



Opting in, joining and contractual enrolment

How to process pension scheme membership
outside of the automatic enrolment process

February 2012 v3.0

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 workers

3a – Postponement

**3b – Transitional period for defined
benefit and hybrid schemes**

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

The Pensions
Regulator

About this guidance

- This guidance is aimed at professional advisers and employers with in-house pensions professionals. Trustees, managers and scheme providers may also find it useful.
- This guidance explains the process an employer must follow when they receive a request from a member of staff to join a pension scheme outside the automatic enrolment process.
- To understand the content in this guidance, employers should have already read the following guidance in this series:
 - **Detailed guidance no. 1 – Employer duties and defining the workforce**
 - **Detailed guidance no. 2 – Getting ready**
 - **Detailed guidance no. 3 – Assessing the workforce**
- **Detailed guidance no. 3** is of particular importance as it explains the process an employer must carry out to identify a worker's rights in respect of pension scheme membership. It will also be helpful for employers to be familiar with the content in **Detailed guidance no. 4 – Pension schemes** that is relevant to them.
- For opting in an employer should read **Detailed guidance no. 5 – Automatic enrolment** in conjunction with this guidance.
- 'One month' means 'one calendar month' throughout this guidance.
- In this guidance, we use 'jobholder' to describe both eligible jobholders (who have to be automatically enrolled) and non-eligible jobholders (who have a right to opt in).
- Where the content in this guidance is applicable to both jobholders and entitled workers (those who have the right to join a pension scheme), we use the term 'worker' in its wider context.
- 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.
- We have identified **7 steps to prepare for automatic enrolment**, which summarises the main steps towards achieving compliance. Employers may find this helpful when navigating this guidance: www.tpr.gov.uk/7-steps
- 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 **Key terms** on page 23.
- This guidance has been updated as a result of recent legislative changes including the Pensions Act 2011 receiving Royal Assent. Additionally, some content has been updated as a result of feedback from employers and general review. Appendix A provides details of significant changes made to this guidance. Further minor changes have been made but where these do not significantly impact on the structure or content, they are not listed in the appendix.
- We will be updating this guidance when the revised figure for the lower level of qualifying earnings is published.

Contents

Key points	page 4
Introduction	page 5
Section 1: An overview of opting in and joining – the other enrolment duties	page 6
Section 2: Dealing with opt-in or joining requests	page 7
– Confirming worker category	page 7
– Checking the notice is valid	page 7
Section 3: Jobholders opting in	page 8
– Identifying the enrolment date	page 8
– Selecting an automatic enrolment scheme	page 10
– Enrolling a jobholder into an automatic enrolment scheme	page 10
Section 4: Entitled workers joining	page 12
– The pension scheme for the entitled worker	page 12
– Making arrangements for an entitled worker to join a pension scheme	page 12
– After completing the joining process	page 14
Section 5: Contractual enrolment into a pension scheme	page 15
– The pension scheme for contractual enrolment	page 15
– Active membership ceases	page 19
What next?	page 20
Appendix A: Example process for employers on receipt of an opt-in or joining notice	page 21
Appendix B: Changes from v2.0	page 22
Key terms: Summary of the different categories of worker	page 23
How to contact us	back cover

Key points

- An employer must have processes in place to handle any requests they may receive from a worker to become a member of a pension scheme.
- An employer has a duty to enrol into a pension scheme any worker who has the right to make such a request and has asked to join. They must be able to identify such individuals.
- As with automatic enrolment, an employer has ongoing responsibilities once they have completed the initial stages of the enrolment process.
- Employers who are enrolling their workers under contractual agreements outside the employer duties need to understand how the employer duties impact on such agreements.

An employer must have processes in place to handle any requests

Introduction

1. There are three employer duties that cover establishing active membership of a pension scheme ('the enrolment duties'):
 - **Automatic enrolment:** The employer must make arrangements by which an eligible jobholder becomes an active member of an automatic enrolment scheme with effect from the automatic enrolment date. The arrangements are set out in the law and described in **Detailed guidance no. 5 – Automatic enrolment**.
 - **Opting in:** A jobholder can require the employer to arrange for them to become an active member of an automatic enrolment scheme, with effect from the enrolment date. They do this by giving the employer an 'opt-in notice'.
 - **Joining:** An entitled worker can require the employer to arrange for them to become an active member of a pension scheme. They do this by giving the employer a 'joining notice'.
2. A non-eligible jobholder has the right to opt in. By giving a notice to the employer, they can require the employer to arrange active membership of an automatic enrolment scheme.
3. An eligible jobholder who has been automatically enrolled but subsequently opted out or ceased membership, also has the right to opt back in to an automatic enrolment pension scheme.
4. An eligible jobholder who was not automatically enrolled because they were a member of a qualifying scheme on their automatic enrolment date, but subsequently ceased membership of that scheme, can also opt in to an automatic enrolment scheme.
5. For this reason, in this guidance we use 'jobholder' to describe both eligible jobholders and non-eligible jobholders who may opt in.
6. An 'entitled worker' has the right to join a pension scheme. By giving a notice to the employer, they can require the employer to arrange active membership of a pension scheme. The scheme the employer chooses does not have to be an automatic enrolment scheme or even a qualifying scheme.
7. Outside the enrolment duties, some employers already use contractual agreements with their staff (for example the contract of employment) to establish active membership of a pension scheme that they provide. They may do this because they choose to:
 - immediately enrol workers when they first start work with an employer
 - annually re-enrol workers back into the scheme if they have ceased membership in the year
 - put in place salary sacrifice or flexible benefits arrangements.
8. In these cases, enrolment is in accordance with the contract into which the worker has entered, and not under one of the enrolment duties set out in paragraph 1.
9. There is nothing that prevents an employer from continuing with agreements of this type, nor from putting new agreements in place. However, the employer must understand how the employer duties impact on these arrangements.
10. Section 5 of this guidance outlines the considerations for employers who are using contractual joining to enrol their workers into a pension scheme outside the automatic enrolment process.

Section 1: An overview of opting in and joining – the other enrolment duties

11. A jobholder has the right to opt in to an automatic enrolment scheme, unless they are:
 - an active member of a qualifying scheme with that employer
 - an eligible jobholder for whom the employer has an automatic enrolment duty or
 - an eligible jobholder for whom the employer has a re-enrolment duty.
12. If a jobholder chooses to exercise their right to opt in, they do so by giving the employer an 'opt-in' notice. Upon receipt, the employer is required to make arrangements for the jobholder to become an active member of an automatic enrolment scheme from the enrolment date. The employer must follow the same process as for the automatic enrolment of eligible jobholders to enrol the jobholder.
13. There is an exception to the requirements on the employer. If the notice is submitted within 12 months of a previous opt-in notice and the worker has subsequently stopped membership of the automatic enrolment scheme into which they were enrolled, the employer is not required to make the arrangements, although they can choose to if they wish.
14. An employer must notify a jobholder of their right by providing them with specified information. The provision of this information is covered in **Detailed guidance no. 3c – Having completed the assessment.**
15. An entitled worker has a right to join a pension scheme, unless they are already an active member of a pension scheme with that employer.
16. If an entitled worker chooses to exercise their right to join, they do so by giving the employer a 'joining' notice. Upon receipt, the employer is required to make arrangements for that worker to become an active member of a pension scheme. The scheme the employer uses for these purposes does not have to be an automatic enrolment scheme, or even a qualifying scheme. It does, however, have to be a UK tax-registered scheme. The employer is not required to make employer contributions to the scheme, although they can if they wish by choosing a scheme that requires employer contributions.
17. Again, there is one exception to the requirements on the employer. If the notice is submitted within 12 months of a previous notice and the worker has subsequently stopped membership of the scheme of which the employer arranged active membership, the employer is not required to make the arrangements, although they can choose to if they wish.
18. An employer must notify an entitled worker of their right to join a pension scheme by providing them with specified information. The provision of this information is covered in **Detailed guidance no. 3c – Having completed the assessment.**
19. The notice given by the jobholder or entitled worker must be in writing but does not have to be a formal document. It can be a letter or an email.
20. It could be that an employer only receives the occasional notice, and this may be some time after the individual starts working for them. Employers should, therefore, be aware of what they need to do in relation to any opt-in or joining notices they may receive from their workers, and be ready to deal with such notices. Having processes in place to manage this will help the employer deal with it quickly and efficiently.
21. This does not mean employers must already have a pension scheme set up waiting purely in case anyone opts in or asks to join. Practically though, an employer may already have an automatic enrolment scheme in place and may decide to use this.

Section 2: Dealing with opt-in or joining requests

22. Since an employer may receive an opt-in or joining notice many months or even years after issuing the information to the worker about their appropriate right, a key task for the employer on receiving the notice is to assess the category of the worker submitting it.
23. This is to identify whether the worker is a non-eligible jobholder with a right to opt in to an automatic enrolment scheme, or an entitled worker with a right to join a pension scheme, at the time the worker gives the notice.
24. This is important because it determines which process the employer must follow in arranging for active membership, and may determine the choice of pension scheme the employer uses.

Confirming worker category

25. The employer will need to make an assessment of the worker, described in **Detailed guidance no. 3 – Assessing the workforce**. The assessment date is the date that the employer received the notice.
26. Some employers may choose to use postponement. Postponement is described as ‘postponement of automatic enrolment’, and is sometimes referred to as a ‘waiting period’. Essentially, postponement is the postponement of the assessment of the worker and therefore a postponement of whichever employer duty may apply, depending on the category of worker. For more information on Postponement see **Detailed guidance no. 3a – Postponement**.
27. Where an employer is using postponement, a worker has the right to opt in or join during the postponement period. If the employer receives an opt-in or joining notice from a worker during the postponement period, all the employer needs to assess on the date they receive the notice is whether, on that date, the worker earns above or below the lower level of qualifying earnings (currently £5,035¹) and is therefore either a jobholder or entitled worker.

28. This is because the employer does not need to distinguish between eligible or non-eligible jobholders, since they are required to follow the automatic enrolment process for both.

Checking the notice is valid

29. Once the employer has established whether the notice was given by a jobholder or an entitled worker, they must next check that the notice is valid. To be valid, the notice must be:
 - in writing (this can include being sent by email)
 - signed by the worker submitting it or, if it was sent by email, it must include a statement from the worker confirming that they personally submitted the notice.
30. When the employer is satisfied that the opt-in or joining notice is valid, they must make arrangements so that the worker becomes an active member of a pension scheme.
31. The employer may wish to check if they have received a notice from the same worker within the past 12 months. Where a notice has been submitted, the employer will have a choice as to whether to make the arrangements to establish active membership for that worker
32. The process the employer must follow to arrange active membership differs depending on who submitted it. The different processes are explained in:
 - section 3 of this guidance, if the notice is a valid opt-in notice from a jobholder
 - section 4 of this guidance, if the notice is a valid joining notice from an entitled worker.

¹ These figures are in 2006-2007 terms. On 15 December 2011, the DWP published a consultation on the amount of the lower level of qualifying earnings for the 2012-2013 tax year.

Section 3: Jobholders opting in

33. When the employer is satisfied that they have received a valid opt-in notice from a jobholder, they must make arrangements for that jobholder to become an active member of an automatic enrolment scheme from the enrolment date.
 34. Broadly, the employer is required to follow the automatic enrolment process for that jobholder. The scheme they use must be an automatic enrolment scheme. This means they are required to make an employer contribution. Once the jobholder becomes an active member of an automatic enrolment scheme, the jobholder has the right to opt out of the scheme, once enrolled.
 35. If the employer is not required to make such arrangements (because the notice is given within 12 months of a previous opt-in notice, and the jobholder subsequently ceased active membership), but has chosen to do so, they are still required to follow the automatic enrolment process.
 36. When an employer receives an opt-in notice, they will need to:
 - identify the enrolment date
 - put an automatic enrolment scheme in place, if one is not already in place
 - enrol the jobholder within one month of the enrolment date, by following the automatic enrolment process.
 37. There is an exception to this, in that the employer is not required to make the arrangements if the jobholder withdraws the notice in writing before the enrolment date, though an employer should note that encouraging a jobholder to withdraw an opt-in notice may be considered as inducement. **Detailed guidance no 8 – Safeguarding individuals** has more information about inducements.
 38. The employer is also required to keep certain records of the enrolment process, including the opt-in notice. **Detailed guidance no 9 – Keeping records** has more details.
- ### Identifying the enrolment date
39. The enrolment date is the start date of active membership for the jobholder. As such, it is a key piece of information for the employer. Not only is it the start date of active membership, but it is also:
 - the start date of the joining window (the one-month period during which enrolment must be completed)
 - the start date for the calculation of contributions due to the pension scheme.
 40. On the first day of the next pay reference period after the employer receives the opt-in notice, the employer must assess the worker to identify whether they are a jobholder on that date. If they are, then the first day of the pay reference period after receipt of the opt-in notice is the enrolment date. (Pay reference periods are explained in **Detailed guidance no. 3 – Assessing the workforce.**)
 41. If the employer has already closed the payroll for that next pay reference period when they receive the opt-in notice, then the employer must assess the worker to identify whether they are a jobholder on the first day of the second pay reference period, after the date of receipt. If they are a jobholder, this is the enrolment date.
 42. If this assessment of the worker's category on the first day of the next or second pay reference period after receipt (whichever is appropriate) identifies that the worker is not a jobholder on that date, the employer must continue to make an assessment of the worker on the first day of each pay reference period. In these circumstances, the enrolment date is the first day of the pay reference period in which the employer identifies that the jobholder criteria are met.
 43. There is a final consideration for an employer if the worker is opting in during the postponement period. If this is the case, the employer should check when the deferral date is, to see whether it is before or after the enrolment date has occurred.

Deferral date is before the enrolment date has occurred

44. If the deferral date is before the enrolment date has occurred, ie because it is before the assessment on the first day of the pay reference period after receipt (or second pay reference period after receipt, where appropriate), and the worker is aged between 22 and state pension age, the employer must assess the worker on the deferral date, as usual.
45. If on the deferral date, the employer identifies that the worker is an eligible jobholder, they must automatically enrol the eligible jobholder with effect from the deferral date. In effect, the enrolment date falls away. If on the deferral date, they are a non-eligible jobholder, then the employer must continue to identify the enrolment date, as usual.

Deferral date is after the enrolment date has occurred

46. If the deferral date is after the enrolment date has occurred, then the employer must continue to enrol the jobholder with effect from their enrolment date. In effect, postponement for that jobholder falls away.

Some examples of enrolment dates

Julia's pay reference period is monthly, from the 1st to the end of the month. She gave her employer a letter on 4 February saying she wanted to join a pension scheme. She is 19 years old.

Her employer assessed whether qualifying earnings were payable above the lower level of qualifying earnings in the period 1-28 February, and identified that they were. Her employer also checked that the notice was valid.

Her employer knows that they must enrol Julia into an automatic enrolment scheme from her enrolment date. Her enrolment date is 1 March, as this is the first day of the pay reference period after the date she gave the notice (4 February).

William is paid weekly on a Friday, in respect of the work he does from Saturday to Friday. His employer runs payroll on each Wednesday. William is 36 years old.

William sends his employer an email on Thursday 6 June asking to join a pension scheme. His employer assesses that qualifying earnings were payable in the period Saturday 1 June to Friday 7 June, between the lower level of qualifying earnings and the earnings trigger for automatic enrolment. The employer also checks that the notice is valid.

His employer knows that he is a non-eligible jobholder and that they must enrol William into an automatic enrolment scheme from his enrolment date. Because payroll closed on Wednesday, his employer identifies his enrolment date as Saturday 15 June (the first day of the second pay reference period after 6 June).

Selecting an automatic enrolment scheme

47. An employer may already have an automatic enrolment scheme in place which they use for their eligible jobholders. However, if an employer does not have any eligible jobholders working for them, there is no requirement to select a scheme in advance of the staging date. So, if the employer does not already have an automatic enrolment scheme in place, they will have to select one for the jobholder opting in.
48. Whether they have a new scheme or an existing scheme, the employer must be satisfied that it meets the criteria to be an automatic enrolment scheme before it can be used. **Detailed guidance no. 4 – Pension schemes** provides more information on the criteria for a pension scheme to be an automatic enrolment scheme.
49. The scheme will need to be in place so that enrolment can be completed within one month of the jobholder's enrolment date.
50. The employer must then enrol the jobholder into the automatic enrolment scheme with effect from their enrolment date, by following the automatic enrolment process.

Enrolling a jobholder into an automatic enrolment scheme

51. The employer must follow the same steps set out in law as for automatic enrolment, so that the jobholder becomes an active member with effect from their enrolment date. The only exception to this is if the jobholder who is opting in is already a member (either deferred or pensioner) of a personal pension scheme with that employer and the employer wants to use that scheme to fulfil their enrolment duty. In this case, the process is modified (see paragraphs 53-58).
52. The process of automatic enrolment is described in **Detailed guidance no. 5 – Automatic enrolment**. When reading this guidance and applying it to opting in, the following terms apply:
 - for 'eligible jobholder' read 'jobholder',
 - for 'automatic enrolment' read 'enrolment',
 - for 'automatically enrolled' read 'enrolled' and
 - for 'automatic enrolment date' read 'enrolment date'.

Modified automatic enrolment process

53. If the jobholder who is opting in is already a member (either deferred or pensioner) of a personal pension scheme with that employer, and the employer wants to use that scheme to fulfil their enrolment duty, they must arrange with the pension scheme provider for the jobholder to become an active member of that scheme again. They must also ensure the scheme itself is able to be used for automatic enrolment.
54. As part of ensuring that the scheme can be used for automatic enrolment, there will need to be agreements in place that meet the minimum requirements. There may not be any need to put new agreements in place, just simply to reactivate the existing agreements. This will depend on:
- what agreements were in place between the pension scheme provider, the jobholder and the employer when the jobholder was first an active member
 - the pension scheme provider's processes for administering the policy.
55. However, if reactivating previous agreements, the jobholder cannot be required to give consent or provide any information as this would mean the scheme does not meet the automatic enrolment criteria.
56. These arrangements must be completed within the enrolment joining window.
57. The employer must follow the full automatic enrolment process described in **Detailed guidance no. 5 – Automatic enrolment** if they want to:
- use a different personal pension scheme than the one of which the jobholder is a member, or
 - use a personal pension scheme for automatic enrolment and the jobholder is not a member of a personal pension scheme.
58. Appendix A has a flowchart that shows the process an employer must follow when they receive a request from a worker to join a pension scheme.

The employer must follow same steps as set out in law

Section 4: Entitled workers joining

59. When the employer is satisfied they have received a valid joining notice from an entitled worker, they must make arrangements under the scheme rules or policy terms to create active membership of a pension scheme for the entitled worker. The scheme they use does not have to be an automatic enrolment scheme or even a qualifying scheme.
60. Broadly, to establish membership, the employer must provide certain information to the scheme they have chosen, and follow any requirements for joining.
61. If the employer is not required to make such arrangements because the notice is given within 12 months of a previous notice and the entitled worker subsequently ceased active membership, but has chosen to make the arrangements, they are then still required to follow the process in paragraphs 66-72.
62. When an employer receives a joining notice, they will need to:
 - identify a pension scheme to take the entitled worker
 - make arrangements for the entitled worker to join a pension scheme.
63. The employer is also required to keep certain records of the process, including the joining notice. **Detailed guidance no. 9 – Keeping records** has further details.

The pension scheme for the entitled worker

64. The pension scheme the employer must use must be a UK tax-registered scheme. It is not required to meet the qualifying or automatic enrolment criteria and, as such, the employer may choose whether to make a contribution themselves in respect of the entitled worker.
65. If the scheme the employer wants to use is a personal pension scheme, then direct payment arrangements must be in place. Broadly, this means that the employer must deduct the entitled worker's contributions to the scheme from their remuneration and pay it across to the pension scheme on the worker's behalf. More detail on the time limits for paying contributions can be found in **Detailed guidance no. 5 – Automatic enrolment**.

Making arrangements for an entitled worker to join a pension scheme

66. To create active membership under the scheme rules or policy terms, the employer must enter into arrangements with either:
 - the trustees or managers of an occupational pension scheme, or the provider of a personal pension scheme, or
 - give information about the entitled worker to the trustees, managers or provider of the pension scheme.
67. The employer should liaise with the trustees, managers or the provider of the pension scheme to establish whether there are any requirements in the scheme rules or policy that need to be satisfied, in order to create active membership for the entitled worker.

Checklist of entitled worker information for joining a pension scheme

68. On receipt of a valid joining notice from an entitled worker, the employer must give the following information to the trustees, or managers of the scheme they have chosen.

Information to the scheme about the entitled worker who is joining

Mandatory information

The employer must give the trustees, managers or providers of the pension scheme the entitled worker's:

- name
- sex
- date of birth
- postal residential address
- National Insurance number (NINO) – if the NINO is not available to the employer, the employer must provide it to the scheme within one month of receiving it.

The employer must also provide the following information, unless the scheme does not require it. The entitled worker's:

- postal work address
- work email address (if there is one)
- personal email address (if the employer holds this information)
- gross earnings in any pay reference period (if the employer holds this information)
- the value of any contributions payable to the scheme by the employer and the entitled worker in any pay reference period (where this information is available to the employer. The value can be shown as a fixed amount or a percentage rate of any qualifying earnings or pensionable pay due to the entitled worker).

69. The information must be given to the trustees, managers or the provider of the pension scheme.

70. The information must be provided 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.

71. Someone acting on the employer's behalf, such as an independent financial adviser or benefit consultant can send the information, but it remains the employer's responsibility to make sure it is provided, on time, and is correct and complete.

72. Appendix A has a flowchart that shows the process an employer must follow when they receive a request from a worker to join a pension scheme.

continued over...

After completing the joining process

73. Once the joining process has been completed, the employer will have ongoing responsibilities:
- with the scheme, as long as the entitled worker remains a member of the scheme and in employment with that employer
 - to keep records (see **Detailed guidance no. 9 – Keeping records**).
74. If the entitled worker is an active member of a scheme that would not meet the qualifying criteria if it were to be used for automatic enrolment, the employer must continue to assess the worker in each pay reference period to track when the worker changes category. This is necessary to identify both when the requirement to provide information applies and if automatic enrolment is triggered.
75. If the entitled worker is an active member of a scheme that would meet the qualifying criteria, then in practice, there is no need to assess the worker in each pay reference period. However, if the entitled worker subsequently ceases active membership of this scheme at any time, the employer will have to assess the worker in each pay reference period to track when the worker changes category. This is necessary to identify:
- if they have never been an eligible jobholder, the first time that the criteria to be an eligible jobholder are met after active membership has ceased, and therefore automatic enrolment is triggered
 - if they have never received information about the right to opt in to an automatic enrolment scheme, the first time that jobholder status applies, and therefore the requirement to issue information about the right to opt in is triggered.
76. **Detailed guidance no. 5 – Automatic enrolment** contains further information about the action an employer may need to take in the event that active membership ceases after enrolment.

**The employer
will have
ongoing
responsibilities**

Section 5: Contractual enrolment into a pension scheme

77. For an employer who has chosen to use a contractual agreement (for example, the contract of employment) to enrol their workers into a pension scheme, it is important to understand the interaction with the employer duties and the action they may still need to take.
78. As a minimum, they will still be required to provide some information to their workers under the new duties and they will still be required to register with **The Pensions Regulator** to tell us how they have complied with their duties.
79. The main consideration is in the pension scheme they choose to use for contractual enrolment. This is because the enrolment duties (described in paragraph 1) and a number of the information requirements do not apply if the worker is an active member of a qualifying scheme. If the pension scheme chosen for contractual enrolment would not meet the criteria to be a qualifying scheme, were it to be used for automatic enrolment, the employer duties will continue to apply in full.
80. An employer who is using contractual enrolment is enrolling under the terms of the contractual agreement and not under the enrolment duties. The worker does not have the right to choose to 'opt out' of the scheme in the same way as a person who has been enrolled under the employer duties. This means that if they choose to cease membership of the scheme, they will only receive a full refund of contributions if the scheme rules allow it.
81. In the event that the worker does cease membership, then all the employer duties will start to apply in respect of the worker, and therefore the employer will need to assess the worker to identify what category of worker they are and which, if any, of the employer duties, apply. Paragraphs 92-97 have more information.

The pension scheme for contractual enrolment

82. An employer does not have an automatic enrolment duty if an eligible jobholder is an active member of a qualifying scheme that they provide on the eligible jobholder's automatic enrolment date.
83. Additionally, if a jobholder is an active member of a qualifying scheme, they do not have the right to opt in to an automatic enrolment scheme.
84. So, unless the pension scheme an employer is using to contractually enrol their workers would meet the criteria to be a qualifying scheme if it were it to be used for automatic enrolment, these enrolment duties will continue to apply.
85. Similarly, an employer is required to provide information to their workers on a number of occasions under the employer duties. Again, some of those will not apply if the worker is an active member of a qualifying scheme.
86. An employer may also have chosen to use postponement prior to the contractual enrolment in order to facilitate setting up the arrangements, eg if the employer is setting up a salary sacrifice arrangement. An employer can use the different types of postponement notices to fulfil a number of the information requirements, if they wish.
87. Table 1 lists those information requirements that are a relevant consideration for an employer using contractual enrolment, and shows which ones apply to a worker who is an active member of a qualifying scheme and which ones apply if the employer has used postponement.

Table 1

Employer duties information requirements under contractual joining

Information requirement to the worker and by when it must be sent	Does it apply if the worker is:		For an employer who has used postponement prior to contractual joining			
	An active member of a qualifying scheme?	Not an active member of a qualifying scheme?	Does it apply if the worker was issued:			A tailored notice for an entitled worker?
			General notice A?	General notice B?	A tailored notice for a jobholder?	
<p>Enrolment information to an eligible jobholder who is being automatically enrolled or jobholder who is being enrolled.</p> <p>No later than one month after the automatic enrolment date or deferral date.</p>	x	✓	✓	✓	✓	✓
<p>Requirement to issue a jobholder with information about the right to opt in to an automatic enrolment scheme.</p> <p>No later than one month after the criteria to be a jobholder with the right to opt in are met for the first time.</p>	x	✓	x	x	x	✓

Table 1

Employer duties information requirements under contractual joining continued...

Information requirement to the worker and by when it must be sent	Does it apply if the worker is:		For an employer who has used postponement prior to contractual joining			
	An active member of a qualifying scheme?	Not an active member of a qualifying scheme?	Does it apply if the worker was issued:			
			General notice A?	General notice B?	A tailored notice for a jobholder?	A tailored notice for an entitled worker?
<p>Requirement to issue an entitled worker with information about the right to join a pension scheme.</p> <p>No later than one month after the criteria to be an entitled worker with a right to join are met for the first time</p>	x	✓	x	x	✓	x
<p>Requirement to issue a jobholder who is an active member of a qualifying scheme with information about the scheme.</p> <p>No later than two months after the criteria to be a jobholder and an active member of a qualifying scheme are met for the first time</p>	✓	x	x	✓	✓	✓

88. From table 1, an employer can see that whether the scheme is a qualifying scheme will impact upon which information requirement applies to the employer.
89. So, if the pension scheme the employer is using for contractual enrolment would not meet the criteria to be a qualifying scheme, if it were it to be used for automatic enrolment, the employer duties will apply in full, although an employer may have met some of the information requirements if they used postponement. An employer will need to monitor age and earnings as if the worker had not been contractually enrolled to identify when the relevant duties apply.
90. If the pension scheme the employer is using for contractual enrolment would meet the criteria to be a qualifying scheme, the employer will need to monitor age and earnings to identify when the worker becomes a jobholder for the first time, because they must provide them with information about the scheme. After this, there is no need for the employer to monitor age and earnings to identify what category of worker their worker is, though if they wish, they can still choose to do so in order to identify the duties that will apply in the event that active membership ceases.
91. Table 2 summarises the duties that will apply depending on whether the pension scheme the employer is using for contractual enrolment would meet the criteria to be a qualifying scheme.

Table 2

Employer duties that will apply for employers using contractual enrolment

Scheme would not meet the qualifying criteria	Scheme would meet the qualifying criteria
<ul style="list-style-type: none"> • Automatically enrol • If using postponement, provide a notification to the worker • Provide information about the right to opt in, where the employer is <ul style="list-style-type: none"> a) using postponement but using a tailored postponement notice or b) not using postponement • If the non-eligible jobholder decides to opt in, arrange pension scheme membership • Provide information about the right to join, where the employer is: <ul style="list-style-type: none"> a) using postponement but using a tailored postponement notice or b) not using postponement • If the entitled worker decides to join, arrange pension scheme membership • Process any opt outs • Register with The Pensions Regulator 	<ul style="list-style-type: none"> • Provide information to jobholders who are active members of a qualifying scheme on the first day that they meet the criteria to be a jobholder • Register with The Pensions Regulator

Active membership ceases

92. If the employer has chosen a pension scheme that would meet the qualifying criteria as their scheme for contractual enrolment, and the worker ceases active membership of that scheme, they should be aware that the enrolment duties and full information duties will now apply to that worker.
93. This means that if the worker ceases membership, the employer will need to assess the worker in each pay reference period to ensure they fulfil the duties relevant to the category of worker into which they fall.
94. An employer should note that if this assessment identifies the worker to be an eligible jobholder, they will have either an automatic enrolment or re-enrolment duty. Which one applies will depend on whether the worker ever met the criteria to be an eligible jobholder whilst an active member of the scheme that would have met the qualifying criteria.
95. If they did, and they meet the eligible jobholder criteria again after they have ceased active membership, the employer will have a re-enrolment duty. This means that in practice, they do not need to assess the worker to identify their worker category until the re-enrolment date, although they may choose to do so in order to identify when the information requirements will apply. This is because the employer will not have to re-enrol that worker until their three-yearly re-enrolment date.
96. If the worker never met the criteria to be an eligible jobholder whilst an active member of the scheme, then the first time that they do meet the criteria after membership has ceased, the employer will have an automatic enrolment duty. The employer can choose to use postponement to postpone that duty for a period of up to three months.
97. An employer may therefore still wish to keep track of a worker's category whilst an active member of a scheme that would meet the qualifying criteria – even where they have achieved this membership through contractual joining – in case membership ceases and they need to identify the correct duty.

An employer may wish to keep track of a worker's category

What next?

Employers can read about the enrolment process for opt ins in **Detailed guidance no. 5 – Automatic enrolment.**

Employers must also be aware of the legal safeguards that have been put in place to protect the rights of individuals under the pensions reform. These safeguards apply to all employers from the date the law becomes effective in July 2012.

For many employers, this will be some time ahead of their staging date, so it is important that they gain familiarity with these safeguards to ensure compliance from 2012. **Detailed guidance no. 8 – Safeguarding individuals** has further details.

In addition to the record-keeping requirements surrounding opting in or joining, there are other records an employer must keep in relation to the new duties. These are detailed in **Detailed guidance no. 9 – Keeping records.**



**Employers
must be aware
of the legal
safeguards**

Appendix A

Example process for employers on receipt of an opt-in or joining notice

This flowchart is intended as supporting material for Detailed guidance no. 6 – Opting in, joining and contractual enrolment.

It's best viewed as A3 size. Before you print, you'll need to ensure that the A3 paper tray is selected on your printer. If your printer doesn't have an A3 tray, the document will print on A4 but you may find the text size too small to read comfortably.

Download the flowchart:

www.tpr.gov.uk/docs/pensions-reform-opting-in-and-joining-appendix-a.pdf

Appendix B

Changes from v2.0

This guidance has been updated in light of changes to legislation made by the Pensions Act 2011, which has now received Royal Assent. Specifically, new content has been added relating to postponement and ensuring the continuity of scheme membership.

We have also added new content on contractual enrolment as a result of general feedback.

Additionally, this guidance has been restructured to remove content that was common with **Detailed guidance no. 5 – Automatic enrolment**; cross-referencing has been used instead, where appropriate. Because of this, the term ‘jobholder’ is now used in its wider context throughout this guidance.

Significant changes from v2.0 (published July 2011) as a result of the above are as follows:

- New content in key points and new section 5 relating to contractual enrolment.
- New content in section 2 relating to postponement.
- New content in section 3 relating to applying the process described in **Detailed guidance no. 5 – Automatic enrolment** to jobholders wishing to opt in.
- New content in section 3 relating to continuity of scheme membership.

Table 3 lists other substantial changes included in v3.0. This list is not exhaustive. It does not include minor editorial changes.

Table 3
Record of additional changes included in v3.0

Page	Location	Change
6	Section 1	Content moved (not new)
7	Footnote 2	Updated: to reflect publication of DWP consultation since v2
10	Paragraph 49	Additional: relating to modified enrolment process explained in paragraph 53-58

Key terms

Summary of the different categories of worker

Category of worker	Description of worker
Worker	<ul style="list-style-type: none">• An employee or <ul style="list-style-type: none">• 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">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• has qualifying earnings.
Eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 22 and state pension age• has qualifying earnings above the earnings trigger for automatic enrolment.
Non-eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 16 and 21 or state pension age and 74• has qualifying earnings above the earnings trigger for automatic enrolment or <ul style="list-style-type: none">• is aged between 16 and 74• has qualifying earnings below the earnings trigger for automatic enrolment.
Entitled worker	A worker who: <ul style="list-style-type: none">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• does not have qualifying earnings.

How to contact us

PO Box 16314
Birmingham
B23 3JP

T 0845 600 1011

F 0845 606 9970

E customersupport@autoenrol.tpr.gov.uk

www.thepensionsregulator.gov.uk

www.trusteetoolkit.com

Detailed guidance no. 6

Opting in, joining and contractual enrolment

How to process pension scheme membership
outside of the automatic enrolment process

© The Pensions Regulator February 2012, v3.0

You can reproduce the text in this publication as long as you quote The Pensions Regulator's name and title of the publication. Please contact us if you have any questions about this publication. We can produce it in Braille, large print or on audio tape. We can also produce it in other languages.

The Pensions
Regulator