

Pension Bulletin No. 13

New eligibility rules for LGPS membership

Key Points:

- The eligibility rules for the LGPS are changing with effect from 1 October 2012
- Individuals with contracts of less than 3 months are now able to join the scheme by option
- Individuals employed by designating bodies must be brought into the LGPS from the date of designation if otherwise eligible
- Individuals employed by admission bodies must be brought into the LGPS from when designated or nominated
- Existing staff who were previously unable to access the LGPS should now be informed of the eligibility rule changes
- New employees cannot now opt out of the Scheme until the date they commence

Further Details:

The Local Government Pension Scheme (Miscellaneous) Regulations 2012

On 1 August 2012 the above Regulations were laid before Parliament, with the main provisions coming into effect from 1 October 2012. The Miscellaneous Regulations are wide ranging and cover many areas of the Local Government Pension Scheme. A previous Bulletin has covered admission agreements and cessations. This Bulletin examines the new provisions relating to scheme eligibility.

Detailed information on the changes is also available in the Local Government Association (LGA) Circular No.262: September 2012 "Changes to the LGPS in England and Wales". See the Additional Information section of this Bulletin.

Automatic enrolment

New scheme eligibility provisions have been introduced to make the LGPS compliant with automatic enrolment legislation from 1 October 2012, the earliest employer staging date. Eligibility changes have been introduced from a single date, as opposed to a series of staging dates, to aid administration.

It is therefore important that the new eligibility rules outlined below are applied by all scheme employers irrespective of staging date.

General provisions

Employees should automatically be brought into the Pension Scheme from commencement providing they are under age 75 and have a contract of employment of at least 3 months.

In a change to the existing legislation, employees with a contract of less than 3 months should now be able to join the LGPS by opting in. This includes NOMO casual employees i.e. those with no mutuality of obligation. They become members of the Scheme from the beginning of the next pay period following the application to join.

These amendments are effective from 1 October 2012.

In order to achieve full compliance with automatic enrolment rules, from an employer's staging date postponement notices will need to be issued to "eligible jobholders" with contracts of less than 3 months (including NOMO casual employees) to ensure alternative pension arrangements do not need to be put in place.

Once a NOMO casual employee has opted in to the LGPS, they would remain in the Scheme until they cease employment or opt out.

Further detailed guidance is available in the Local Government Pensions Committee Automatic Enrolment Guide. See the Additional Information section of this Bulletin.

Designating bodies

New employees of designating bodies should automatically be brought into the LGPS from the date they are designated as eligible, providing they are under age 75 and have a contract of at least 3

months (see above).

Any employee of a designating body that is designated as eligible, is under age 75 and has a contract of less than 3 months (as above) may elect to join the LGPS on or after 1st October 2012.

Designations can relate to either specific individuals, classes of employee or, indeed, all employees of an employer. However, they cannot be conditional, for instance, upon an option from the member to join.

Existing employees of a designating body who are eligible for membership (from the current designation) but have opted out do not have to be brought into the LGPS until either they are enrolled at their employer's staging date or, if sooner, they choose to opt in.

From their staging date designating bodies may need to find alternative pension arrangements if their designation restricts entry to specific individuals or classes. This is so that a qualifying automatic enrolment pension scheme is provided for all "eligible jobholders" and "non-eligible jobholders".

Further detailed guidance is available in the Local Government Pensions Committee Automatic Enrolment Guide. See the Additional Information section of this Bulletin.

Admitted bodies

Admitted bodies will have an admission agreement that clearly sets out which employees are able to join the LGPS. Often admission bodies will have alternative pension arrangements in place for some of their employees, for example where the LGPS is not available to new entrants.

The existing legislation has now been changed so that new employees "designated" or nominated by an

admission body for membership of the LGPS who are under age 75 and have a contract of at least 3 months should automatically be brought into the Scheme. This is effective from 1 October 2012.

The admission agreement eligibility wording may need to be revisited, particularly where it currently allows employees to choose between the LGPS and another pension arrangement.

This will not be an issue where eligibility wording in the admission agreement is more straightforward, for example allowing entry to all new employees where otherwise eligible; remember those with contracts for less than 3 months are no longer barred from entry.

Please contact the Employers Team if you need to discuss this area.

Further detailed guidance is available in the Local Government Pensions Committee Automatic Enrolment Guide. See the Additional Information section of this Bulletin.

Communicating to existing employees with contracts of less than 3 months

You may have existing employees who hold contracts of employment for less than 3 months duration (including NOMO casual contracts) and who were not able to join the LGPS before 1 October 2012.

As mentioned above, such employees are now able to opt to join the Scheme. If they have previously been advised that they are unable to join the LGPS they will need to be informed that the eligibility rules have now changed and that they may opt to join.

For clarity, these employees should not automatically be brought into the LGPS.

We will shortly make available suggested wording in order that you can contact these employees and inform them of their new right.

Opting out

We now understand from DCLG, the government body responsible for the LGPS Regulations, that the policy intention behind the recent Regulation changes is that from 1 October 2012 a new employee cannot opt out of membership of the Scheme until the date employment commences (or the date of designation, if later).

Employers should adopt this practice with immediate effect.

Additional information:

Changes to the LGPS in England and Wales are covered in Circular No.262 dated September 2012. Note this Circular details changes beyond only those mentioned in this Pensions Bulletin.

<http://www.lge.gov.uk/lge/core/page.do?pagelid=15606567>

Detailed guidance on automatic enrolment can be found on The Pensions Regulator website:

www.thepensionsregulator.gov.uk

Guidance on how automatic enrolment applies to the LGPS can be found on the Local Government Association website:

<http://www.lge.gov.uk/lge/core/page.do?pagelid=17995528>

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