

# The Pensions Brief

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## PENSIONS OMBUDSMAN

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### ▲ GMP CONVERSION

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Updates on equalisation-related tax issues

### CONTRIBUTION NOTICES

Pensions Regulator issues a contribution notice

▲ Action required

▲ Follow development and keep under review



## Issues affecting all schemes

### Pensions Ombudsman – Early Resolution Service

The Pensions Ombudsman has published a [factsheet](#) on its Early Resolution Service (ERS). The factsheet covers points including the following:

- The ERS is intended to be used for complaints that the Ombudsman believes can be resolved informally through consent and cooperation rather than a formal opinion by an Adjudicator or determination by the Ombudsman.
  - Use of the ERS is voluntary and all the parties to a complaint must agree for it to be used.
  - Complaints will be transferred to the Adjudication Team if the parties cannot agree a resolution or if one party says that it no longer wishes to use the ERS.
- If a complaint that has gone through the ERS is subsequently considered by the Adjudication Team/the Ombudsman, they will consider the complaint afresh and will not automatically follow any view expressed by a caseworker during the ERS.
  - The ERS does not have any legal powers to determine complaints or make directions against parties – instead, complaints are resolved by mutual agreement between the parties.

#### Action

No action required, but trustees, employers and administrators may find the factsheet helpful.

## Issues affecting DB schemes

### Pensions Regulator – annual funding statement

The Pensions Regulator has published its 2022 [annual funding statement](#) which is targeted at schemes undergoing valuations with effective dates between 22 September 2021 and 21 September 2022. It is also relevant to schemes on a more general basis by highlighting risk management practices, regulatory developments and current issues.

The statement emphasises that schemes currently undergoing valuations are doing so in a period of high inflation, high energy prices, higher interest rates and slower economic growth, all of which may impact scheme assets and liabilities and the employer covenant. Trustees need to be alert to the possibility of their scheme’s funding position, investments and employer covenant being more volatile and potentially changing quickly. It is important for trustees to understand the key risks to their scheme and the effectiveness of their strategies to manage them. The statement includes tables setting out, for each of 10 covenant categories, the key risks the Regulator expects trustees and employers to focus on, and actions to take, depending on the scheme’s funding strength, maturity, and employer covenant strength.

For more information, please see our [legal update](#).

#### Action

Trustees and employers of schemes that are currently undergoing a valuation or are reviewing their funding strategy should review the statement and take it into account in their funding discussions. Trustees and employers of other schemes should also review the more general messages in the statement around risk management practices, regulatory developments and current issues.

### Guaranteed minimum pensions – conversion

An [Act](#) designed to clarify the legislation on guaranteed minimum pension (GMP) conversion has received Royal Assent. In particular, the Act replaces the provisions in the current conversion legislation on minimum post-conversion survivors’ benefits and obtaining employer consent.

In order for the changes to have effect, the government will need to:

- Bring the changes into force.
- Make regulations setting out, among other things, the conditions that the minimum post-conversion survivors’ benefits must meet and which persons (if any) must consent to the conversion.

The government has not provided a timetable for these actions.

#### Action

Trustees and employers who are interested in GMP conversion should keep the implementation of the Act under review.



### Guaranteed minimum pensions – equalisation

HMRC has published a [newsletter](#) providing:

- Additional guidance on the tax consequences of guaranteed minimum pension (GMP) equalisation – specifically in relation to top-up transfer payments to receiving schemes and the payment of lump sums to members.
- Guidance on the tax consequences of GMP conversion.

The Pensions and Lifetime Savings Association has also published a [press release](#) summarising HMRC’s position on the tax treatment of the interest element (as opposed to the arrears element) of GMP equalisation payments.

#### Action

No action required, but trustees and administrators may find the newsletter and press release helpful when planning GMP equalisation projects.

### Contribution notices – new notice issued

The Pensions Regulator has published a [determination notice](#) and a [regulatory intervention report](#) relating to the issuing of a contribution notice for over £2 million to an overseas parent company which sold a subsidiary group of companies to a management buyout company which had no realistic prospect of being able to support the business. The group, including the sponsoring employers of the group pension scheme, went into administration eight months after the sale.

The contribution notice comprised a principal sum of just under £1.5 million and an additional sum of over £600,000 for lost investment returns plus interest with a further daily interest rate of over £100, up to a maximum sum of over £2.3 million. This is the first time that the Determinations Panel has awarded an additional sum for lost investment returns to a scheme and interest for the time-value of money in the hands of a target.

The Regulator’s investigation also resulted in a settlement of £130,000 with a potential second contribution notice target who was the chief executive of the group and who led the management buyout.

#### Action

No action required.

## Mayer Brown news

### Upcoming events

All events will take place as online webinars. For more information or to book a place, please contact [Katherine Carter](#).

- **Trustee Foundation Course**
  - 8 June 2022
  - 7 September 2022
  - 7 December 2022
- **Trustee Building Blocks Classes**
  - 11 May 2022 – member communications
  - 9 November 2022 – trustee discretions and decision-making

### Employer Perspectives – news and views on employment and pensions issues

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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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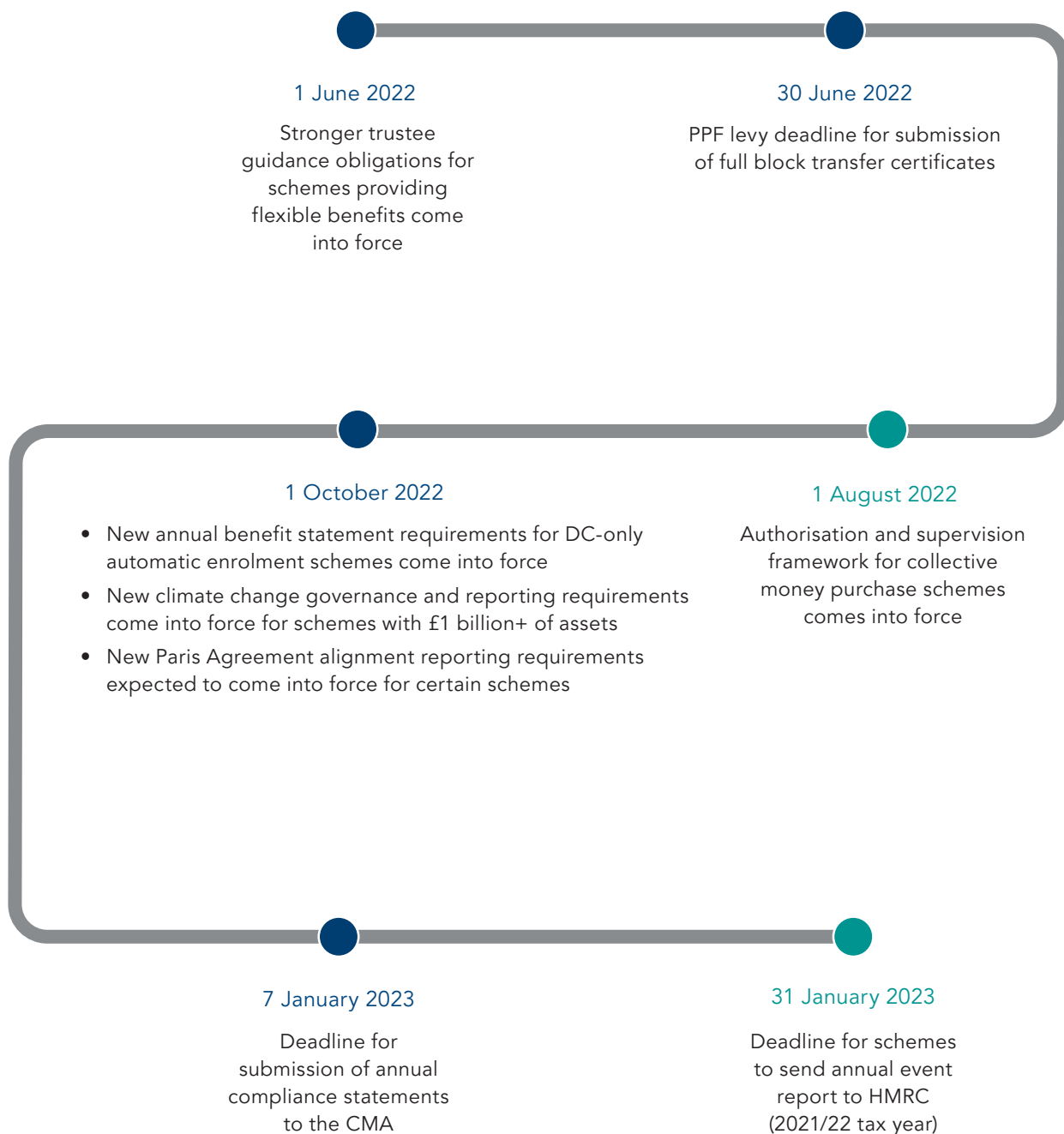
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## Dates to note over the next 12 months



**Key:**

- Important dates to note
- For information

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