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3

Detailed guidance for employers

Assessing the workforce: How to identify the different categories of worker

automatic enrolment

The Pensions Regulator

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Please note: This guidance is linked to the following appendices

Appendix A: Pay reference period calendars where the definition of pay reference periods is aligned with tax weeks or months; Pay reference periods of other lengths
Available at: **www.tpr.gov.uk/docs/dg-3-appendix-a.pdf**

Appendix B: Assessing a worker
Available at: **www.tpr.gov.uk/docs/dg-3-appendix-b.pdf**

Appendix C: Assessing groups of workers on an employer's staging date
Available at: **www.tpr.gov.uk/docs/dg-3-appendix-c.pdf**

About this guidance

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

This guidance explains when the assessment of the worker must be made and describes how the employer identifies the different worker categories. As a result of this assessment, the employer will know whether the worker is an eligible jobholder, a jobholder who they must enrol following an opt-in notice, or an entitled worker for whom they must arrange active membership for following a joining notice.

This guidance is the first in a subset on the assessment of a worker. 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**

Additionally, flowcharts are included as appendices, which provide further help in understanding the processes involved in making assessments.

The next guidance in this subset covers postponement. If an employer chooses to use postponement, 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**.

If an employer has an existing defined benefit or hybrid pension scheme with defined benefits and the worker meets certain conditions, the employer can choose to defer assessment of that worker until the end of a transitional period. An employer considering using this transitional period should read **Detailed guidance no. 3b – Transitional period for schemes with defined benefits**.

An employer will know, as a result of the assessment, whether the worker is an eligible jobholder, a jobholder who they must enrol following an opt-in notice, or an entitled worker who they must arrange active membership for following a joining notice. **Detailed guidance no. 3c – Having completed the assessment** describes the next steps for an employer once they have completed the assessment process. Employers should read 3c in conjunction with this guidance.

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 2019). This version (including the accompanying flowcharts at appendices B-C) has been updated with the qualifying earnings thresholds figures for the 2018-2019 tax year.

Employers must assess each member of their workforce

Introduction

1. An employer must assess each member of their workforce aged at least 16 and under 75 to identify into which category of worker they fall. This will determine what duties the employer will have in relation to each of those workers. The different categories of workers and the employer duties are set out in **Detailed guidance no. 1 – Employer duties and defining the workforce**.

2. As part of this assessment, the key criteria for an employer are:

   - the worker's age
   - whether the worker is working or ordinarily works in the UK under their contract
   - whether qualifying earnings are payable in the relevant pay reference period.

3. An employer must assess their worker at particular points in time, or when particular events occur.

4. There must be an individual assessment of these criteria for each worker. If an employer has multiple contracts with the same individual, they will first need to consider if the totality of those contracts constitute a single employment relationship with the worker. This is to establish whether to treat the contracts separately or as one for determining the application of the employer duties (see paragraph 7).

5. In addition, when the new duties are first introduced (on the employer's staging date), it may be possible for an employer to group together similar workers and carry out one assessment.

6. The process of assessing the workforce is explained in detail in this guidance. It is important that employers understand this process, although in practice, many elements of it may be supported by business software.

It is important employers understand the process

Multiple contracts with the same worker

7. If an employer has multiple contracts with the same worker, the employer will need to determine how they apply the duties to those multiple contracts.

8. First, the employer will need to consider how the contracts operate and whether they constitute a single employment relationship with the worker. For example, an employer with three worker contracts with the same worker may determine that the operation of those contacts is as if they were one and so there is one employment relationship for the purposes of the new duties. Alternatively, they may determine that the three contracts operate independently of each other and so are three employment relationships for the purposes of the duties. Or they may determine that two of the contracts operate as one so that there are two employment relationships for the purposes of the duties.

9. The key question is whether the employer and the worker consider that multiple contracts in fact operate as one. In the regulator's view there are a number of factors an employer can take into account in making the judgement that multiple contracts with a worker operate as a single contract.

Independence of the contracts

- How independently do the contracts operate?
- If the employer or the worker terminates one contract what happens to the other(s)? For example, does the worker remain in post in the other(s).

Type of work

- Is the nature of the work in each contract different or is it the same?
- Is the location for working in each contract different?

Benefits

- Looking at an employer's existing processes, how would they calculate redundancy, attainment of employment rights, etc, for example is continuous service aggregated across the contracts?
- Is holiday entitlement on the basis of aggregated contracts or is there separate entitlement for each contract?
- Is maternity pay on the basis of aggregated contracts or is there separate entitlement for each contract?
- Is sick pay on the basis of aggregated contracts or is there separate entitlement for each contract?
- Does the worker receive their usual pay aggregated across the contracts or are there separate pay arrangements for each contract?

This list of factors is not exhaustive and employers should consider all of the circumstances of the case.

10. An employer may have already considered the operation of the contracts for the purposes of employment rights. For example, the employer may have determined that the entitlement to annual leave is on an aggregated basis, or that the entitlement to maternity or paternity pay is on the basis of the aggregated contracts. They may however have adopted an administrative process rather than an active consideration of employment rights.

11. Where an employer has determined (as distinct from adoption of an administrative process) that for the purposes of employment rights the multiple contracts operate as one, the regulator's view is that it would be reasonable to arrive at the same conclusion in relation to the employer duties.

12. Where the employer considers that in the case of multiple contracts a single employment relationship does exist, practically this means they are treating the worker has having one contract.

13. If the employer concludes that the multiple contracts are not a single employment relationship, they will need to treat each contract separately, practically speaking as if they had a number of different workers.

When to make the assessment

14. There are a number of dates on which an employer will have to assess a worker, such as:

    - the employer's staging date, for a worker already in employment on that date
    - the first day of employment, for a worker who starts employment after the employer's staging date
    - the date of the worker's 22nd birthday, where this occurs after the employer's staging date
    - the date of the worker's 16th birthday, where this occurs after the employer's staging date
    - the date they receive an opt-in or joining notice from a worker (opting in notices and joining notices are described in **Detailed guidance no. 6 – Opting in, joining and contractual enrolment**)
    - the deferral date, if an employer has chosen to use the postponement provision for a worker (postponement and deferral dates are described in **Detailed guidance no. 3a – Postponement**)
    - the day after the transitional period has ended, if an employer has chosen to use the transitional period for defined benefit schemes or hybrid schemes with defined benefits (described in **Detailed guidance no. 3b – Transitional period for schemes with defined benefits**)
    - the first day of each pay reference period, where the first assessment identifies the worker is not an eligible jobholder.

15. For a worker who is not an eligible jobholder, an employer will need to continue to assess the worker in order to identify a change to eligible jobholder status. So a further assessment date is the first day of a pay reference period.

16. The employer must make the assessment based on the worker's circumstances on the assessment date. The employer may be able to carry out the assessment ahead of time, if they are confident the circumstances will not change.

17. Similarly, it may be possible to make the assessment after the assessment date and look back to what the criteria was on the assessment date. However, an employer should be aware that if they choose to do it this way, they will reduce the amount of time available to them to complete automatic enrolment or give information, as there are set time limits within which the employer duties must be complied with.

18. An employer will know as a result of the assessment whether the worker is an eligible jobholder, a jobholder they must enrol following an opt-in notice, or an entitled worker they must arrange active membership for following a joining notice. **Detailed guidance no. 3c – Having completed the assessment** describes the next steps for an employer once they have carried out the assessment process. This should be read in conjunction with this guidance.

Making the assessment

19. The assessment is broken down into three parts:

    - Assessing the worker's age – identifying whether the worker meets different age brackets (see paragraphs 21-23)
    - Assessing whether the worker is working or ordinarily works in the UK under their contract – identifying where the worker is based (see paragraphs 24-51) and
    - Assessing the worker's earnings – identifying whether qualifying earnings are payable in the relevant pay reference period and at what amount (see paragraphs 52-161).

20. Each part is considered separately in this guidance.

Assessing a worker's age

21. An employer needs to identify which of its workers are aged between 16 and 74. This is because these are the age criteria for both jobholder and entitled worker category of workers.

22. Further, an employer needs to also identify which of its workers are aged between 22 and state pension age, as this is the age criteria for eligible jobholders.

23. A worker's age should be straightforward to track for most employers using existing business processes.

Assessing whether a worker is working or ordinarily works in the UK

24. The next criterion for the employer to consider is whether the worker is working or ordinarily works in the UK under their contract.

25. With regard to making this assessment, there are two particular types of workers that it is worth commenting on now:

    - a worker in offshore employment and
    - a worker who is a seafarer

26. A worker in offshore employment is a person who works under a worker's contract in the territorial waters of the UK or in connection with the exploration of the sea bed or subsoil, or the exploitation of their natural resources, in the UK sector of the continental shelf (including the UK sector of a cross-boundary petroleum field). These workers are treated as if they are ordinarily working in the UK and employers should therefore go to the next step – Assessing whether qualifying earnings are payable (from paragraph 52). A worker who is a seafarer is a person employed or engaged in any capacity on board a ship or hovercraft.

27. Employers of seafarers who are not restricted to UK territorial waters may be aware that the question of whether seafarers can be considered to be 'ordinarily working in the UK' has arisen in connection with a range of employment rights. The Employment Rights Act 1996 provides that a number of employment rights set down in that Act will apply to seafarers in certain prescribed conditions. Case law has subsequently established that if the statutory conditions are not met, then the court may still reach the conclusion that the seafarer is ordinarily working in the UK, where the facts of the case show that the individual is based in the UK.

28. There are no comparable statutory criteria in the Pensions Act for establishing when the employer duties apply to employers of seafarers who are not restricted to working in UK territorial waters. However, in the recent case of R (on the application of Fleet Maritime Services (Bermuda) Ltd) v The Pensions Regulator, the Court confirmed the principle of where the worker is based can be applied equally to seafarers as it is to other types of workers. Employers of seafarers who are not restricted to UK territorial waters should refer to the principles set out in the section 'Ordinarily working in the UK' (paragraphs 34-45). Employers of seafarers who work solely in UK territorial waters should refer to the section Working in the UK (paragraphs 31-33).

29. For most employers it will be clear that a member of their workforce is working in the UK (see paragraphs 31 to 33 below). However, for some multi-national employers and employers with workers whose work regularly involves international travel and working abroad, whether the worker ordinarily works in the UK will be less clear. More information about assessing whether the worker ordinarily works in the UK can be found in paragraphs 34 to 45.

30. Finally employers with workers on secondment in or out of the UK can find more information at paragraphs 46 to 51.

Working in the UK

31. If a worker works wholly in the UK, then they can be considered to be working in the UK. By working wholly in the UK we mean:

    - the worker's contract provides for the worker to be based at a location in the UK, and the worker does, in practice, work all the time in the UK, and
    - there is no simultaneous employment relationship between the worker and an employer outside the UK (ie the worker is not someone who has been sent to the UK by an affiliated employer, for example on a secondment).

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R (oao FMSB) v The Pensions Regulator, [2015] EWHC 3744 (Admin)

32. It does not matter whether the worker makes occasional business trips outside the UK as part of their work and it does not matter that the worker frequently travels within the UK for their work.

33. It also does not matter whether the worker is a UK national or not (as long as they are working legally in the UK) nor whether the worker lives in the UK.

Some examples of working in the UK

Oliver works for ABC Ltd. ABC Ltd is based in Reading. Under his contract of employment with ABC Ltd, he is contracted to usually work Monday to Thursday, 28 hours a week in Reading. His contract is for three months. He has no employment relationship with anybody else.

ABC Ltd is owned by ABC Corp – a French company with businesses across Europe. Once a month, Oliver attends meetings at ABC Corp in Paris. Occasionally, as part of his job he may have to visit other affiliated companies in other European states. The ownership of ABC Ltd and the fact that Oliver occasionally travels outside the UK would not, in the regulator's view, affect the assessment of Oliver as working in the UK.

Tom works for XYZ Stationers Ltd at its printing factory in County Fermanagh, Northern Ireland. He lives in the Republic of Ireland. Under his contract of employment with XYZ, he is contracted to work 40 hours a week, Monday to Saturday at that factory. He has no employment relationship with anybody else.

The fact that Tom lives in the Republic of Ireland would not, on its own, affect the assessment of his working status. In the regulator's view, XYZ Stationers Ltd can consider Tom to be working in the UK.

Amy is in the UK for a year as part of her university studies. She is French and will be returning to France to complete her studies at the end of the 12-month period. Whilst in the UK, Amy starts work at The Student Pub, a pub and restaurant in Bristol. She is paid hourly and works varying hours each week to fit around her studies. In the regulator's view, The Student Pub can consider Amy to be working in the UK.

continued...

Antonio is Spanish but is currently living and working in the UK. He is employed by Tour Boats, a company that owns a fleet of pleasure boats that sail up and down the Thames. Antonio works as the pilot of a cruise boat that travels between central London and Kew each day. He has been hired for the summer season and will probably return to Spain when his contract ends. In the regulator's view, Tour Boats can consider Antonio to be working in the UK.

Charlotte is a travelling sales manager for a garment making firm – Making Clothes Ltd – in London. She spends most of her working time driving around England visiting customers and potential customers and suppliers, but does not travel outside of the UK. In the regulator's view, Making Clothes Ltd can consider Charlotte to be working in the UK.

Ordinarily working in the UK

34. Where a worker is not wholly working in the UK, ie the work they do is also done outside of the UK, it will need to be established whether the worker ordinarily works in the UK.

35. In most cases, the workers who fall into this category will be workers who do not have one fixed workplace (ie they move around in their work), and who work in ways that involve international elements, such as:

    - long haul or international air crew
    - seafarers whose work takes them outside of UK waters, or international long distance lorry drivers.

    Such workers are sometimes called 'international peripatetic workers'.

36. When considering whether international peripatetic workers ordinarily work in the UK, the primary issue to be considered is where the worker's employment base is located.

37. If the international peripatetic worker is not resident in the UK, they cannot be assessed as having their employment base in the UK. Therefore they cannot be assessed as ordinarily working in the UK. As a result the first step for the employer is to consider whether the international peripatetic worker is resident in the UK. Resident is to be given its ordinary meaning.

38. For international peripatetic workers resident in the UK, the employer will need to consider a range of factors in assessing where a worker is based. The only exception is where the worker is someone whose work itself is connected to facilitating the non-UK travel of passengers, such as seafarers on cruise ships, crew on cross channel ferries and passenger aircraft crews (see paragraph 41).

39. The factors the employer should consider include:

    - where the worker begins and ends their work
    - where the worker's headquarters is
    - whether they pay National Insurance contributions and/or tax in the UK
    - what currency they are paid in

40. The employer should also consider the worker's contract of employment or contract to perform services and how that contract is in fact being operated at the relevant time. In considering where the international peripatetic worker's employment base is located an employer only needs to determine if their worker is based in the UK. There is no requirement for them to go a step further and work out in which country outside of the UK the worker's employment base is.

41. For an international peripatetic worker whose work itself is connected to facilitating the non-UK travel of passengers, the determining factor in identifying where their employment base is located is where those workers habitually begin and end their work ie where they start and end their tours of duty.

42. If such a worker habitually begins and ends their tours of duty in the UK, then they should be treated as having their employment base in the UK and therefore ordinarily working in the UK. Habitually is to be given its ordinary meaning.

Some examples of international peripatetic workers and ordinarily working in the UK

Big Holidays is a UK-based tour operator that specialises in package holidays to Spain and the Balearics. Tour representatives have a contract with Big Holidays, under which they will be required to go on placement to any Spanish resort and work at Big Holidays' head office in Slough between placements. They are paid in sterling and pay tax and National Insurance contributions. Katy's home is in Windsor. She starts work at Big Holidays and, two months into her employment, she is asked to go to Malaga for three months. At the end of the three months, she returns to the UK for two months before going out to Palma for a 6 week winter season. In the regulator's view, although Katy spends time outside the UK for periods of her contract, Big Holidays can consider that she is resident in the UK. In the regulator's view, the fact that she is paid in sterling, pays National Insurance in the UK and has a private residence in the UK, and that Big Holidays' head quarters are in the UK, is sufficient for Big Holidays to consider that Katy ordinarily works in the UK.

Naomi is the Far East Business Account Manager for a French pharmaceutical company. The company has no UK office. Her family home is in Cambridge; she travels weekly to Paris for meetings, occasionally staying overnight, and spends an average of 12 days each month travelling to and around various countries of the Far East. Naomi is paid in Euros into a Swiss bank account. In the regulator's view, the fact that Naomi is not paid in sterling, does not pay UK tax or national insurance and that her employer's headquarters are outside the UK is sufficient for her employer to consider that Naomi does not ordinarily work in UK.

Jon is an airline pilot, working out of London Heathrow for Letsgetaway Airlines. He flies long haul flights to the USA, Canada and the Caribbean from London Heathrow airport. Letsgetaway Airlines' headquarters is at Heathrow and his contract of employment is with them. He is away from home for four or five days at a time. He lives in Reading. In the regulator's view, as Jon lives in the UK and as his work is connected to facilitating the non-UK travel of passengers, the determining factor is where Jon begins and ends his work. As Jon begins and ends work in the UK at Heathrow airport, Letsgetaway Airlines can consider Jon to ordinarily work in the UK.

Rupert is also an airline pilot with Letsgetaway Airlines working long haul. As with Jon, his contract of employment is with Letsgetaway Airlines, whose headquarters is at Heathrow. He lives in the south of France and commutes to Heathrow. In the regulator's view, although Letsgetaway Airlines is based in the UK and Rupert's work always begins and ends in the UK, the determining factor is that Rupert lives in France. In the regulator's view Letsgetaway Airlines can consider that Rupert does not ordinarily work in the UK.

Alena works as part of the events team for Cruise the High Seas Ltd. She works on cruise ships which cruise throughout the Mediterranean. Other routes include the USA and the Caribbean. She lives in the UK and joins the cruise ship at Southampton. The length of the cruise can vary from 1 month to 3 but she habitually finishes the cruise back at Southampton in the UK. Alena lives in the UK. In the regulator's view, as Alena lives in the UK and as her work is connected to facilitating the non-UK travel of passengers the determining factor is where she begins and ends her work. As she begins and ends work in the UK at Southampton port, Cruise the High Seas Ltd can consider Alena to ordinarily work in the UK.

Alan works as a barman on a cross channel ferry, sailing between Dover and Calais. He is employed by White Cliff Ferries Ltd, which is registered and based in the UK. He lives in the UK and leaves from and returns to Dover at the end of each working day. In the regulator's view, as Alan lives in the UK and as his work is connected to facilitating the non-UK travel of passengers the determining factor is where he begins and ends her work. As he begins and ends work in the UK, White Cliff Ferries Ltd can consider that Alan ordinarily works in the UK.

Charles works on a cargo ship for Cargo plc, a company registered and based in the UK but Charles lives in France. A usual route for the cargo ship he works on starts in Felixstowe, then goes to Hamburg, Singapore and the USA and finishes in Southampton. Although Cargo plc is based in the UK and Charles' work always begins and ends in the UK, Charles' work is not connected to facilitating the non-UK travel of passengers. The determining factor is that Charles lives in France. In the regulators view Cargo plc can consider that Charles does not ordinarily work in the UK.

43. In exceptional cases a UK employer may need to consider whether a worker who is not an international peripatetic worker but works outside of the UK does ordinarily work in the UK. In these cases where the worker lives may be a factor to consider but is not a determinative factor unlike for international peripatetic workers. In other words, in exceptional cases an employer may also need to consider whether workers who also live outside the UK are ordinarily working in the UK.

44. In practice they will only need to consider those workers who live and work abroad where there are very strong links between the worker, the work and the UK. For example:

    a. workers who live and work in a foreign country but who work for a UK business and work on behalf of that business within its UK activities despite that work being done abroad, eg a foreign correspondent based in Paris who writes for a UK newspaper

    b. workers who live and work abroad in a location that is very tied to the UK, eg a teacher working in the British School in a UK military base in Germany.

45. In such cases, the employer will have already considered whether these workers have UK statutory employment rights because there is a sufficiently strong connection to the UK. If they do, then the employer can consider that the worker ordinarily works in the UK for automatic enrolment purposes.

Workers who work abroad on secondment

46. Where an employer places a worker outside the UK on secondment and that worker has been (or would be, were it not for the placement) assessed as working or ordinarily working in the UK (see paragraphs 31-45), the employer will need to consider whether the worker's employment base remains in the UK or their connection to the UK remains sufficiently strong despite their placement overseas. If the worker's contract remains with the employer located in the UK and there is an expectation on the part of the employer that the worker will resume working in the UK for the UK-based employer at the end of their placement, the worker is likely to be considered to be ordinarily working in the UK.

47. Individuals working on secondment from another organisation will usually remain a worker for the company from which they are seconded. This remains the case where the employer is a non-UK employer. Where a non-UK employer is placing a worker on a secondment basis to a UK employer, the non-UK employer will need to consider whether the worker's base remains outside the UK, despite their secondment to the UK. If the worker's contract remains with the employer located outside the UK and there is an expectation on the part of the employer that the worker will return to work which is based outside the UK for their non-UK employer at the end of their placement, the worker is unlikely to be considered to be ordinarily working in the UK.

Some examples of workers on placement to the UK

Sophie is from Belgium, working for a Belgian employer. She is seconded to the UK for one year. Whilst on secondment, Sophie will be paid by the UK employer on behalf of her employer in Belgium and will pay National Insurance contributions in the UK. However, her contract of employment will remain with the Belgian employer and they expect her to return to work with them in Belgium at the end of her secondment.

The UK employer knows that they do not have to carry out an assessment for Sophie because her contract of employment is not with them. The Belgian employer considers whether Sophie's base will remain outside the UK and concludes that, because her contract remains with them and they expect her to return, her base will remain in Belgium.

In actual fact, the secondment is extended by three years. This does not alter the fact that her contract remains with the Belgian employer and that they expect her to return to Belgium, therefore she can still be considered to be based outside the UK.

Miranda is seconded to work in the UK by her US employer for six months. She will continue to be paid in the US and will continue to contribute to her US pension scheme during her secondment. She will also continue to make contributions to US social security.

At the commencement of her secondment, the US employer considers that Miranda's base remains in the US because her contract of employment will remain with them and they expect her to return to work for them in the US at the end of her secondment.

However, at the end of her secondment, Miranda decides to stay in the UK and negotiates a permanent contract with the UK employer. Now that her contract of employment is with the UK employer, they must assess her as a new employee to ascertain whether she is working, or ordinarily working, in the UK.

They conclude that her contract provides for her to be based in the UK and there is no longer a simultaneous employment relationship with a non UK employer, therefore Miranda is working in the UK.

48. It is expected that over time, case law will continue to develop which interprets what the law means by 'working or ordinarily works in the UK under the worker's contract' for the purposes of pensions legislation. We will update the guidance as this happens, although because case law can develop quickly, this guidance should not be read as an authoritative statement of case law at any given time. If an employer is having difficulties determining whether a worker is working or ordinarily works in the UK, they should seek appropriate legal advice.

49. In a minority of cases, a worker whom the employer has assessed as working or ordinarily working in the UK may also meet the definition of a 'qualifying person'. 'Qualifying person' is relevant for the purposes of separate UK legislation on occupational pension schemes and cross-border activities within the European Union.

50. In this case, and where the employer proposes to, or is making contributions in respect of that worker to an occupational pension scheme, then the employer is exempted from a number of the employer duties and safeguards for that worker. For more information see **Detailed guidance no.1 – Employer duties and safeguards**.

51. The next criterion an employer must assess is whether qualifying earnings are payable in the relevant pay reference period.

Assessing whether qualifying earnings are payable

52. When assessing most workers, the determining factor will usually be whether qualifying earnings are payable in the relevant pay reference period and at what level. This is because for most workers, the assessment of age and whether they are working or ordinarily work in the UK will be straightforward for their employer.

53. To explain the principles behind the assessment of whether qualifying earnings are payable in the relevant pay reference period, we have broken it down into a number of sequential steps. It is, however, up to the employer to incorporate these principles into their processes in whichever way best suits their organisation. Business software providers are being made aware of the employer duties, so an employer may wish to discuss their requirements with their software provider. If an employer chooses to automate the earnings assessment through, eg payroll software, they should still understand the principles behind the assessment, so they are able to incorporate them lawfully and effectively.

54. For some workers, the assessment will be straightforward, eg workers who are paid a regular, non-fluctuating amount in each pay reference period. Some examples of straightforward assessments are provided after paragraph 141.

55. However, for workers whose earnings fluctuate, the earnings assessment will be less straightforward. In this case, on the assessment date, the employer will have to complete the following steps:

    - **Step A:** Identify the relevant pay reference period.
    - **Step B:** Identify what is payable in that period.
    - **Step C:** Compare what is payable with the lower level of qualifying earnings and the earnings trigger for automatic enrolment as appropriate.

Step A: Identify the relevant pay reference period

56. This step is about identifying the period of time over which earnings are to be measured. The period of time is the 'relevant pay reference period'. The first step in identifying the relevant pay reference period is to understand what a pay reference period is for the worker.

57. The term 'pay reference period' is used in two different ways within the employer duties. Here, it is used for the purposes of measuring a worker's earnings.

58. There are also two definitions of a pay reference period in legislation and an employer is able to choose which definition they wish to adopt as the basis for assessing earnings in step A.

59. One definition of a pay reference period is aligned to tax weeks or months and one is aligned to the period by reference to which a person is paid their regular wage or salary.

60. An employer can choose to change from using one definition to another. For more information on changing the definition of a pay reference period for the purposes of the assessment of the worker see paragraphs 158 to 161.

61. There is nothing that prevents an employer using one definition for some workers and the other definition for other workers.

62. An employer may wish to use the definition of a pay reference period aligned to tax week or months if:

    - they wish to incorporate the assessment of workers easily into their payroll process. This is because this definition uses the existing tax calendar in payroll
    - they operate 4,4,5 week earnings period but have an interval between payments of a month. This is because under this definition the pay reference period will be a month whereas under the alternative it is pay reference period of four weeks, four weeks and then five weeks recurringthey wish to align the pay reference period with the start of the tax year when any changes to the thresholds for qualifying earnings will take effect. This is because it will avoid a pay reference period spanning the 6 April change and the need to apply the threshold for the previous tax year and the threshold for the new tax year in one pay reference period.

63. An employer may wish to use the definition of a pay reference period aligned to the period by reference to which the worker is paid their regular wage or salary if:

    - they had a staging date before 1 November 2013 and their assessment process was already based on this definition of pay reference period
    - they have workers with a contractual relationship of less than 1 week, as these workers do not have a pay reference period under this definition.

64. Identifying the relevant pay reference period using the definition aligned to tax weeks or months is described in paragraphs 66 to 86.

65. Identifying the relevant pay reference period using the definition aligned to the period by reference to which the worker is paid their regular wage or salary is described in paragraphs 87 to 96.

Definition of pay reference period aligned to the tax periods

66. Under this definition the length of the pay reference is:

    a. a period equal in length to the usual interval between payments of the person's regular wage or salary, or

    b. a period of one week

    whichever is the longer.

67. The first action for an employer is to identify the usual pay interval between payments of regular wage or salary for each worker. This is because the length of the usual interval between payments of regular wage or salary sets the length of a pay reference period.

68. For example, if the interval between payments of a worker's regular wage or salary is a four week period the length of a pay reference period is four weeks.

69. There are three things to note here. Firstly the length of the pay reference period is **whichever is the longer** of a week and the usual interval between payments of the worker's regular wage or salary. This means that if the usual interval between payments of a worker's regular wage or salary is less than a week then the length of the pay reference period for that worker will be one week. For the purposes of assessment under this definition the worker is treated as if paid weekly.

70. The second thing to note is that the length of the pay reference period is set by the **usual intervals** between the payments of the worker's regular wage or salary. This means where an employer, say for administrative reasons, has a different interval for some payments this will not affect the length of the pay reference period for that worker.

71. For example, an employer pays their worker on the last calendar day of each month. For Christmas they close down and so bring forward their pay day to 18 December. The interval between payments from November to December in this case is only three weeks whilst the interval between payments from December to January is five weeks. However, as for the remainder of the year the interval between payments for the worker of their regular wage or salary is of a month then the usual interval between payments is one month even in December and January where the length of the interval between payments is different because of the administrative arrangement.

72. Similarly when an employer agrees to pay holiday pay in advance (whether this is an administrative or contractual arrangement) does not affect the usual interval between payments of regular wage or salary.

73. Sometimes the usual interval between payments of regular wage or salary appears to change from payment to payment with no usual interval but can, nonetheless, be treated as having a usual interval. For example, a monthly paid worker who is paid on the last working day of the month will sometimes have a pay interval of 28 days, sometimes the interval will be 30 days or 31 days and so on. In this case, the interval between payments is set to be one month and the variations are just due to the variation of a calendar day falling at the weekend or on a bank holiday. Therefore, the usual interval between the payments of the worker's regular wage or salary can be considered to be monthly.

74. The final thing to note is that if there is no usual interval between the payments of regular wage or salary then the pay reference period defaults to being one week in length.

75. This is a relevant consideration for employers with workers on zero hours contracts or equivalents who contractually are only paid when they do work. If there is no usual interval between the payments of the worker's regular wage or salary then the pay reference period will be a week.

76. However there may be circumstances where an employer with such workers may be able to consider that there is a usual interval between payments of wage or salary.

77. For example, an employer, who operates a weekly payroll, recruits a worker on an hourly wage. The employer cannot know in advance how many hours the worker will work each week but they have an expectation that it will be at least one shift a week. The employer can consider that the usual interval between payments of regular salary or wage will be weekly and therefore the length of the pay reference periods is one week.

78. This expectation is not invalidated if it turns out that there are odd weeks where no work is done and therefore no payments are made. Occasional periods where there is no work and therefore no payment can be discounted when identifying the usual interval between payments, just as variation of a day or two because of weekends or bank holidays can be discounted in paragraph 73.

79. Once the employer has determined the length of the pay reference period they will know which pay reference period calendar to use. Where the length of the pay reference period is one week, the pay reference period starts on the first day of a tax week. Where the length of the pay reference period is two weeks or four weeks the pay reference period starts on 6 April each year and then the day after each pay reference period ends.

80. Where the length of the pay reference period is monthly, the pay reference period starts on the first day of the tax month. And where the length of the pay reference period is three months, six months or 12 months the pay reference period starts on 6 April each year and then the day after each pay reference period ends.

81. The pay reference period calendars for these common intervals between payments of:

    - one week
    - two weeks (fortnightly)
    - four weeks (four-weekly)
    - one month
    - three months (quarterly)
    - six months (bi-annual)
    - 12 months (annual)

    can be found at Appendix A.

82. Where the usual interval between payments is not one of these the start dates of the pay reference period will have to be derived (see Appendix A).

Some examples of pay reference periods

Stewart receives a fixed basic salary, regardless of how many hours he has worked in the month, and is paid monthly. This is paid on the last working day of the calendar month.

The usual interval between payments of Stewart's regular wage or salary is monthly. His pay reference period is one month in length starting on the first day of each tax month.

Ann receives a fixed, basic salary regardless of how many hours she has worked in the month, and is paid monthly. This is paid on the 23rd of each month. The payment relates to work done between 24th and the 23rd day of the following month.

The usual interval between payments of Ann's regular wage or salary is monthly. Her pay reference period is one month in length starting on the first day of each tax month.

Jermaine is paid weekly on a Friday for the hours worked during the week, beginning on a Monday and ending on the Sunday. The usual interval between payments of Jermaine's regular wage or salary is weekly. His pay reference period is one week in length starting on the first day of each tax week.

Mira receives her pay on a Friday for the hours worked during the week, beginning on a Saturday and ending on that Friday. The usual interval between payments of Mira's regular wage or salary is weekly. Her pay reference period is one week in length starting on the first day of each tax week.

83. The first pay reference period of each tax year starts on 6 April and 'resets' the calendar for each tax year.

84. This means that where the length of the pay reference period is a week or a multiple of a week there appear to be overlapping pay reference periods at the change in the tax year. In most circumstances however the last pay reference period is ended early on 5 April to avoid this overlap. Ending the pay reference period on 5 April depends upon when qualifying earnings are payable. As qualifying earnings payable in the relevant pay reference period are not explained until steps B and C, more information about the pay reference periods at the tax year change can be found at paragraphs 148 to 157.

85. The final step is to identify the relevant pay reference period for the worker. The relevant pay reference period is the pay reference period in which the assessment date falls.

Example 1a

Where the definition of a pay reference period is aligned to tax weeks or months

Ruth is 21 and studying IT at college. She supplements her study by working four hours a day, Monday to Thursday, selling advertising space for Local News. Ruth is paid a basic salary plus commission on the amount of slots she sells in a month.

Local News is owned and run by Bob, and employs nine people. Bob runs his payroll monthly. Payroll closes on the 24th of each month, and his staff receive their salary directly into their account on the last working day of each month.

The usual interval between payments of Ruth's regular wage or salary is monthly. Her pay reference period is one month in length starting on the first day of each tax month.

Ruth turns 22 years old on 15 May. Bob knows that age is one of the assessment criteria and the date when he needs to consider whether he must put Ruth into a pension scheme. Ruth's relevant pay reference period for working that out is the one that runs from 6 May to 5 June, as this is the pay reference period in which her birthday falls.

86. Having identified the relevant pay reference period the next step in the assessment process is to identify the qualifying earnings payable in the relevant pay reference period. This is described at paragraphs 97-116.

Definition of pay reference period aligned to the period by reference to which the worker is paid their regular wage or salary

87. Under this definition, a worker's pay reference period is:

    - one week, in the case of a worker who is paid their regular wage or salary by reference to a period of a week, or
    - in the case of a worker who is paid their regular wage or salary by reference to a period longer than a week, whichever period the worker is paid by reference to. For example, for a person paid by reference to a monthly period, the pay reference period will be one month.

88. The usual pay reference period for a worker therefore is the period of time by reference to which the employer pays the worker their regular wage or salary. The pay reference period is not the interval between the dates the worker actually receives their pay, ie it is not the pay frequency, although sometimes the two will coincide. For example, a salaried worker who is paid by reference to the work done in a calendar month will have a monthly pay reference period and will also have a monthly pay frequency.

89. As it is not the pay frequency, it is separate to PAYE and National Insurance contributions, so it is not the tax week or tax month. Understanding by reference to what period of time an employer is paying a worker is key to identifying pay reference periods.

90. An employer should consider in respect of which period of time their payroll operates. For example, if they collate hours worked on a four-weekly basis and pay in respect of those hours worked every four weeks, their pay reference period will be four-weekly. This is the period of time by reference to which they pay their workers. Even if the worker misses submitting their hours in a four-weekly period until the next period this does not alter the usual period of time over which the employer collates hours. The employer's administrative process is still to collate on a four-weekly basis and the employer is identifying the general period of time by reference to which they pay the worker their regular wage or salary.

91. Equally it does not matter if the employer pays in arrears. It does not matter if the period of time over which they collate overtime is different. It does not matter if the pay date is the same date each month. Again the employer is identifying the general period of time by reference to which they pay.

92. The principle is the same for salaried workers although the employer is not collating hours. The employer needs to consider by reference to what period of time they pay the worker's salary.

93. The definition of worker includes any individual who 'has a contract to perform work or services personally and is not undertaking the work as part of their own business'. (For more information see **Detailed guidance no.1 – Employer duties and defining the workforce**.)

94. Such 'personal service workers' who are workers for these purposes may not be paid by an employer through payroll instead they may invoice the employer for their services. When identifying the pay reference period for this type of worker, the same principle applies for the employer. They need to identify the period by reference to which they pay that worker. The employer may collate the invoices they receive over defined periods of time eg on a weekly basis in which case this is the period of time by reference to which they pay the worker. Or they may agree to pay a fixed fee on completion of the contract in which case the duration of the contract is the period of time by reference to which they pay.

Some examples of pay reference periods

Stewart receives a fixed basic salary, regardless of how many hours he has worked in the month, and is paid monthly. This is paid on the last working day of the calendar month.

This payment relates to work done during the period from 1st of the month to the end of the month. For example, the pay reference period for March runs from 1 March to 31 March. The first day of the next pay reference period is 1 April.

Ann receives a fixed, basic salary regardless of how many hours she has worked in the month, and is paid monthly. This is paid on the 23rd of each month. The payment relates to work done between 24th and the 23rd day of the following month.

Ann's March pay reference period runs from 24 February to 23 March.

Jermaine is paid weekly on a Friday for the hours worked during the week, beginning on a Monday and ending on the Sunday. His pay reference period runs from Monday to Sunday.

Mira receives her pay on a Friday for the hours worked during the week, beginning on a Saturday and ending on that Friday. Mira's pay reference period runs from Saturday to Friday.

Trevor has entered into a contract to do work personally for an employer. The duration of the contact is for three months. Under the terms of the contract the employer requires Trevor to invoice the employer with the fee for his services each week (from Wednesday to Tuesday) during the three months. Trevor's pay reference period runs from Wednesday to Tuesday.

Irena has entered into a contract to do work personally for an employer. The duration of the contact is for four months from 1 January to 30 April. Under the terms of the contract Irena invoices her employer with the fee for her services after completion of the contract on 15 May. Irena's pay reference period runs from 1 January to 30 April.

95. Once an employer knows by reference to what period of time they pay, they will know what their general pay reference period is, eg they will know whether it is calendar monthly, four-weekly etc. They will also know how to identify the start and end date of any pay reference period.

96. The final step is to identify the relevant pay reference period for the worker. The relevant pay reference period for these purposes is the pay reference period in which the assessment date falls (see examples 1b and 2).

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

Ruth is 21 and studying IT at college. She supplements her study by working four hours a day, Monday to Thursday, selling advertising space for Local News. Ruth is paid a basic salary plus commission on the amount of slots she sells in a month.

Local News is owned and run by Bob, and employs nine people. Bob runs his payroll monthly. Payroll closes on the 24th of each month, and his staff receive their salary directly into their account on the last working day of each month. Bob has never really thought about it before but now he does, he considers that he pays his staff each month in respect of the work they have done for a calendar month.

Ruth therefore has a pay reference period that starts on the 1st calendar day of each month and runs to the last calendar day, even though sometimes she may receive her salary slightly earlier, on the last working day of the month.

Ruth turns 22 years old on 15 May. Bob knows that age is one of the assessment criteria and the date when he needs to consider whether he must put Ruth into a pension scheme. Ruth's relevant pay reference period for working that out is the one that runs from 1 May to 31 May, as this is the pay reference period in which her birthday falls.

Example 2

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

Maggie lectures at Local College Ltd. Local College Ltd run their payroll monthly. Under the terms and conditions of their employment lecturers will be paid in the next available payroll run after they submit their timesheet(s) to Local College. Local College ask their lecturers to submit their timesheets for the hours worked on a four-weekly basis.

Local College Ltd consider that the period they pay their lectures by reference to is four-weekly.

Step B: Identify what is payable in that period

97. Having identified the period of time over which earnings are to be measured, the next step for an employer is to identify which earnings are to be measured in that period.

98. To identify whether the worker is an eligible jobholder who they must automatically enrol, the employer must consider whether qualifying earnings are payable above the earnings trigger for automatic enrolment that applies to that relevant pay reference period.

99. To identify whether the worker is a jobholder or an entitled worker, for example when given an opt-in or joining notice, the employer must consider whether qualifying earnings are payable above the lower level of qualifying earnings that applies to that relevant pay reference period.

100. We split the identification of whether qualifying earnings are payable above the lower level of qualifying earnings or the earnings trigger into two steps, first identifying what is 'payable' and then in Step C whether what is payable is above the applicable thresholds.

101. An employer must consider what is payable to the worker in the relevant pay reference period, and how much of this is made up of qualifying earnings.

102. 'Qualifying earnings' is a reference to earnings of between £6,240 and £50,000[2] made up of any of the following components of pay that are due to be paid to the worker:

- salary
- wages
- commission
- bonuses
- overtime
- statutory sick pay
- statutory maternity pay
- ordinary or additional statutory paternity pay
- statutory adoption pay.

103. When determining whether qualifying earnings are payable, an employer needs to identify the gross qualifying earnings payable in the relevant pay reference period. They then compare that figure against the lower level of qualifying earnings applicable to that pay reference period (listed in table 1).

2 These figures are for the 2019-2020 tax year. The Department for Work and Pensions (DWP) intends to announce the thresholds for the 2020-2021 tax year in November. Following DWP's announcement, you will find these figures on our website.

104. For example, if the pay reference period is monthly, the employer will compare the gross qualifying earnings in a month against the monthly lower level of qualifying earnings, currently £520. Step C describes this in more detail.

105. It is for the employer to determine if a payment they are making falls into one of the components of pay that make up qualifying earnings.

106. The assessment of whether a component of pay constitutes an element of qualifying earnings is a separate and distinct assessment to deciding what constitutes basic pay for the purposes of a pension scheme that is using certification to meet minimum requirements as part of the qualifying criteria.

107. If an employer is treating multiple employment contracts with the same worker as a single employment relationship (see paragraphs 7 to 13), they should include all the components of pay that make up qualifying earnings under all the contracts being treated as one contract in the assessment.

108. The employer must consider what is payable in the whole pay reference period, irrespective of whether the assessment date (such as the worker's 22nd birthday, the first day of employment or the date they reach state pension age) falls part way through a pay reference period. And they must consider what is payable in the relevant pay reference period irrespective of whether the earnings are payable in separate payroll runs for example a supplementary and main payroll run.

A note about calculation of contributions

If automatic enrolment is triggered from the assessment date, contributions are calculated on the earnings paid from the assessment date, regardless of at which point in the pay reference period the assessment date falls unless the scheme rules say otherwise.

For more information see **Detailed guidance no. 5 – Automatic enrolment**.

109. The key word is 'payable'. Payable means earnings actually paid in the pay reference period, also what is due to paid, or was due to be paid, in the pay reference period.

110. This means that an employer must consider what is due to be paid in the relevant pay reference period, regardless of what period that payment relates to (see examples below). For example, if a bonus is due to be paid in March in relation to performance in January, then this is included in the qualifying earnings due to be paid for March, not January.

Examples 1c and 1d use the same facts. In example 1c the definition of a pay reference period is aligned to tax weeks or months. In example 1d 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 1c

Where the definition of a pay reference period is aligned to tax weeks or months

Ruth's relevant pay reference period is 6 May to 5 June. On 15 May, when Ruth turns 22 years old, Bob needs to consider what is due to be paid to Ruth in this period. Bob has not yet run payroll for May so has to predict what would be due to Ruth in this period. Ruth receives a monthly salary of £700.

On Friday 28 April, Ruth worked four hours' overtime. This will be paid to her in her May pay packet because it is after payroll has closed for April. Ruth also works overtime on Friday 26 May but, because payroll for May has closed, this is not due to be paid to her until the next payroll in June. It will therefore not count towards her May qualifying earnings.

Bob calculates that based on the sales Ruth has made up to 15 May, she will earn commission of £100, and estimates that Ruth's commission for the month will be £150. Bob identifies, therefore, that Ruth has gross earnings due in the relevant pay reference of:

- £700 basic salary
- £50 overtime (for Friday 28 April)
- £150 commission.

Since qualifying earnings includes overtime as well as basic pay, Bob identifies that Ruth's payable qualifying earnings in her relevant pay reference period will be £900.

Example 1d

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

Ruth's relevant pay reference period is 1 May to 31 May. On 15 May, when Ruth turns 22 years old, Bob needs to consider what is due to be paid to Ruth in this period. Bob has not yet run payroll for May so has to predict what would be due to Ruth in this period. Ruth receives a monthly salary of £700.

On Friday 28 April, Ruth worked four hours' overtime. This will be paid to her in her May pay packet because it is after payroll has closed for April. Ruth also works overtime on Friday 26 May but, because payroll for May has closed, this is not due to be paid to her until the next payroll in June. It will therefore not count towards her May qualifying earnings.

Bob calculates that based on the sales Ruth has made up to 15 May, she will earn commission of £100, and estimates that Ruth's commission for the month will be £150.

Bob identifies, therefore, that Ruth has gross earnings due in the relevant pay reference of:

- £700 basic salary
- £50 overtime (for Friday 28 April)
- £150 commission.

Since qualifying earnings includes overtime as well as basic pay, Bob identifies that Ruth's payable qualifying earnings in her relevant pay reference period will be £900.

111. 'Payable' does not mean 'earned'. This is important to remember where a worker is being paid in arrears. When a worker is paid in arrears, the employer considers what is due to be paid in this period, not what is due to be earned.

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

Jasper works for ABC Systems Ltd. He is paid monthly on the 15th of the month in respect of work done between the 1st and the last day of the calendar month. He is paid in arrears and payroll closes on 3rd of the month. His basic monthly salary is £750. On 30 July he was awarded a bonus of £100. On 5 August he worked some overtime, for which he earned £50. He turns 22 on 24 August. His employer knows that this is a date on which it must assess this worker.

The first step for the employer is to work out the relevant pay reference period. ABC Systems Ltd has chosen to use the definition of a pay reference period aligned to tax weeks or months. His employer identified that the usual interval between payments of Jasper's regular wage or salary was monthly and therefore that Jasper's pay reference periods are monthly starting on the sixth day of the calendar month and ending on the fifth day of the next month.

Jasper's 22nd birthday is on 24 August, so ABC Systems Ltd works out that the relevant pay reference period for him is the one that runs from 6 August to 5 September.

The next step for ABC Systems Ltd is to establish what qualifying earnings are payable to Jasper in the period 6 August to 5 September. This will be what is payable on 15 August. Because Jasper is paid in arrears, the amount that is payable on 15 August relates to the work done between 1 July and 31 July. Therefore ABC Systems Ltd assesses that the qualifying earnings payable on 15 August will be £850 (basic salary of £750 + £100 bonus on 30 July).

The overtime that Jasper earned on 5 August is not payable until 15 September. Therefore it is disregarded in the assessment of qualifying earnings payable during the period 6 August to 5 September.

Example 3b

Where pay reference period definition is aligned to the period by reference to which the worker is paid their regular wage or salary

Jasper works for ABC Systems Ltd. He is paid monthly on the 15th of the month in respect of work done between the 1st and the last day of the calendar month. He is paid in arrears and payroll closes on 3rd of the month. His basic monthly salary is £750.

On 30 July he was awarded a bonus of £100. On 5 August he worked some overtime, for which he earned £50. He turns 22 on 24 August. His employer knows that this is a date on which it must assess this worker.

The first step for the employer is to work out the relevant pay reference period. ABC Systems Ltd has chosen to use the definition of a pay reference period aligned to the period by reference to which Jasper is paid his regular wage or salary. His employer identifies that Jasper's pay reference periods are calendar monthly, starting on the first day of the calendar month and ending on the last calendar day.

Jasper's 22nd birthday is on 24 August, so ABC Systems Ltd works out that the relevant pay reference period for him is the one that runs from 1 August to 31 August.

The next step for ABC Systems Ltd is to establish what qualifying earnings are payable to Jasper in the period 1 August to 31 August. This will be what is payable on 15 August. Because Jasper is paid in arrears, the amount that is payable on 15 August relates to the work done between 1 July and 31 July. Therefore ABC Systems Ltd assesses that the qualifying earnings payable on 15 August will be £850 (basic salary of £750 + £100 bonus on 30 July).

The overtime that Jasper earned on 5 August may be earned during the period 1 August to 31 August but it is not payable until 15 September. Therefore it is disregarded in the assessment of qualifying earnings payable during the period 1 August to 31 August.

112. When a worker starts employment for the first time, it may be that they start part-way through a pay reference period. The employer must assess qualifying earnings for the whole period to identify which category of worker they are on the first day of employment. In practice, there will be zero qualifying earnings for the part of the period before the start date of employment. If an employer is paying in arrears, there may be zero qualifying earnings payable in the entire first pay reference period.

113. As the employer must assess what is payable, where an overpayment of qualifying earnings has been made in one pay reference period and is corrected in a following pay reference period, the employer should assess what ought to have been paid in each pay reference period.

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

Robin works for a small sandwich shop. His employer has chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of Robin's regular wage or salary is two weeks and so is pay reference periods are two-weekly starting every second tax week (see fortnightly calendar in Appendix A).

In the pay reference period that starts on 10 August and ends on 23 August his employer calculates his wage to be £500 based on the hours worked in the two weeks up to 4 August. Pay date is 12 August. His employer assesses his qualifying earnings payable for the pay reference period 10 August to 23 August as £500.

In the next pay reference period (24 August to 6 September) his employer calculates his wage to be £700. Pay date is 26 August. However, Robin's employer realises that an error was made in the previous pay reference period and Robin was overpaid £100. His employer recovers the £100 overpayment and so his earnings payable in this pay reference period 24 August to 6 September is £600.

Example 4a continued...

For the purposes of the employer duties his employer reassesses the qualifying earnings for the pay reference period 10 August to 23 August as £400, and assesses the qualifying earnings payable for the pay reference period 24 August to 6 September as £700.

Example 4b

Where pay reference period definition is aligned to the period by reference to which the worker is paid their regular wage or salary

Robin works for a small sandwich shop. His employer has 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 two-weekly pay reference period from a Monday to the second Sunday.

In the pay reference period that starts on 5 August and ends on 18 August his employer calculates his wage to be £500 based on the hours worked in the two weeks up to 4 August. Pay date is 12 August. His employer assesses his qualifying earnings for the pay reference period 5 August to 18 August as £500.

In the next pay reference period (19 August to 1 September) his employer calculates his wage to be £700. Pay date is 26 August. However, Robin's employer realises that an error was made in the previous pay reference period and Robin was overpaid £100. His employer recovers the £100 overpayment and so his earnings in this pay reference period 19 August to 1 September is £600.

For the purposes of the employer duties his employer reassesses the qualifying earnings for the pay reference period 5 August to 18 August as £400, and assesses the qualifying earnings for the pay reference period 19 August to 1 September as £700.

114. Similarly where an underpayment of qualifying earnings has been made in one pay reference period and is corrected in a following one, the employer should again assess what ought to have been paid in each pay reference period when assessing whether qualifying earnings are payable in each one.

115. Care should be taken to understand when an amount is payable. For example, an 'underpayment' may arise because a timesheet sheet was missed off by the employer. If a worker's contract states that the hours on the timesheet is payable at a particular point in time, then the resulting underpayment should be treated as in paragraph 113. If, however under the contract, the hours on a timesheet are simply due at the point it is processed, then there is no underpayment of qualifying earnings and the hours on the timesheet are counted at the point it is payable (ie the pay reference period in which it is processed).

116. Many employers will enter into administrative pay arrangements to pay salary in advance, for example, holiday pay arrangements or arrangement for advances of salary to new starters. Such administrative arrangements do not negate the fact that although the salary was paid in one period, it was due to be paid in a different period.

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

ETC Manufacturing operates a weekly payroll. They have chosen to use the definition of a pay reference period aligned to tax weeks or months. The usual interval between payments of their workers' regular wage or salary is one week. For the week before Christmas and Christmas week, they close the factory completely. They have an administrative pay arrangement whereby in the last pay reference period before they close, they pay their workers three weeks' salary in one week.

Evan is paid a salary of £100 per week. For the one-week period 14-20 December, he is paid £300. For the week 21-27 December he receives zero earnings and the same is true of the week 28 December to 3 January.

Example 5a continued...

ETC Manufacturing should assess qualifying earnings of £100 in the week 14-20 December, even though £300 was actually paid, because this is the amount that was due to be paid in this period. They should assess £100 of qualifying earnings in the week 21-27 December, even though zero was actually paid, because this is what ought to have been paid in this period but for an administrative arrangement.

Finally, they should assess £100 of qualifying earnings for the period 28 December to 3 January, because again, this is what ought to have been paid.

Example 5b

Where pay reference period definition is aligned to the period by reference to which the worker is paid their regular wage or salary

ETC Manufacturing operates a weekly payroll. They have chosen to use the definition of a pay reference period aligned to the period by reference to which the worker is paid his regular wage or salary. For the week before Christmas and Christmas week, they close the factory completely. They have an administrative pay arrangement whereby in the last pay reference period before they close, they pay their workers three weeks' salary in one week.

Evan is paid a salary of £100 per week. For the one-week period 11-17 December, he is paid £300. For the week 18-24 December he receives zero earnings and the same is true of the week 25 December to 31 December.

ETC Manufacturing should assess qualifying earnings of £100 in the week 11-17 December, even though £300 was actually paid, because this is the amount that was due to be paid in this period.

They should assess £100 of qualifying earnings in the week 18-24 December, even though zero was actually paid, because this is what ought to have been paid in this period but for an administrative arrangement.

Finally, they should assess £100 of qualifying earnings for the period 25 December to 31 December, because again, this is what ought to have been paid.

Step C: Compare what is payable with the lower level of qualifying earnings and the earnings trigger for automatic enrolment

117. The final step for an employer is to compare the payable qualifying earnings payable in the relevant pay reference period against the lower threshold of qualifying earnings and/or the earnings trigger for automatic enrolment applicable to that relevant pay reference period.

118. For a worker aged between 22 and state pension age, where the assessment is to identify automatic enrolment, the employer must identify whether the qualifying earnings payable (as identified in Step B), are above the earnings trigger for automatic enrolment.

119. For assessments where the employer is required to separately identify entitled workers from jobholders (eg whengiven an opt-inorjoining notice), the employer must compare the qualifying earnings payable with the lower level of qualifying earnings.

120. The DWP has published the legislative thresholds for the 2019-2020 tax year. The thresholds for a relevant pay reference period of one week, two weeks, four weeks, one month, three months, four months, six months or annual are set out in the legislation. An employer can use table 1 where we have reproduced the legislative thresholds to look up the appropriate value.

Table 1
The lower level of qualifying earnings and the earnings trigger for automatic enrolment

Pay reference period	Lower level of qualifying earnings	The earnings trigger for automatic enrolment
One week	£120.00	£192.00
Fortnight	£240.00	£384.00
Four weeks	£480.00	£768.00
One month	£520.00	£833.00
One quarter	£1,560.00	£2,499.00
Bi-annual	£3,120.00	£4,998.00
Annual	£6,240.00	£10,000.00

Note: These figures are for the 2019-2020 tax year. The DWP will announce the figures for the 2020-2021 tax year in November. These are available on our website following DWP's announcement.

Other durations of pay reference periods

121. If the relevant pay reference period is a period that is not on the list, an employer will need to derive the appropriate threshold amount. For variations of a weekly period, an employer should multiply the number of weeks in the relevant pay reference period by the appropriate weekly threshold in table 1.

122. For example, if the relevant pay reference period is a five-weekly period, the earnings trigger for automatic enrolment will be £960 (5 x £192).

123. For variations of a monthly period, an employer should multiply the number of months in the relevant pay reference period by the appropriate monthly threshold in table 1.

124. For example, if the relevant pay reference period is a two-monthly period, the earnings trigger for automatic enrolment will be £1,666 (2 x £833).

Changes in qualifying earnings thresholds

125. The DWP must review the thresholds for qualifying earnings every tax year. If changes are to be made to the values, the DWP intends that the announcement will be in November each year. Any changes will be available on our website following the announcement.

126. If changes are made to the values they will take effect from 6 April each year. For any pay reference period which starts on or after the 6 April it will be the updated thresholds that should be applied. Where 6 April falls part way through a pay reference period the relevant consideration for determining which of the current or updated thresholds to apply is the assessment date. It is on this date that the employer is considering whether the criteria for each category of worker are met. If the assessment date is before 6 April the threshold to apply will be the existing threshold. If the assessment date is on or after 6 April the threshold to apply will be the updated thresholds.

Completing the assessment

127. If the earnings identified at Step B are above the earnings trigger for the relevant pay reference period, and the worker is aged between 22 and state pension age and is working or ordinarily works in the UK, then the worker is an eligible jobholder (see example below).

Examples 1e and 1f use the same facts. In example 1e the definition of a pay reference period is aligned to tax weeks or months. In example 1f 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 1e

Where the definition of a pay reference period is aligned to tax weeks or months

Ruth (as described in examples 1a and 1c) is paid monthly so the appropriate earnings trigger for her would be £833.00.

Because Bob has identified that Ruth has qualifying earnings of £900 payable to her in the relevant pay reference period of 6 May to 5 June, he knows that Ruth earns above the earnings trigger and is therefore an eligible jobholder.

Example 1f

Where pay reference period definition is aligned to the period by reference to which the worker is paid their regular wage or salary

Ruth (as described in examples 1b and 1d) is paid monthly so the appropriate earnings trigger for her would be £833.00.

Because Bob has identified that Ruth has qualifying earnings of £900 payable to her in the relevant pay reference period of 1 May to 31 May, he knows that Ruth earns above the earnings trigger and is therefore an eligible jobholder.

128. An employer will need to separately identify a jobholder or an entitled worker when:

    a. they are given an opt-in or joining notice

    b. immediate automatic re-enrolment is triggered

    c. if the worker is an active member of a tax registered pension scheme that does not meet the qualifying criteria and the information about both the right of a jobholder to opt in and the right of an entitled worker to join has not yet been given. This is because the requirement to give this information does not apply to an entitled worker who is an active member of such a pension scheme

    d. if the employer has chosen to give separate information about opt-in or joining[3] relevant to the category of worker

129. If the earnings identified at step B are above the lower level of qualifying earnings for a worker aged between 16 and 74 and the worker is working or ordinarily works in the UK, then the worker is a jobholder.

130. If the earnings identified at step B are equal to or less than the lower level of qualifying earnings for the relevant pay reference period for a worker aged between 16 and 74 and the worker is working or ordinarily works in the UK, then the worker is an entitled worker.

131. **Detailed guidance no. 3c – Having completed the assessment** explains the next steps an employer must take for each category of worker.

132. Appendix B contains a flowchart that outlines the steps for assessing a worker.

3 The information requirements changed on 1 April 2015. However, an employer with a staging date prior to 1 April 2015 can choose to continue to use their existing processes and templates. For more information see **Detailed guidance no. 10 – Information to workers**.

Predicting earnings

133. This consideration of earnings and comparison must take place on the assessment date. This means that in practice, there may be an element of earnings prediction, as the employer looks forward from the assessment date to the end of the pay reference period. Again, for some workers, such as those paid regular fixed monthly salaries, this will be straightforward.

134. For those with fluctuating earnings it is less straightforward. An employer may therefore consider waiting until payroll is run to avoid having to make a prediction of earnings for these, or any of its workers. Where this is the case, it is important to remember that any calculation within the payroll system is still making the assessment as at the assessment date falling within the pay reference period.

135. However, any employer making this choice should be aware that it may reduce the amount of time they have in which to complete the automatic enrolment process (see **Detailed guidance no. 5 – Automatic enrolment**), should automatic enrolment be triggered for that worker. It may also reduce the amount of time they have to provide information to categories of workers other than eligible jobholders.

136. For example, if a worker starts employment mid-way through the pay reference period, this is the worker's assessment date. If they are an eligible jobholder and automatic enrolment is triggered, the employer has six weeks from this date to complete automatic enrolment. If the employer waits two weeks until payroll is run in the relevant pay reference period to know what qualifying earnings are payable, they will therefore already have used up two weeks of that six week period in which to complete automatic enrolment.

137. Where the pay reference period is equal to, or shorter than, the six week joining window, the employer will need to ensure that they can complete the administrative steps for automatic enrolment within what is left of the joining window, in the event that the automatic enrolment date is between the start of the pay reference period and payroll run date.

138. An employer with a pay reference period longer than six weeks and where pay is not calculated within six weeks of the start of the pay reference period will need to predict earnings. They should automatically enrol all their workers not in a qualifying scheme in at the start of the pay reference period unless they are absolutely sure that the earnings trigger will never be reached. For example, they may be sure that a worker with a salary below the lower level of qualifying earnings and with no expectation of a bonus, overtime or commission payments will not reach the earnings trigger in a pay reference period.

139. An employer will need to talk to their pension provider and make sure that they and the provider are able to complete the administrative steps for automatic enrolment and then be able to unravel those steps should the payroll run confirm the worker is not an eligible jobholder.

140. An employer may also wish to consider adding to the enrolment information to explain to the worker that, if the earnings trigger is not met in the pay reference period, then automatic enrolment will not go ahead.

Assessments that appear straightforward

141. Having worked through the steps for assessing workers, an employer can see that for some workers, it may be immediately obvious into which category of worker they fall, without the need to carry out all these steps. Some examples are provided below.

Some examples of straightforward assessments

Samir is starting work with his employer on 5 February. He is contracted to earn £19,000 per annum and is 20 years old. His employer knows that on that first day of employment, Samir will be a jobholder who does not need to be automatically enrolled.

Nathan works for his employer as an architect. He is paid monthly on the last day of the month in respect of work done over the calendar month. He is contracted to earn £50,000 and is 43 years old. His employer knows that he is an eligible jobholder on their staging date of 1 October.

Oscar is paid £120 a week and is aged 35. On his employer's staging date of 1 June, Oscar's employer knows that, because his earnings are between £120.00 and £192.00 a week, Oscar is a jobholder who does not need to be automatically enrolled.

Jo is starting work, part time on 22 June, on a salary of £4,000. She is 62 years old. Her employer knows that Jo is an entitled worker on 22 June.

142. However, an employer should exercise caution when it comes to identifying eligible jobholders. This is because it is important to also establish the first day that the criteria to be an eligible jobholder are met. This is known as the 'automatic enrolment date' and it is the date from which the employer must automatically enrol the eligible jobholder. The automatic enrolment date is explained in **Detailed guidance no. 3c – Having completed the assessment**.

143. Although a worker may appear to be an eligible jobholder, eg if they are contracted to earn far in excess of the earnings trigger, an employer will still usually have to assess their earnings to identify the first day that these earnings exceed the earnings trigger for automatic enrolment (see example 6).

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

Organic Dairies Ltd has recruited a new finance worker, Charlie, who is 42 years old. Charlie will be starting work on 28 June. His basic salary will be £18,000. John runs the HR department at Organic Dairies and knows that the first day of employment is one of the assessment dates and that he must assess to see if Charlie is an eligible jobholder. At first glance, John considers that Charlie is obviously an eligible jobholder on 28 June.

However, on assessing earnings in the relevant pay reference period, he would see that is not the case for the pay reference period in which Charlie starts employment.

The usual interval between payments of regular wage or salary to Organic Dairies' workers is monthly. The pay reference period is therefore one month in length starting on the first day of the tax month. The relevant pay reference period for Charlie is the pay reference period from 6 June to 5 July.

In this period, the qualifying earnings payable to him are £150 as he will only start work on 28 June. This is below the monthly earnings trigger for automatic enrolment.

Example 6b

Where pay reference period definition is aligned to the period by reference to which the worker is paid their regular wage or salary

Organic Dairies Ltd has recruited a new finance worker, Charlie, who is 42 years old. Charlie will be starting work on 28 June. His basic salary will be £18,000. John runs the HR department at Organic Dairies and knows that the first day of employment is one of the assessment dates and that he must assess to see if Charlie is an eligible jobholder. At first glance, John considers that Charlie is obviously an eligible jobholder on 28 June.

However, on assessing earnings in the relevant pay reference period, he would see that is not the case for the pay reference period in which Charlie starts employment.

Organic Dairies pays its staff monthly in respect of the work done in the calendar month. The relevant pay reference period for Charlie is the pay reference period from 1 June to 30 June.

In this period, the qualifying earnings payable to him are £150 as he will only start work on 28 June. This is below the monthly earnings trigger for automatic enrolment.

Assessing groups of workers

144. The processes described in this guidance are for the assessment of an individual worker. However, when the new duties are first introduced for an employer, they will have to assess a number of workers at the same time.

145. The employer will have to make this assessment on their staging date or, if the employer is using postponement on their staging date for all their workers, on the deferral date(s) they have chosen.

146. The principles for undertaking the assessment remain the same, whether an employer is assessing one or many workers. Appendix C contains a flowchart that outlines the steps for assessing groups of workers on the employer's staging date.

147. Some of this process may be supported by an employer's payroll systems and processes. Some may be supported by a HR function.

Definition of pay reference periods aligned to tax week or months at the change in the tax year

148. Under the definition of a pay reference period aligned to tax weeks or months, where the usual interval between payments of a worker's regular wage or salary is a week or a multiple of a week there are overlapping pay reference periods around the 6 April each year. This is because the last pay reference period of the tax year starts on 4 or 5 April (if the usual interval between payments of regular wage or salary is weekly, fortnightly or four-weekly) and the first pay reference period of the next tax year starts on 6 April (as illustrated below).

Figure 1
Relevant pay reference periods across the tax year change

Where the definition of a pay reference period is aligned to tax weeks or months. Examples of a four-weekly pay interval in a leap year

149. In most circumstances however the last pay reference period is ended early on 5 April to avoid this overlap. Ending the pay reference period on 5 April depends upon when qualifying earnings are payable. If, in that last pay reference period of the tax year the qualifying earnings that are payable in that pay reference period are paid or payable on or after 6 April the pay reference period is ended on 5 April.

150. For example, Employer A has a usual interval between payments of its worker's regular wage or salary of four weeks. The length of the pay reference period for the purposes of the assessment of a worker is therefore four weeks. Employer A is therefore using the four-weekly pay reference period calendar and knows that the last pay reference period of a tax year when the pay reference period is four-weekly in length starts on 4 April (in the case of a leap year) and ends on 1 May. Employer A also knows that the first pay reference period of the new tax year when the pay reference period is four-weekly in length starts on 6 April and ends on 3 May. Employer A's pay date in this example is on 10 April.

151. Employer A knows that for the pay reference period of 4 April to 1 May the qualifying earnings payable in that period are payable on 10 April. As this is after the 6 April then that last pay reference period is ended on 5 April – the day before the start of the first pay reference period.

152. In this last pay reference period of the tax year which was ended on 5 April qualifying earnings are not payable. As a result the worker is an entitled worker for this pay reference period.

153. The first pay reference period of the tax year is then assessed as normal. If the thresholds of qualifying earnings are changed in the legislation then any change takes affect from 6 April. Where the last pay reference period of a tax year is ended on 5 April the next pay reference period starts on 6 April and so the pay reference periods do not span any change in the qualifying earnings threshold or earnings trigger for automatic enrolment.

Qualifying earnings payable before 6 April

154. If on the other hand in that last pay reference period of a tax year the qualifying earnings that are payable are paid or payable before 6 April the pay reference period is not ended early and runs alongside the first pay reference period in the next tax year.

155. This means that an employer will have to assess the worker for each pay reference period separately.

156. It is important to note that for weekly, fortnightly and four-weekly pay reference periods the last pay reference period starts on 5 April (or 4 April in a leap year) so it will only be in cases where pay date falls on 5 April (or 4 April in a leap year) that this scenario of separately assessing overlapping pay reference periods at the change in the tax year will be relevant.

157. The employer must assess each pay reference period separately even though the assessment date may be the same in each pay reference period, for example, if a worker's 22nd birthday falls in the period when both pay reference periods overlap. In practice, though the qualifying earnings payable in each pay reference period are likely to be different (see example below).

Example 7

Emma turns 22 on 10 April. Her employer has chosen to use the definition of a pay reference period aligned to tax weeks or months. The employer identified that the usual interval between payments of Emma's regular wage or salary was weekly and therefore that Emma's pay reference periods are weekly starting on the first day of the tax week.

Her employer knows that the last pay reference period of the tax year is 5 April (not a leap year) to 11 April. They also know that the next pay reference period is starting on 6 April to 12 April.

In the pay reference period of 5 April to 11 April the qualifying earnings that are payable in that period are due to be paid on 5 April. The employer determines therefore that this pay reference period is not ended on 5 April and runs for the whole week. Emma's qualifying earnings are £195 per week.

Emma's employer identifies that one relevant pay reference period for Emma is 5 April to 11 April as this is one pay reference period in which the assessment date (her 22nd birthday (10 April)) falls. The qualifying earnings payable in this period are those that are due to be paid on 5 April ie £195. Her employer compares this against the weekly earnings trigger for automatic enrolment that applies for the tax year starting on 6 April (as this is the earnings trigger that applies at the assessment date) and identifies that Emma is an eligible jobholder and automatic enrolment is triggered (unless the employer chooses to use postponement).

Her employer also knows that another relevant pay reference period for Emma is 6 April to 12 April as this is one pay reference period in which the assessment date falls (her 22nd birthday (10 April)). The qualifying earnings payable in this period are those that are due to be paid on 12 April ie £195. Her employer compares this against the weekly earnings trigger for automatic enrolment that applies for the tax year starting on 6 April (as this is the earnings trigger that applies at the assessment date) and identifies that Emma is an eligible jobholder and automatic enrolment is triggered (unless the employer chooses to use postponement).

Changing from one definition of pay reference period to another

158. If an employer determines to change their assessment process from using one definition of a pay reference period to another, they should be aware that at the time of the change there will be overlapping pay reference periods. There is nothing in the legislation which ends the last pay reference period under the 'old' definition before the start of the first pay reference period under the 'new' definition.

159. For example, an employer who uses the definition of a pay reference period aligned to the period by reference to which the worker is paid their regular wage or salary, decides to change to the definition of pay reference period aligned to tax weeks or months from June. The pay reference period under the old definition was a calendar month starting on the first calendar day.

160. The employer at the time of the change has one pay reference period (under the 'old' definition) that runs from 1 June to 30 June, running alongside a pay reference period (under the 'new' definition) of 6 June to 5 July.

161. The same approach as discussed where pay reference periods overlap at the change in tax year (under the definition of a pay reference period aligned with tax weeks or months) in paragraphs 148 to 157 above apply in this case here where there are overlapping pay reference periods. The only difference is that in this case the qualifying earnings payable in the two pay reference periods are likely to be those payable on the same date (as illustrated below).

Example 8

Employer B has decided to change from using the definition of pay reference period aligned to the period by reference the worker is paid their regular wage or salary, to using the definition aligned to tax weeks or months from June. Under the existing definition they were applying they had identified that their workers had a calendar monthly pay reference period starting on the first calendar day of the month.

For one of their workers, Justine, they also chose to use postponement for the maximum duration of three months when she met the criteria to be an eligible jobholder on 4 March. The deferral date for Justine is 4 June. More information about postponement and deferral dates can be found in **Detailed guidance no. 3a – Postponement**. Her employer knows that the relevant pay reference period is the one that runs from 1 June to 30 June under the definition of pay reference period aligned to the period by reference to which the worker is paid their regular wage or salary as this is the one in which the deferral date falls.

In this pay reference period the qualifying earnings payable are those that are due to be paid on 28 June – £875. Her employer identifies that this is above the monthly earnings trigger for automatic enrolment and so Justine is an eligible jobholder on the deferral date. Employer B must automatically enrol Justine from 4 June.

In the next pay reference period (which is the first under the new definition) of 6 June to 5 July, the assessment date for Justine is the first day of the pay reference period (ie 6 June). In this pay reference period the qualifying earnings payable are those that are due to be paid on 28 June – £875. Under the new definition the length of the pay reference period is monthly so Employer B compares the amount of qualifying earnings (£875) against the same monthly earnings trigger for automatic enrolment (£833) and identifies that Justine is an eligible jobholder on the 6 June. However automatic enrolment was triggered on 4 June and active membership of the automatic enrolment scheme must take effect from this date. On 6 June therefore Justine is an active member of a qualifying scheme and so automatic enrolment is not triggered.

What next?

Having completed the assessment, the employer will know what category of worker or workers they have. **Detailed guidance no. 3c – Having completed the assessment** contains the next steps for an employer and should be read in conjunction with this guidance.

An employer may postpone automatic enrolment of their workers for a period of up to three months. Postponement is essentially the postponement of the assessment of the worker and therefore a postponement of whichever employer duty may apply, depending on the category of worker. **Detailed guidance no. 3a – Postponement** will tell employers how to use postponement and the outcome of the assessing process where postponement is used.

An employer may defer the assessment of their worker if that worker meets certain conditions and the pension scheme for automatic enrolment is a defined benefit or hybrid scheme. **Detailed guidance no. 3b – Transitional period for schemes with defined benefits** has more information.

Key terms

Summary of the different categories of worker

The table below is a quick reminder of the different categories of worker. These are explained in detail in **Detailed guidance no. 1 – Employer duties and defining the workforce**.

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: • 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: • is aged between 22 and state pension age • has qualifying earnings above the earnings trigger for automatic enrolment.
Non-eligible jobholder	A jobholder who: • is aged between 16 and 21 or state pension age and 74 • has qualifying earnings above the earnings trigger for automatic enrolment or • is aged between 16 and 74 • has qualifying earnings equal to or below the earnings trigger for automatic enrolment.
Entitled worker	A worker who: • is aged between 16 and 74 • is working or ordinarily works in the UK under their contract • does not have qualifying earnings.

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Detailed guide for employers no. 3
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