SLAUGHTER AND MAY/

PENSIONS ESSENTIALS

March 2024

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PENSIONS DASHBOARD STAGING DATES

Schemes in scope of the dashboard requirements will be required to be connected to the dashboard ecosystem and ready to respond to requests for pensions information by 31 October 2026 at the latest. This is a long-stop date and DWP has now issued guidance setting out a non-mandatory staged timetable for schemes to connect to the dashboard ecosystem.

The Dashboard Regulations originally set out mandatory staging dates for schemes, depending on size and type which would have required the first schemes to connect to the dashboards in late 2023. The staging dates were removed in 2023 when it became apparent that the dashboard infrastructure might not be ready. They were replaced with a long-stop connection deadline of 31 October 2026 for all in-scope schemes.

Trustees are also required to have regard to dashboard guidance issued by DWP. DWP has just issued guidance setting out a staged timetable for schemes to connect to the dashboard ecosystem and be able to process 'find' and 'view' requests. Whilst the timetable is not mandatory, DWP encourages trustees to follow it "*unless there are exceptional circumstances which prevent them from doing so*". It explains that schemes connecting too close to the 31 October 2026 deadline could place undue strain on the infrastructure and face a greater risk of not being connected by the deadline.

The Pensions Regulator has updated its guidance on the dashboards to refer to DWP's staging guidance and says: "*We expect schemes to adhere to the dates set out in [the] guidance.*"

The connection timetable has different deadlines for schemes depending on size and type:

- Master trusts with 20,000 or more members and personal pension schemes should connect by 30 April 2025.
- DC schemes used for auto-enrolment with 5000 or more members and hybrid and DB schemes with 20,000 or more members should connect by 31 May 2025.
- All schemes with over 1000 members should have connected by 30 November 2025 (the exact deadline again varying by scheme size and type).
- Deadlines for schemes with between 999 and 100 members run between 31 January 2026 and 30 September 2026 (schemes with fewer than 100 members are exempt under the Dashboard Regulations).

The number of scheme members is to be determined at the scheme year end date falling between 1st April 2023 and 31st March 2024 and does not include pensioners.

Further guidance will be issued in due course on the process of connecting to the dashboard ecosystem including when to contact the Pensions Dashboard Programme and the onboarding process.

Practical points:

- *Identify the proposed staging date for scheme.*
- *Consider actions that will need to be completed before that date.*
- *Have an action plan in place.*

CONSULTATION ON STATEMENT OF FUNDING AND INVESTMENT STRATEGY

New statutory requirements in the Pensions Act 2004 will require DB trustees to put a long term funding and investment strategy in place and to have a statement setting out that strategy along with other relevant matters. The statement must be submitted to and in a form set out by the Pensions Regulator and the Regulator is now consulting on that form and its content.

Trustees of DB schemes will need to have their first funding and investment strategy in place 15 months from the effective date of the first valuation obtained on or after 22 September 2024. Once the strategy is finalised, the trustees must send a formal statement, signed by the chair of trustees, setting out that strategy, in the required form, to the Pensions Regulator "*as soon as is reasonably practicable*". For more details about what that strategy should contain see our briefing on the draft Funding and Investment Strategy Regulations.

Provisions in the Pensions Act 2004 (yet to come into force) and the Funding and Investment Strategy Regulations set out the information that must be included in the strategy statement. However, the Pensions Regulator has discretion over the level of detail the statement must contain and power to determine the form that it must be in and is now consulting on its expectations. General points to note include:

- Trustees should complete the strategy statement in a standard form. There will be 4 alternative versions, depending on whether a scheme is using the Regulator's fast-track, more prescriptive approach to funding and whether or not it has reached its "relevant date" (defined in Regulations and the target date for the strategy). The Regulator has issued an example of a strategy statement.
- Less information may be required from schemes using the fast track approach or that are classified as "small schemes" (which is likely to be defined as a scheme with fewer than 100 members for actuarial information or less than £30m in PPF liabilities for investment information).
- Additional information will be required from open schemes. This includes: the number of years of future accrual that have been allowed for; the estimate of the scheme maturity; and details of salary increases.

More specifically, the Regulator proposes that the statement will need to include:

- What the long-term objective for the scheme is, selecting from buy-out, run-off, move to a superfund or move to an alternative consolidator.
- Intended investment allocation at the relevant date and the split of growth, matching and hybrid assets. Trustees will also need to disclose the breakdown of their assets and level of investment risk at the valuation date.
- Details of the scheme's funding position on the new low dependency, technical provisions and buy-out bases.
- Information about key actuarial assumptions and how they differ from assumptions used to calculate technical provisions together with a summary of valuation results and how any deficit will be recovered.
- An estimate of the scheme's maturity and how it is expected to change over time. The Regulator says that "*in most cases, providing scheme benefit cashflows over the next 100 years is likely to provide clear evidence for how maturity is expected to change*". Most schemes will also be asked to provide forward discount rates for 100 years.
- Detailed information on covenant support. There will be guidance in the final version of the DB funding code on the Regulator's expectations around assessing covenant and more detail in upcoming covenant guidance.

The funding code is expected to be laid in the summer and in force in September. Consultation closes on 16 April 2024.

***Practical points*:**

- *Identify the date on which the first funding and investment strategy statement needs to be in place.*
- *Consider the information that will need to be included in the strategy statement and how readily available it is.*
- *Watch out for the final version of the funding code of practice and other funding documents.*

SPRING BUDGET

The spring budget did not say a great deal about pensions. However, the Government did have some proposals in relation to DC schemes, including disclosing asset allocation and determining value for money.

The Budget sets out the Government's intention to:

- Introduce requirements for DC schemes to publicly disclose asset allocations, including UK equities. Once this data is available, the Government will consider whether further action should be taken if UK equity allocations do not increase beyond the current level of around 6%.
- Continue to work with the Pensions Regulator and the FCA on a Value for Money framework. The FCA is due to issue a consultation in the spring which will require contract-based schemes to compare their performance, costs and other metrics against at least two other schemes managing over £10 billion in assets (this level may rise over time). Legislation will follow to apply this to occupational DC schemes. Where schemes persistently provide poor outcomes, the FCA and the Pensions Regulator will have powers to close a scheme to new employers and, where necessary, wind it up.
- Continue to explore a lifetime provider model for DC schemes and whether this could improve outcomes for members.

***Practical points*:**

- *Watch out for the final proposals in relation to the Value for Money framework.*
- *Consider whether asset allocation information is currently available.*

TASKFORCE ON SOCIAL FACTORS GUIDE FOR PENSION SCHEMES

The Taskforce on Social Factors is a cross-industry body established following DWP's call for evidence on how pension schemes take into account social risks and opportunities when investing their assets. It has now issued guidance which aims to support trustees and the wider pensions industry with managing social factors.

Trustees must set out, in their statement of investment principles, a policy in relation to taking material financial factors, including environmental, social and governance (ESG) considerations, into account when investing in scheme assets. The Government was concerned that schemes were not sufficiently focussed on the social element of ESG and launched a call for evidence in 2021 seeking to determine how trustees understand social factors and how they seek to integrate considerations of financially material social factors into their investment and stewardship activities.

The Government's response in July 2022, said that "*trustees should – where possible – consider financially material social risks and seize opportunities in this space. This will help trustees fulfil their fiduciary obligations by mitigating against financial risk and thereby safeguarding savers' money*". To ensure focus on social factors continues to grow and is taken seriously, the Government set up a Taskforce on Social Factors.

Earlier this year, the Pensions Regulator said: "*While there are no mandatory requirements to adopt recommendations from the UK Transition Plan Taskforce… Taskforce for Nature-related Financial Disclosures… or Taskforce for Social Factors… trustees would do well to familiarise themselves with them.*"

The Taskforce on Social Factors has now issued a guide aimed at pension scheme trustees which is intended to provide them with the tools to identify and monitor social risks and opportunities. It explores why material social factors are important from an investment perspective, and how taking them into consideration aligns with fiduciary duties. It also looks at data trustees can use to manage social factors and sets out both a materiality assessment framework to help prioritise areas for action and a framework for addressing social factors.

Practical points:

- *Consider the guidance and the extent to which it should be factored into investment policy.*
- *Ensure social factors are considered when determining scheme investment policy.*

UPDATE ON ABOLITION OF THE LIFETIME ALLOWANCE

We have almost reached the 6 April implementation date for the removal of the lifetime allowance and introduction of two new tax-free allowances. The major pieces of the legislative jigsaw puzzle are now in place, with Regulations amending the Finance Act 2024 coming into force on 6 April 2024. However, HMRC is still refining its approach, especially in relation to reporting, with a further round of amending regulations expected, so HMRC's regular newsletters remain an essential source of information for the industry.

Some of the key changes made by the Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024 are:

Statutory help with LTA limit provisions: The Regulations include a new provision, effective up until 6 April 2029, modifying scheme rules which limit benefits by reference to the lifetime allowance or the lifetime allowance charge. An interpretative approach is adopted that disregards the changes made to these concepts by Finance Act 2024. Whilst the provisions are not straightforward, they do appear to result in benefit limits being retained by statutory override, up until 6 April 2029, where the rule in question refers to the lifetime allowance. However, there are some areas where the provisions may not provide a complete solution:

- Where a limiting rule refers to the lifetime allowance charge the position is not clear cut as changes have already been made under Finance (No. 2) Act 2023, removing the lifetime allowance charge in 2023/24. Depending on drafting and construction, these limits may no longer apply from 6 April 2024.
- The provisions do not address the scenario where scheme rules actively limit benefit accrual by reference to the loss of enhanced or fixed protection, so such rules may cease to have limiting effect.
- As yet, no statutory modification powers have been provided to enable schemes with restrictive amendment powers to hard code the effect of these provisions into their rules before 6 April 2029. The expectation is that there will be lobbying for such powers to be legislated for in good time before the expiry of the new provisions.

Pension commencement excess lump sum (PCELS): As trailed in the February LTA newsletter, the "permitted maximum" for a PCELS is removed by the Regulations. The conditions for receiving a PCELS will therefore be very similar to those that currently apply for the lifetime allowance excess lump sum (LTAELS). There is an additional requirement for the PCELS to link to a pension, which wasn't the case for the LTAELS, but this requirement is typically met. The forfeiture regulations are also amended to permit payment of PCELS. These changes mean that typically it should be possible to offer the same options around pension commutation to members with significant pensions savings before and after 6 April 2024. However, in relation to money purchase benefits, it may be that commutation of funds over the lump sum allowance would result in an UFPLS. This is because if a lump sum can be paid in another authorised form it is not a PCELS, and it will be possible to pay money purchase funds over the lump sum allowance as a (taxable) UFPLS from 6 April 2024. An UFPLS would trigger the money purchase annual allowance, but a PCELS does not.

References in rules to LTAELS: The Regulations provide that rules referring to the **payment** of an LTAELS will be read as referring to the PCELS, expanding the existing provision which referred only to a member's **entitlement** to an LTAELS.

Continuity of the law: The Regulations provide for continuity of the law where statutory provisions are repealed but then re-enacted. For example, any certificates for enhancement factors which have already been issued will apply as they do now, once the relevant provisions have been re-enacted.

Transitional provision for lump sums: The Regulations include a transitional provision so that where a member became entitled to a LTAELS before 6 April 2024 but it is paid on or after that date, the pre 6 April 2024 tax rules apply.

Event reporting: As announced in the December LTA Newsletter and Newsletter 155, the Regulations amend Event 24:

- **Lump sums paid to a member** (such as pension commencement lump sum (PCLS) or a serious ill-health lump sum) will only have to be included on the Event Report where the lump sum exceeds either of the member's available lump sum allowances or would have exceeded them if the member had not had an enhanced allowance due to "any enactment". Schemes should be checking the available allowances when paying benefits in order to operate PAYE properly in any event, so this is a sensible landing place. Enhancement of allowances might be due to enhanced, primary, fixed or individual protections or enhancement factors but also covers protection of greater

than 25% lump sums (scheme specific lump sum protection) - a protection that schemes have not previously been required to report on in relation to PCLS.

- **Lump sum death benefits** that are "relevant benefit crystallisation events" (RBCEs) will only have to be reported where the aggregate of lump sums paid on the member's death exceeds the standard lump sum and death benefit allowance (LSDBA) (£1,073,100). This ties in with the approach that the personal representatives (PRs) will continue to provide information on death benefit lump sum payments to HMRC, and HMRC will continue to calculate and assess income tax due from beneficiaries where the allowance has been exceeded, so schemes will not have to check available LSDBA on a death. Schemes will be required to report on all these RBCEs to PRs - all death lump sums are RBCEs except charity lump sum and trivial commutation lump sum death benefits.

Other changes: The Regulations make detailed changes relating to trivial commutation and winding-up lump sums, the operation of the overseas transfer charge and allowance, enhanced and primary protection and transitional tax-free allowances, with the aim of making them work as intended under the new regime. Amendments are also made to the calculations for scheme specific lump sum protection, but HMRC acknowledges that the calculations still do not work as intended and further changes are expected.

Newsletters: The March LTA Newsletter includes a raft of detailed frequently asked questions both on the topics subsequently covered in the Regulations, and on matters such as the transitional arrangements where benefits have already been crystallised under the LTA regime. A further newsletter with further FAQs is expected this week.

More amending regulations: HMRC is expecting to publish further information on amending regulations shortly which are expected to have retrospective effect to that 6 April 2024.

Practical points:

- *Scheme administrators should ensure that they are aware of the changes to date and stay abreast of the further proposed changes.*
- *Trustees should stay in communication with administrators concerning steps being taken to comply with the new regime, as the legislative framework continues to be refined.*

INCREASES TO THE GENERAL LEVY

The general levy funds the core activities of the Pensions Regulator and the Pensions Ombudsman and the pensions-related activities (excluding Pension Wise) of the Money and Pensions Service. The increased activity of these bodies in recent years resulted in a significant deficit in funding. As a result, changes were made to the levy in 2021 but this was not sufficient to keep pace with expenditure. Following consultation, regulations have been issued setting out revised levy rates.

The amounts collected by the general levy no longer cover the running costs of the relevant organisations so the Government consulted last year on how the levy should be increased to avoid any deficit in funding. Its preferred option was to increase the levy for all schemes by 4% with an additional £10,000 premium being paid by small schemes in the future. However, the response to consultation suggested that the premium would represent a disproportionate cost for smaller schemes. The industry's preferred alternative was to retain the current levy structure and apply an increase of 6.5% per year for all schemes and it was felt that this amount could be absorbed by most schemes.

The Government is proceeding with the option favoured by industry. Regulations have been issued which come into force on 1 April 2024. The amount of the levy will depend on scheme type and size. For example, for DB schemes with over 500,000 members the 2024/25 levy will be £1.52 per member, rising to £1.73 by 2026/27 (up from the previous figure of £1.43). For similar sized master trusts, the levy will be £0.75 for 20245/45 rising to £0.86 in 2026/27 (up from £0.68). Smaller schemes pay significantly more.

Practical points:

- *Be aware of proposed levy increases and likely impact.*
- *Ensure sufficient liquidity to meet increased levy costs.*

CONTINUING FOCUS ON CONSOLIDATION

The Pensions Regulator and the Government are continuing to pursue an agenda of encouraging small schemes to consider consolidation to ensure better value and governance for members. To that end, the PPF has published details setting out what a public sector consolidator operated by it for schemes that are unattractive to commercial providers might look like. We have also seen Clara's second transaction.

Public sector consolidator: The Government confirmed in its recent consultation on options for DB schemes that it intends to establish a public sector consolidator administered by the PPF by 2026 which would provide an alternative end-game for schemes that are "*unattractive to commercial consolidation providers*" and enable "*greater investment in high growth UK assets*". More information about the consultation is set out in our February edition of Pensions Essentials.

The PPF has now published its preliminary view on how a consolidator operated by it could be structured. It envisages that key design features would include:

- Legal separation from other funds operated by the PPF with no cross-subsidy;
- Operating on a non-sectionalised basis to maximise efficiencies and economies of scale;
- An aim to run-on and pay all benefits out (rather than acting as a bridge to buy out);
- A requirement to accept transfers from all schemes that can meet its terms;
- Providing members with the actuarial equivalent of their full scheme benefits through a number of standardised benefit structures;
- Providing at least the level of security expected of commercial consolidators. The PPF believes the Government would be the most appropriate provider of that buffer and could, in return, have some input into the investment strategy; and
- Allowing entry from schemes with a deficit if the sponsoring employer enters into a payment schedule to fund any deficit over time. If the employer becomes insolvent before completing scheduled payments, member benefits would be reduced to reflect this.

Debenhams Pension Scheme transfers to Clara: The DB consolidator, Clara has announced its second transaction.

10,400 members of the £600million Debenhams scheme will be transferred to Clara. Members will receive their full benefits along with £4million in back-payments to make up for reductions in benefits during the PPF assessment period. Clara will provide £34million of new capital to increase the security of benefits. It is anticipated that benefits will be bought out in 5 to 10 years. The trustee said it chose Clara because insurers were not able to deliver full benefits to members.

The Debenhams scheme has been in PPF assessment period since 2019. As the scheme funding level is above the level required to provide PPF benefits (broadly 90% or 100% of scheme benefits depending on whether or not a member was at normal pension age at the beginning of the assessment period), the scheme will not enter the PPF. Legislation now requires it to wind-up.

The trustee of the Debenhams scheme was supported by the PPF in considering which options outside of the PPF would provide the best possible outcome for members. The PPF recently confirmed that the PPF+ Advisory Panel will support overfunded schemes in assessment and provide transaction advice. It also said that because the PPF completes rigorous checks on schemes during an assessment period, including identifying and cleansing data issues, insurers and commercial consolidators can treat the information they receive about the scheme with a high degree of confidence, which should lead to a more efficient transfer of the scheme.

Practical points:

- *Monitor development of consolidator market.*
- *Keep under review whether it might offer end-game solution.*

WATCH LIST

For upcoming developments see our new pensions horizon scanning webpage.

No	Topic	Effective date or expected effective date	Further information/action
1	Changes to DC scheme governance and disclosure	Later in 2024.	Consultation expected on phased introduction of new value for money framework for all DC schemes (excepting some small schemes). Draft regulations to extend CDC to multi-employer schemes expected in 2024. Proposals on consolidators for small DC deferred pots expected late 2024, a taskforce has been set up.
2	DB consolidation	Legislation "as soon as Parliamentary time allows", for new compulsory framework for superfunds. Public consolidator to be established by 2026, consultation on features closes on 19 April 2024.	TPR updated interim guidance - issued August 2023. Consultation is ongoing on PPF becoming a public consolidator and the conditions that should attach to its operation as such.
3	Changes to pensions tax allowances	Removal of lifetime allowance due on 6 April 2024 together with introduction of new tax-free cash allowances.	Abolition of lifetime allowance and introduction of new tax-free cash allowances from 6 April 2024, through Finance Act 2024 and amending Regulations. Further amending Regulations expected in 2024/25.
4	Repayment of surplus	The reduction in the tax charge is due to take effect on 6 April 2024 Current consultation closes on 19 April 2024.	Tax charge on repaying surplus to be reduced from 35% to 25%. Consultation underway on facilitating repayment of surplus in ongoing schemes and appropriate safeguards for members.
5	New DB funding and investment strategy requirements	Regulations come into force 6 April 2024. Funding and investment strategy in place 15 months from date of the first valuation obtained on or after 22 September 2024.	Consultation on covenant guidance expected in 2024. The final version of the funding regulations which set out detail around the funding and investment strategy and the statement of strategy have been issued.

No	Topic	Effective date or expected effective date	Further information/action
		Revised Code of Practice from TPR expected to be published Q2 2024.	TPR has issued a consultation on the form of the strategy statement.
6	Notifiable events for DB schemes on corporate and financing activity	Significant uncertainty about publication of Government response to consultation on draft Notifiable Events (Amendment) Regulations.	TPR will consult on update to Code of Practice 2 (Notifiable Events) and accompanying guidance once DWP have published their finalised regulations and consultation response.
7	Pensions dashboards	Compulsory connection deadline of 31 October 2026 for schemes with 100 or more active and/or deferred members at year end between 1 April 2023 and 31 March 2024; staging timetable to in DWP guidance. Application for deferral (in limited circumstances existing at 9 August 2023) must be made by 8 August 2024.	All registerable UK-based schemes with active and/or deferred members.
8	Corporate transparency	The Economic Crime and Corporate Transparency Act 2023 introduces requirements on identity verification, corporate directors and limited partnerships. The requirement to have a registered email address and for registered offices to meet certain requirements came into force on 4 March 2024. Other provisions are due to come into force later in 2024.	All corporate trustees and schemes using Scottish Limited Partnerships. More detail about what the Act requires can be found in our briefing.

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