MAYER | BROWN

March 2024

The Pensions Brief

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Dates to note over the next 12 months

30 April 2024

PPF levy deadline for submission of deficit reduction contribution certificates and exempt transfer applications

30 June 2024

PPF levy deadline for submission of full block transfer certificates

22 September 2024

Requirement to prepare a funding and investment strategy applies for valuations from this date

31 January 2025

Deadline for schemes to send annual event report to HMRC (2023/24 tax year)

30 April 2025

Staged timetable for connection to the pensions dashboards ecosystem starts

Key:

- Important dates to note
- For information

Issues affecting all schemes

General Code – in force

The General Code came into force on 28 March 2024 and the ten codes that it replaces have been revoked. For more information on the Code, please see our legal update.

Action

Trustees should consider what changes they will need to make to their scheme's governance processes to comply with the effective system of governance requirements and the other matters in the Code.

New lump sum regime – regulations and guidance

Regulations came into force on 6 April 2024 that make a range of changes to the legislation governing the new lump sum regime, including:

- Removal of the "permitted maximum" for a pension commencement excess lump sum.
- Addition of a provision whereby any scheme rules which impose a limit of the amount of a benefit payable to or in respect of a member by reference to the member's lifetime allowance (LTA), the standard LTA or the LTA charge are not affected by the changes made by the Finance Act 2024. This provision will cease to have effect at the end of the 2028/29 tax year.
- Confirmation that, where entitlement to a lump sum arises prior to 6 April 2024, but payment is made on or after 6 April 2024, the lump sum is to be taxed in accordance with the legislation as it stood on 5 April 2024.

In addition, HMRC has published further guidance on the abolition of the LTA and the new lump sum regime:

- LTA guidance newsletter: March 2024.
- Pension Schemes Newsletter 157.
- Pension Schemes Newsletter 158.

As well as FAQs on a wide range of topics, these note that further clarificatory changes to the legislation will be made.

Action

Trustees and administrators should continue to implement changes arising from the abolition of the LTA and introduction of the new lump sum regime. They should also monitor publication of the further changes to the legislation and any further HMRC guidance.

Pensions dashboards – staged connection timetable

The government has published statutory guidance setting out the staged timetable for connection to the dashboards ecosystem. Although the statutory deadline for connection is 31 October 2026, schemes are required to have regard to this guidance in complying with their duty to connect i.e. schemes are encouraged to connect by the relevant date set out in the guidance unless there are exceptional circumstances which prevent them from doing so. The timetable is based on scheme size and type. It will start with the largest DC schemes which will be encouraged to connect by 30 April 2025. For more information, please see our legal update.

In addition, the Pensions Dashboards Programme has published:

- FAQs on useful guidance and resources to support schemes in their dashboards preparations.
- A blog post on some of the common queries it has received recently.

Action

Trustees and administrators should establish their scheme's connection date under the statutory guidance and consider whether there are any circumstances which will prevent the scheme from connecting by that date.

General levy – new rates

The government has responded to its consultation on proposed changes to the structure and rates of the general levy on occupational and personal pension schemes in light of the ongoing deficit in levy funding. The government has decided to proceed with the second of its three proposed options under which the current levy structure will be retained and levy rates will be increased by 6.5% per year for all schemes. This will bring the cumulative deficit back into a compliant level by 2031. Regulations making the changes came into force on 1 April 2024.

Action

No action required, but trustees may wish to confirm the increased levy that will be payable by their scheme for the 2024/25 levy year.

Trustee diversity – Pensions Regulator survey results

The Pensions Regulator (TPR) has announced the results of the survey that it carried out last year on trustee diversity. The results confirm that trustee boards are less diverse than the overall population, with the average trustee being a white man aged over 45. However, the results also highlighted industry recognition of the importance of inclusive and diverse boards with 78% of respondents saying they felt a diverse trustee board was important. TPR plans to use the results as a baseline to measure progress towards ensuring high standards of diversity and inclusion on trustee boards.

In addition, TPR has published a blog post on the importance of equality, diversity and inclusion both for trustee boards and TPR as an organisation.

Action

For noting.

Social factors – scheme investment

The Taskforce for Social Factors (which was established by the government) has published guidance for trustees on considering social factors in scheme investments. The guidance includes:

- A quick start guide.
- A guide to considering social factors in scheme investments.
- A directory of data sources.
- A guide on effective stewardship, investment and advice services.
- Case studies.
- Recommendations for trustees to improve the integration of social factors in scheme investment.

Action

No action required, but trustees may find the guidance helpful when considering social factors in investment decision-making.

Automatic enrolment – employer compliance

TPR has published a blog post on its work in relation to employer compliance with their automatic enrolment duties. This includes the launch of an improved declaration of compliance site.

Action

No action required, but employers should note the new declaration of compliance site.

Issues affecting DB schemes

Funding and investment strategy – written statement

TPR is consulting on the form of the written statement of strategy that trustees will be required to maintain. The consultation covers TPR's proposed approach to the statement of strategy, including the proposed form of the document, and the type and extent of the information that will need to be submitted. TPR is proposing that:

- The statement of strategy should be in a standard form and follow a set template which TPR will provide.
- TPR will produce separate templates to reflect that schemes will have to provide slightly different information depending on whether they have reached the "relevant date", or whether they are taking a Fast Track or Bespoke approach.
- TPR will request less information from smaller schemes.

The consultation closes on 16 April 2024.

Action

Trustees and employers should monitor the outcome of the consultation.

Employer surplus payments – reduced tax charge

An order came into force on 6 April 2024 that reduces the authorised surplus payments charge from 35% to 25%.

Action

For noting.

Work and Pensions Committee – report

The House of Commons Work and Pensions Committee has published a report into DB pension schemes. The report notes that an improvement in DB funding levels over the past decade presents both new challenges and opportunities for schemes, and calls for a fresh approach to funding regulation, the treatment of surpluses in pension schemes and the compensation payable by the Pension Protection Fund (PPF) and the Financial Assistance Scheme (FAS). The Committee's recommendations include:

- Given the improved funding position of schemes, and the fact that the PPF now has £12 billion in reserves, TPR's objective to protect the PPF should be replaced with a new objective to protect both future and past service benefits.
- The government and TPR should explore ways to ensure that scheme members' reasonable expectations for benefit enhancement where there is a surplus are met, particularly where there has been a history of discretionary increases.
- The government should (a) legislate to make accreditation mandatory for professional trustees; (b) explore ways to ensure lay trustees have the time and resources to become accredited; and (c) set out plans for ensuring every trustee board has at least one accredited member (whether lay or professional) and a timetable for achieving that. The government should also ensure that TPR's new trustee register is used to ensure trustees complete TPR's Trustee Toolkit.
- The government should legislate (a) to give the PPF more flexibility to reduce its levy to zero and (b) to improve PPF and FAS compensation levels.

Action

No action required.

Issues affecting DC schemes

Budget 2024 – pensions aspects

The Budget contained the following pensions-related announcements:

- The government is working with the Financial Conduct Authority (FCA) and TPR on a new value for money (VFM) framework and the FCA will consult on the proposed framework this spring. The consultation will include proposals to require the publication of contract-based DC default funds' historic net investment returns and a breakdown of their UK investments. Schemes will be required to compare their performance, costs and other metrics against those of at least two schemes managing over £10 billion in assets. This is an initial level expected to increase significantly over time. In coordination with the FCA, the government will legislate at the earliest opportunity to apply the VFM framework across the market and provide TPR with new powers, using secondary legislation if necessary to ensure key disclosures are in place by 2027. Where schemes are persistently offering poor outcomes for savers, the FCA and TPR will have the full range of regulatory powers available, including closing a scheme to new employer entrants and, where necessary, winding up a scheme.
- The government remains committed to exploring a lifetime provider model for DC schemes in the long-term. The government will undertake continued analysis and engagement to ensure that this would improve outcomes for pension savers, and build on the foundations of reforms already underway, including the VFM framework.

Action

Trustees should monitor implementation of the new VFM framework.

Value for money – TPR initiative

TPR has provided an update on its regulatory initiative to check that trustees of DC schemes with assets of less than £100 million are complying with the enhanced VFM assessment requirements that came into force in October 2021. The first phase of the initiative involved an initial pilot sample of schemes. 16% of these schemes reported that, having concluded their schemes do not offer good value, they have opted to wind up. The next phase of the initiative will involve analysing data from DC scheme returns with the potential for fines to be issued for non-compliance. TPR has already issued a fine of £12,500 against a corporate trustee and further fines will be issued shortly.

In addition, TPR has published a blog post on the need for trustees of DC schemes generally to:

- Use the performance data that will become available to them under the new VFM framework to compare their scheme to the rest of the market and inform their decisions on whether members would be better served by consolidation into a larger scheme.
- Constructively challenge the advice and investment options presented to them and consider all asset classes.

Action

For noting.

Mayer Brown news

Upcoming events

For more information or to book a place, please contact Katherine Carter.

- **Trustee Foundation Course**

  5 June 2024
  11 September 2024
  11 December 2024

- **Trustee Building Blocks Classes**

  15 May 2024 – Trustee discretions and decision-making
  13 November 2024 – DB funding

- **Quarterly webinars**

  26 June 2024
  24 September 2024
  27 November 2024

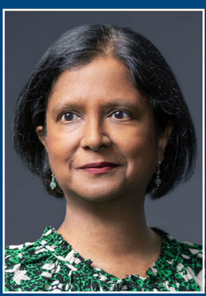
Mayer Brown Insights

- Pensions dashboards – staged connection timetable published | Insights | Mayer Brown

All our Insights are available here.

Please speak to your usual contact in the Pensions Group if you have any questions on any of the issues in this Brief.

For more information about the Pensions Group, please contact:



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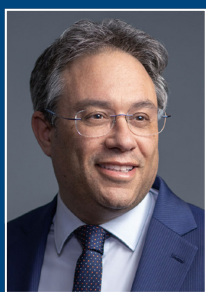

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