral date)
  - not automatically enrol the eligible jobholder.
125. If the automatic enrolment duty does not apply, or if the employer chooses not to automatically enrol them where one of the exceptions in paragraph 61 applies, then, in practice, the employer does not need to assess earnings again until their next re-enrolment date. The employer will only need to assess the worker again before this date if they are given an opt-in or joining notice.

126. If the eligible jobholder does not meet any of the conditions of the exceptions from the employer's automatic enrolment duty, the employer:

- must automatically enrol the eligible jobholder under their amended automatic enrolment duty in paragraph 105, or
- can choose to apply a postponement period of up to three months (see example below).

**Examples 5a and 5b use the same facts. In example 5a, the definition of a pay reference period is aligned to tax weeks or months. In example 5b the definition of a pay reference period is aligned to the period by reference to which the worker is paid their regular wage or salary.**

#### **Example 5a where the definition of a pay reference period is aligned to tax weeks or months**

QRS Ltd applied the transitional period to Craig on their staging date on 1 May 2014. They have chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of Craig's regular wage or salary is monthly and so his pay reference periods are monthly starting on 6th of each month

The automatic enrolment scheme with defined benefits was closed to new members on 14 January 2016. This meant that Craig was not longer entitled to become a member of the scheme and so he ceased to meet the conditions for the transitional period. The transitional period ended on the day the defined benefits scheme was closed to new members. QRS already provide a defined contribution automatic enrolment scheme for the automatic enrolment of new starters after their staging date. QRS Ltd intend to use this scheme for the automatic enrolment of the workers to whom they applied the transitional period now that has been ended early. They know therefore that the amended automatic enrolment duty that applies to such a worker after the end of the transitional period is to automatically enrol them with effect from 1 May 2014 or the deferral date if they chose to use postponement.

continued over...

Example 5a continued...

QRS Ltd choose to apply postponement to Craig at the end of the transitional period. As they are aware that the joining window – the period in which they must complete automatic enrolment – starts on 15 January 2016 and ends on 25 February 2016, they choose a deferral date of 6 February 2016.

On the deferral date Craig does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means QRS Ltd must continue to assess him at the start of each pay reference period.

On 6 May 2016 Craig meets the criteria to be an eligible jobholder. As QRS Ltd have chosen to use a defined contribution scheme for the automatic enrolment of workers to whom they applied the transitional period and the transitional period ended early before 30 September 2017 as the conditions stopped being met, they chose to use postponement again at the date the eligible jobholder criteria are met. The deferral date is 6 August 2016.

On 6 August 2016, Craig meets the eligible jobholder criteria and QRS know they must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 6 August 2016.

Craig does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty, they must make arrangements for Craig to become an active member of a defined contribution automatic enrolment scheme with effect from 6 August 2016.

### **Example 5b where the definition of a pay reference period is aligned to the period by reference to which a worker is paid their regular wage or salary**

QRS Ltd applied the transitional period to Craig on their staging date on 1 May 2014. They have chosen to use the definition of a pay reference period aligned to the period by reference to which he is paid his regular wage or salary. Craig has a monthly pay reference period starting on 15th of each month.

continued over...

Example 5b continued...

The automatic enrolment scheme with defined benefits was closed to new members on 14 January 2016. This meant that Craig was not longer entitled to become a member of the scheme and so he ceased to meet the conditions for the transitional period. The transitional period ended on the day the defined benefits scheme was closed to new members.

QRS already provide a defined contribution automatic enrolment scheme for the automatic enrolment of new starters after their staging date. QRS Ltd intend to use this scheme for the automatic enrolment of the workers to whom they applied the transitional period now that has been ended early. They know therefore that the amended automatic enrolment duty that applies to such a worker after the end of the transitional period is to automatically enrol them with effect from 1 May 2014 or the deferral date if they chose to use postponement.

QRS Ltd choose to apply postponement to Craig at the end of the transitional period. As they are aware that the joining window – the period in which they must complete automatic enrolment – starts on 15 January 2016 and ends on 25 February 2016, they choose a deferral date of 15 February 2016.

On the deferral date Craig does not meet the eligible jobholder criteria as his earnings are below the earnings trigger. This means QRS Ltd must continue to assess him at the start of each pay reference period.

On 15 May 2016 Craig meets the criteria to be an eligible jobholder. As QRS Ltd have chosen to use a defined contribution scheme for the automatic enrolment of workers to whom they applied the transitional period and the transitional period ended early before 30 September 2017 as the conditions stopped being met, they chose to use postponement again at the date the eligible jobholder criteria are met. The deferral date is 15 August 2016.

On 15 August 2016, Craig meets the eligible jobholder criteria and QRS know they must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 15 August 2016.

Craig does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty, they must make arrangements for Craig to become an active member of a defined contribution automatic enrolment scheme with effect from 15 August 2016.

127. If the employer chooses not to use postponement, active membership must start from the eligible jobholder's original automatic enrolment date (see example 6 below).

**Examples 6a and 6b use the same facts. In example 6a the definition of a pay reference period is aligned to tax weeks or months. In example 6b the definition of a pay reference period is aligned to the period by reference to which the worker is paid their regular wage or salary.**

**Example 6a where the definition of a pay reference period is aligned to tax weeks or months**

Consider the example of Craig in example 5. If, on 6 May 2016 Craig meets the criteria to be an eligible jobholder and QRS Ltd chose not to apply postponement then they must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 6 May 2016.

Craig does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty, they must make arrangements so that Craig becomes an active member of a defined contribution automatic enrolment scheme with effect from 1 May 2014.

**Example 6b where the definition of a pay reference period is aligned to the period by reference to which a worker is paid their regular wage or salary**

Consider the example of Craig in example 5. If, on 15 May 2016 Craig meets the criteria to be an eligible jobholder and QRS Ltd chose not to apply postponement then they must automatically enrol him, unless he meets any of the conditions for the exceptions. When applying paragraphs 59 and 61 the assessment date is 15 May 2016.

Craig does not meet the conditions for any of the exceptions and so, under the amended automatic enrolment duty, they must make arrangements so that Craig becomes an active member of a defined contribution automatic enrolment scheme with effect from 1 May 2014.

128. As discussed in paragraph 114 to 118, where postponement has not been used and the employer has chosen to use an automatic enrolment scheme so that the amended duty in paragraph 105a applies, the eligible jobholder does not have to pay their contributions back to the automatic enrolment date. They can choose to do so and, if they do, the employer must make the same payment arrangement as described in those paragraphs for the payment of the backdated contributions.
129. Appendix C contains a flow chart of this assessment process when the transitional period ends early before 30 September 2017 as the conditions stopped being met.

## What next?

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

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

# Changes since last version

We have updated this guidance with further information for employers on what steps to take at the end of the transitional period when it ends in law on 30 September 2017. This has resulted in new content and examples being added from paragraph 45 to 82. As a result paragraph numbers will have changed since the last version.

We have also expanded the content on when the transitional period ends early because the conditions have stopped being met, including adding examples. This affects the content from paragraphs 83 to 129.

The table below lists the other main changes since the last version. This list is not exhaustive. It does not include minor editorial changes.

Page	Location	Change
	Paragraphs 2-7	Edited and re-ordered previous introductory content
	Paragraphs 8	New paragraphs added to reference that as the transitional period ends on 30 September 2017 any employer with a first enrolment date after this date cannot choose to apply the transitional period
	Paragraphs 9-16	New section added on the effect of the transitional period
	Paragraphs 25 to 28	New section added on what the conditions mean in practice

# Key terms

## Summary of the different categories of worker

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

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### **Detailed guidance for employers no. 3b**

Transitional period for schemes with defined benefits

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