Automatic Enrolment Guide for the Local Government Pension Scheme (Northern Ireland) 2015

NILGOSC

NORTHERN IRELAND LOCAL GOVERNMENT OFFICERS' SUPERANNUATION COMMITTEE

Introduction

The changes introduced through the Pensions Act 2008 impact on every UK employer. This brief guide provides an outline of what employers who participate in the Northern Ireland Local Government Pension Scheme (the Scheme) are required to do to comply with automatic enrolment. It also provides links to more detailed information and guidance.

We acknowledge the invaluable assistance of LGA who prepared a Brief Guide for the LGPS in England and Wales.

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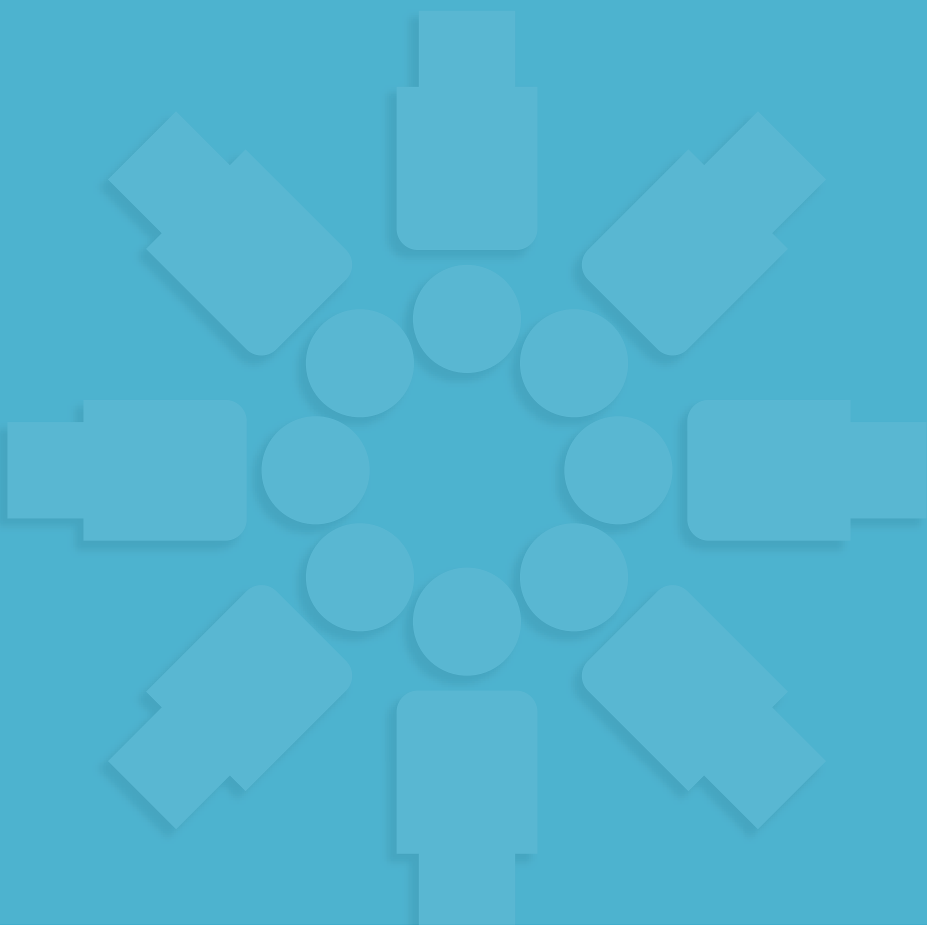

Contractual Enrolment

Under the regulations that govern the Scheme, most new employees are automatically brought into the Scheme from their first day of employment. This is known as contractual enrolment.

All eligible employees under the age of 75 are contractually enrolled into the Scheme on appointment, apart from those employees who have a contract that is for less than three months (but they can opt to join the Scheme).

Automatic Enrolment

Sitting alongside the regulations governing the Scheme, and which deal with contractual enrolment, is the Pensions Act 2008. This requires that employers, from their staging date (the date from which they must automatically enrol all eligible jobholders), continually monitor their workforce and take certain actions (including automatic enrolment) at specified times. The remainder of this brief guide sets out what employers need to do to comply with the requirements of the Pensions Act 2008.

Safeguarding & Exemptions

From 1 July 2012 the following safeguards were introduced to protect employees:

- An employer must not, as part of the recruitment process, make any suggestion that success in applying for a job may be conditional on opting out of the pension scheme
- An employer cannot seek to induce a member of the Scheme to opt out of the Scheme
- An employer cannot treat a worker unfairly or dismiss a worker on account of the worker trying to enforce their automatic enrolment rights

More information:

the Pensions Regulator's website; and paragraphs 106 to 108 of the LGPC Automatic Enrolment Guide.

Starting from 1 October 2012

- Employers are required, from their staging date, to automatically enrol into an automatic enrolment scheme, any of their eligible jobholders who have opted out of, or not joined, the Scheme (unless the employer decides to apply postponement or transitional delay). Further information on these terms can be found later in this brief guide.
- Employees cannot complete a form to opt out of membership of the Scheme before starting employment.

  The LGPS (NI) Regulations were amended to comply with automatic enrolment.

Exemptions

From 6 August 2015 there are four new exemptions to the employer duty to automatically enrol eligible members.

- Workers in notice periods within six weeks of their automatic enrolment or re-enrolment date
- Former members who have opted out in the last 12 months
- Individuals with tax protection against the lifetime allowance tax charge
  - primary protection
  - enhanced protection
  - fixed protection 2012
  - fixed protection 2014
  - individual protection 2014
  - fixed protection 2016, or
  - individual protection 2016

  N.B. Employers may wish to ask staff/ new joiners if they have any of these protections
- Certain individuals who have been paid winding-up lump sums when an occupational pension scheme has been closed and member benefits have been commuted to a lump sum.

Identify your staging date

- An employer's staging date is determined by the number of people in its largest PAYE scheme on 1 April 2012

- For a full list of staging dates between 1 October 2012 and 1 February 2018 visit the Pension Regulator's website.

- To determine your staging date if you are an employer who shares a PAYE scheme please read from paragraph 25 of the LGPC Automatic Enrolment Guide.

- An employer who, on 1 April 2012, had less than 50 workers and had, or was part of, one or more PAYE schemes in which there were 50 or more persons, can choose to use the alternative staging date shown in the final column of the Table at Annex 2 of the LGPC Automatic Enrolment Guide.

- You can bring your staging date forward. If you have a February or March staging date you may wish to bring it forward to avoid problems with year end refund of contributions for employees automatically enrolled in February or March but who do not opt out until April. Further information can be found from paragraph 30 of the LGPC Automatic Enrolment Guide.

Assess your workforce

Once an employer knows their staging date they need to consider how to assess their workforce to identify the different categories of worker.

All workers will fall into one of three categories:

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

A table summarising the different categories of worker for 'automatic enrolment' purposes is set out below.

The category into which a worker falls is determined by their age and earnings.

Age / Earnings**	16 - 21	22 - <SPA*	SPA* - <75
Under lower earnings threshold (£5,824)	***Entitled worker***		
Between £5,824◆ and £10,000	***Non-eligible jobholder***		
Trigger for automatic enrolment (£10,000)	***Non-eligible jobholder***	***Eligible jobholder***	***Non-eligible jobholder***

* State Pension Age
** Earnings: separate contracts are treated separately
◆ To align with National Insurance contributions lower earnings limit

The values per pay reference period for 2016/17 are:

Pay reference period	Lower earnings threshold p.a.	Earnings trigger for automatic enrolment
Annual	£5,824.00	£10,000.00
6 months	£2,912.00	£4,998.00
3 months	£1,456.00	£2,499.00
1 Month	£486.00	£833.00
4 weeks	£448.00	£768.00
Fortnight	£224.00	£384.00
1 week	£112.00	£192.00

Communicate with your workforce

Employers must write to some of their employees at their staging date. Communication must be direct and there are deadlines that are set out in the Pensions Act that must be met:

Existing members who are eligible jobholders or non-eligible jobholders

- send communication within two months after the employer's staging date. N.B. This requirement no longer applies from 6 August 2015.

Existing members who are entitled workers

- there is no legal requirement to write to these members. You may wish to send them the same letter as is being sent to eligible jobholders or non-eligible jobholders who are in the Scheme but there is no requirement to do this from 6 August 2015.

Eligible jobholders, non-eligible jobholders and entitled workers who are not active members of the Scheme

- send communication within six weeks after the employer's staging date.

Annex 7 of the LGPC Automatic Enrolment Guide has flowcharts to help you determine the process and template letters to use when communicating with your workforce including the specified information which must be provided to employees as defined in the Pensions Act 2008

Enrolment on your staging date (for employees who are eligible for membership of the Scheme but are not active members of the Scheme):

Eligible jobholders with a contract for three months or more.

Either:

- automatically enrol into the Scheme, and tell them that they have been automatically enrolled and that they have the right to opt out, or
- do not automatically enrol into the Scheme, and issue a transitional delay notice notifying the employee that you are delaying automatic enrolment until 1 October 2017 but they can opt into the Scheme before then if they wish to do so.

Eligible jobholders with a contract of less than three months' duration

- automatically enrol them into the Scheme and inform them they have the right to opt out of the Scheme if they wish to do so, or
- Postpone automatic enrolment by issuing a 3 month postponement notice, but inform them they have the right to opt into the Scheme if they wish to do so, or
- issue a transitional delay notice notifying the employee that you are delaying automatic enrolment until 1 October 2017 but they can opt into the Scheme before then if they wish to do so.

Non-eligible jobholders and entitled workers with a contract for three months or more

- write to them notifying them of their right to join the Scheme.

Non-eligible jobholders and entitled workers with a contract of less than three months duration

- advise them that they have the right to opt into the Scheme if they wish to do so.

Template letters for use in all of the above scenarios can be found on our website.

Postponement and Transitional Delay

Postponement

Postponement suspends the employer's duty to both assess their workers and to automatically enrol eligible jobholders. It can only be used:

- In respect of existing workers who, as at the employer's staging date, are not members of the Scheme because they have opted out of, or not opted to join, the Scheme or
- In respect of new workers who start on or after the employer's staging date and who are eligible for membership of the Scheme but have a contract of employment that is for less than three months, or
- On the date that a worker who has opted out, or previously opted not to join, meets the criteria to be an eligible jobholder after the employer's staging date

Postponement can be from one day and up to maximum of three months. An employee can only have one postponement notice at any given time in respect of a contract and notices cannot overlap or be issued consecutively. The employee has the right to opt into the Scheme during the postponement period. Employers must issue the postponement notice within six weeks of an employee starting employment.

More information:
The Pension Regulator's website, and paragraph 47 of the
LGPC Automatic Enrolment Guide.

Transitional Delay

Employers have the option to apply the transitional delay period in order to put back the date for 'automatic enrolment' for any or all eligible jobholders who:

- joined their employer before the employer's staging date and
- are entitled to be an active member of the Scheme and
- are not active members of the Scheme on the employer's staging date.

Transitional delay is fixed until 30 September 2017 (unless the conditions above cease). It does not change the employer's staging or re-enrolment dates.

Employers must write to or email all eligible jobholders to whom they apply the transitional delay by, at the latest, six weeks after their staging date. A template letter (letter T) for those eligible for membership of the Scheme is available on our website.

On 1 October 2017 employers must automatically enrol all those to whom they applied transitional delay, provided the worker is still an eligible jobholder at that time and has not already opted into the Scheme.

Opting out

An employee who is either contractually or automatically enrolled into the Scheme can only opt out after they have been brought into the Scheme i.e. they cannot complete an opt-out form (LGS2) before they have been brought into the Scheme. That does not mean that contributions have to be collected from pay before they can opt out. It merely means that they cannot sign and date the LGS2 until on or after the day they are enrolled.

An opt out can only be made on form LGS2 which, after the employer's staging date, can only legally be obtained from NILGOSC (i.e. the employer cannot hand out an opt out form).

An employee with more than one job can opt out of one, all or some of the jobs.

The LGS2 must be sent to the employer to action on the payroll, and the employer must notify NILGOSC that the person has opted out.

If the person opted out within three months of being enrolled they are to be treated as never having been a member of the Scheme in that employment. The employer must refund the employee contributions to the employee within six weeks of receipt of the opt-out form (or, if the payroll has already been run, by the end of the next pay period), and must reduce the next contribution payover to NILGOSC by the amount of the refunded employee contributions and by the amount of employer contributions already paid to NILGOSC in respect of that employee.

If the person opts out after more than three months and within two years of being enrolled they will be entitled to a refund of their contributions. This refund will be paid by NILGOSC directly to the member. There is no refund of employer contributions.

The 50/50 Section

The 50/50 section of the Scheme allows members to pay half their normal contributions and build up half their normal pension during the time they are in that section. This flexibility may be useful during times of financial hardship and it allows members to remain in the Scheme as an alternative to opting out of the Scheme. The member can opt back into the main section when they wish.

Monitoring from your staging date

As from their staging date, employers must monitor, pay reference period by pay reference period, what category of worker an employee falls within in relation to their contract of employment i.e. whether they are an eligible jobholder, a non-eligible jobholder or an entitled worker. An employee with more than one contract could be in a different category for each contract.

If an employee who is not in the Scheme becomes an eligible jobholder for the first time since the employer's staging date (i.e. because their earnings have increased or they have attained age 22) employers must automatically enrol the person into the Scheme from the beginning of the pay reference period when their earnings increased to make them an eligible jobholder or from the date they attained age 22. You must also send them a letter within six weeks telling them that they have been automatically enrolled, their enrolment date, and that they have the right to opt out.

If an employee who is not in the Scheme becomes a non-eligible jobholder or entitled worker for the first time since the employer's staging date (i.e. because their earnings have changed) do not automatically enrol the person into the Scheme but send them a letter within six weeks telling them that they have the right to opt into the Scheme.

If an employee has been in the Scheme whilst an eligible jobholder but then opts out there is no further requirement to monitor them but action may need to be taken at the employer's re-enrolment date (see below).

Re-enrolment

An employer's re-enrolment date is the third anniversary of the employer's staging date (or a date chosen by the employer which can be up to three months either side of the third anniversary date).

On the employer's re-enrolment date the employer must re-enrol any eligible jobholders who are not currently active members of the Scheme except for those eligible jobholder's who had opted out of the Scheme in the 12 months immediately preceding the employer's re-enrolment date.

More information:
Paragraphs 72 to 77 of the
LGPC Automatic Enrolment Guide.

Detailed Guidance for Employers
No. 11 - Automatic re-enrolment

2. Other Things to Remember

Declaration of Compliance

Employers must complete their declaration of compliance within five months of their staging date. More information:
the Pension Regulator website.

Record Keeping

Employers must keep comprehensive records about their employees and the scheme they have used to meet their automatic enrolment obligations. Records must be kept for six years.

Employers must keep opt out forms for four years but, subject to Data Protection legislation, it is recommended that these are retained for life.

More information: the
Pensions Regulator's website.

Compliance

The Pensions Regulator has powers to impose penalties for:

- Failure to comply with duties
- Non-compliance with contravention notices

More information:
Read paragraph 109 to 123 of the
LGPC Automatic Enrolment Guide
and the
Pension Regulator website.

3. Resources

The Pensions Regulator

Guidance is available online at the Pension Regulator's website. As well as a beginner's guide and online tools, eleven different areas of specific guidance are available.

LGPS

The LGPC Automatic Enrolment Guide sets out how the provision within the automatic enrolment legislation interacts with the LGPS. It also contains a number of template letters for employers to use and flowcharts to assist employers through the automatic enrolment process.

The template letters tailored for Northern Ireland regulations are available on www.nilgosc.org.uk

Department of Work and Pensions (DWP)

More information on workplace pensions can be found on the Department of Work and Pensions website.

4. Glossary

Automatic enrolment scheme:

A pension scheme is an ‘automatic enrolment’ scheme in relation to a jobholder if -

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

Contract of employment:

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

Earnings:

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

- salary, wages, commission, bonuses and overtime
- statutory sick pay under Part 11 of the Social Security Contributions and Benefits Act 1992 (c. 4)
- statutory maternity pay under Part 12 of that Act
- ordinary statutory paternity pay or additional statutory paternity pay under Part 12ZA of that Act
- statutory adoption pay under Part 12ZB of that Act
- sums prescribed for the purposes of section 13 of the Pensions Act 2008

Jobholder:

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

Eligible jobholder:

This is a worker –

- who is working or ordinarily works in Great Britain under the worker's contract, and
- who is aged at least 22 and under State Pension Age, and
- to whom earnings of more than the annualised equivalent of £10,000 are payable by the employer in the relevant pay reference period. It should be noted that if a worker has genuinely separate contracts then the earnings from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the worker is an entitled worker, a non-eligible jobholder or an eligible jobholder. Information and examples on how to determine earnings in a pay reference period can be found in Detailed Guidance no. 3 on The Pensions Regulator's website

Entitled worker:

This is a worker –

- who is working or ordinarily works in Great Britain under the worker's contract, and
- who is aged at least 16 and is under age 75, and
- to whom earnings of less than the annualised equivalent of £5,824 are payable by the employer in the relevant pay reference period. It should be noted that if a worker has separate contracts then the earnings from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the worker is an entitled worker, a non-eligible jobholder or an eligible jobholder. Information and examples on how to determine earnings in a pay reference period can be found in Detailed Guidance no. 3 on The Pensions Regulator's website

Non-eligible jobholder:

This is a worker –

- who is working or ordinarily works in Great Britain under the worker's contract, and
- who is aged at least 16 and is under age 75 and to whom annualised equivalent earnings of £5,824 or more but less than or equal to £10,000 are payable by the employer in the relevant pay reference period, or
- who is aged at least 16 and under age 22, or has attained State Pension Age and is under age 75, and to whom annualised equivalent earnings of more than £10,000 are payable by the employer in the relevant pay reference period. It should be noted that if a worker has separate contracts then the earnings from each should be treated separately (not aggregated) when determining whether, in relation to a contract, the worker is an entitled worker, a non-eligible jobholder or an eligible jobholder. Information and examples on how to determine earnings in a pay reference period can be found in Detailed Guidance no. 3 on The Pensions Regulator's website

Qualifying scheme:

As from 6 April 2016, the LGPS (NI) will cease to be a contracted-out scheme upon the introduction of the new State Pension. As such the LGPS (NI) is required to meet the test scheme standard as set out in section 23 of the Pensions Act 2008 or the Alternative Quality Requirements set out in section 23A of the Pensions Act 2008. In addition, as a career average pension scheme, the LGPS (NI) must also provide for at least minimum level revaluation of benefits in-service to be a qualifying scheme.

The LGPS therefore meets the test scheme standard.

State Pension Age:

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

State pension age equalisation timetable for women

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

The State pension age will then increase to 66 for both men and women from December 2018 to October 2020.
Increase in State pension age from 65 to 66 for men and women

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

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

Pay reference period:

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

Worker:

This means an individual who ordinarily works in Great Britain under –
- a contract of employment (i.e. an employee), or
- any other contract by which the individual undertakes to do work or perform services personally for another party to the contract (i.e. they cannot send a substitute or sub-contract the work) and the individual is not undertaking the work as part of their own business

Disclaimer

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April 2016