

THE PENSIONS BRIEF

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Regulations making changes to the rules governing DC bulk transfers without consent

▲ Action required

▲ Follow development and keep under review

Issues affecting all schemes

Abolition of protected rights – expiry of statutory amendment power

Schemes which used to contract-out on the protected rights basis currently have a statutory power, exercisable by trustee resolution, to convert accrued protected rights into ordinary scheme benefits, and to remove the obsolete protected rights provisions from their scheme rules. This power will expire on 5 April. For more information, please see our [legal update](#).

Action

Trustees of schemes which were contracted-out on a protected rights basis who have not already exercised the statutory amendment power should ensure that they do so by 5 April.

Relief at source – Scottish rate of income tax

[Regulations](#) will come into force on 6 April that make changes to the way in which relief at source is administered to reflect the introduction of the Scottish rate of income tax.

HMRC has also published the February 2018 [edition](#) of its Pension schemes relief at source for Scottish Income Tax newsletter. Among other things, this confirms that, for the 2018/19 tax year, schemes operating relief at source can continue to collect tax relief at the basic rate of 20% for members who pay the new 19% Scottish rate of income tax, and that members who pay the new 21%, 41% or 46% rates will need to reclaim the additional tax relief via self-assessment or by contacting HMRC.

Action

Trustees of open schemes should liaise with their administrators to ensure that the changes to relief at source will be reflected in their scheme's administration processes. Trustees may also wish to consider notifying members about the income tax changes and how they can reclaim any additional tax relief due to them.

Automatic enrolment – 2018/19 earnings figures

An [order](#) will come into force on 6 April that sets the automatic enrolment earnings figures for the 2018/19 tax year as follows:

- earnings trigger: £10,000
- qualifying earnings band: £6,032 – £46,350

Action

Employers should ensure that their automatic enrolment processes are updated to reflect the new earnings figures when these come into force.

Lifetime allowance – new level for 2018/19

[Regulations](#) will come into force on 6 April that set the lifetime allowance for the 2018/19 tax year at £1.03 million.

Action

Trustees should liaise with their administrators to ensure that the change in the lifetime allowance will be reflected in their scheme's administration processes, and may wish to consider notifying members of the new allowance.

TPAS – dispute resolution function to be transferred

The Pensions Ombudsman has [announced](#) that it is taking over TPAS' dispute resolution function. The transfer is intended to simplify the process for pensions disputes by enabling individuals to access all pensions dispute resolution services in one place. TPAS will still provide pensions information and guidance.

Action

Trustees should update references in their member communications to TPAS' dispute resolution function to reflect the transfer to the Ombudsman.

CMA investment consultancy market investigation – progress update

The Competition and Markets Authority (CMA) has published a [progress update](#) on its investigation into the investment consultancy market. This sets out the work undertaken to date, and the next steps in the investigation. It also confirms the CMA's intention to focus on pension schemes as the main customer group in the investment consultancy market.

The CMA has also published a [working paper](#) setting out its analysis and emerging findings to date in respect of the information available to trustees on the fees and quality of investment consultants and fiduciary managers. The evidence reviewed so far indicates that competitive processes are not providing customers with the necessary information to judge the value for money of investment consultants and fiduciary managers. No provisional or final decisions have been made at this stage on any potential adverse effects on competition or on potential remedies, as the inquiry is on-going. The paper includes an update on potential remedies and some specific questions on which the CMA would welcome views. The deadline for responses to the paper is 22nd March.

Action

Trustees should keep the progress of the investigation under review.

Failure to obtain audited scheme accounts – penalties

The Pensions Regulator has [fined](#) four trustees £500 each for failing to obtain audited accounts and an auditor's statement for two consecutive years. This is the first time that the Regulator has issued a fine for this type of statutory breach, and demonstrates the Regulator's increasing willingness to issue monetary penalties for administrative breaches.

Action

No action required, but trustees should ensure that they comply with their obligation to obtain audited annual accounts.

Service providers – Pensions Regulator statement

The Pensions Regulator has published a [statement](#) summarising its expectations of good practice by trustees on the management of service providers, and planning for events which could have major consequences for their schemes, including the failure of service providers.

Action

No action required, but trustees should ensure that they properly manage their service provider arrangements and may find the statement helpful in this respect.



Issues affecting DB schemes

2018/19 PPF levy – forthcoming deadlines

The deadlines for provision of most information and documentation in connection with the 2018/19 PPF levy, including certification of contingent assets and asset-backed contribution arrangements, are 29 and 31 March. For more information, please see our [legal update](#).

Action

Trustees and employers should ensure that any information and documentation required by 29 or 31 March is submitted by those dates.

Contracted-out rights – bulk transfers without consent

[Regulations](#) will come into force on 6 April that make changes to the rules governing bulk transfers of contracted-out rights to permit bulk transfers without consent to schemes that have never been contracted-out in certain circumstances. Among other things, the transfer would be subject to the conditions that:

- the transferring and receiving scheme employers are “connected” in certain specified ways e.g. part of the same corporate group;
- the receiving scheme uses the part of the transfer payment that relates to the post-April 1997 contracted-out rights being transferred to provide benefits which would meet the reference scheme test that was in force on 5 April 2016; and
- the receiving scheme meets certain conditions in relation to any GMPs being transferred.

Action

No action required.

Employer debt – new deferral option

[Regulations](#) will come into force on 6 April that introduce a new option for employers in multi-employer schemes who suffer an employment cessation event to defer payment of the employer debt thereby triggered. A number of conditions would need to be met, including a requirement for trustee consent. However, a funding test that was included in the consultation version of the regulations has been removed. The deferred employer would remain an employer for scheme funding purposes.

Action

No action required.

Pensions Ombudsman – request for GMP equalisation confirmation on a transfer

The Deputy Pensions Ombudsman has [decided](#) that a transferring scheme was not obliged to provide confirmation to the receiving scheme that the benefits to be transferred had been equalised or an equalisation indemnity, nor was the receiving scheme obliged to accept the transfer in the absence of the confirmation or indemnity. Both decisions were commercial decisions for the respective schemes.

Action

No action required.



Issues affecting DC schemes

DC charges and investment disclosure – new requirements

Regulations will come into force on 6 April that introduce a range of new charges and investment disclosure requirements for DC schemes. Among other things, the regulations:

- expand the information on charges and transaction costs that trustees must include in the scheme’s annual DC governance statement for scheme years ending on or after 6 April (schemes must have regard to statutory guidance in producing this information);
- introduce a requirement for DC schemes to publish certain information on charges and transaction costs and the scheme’s default arrangement(s) contained in the scheme’s annual governance statement on a website for scheme years ending on or after 6 April;
- require additional information to be included in money purchase benefit statements for scheme years ending on or after 6 April; and
- introduce a requirement for DC schemes to prepare a document containing certain information in relation to pooled funds in which member assets are invested from 6 April 2019.

Action

Trustees should ensure that they make arrangements to comply with the new disclosure requirements that will come into force for scheme years ending on or after 6 April.

DC bulk transfers without consent – new rules

Regulations will come into force on 6 April that change the rules governing bulk transfers of DC benefits without member consent to, among other things:

- remove the actuarial certification requirement for “pure” DC to DC transfers (i.e. where there are no guarantees or other options attaching to the benefits); and
- introduce a requirement for trustees making a pure DC to DC bulk transfer to obtain written advice from an “appropriate adviser” who is independent of the receiving scheme unless:
 - the transfer is to an authorised master trust; or
 - the transferring and receiving scheme employers are part of the same corporate group.

Action

No action required.



Mayer Brown events

If you are interested in attending any of our events, please contact Katherine Carter (kcarter@mayerbrown.com) or your usual Mayer Brown contact. All events take place at our offices at 201 Bishopsgate, London EC2M 3AF.

Trustee Foundation Course

15 May 2018

11 September 2018

11 December 2018

Our Foundation Course aims to take trustees through the pensions landscape and the key legal principles relating to DB funding and investment matters, as well as some of the specific issues relating to DC schemes, in a practical and interactive way.

Trustee Building Blocks Class

12 June 2018 – topic to be confirmed

13 November 2018 – topic to be confirmed

Our Building Blocks Classes look in more detail at some of the key areas of pension scheme management. They are designed to be taken by trustees who have already taken our Foundation Course.

The View from Mayer Brown: Pensions Podcasts

Every month Richard Goldstein, a partner in our Pensions Group in London, places a spotlight on key developments that could affect your scheme in a podcast. Just 10-15 minutes long and available on iTunes, the podcasts provide a quick and easy way to stay on top of current issues in pensions law.

Listen to or subscribe to The View from Mayer Brown Pensions Podcasts via iTunes here:



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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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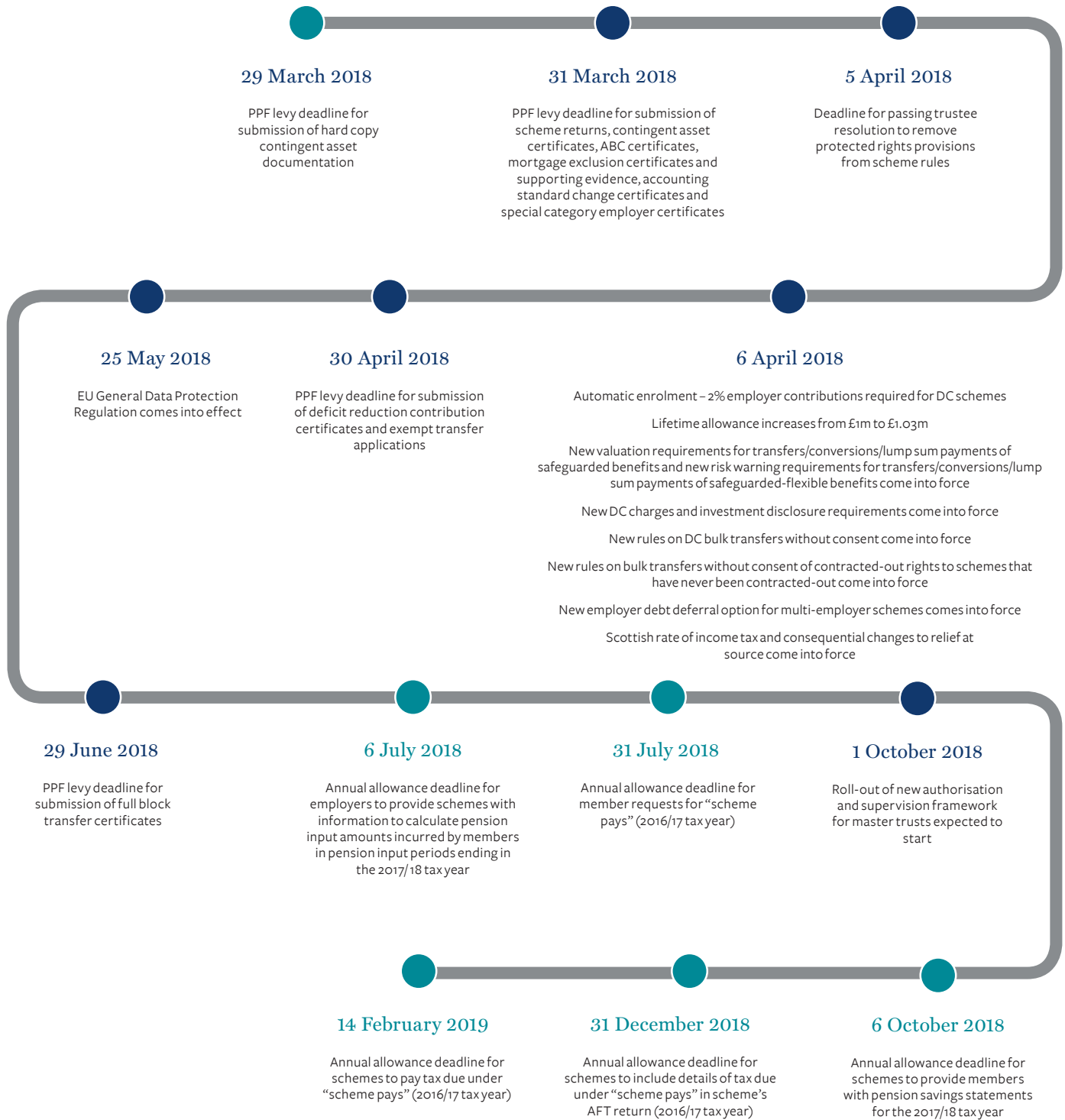
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Dates to note over the next 12 months



Key:



Important dates to note



For information

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