

The Pensions Brief

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CHANGES TO PENSION RIGHTS

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▲ Action required

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Issues affecting DB schemes

▲ **PENSION PROTECTION FUND**

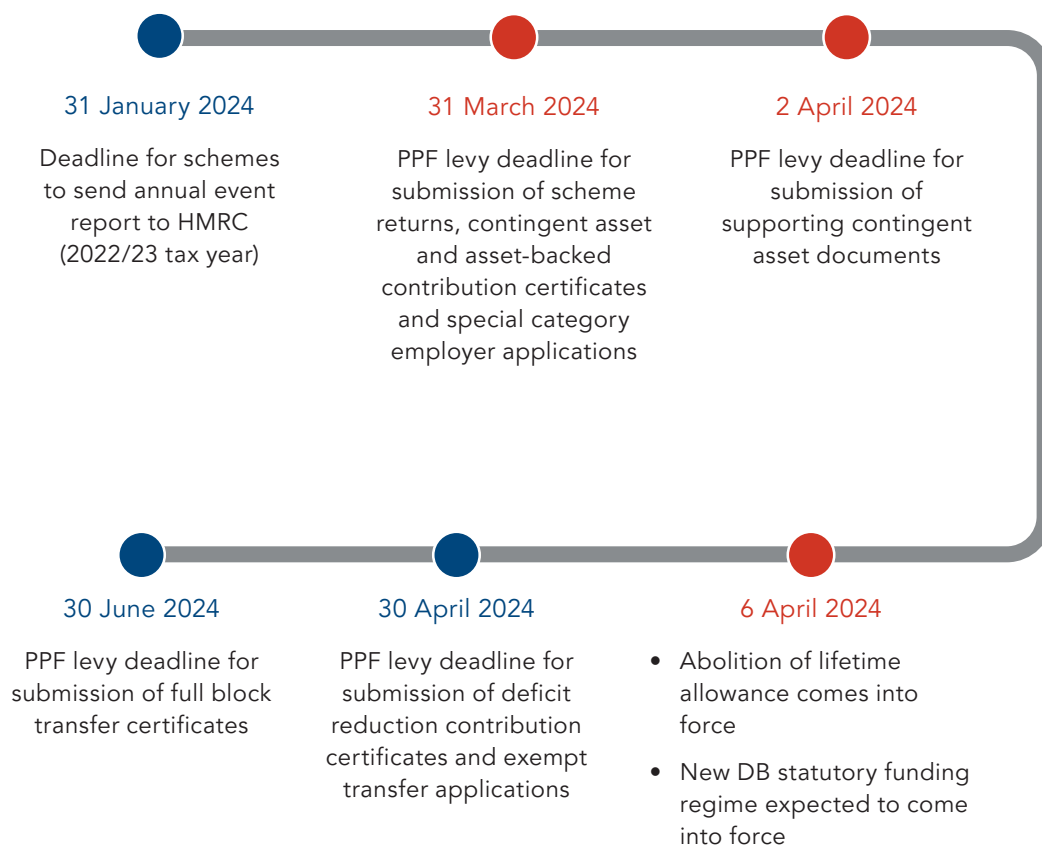
Finalised 2024/25 levy rules

M&A ACTIVITY

Pensions Regulator speech



Dates to note over the next 12 months



Key:

- Important dates to note ● For information

Issues affecting all schemes

Lifetime allowance abolition – HMRC newsletter

HMRC has published a [newsletter](#) which provides an update on the abolition of the lifetime allowance (LTA) and the new lump sum regime that will apply from April 2024. The newsletter covers:

- Pension commencement lump sums, including the new pension commencement excess lump sum.
- Operating PAYE on taxable lump sums.
- Taxation of dependants or nominees flexi-access drawdown pensions or annuities.
- LTA enhancement factors.
- Application deadlines for LTA protections and enhancements.
- Reporting requirements.
- Taxation of lump sum death benefits.
- Lump sum death benefits paid from rights crystallised before 6 April 2024.
- The overseas transfer allowance and the overseas transfer charge.
- Taxation of benefits paid to/in respect of members of relevant non-UK pension schemes.
- Transitional arrangements.
- The LTA protection look-up service.

Action

[Trustees and administrators](#) should consider what changes they will need to make to their scheme's administration processes and member communications in light of the changes. The newsletter may be helpful in this respect.

Cyber security – Pensions Regulator guidance

The Pensions Regulator (TPR) has updated its [guidance](#) for trustees on cyber security. The updated guidance covers:

- What cyber risk is.
- The trustees' role.
- Assessing and understanding cyber risk.
- Ensuring controls are in place.
- Responding to cyber incidents.
- Reporting a cyber incident.
- Links to more information.

The key addition to the guidance is a request for trustees and their advisers and providers to report significant cyber incidents to TPR on a voluntary basis as soon as reasonably practicable.

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

Action

[Trustees](#) should review the guidance and consider whether any changes are required to their cyber security arrangements.

Overpayments – recoupment

The Pensions Ombudsman (TPO) has [responded](#) to the Court of Appeal's decision that TPO is not a "competent court" for the purposes of enforcing recoupment of an overpayment (i.e. recovery of the overpayment by deducting it from future instalments of the member's pension) and that a County Court order is required. Among other things, the response notes that the government is supporting legislative changes to enable TPO to bring overpayment disputes to an end without the need for a County Court order. TPO has also published a [factsheet](#) providing guidance on how overpayment disputes should be managed in light of the Court of Appeal's decision.

In addition, TPO has published its first determination in an overpayments case since the Court of Appeal's decision. TPO decided that, although the member had been overpaid and did not have a valid defence to recovery of the overpayment, the complaint should be partially upheld as the scheme should not have commenced the recovery of the overpayment without an order of a competent court. TPO directed:

- The scheme to repay the amounts already recovered back to the member and to restore the member's pension to its original level.
- That, subject to obtaining an order of a competent court, the scheme could recoup the overpayment.

Action

No action required, but trustees and administrators may find the factsheet helpful when updating their scheme's procedures for recovering overpayments to reflect the Court of Appeal's decision.

Pensions dashboards – Industry guidance

The Pensions Administration Standards Association (PASA) has published the first in a planned series of guidance on what schemes need to do to get ready to connect to the dashboards ecosystem. The guidance sets out five pillars of what it means for a scheme to be "connection ready", covering:

- Governance readiness.
- Matching readiness.
- Pensions values readiness.
- Technology readiness.
- Administration readiness.

The guidance also includes an indicative timeline of how long it may take schemes to achieve readiness across all five pillars. In addition, PASA has published a "call for action" outlining the top five actions that schemes need to undertake now.

Separately, the Pensions Dashboards Programme has published FAQs on preparing for connection to the dashboards ecosystem. The FAQs cover:

- What data preparation involves.
- How providers and schemes match data.
- The different routes to connection.
- Where schemes can find more information on connection.

Action

No action required, but trustees and administrators may find the guidance and FAQs helpful in their dashboards preparation.

Compensation for changes to pension rights – tax treatment

The Court of Appeal has allowed an appeal against the Upper Tribunal's decision that payments made to employees in exchange for them agreeing to change their future terms and conditions of employment (including terms as to accrual of pension rights) were compensation for loss of pension rights and were not therefore taxable as employment income. The Court held that the payments derived from the employees' employment and were therefore taxable as employment income.

Action

No action required.

Issues affecting DB schemes

Pension Protection Fund – 2024/25 levy

The Pension Protection Fund (PPF) has published its 2024/25 levy [policy statement](#). The statement confirms that:

- The levy estimate is £100 million. The PPF believes that, given the statutory restrictions on the extent to which it can increase the levy from one year to the next, £100 million is the lowest levy that it can charge whilst maintaining the capability to revert to charging a material levy over a reasonable period, should this prove necessary in future.
- The PPF is working with the government on the need for changes to the legislative framework governing the levy and the government has agreed to revisit the legislation as soon as parliamentary time allows.
- As proposed in the consultation on the 2024/25 levy, only minor changes will be made to the levy rules.
- Going forwards, the PPF will use two credit rating agencies – S&P and Fitch. This is expected to have limited impact on schemes.
- The PPF will take into account the feedback received on its approach to the levy from 2025/26 onwards as it further develops its proposals for next year.

The PPF has also [published](#) the 2024/25 levy rules and accompanying guidance and forms.

The key dates for the 2024/25 levy are:

- 31 March 2024 (midnight) – submission of scheme returns, contingent asset certificates, asset-backed contribution certificates and special category employer applications.
- 2 April 2024 (5pm) – submission of supporting contingent asset documents.

- 30 April 2024 (5pm) – submission of deficit reduction contribution certificates and exempt transfer applications.
- 30 June 2024 (5pm) – submission of full block transfer certificates.

Action

[Trustees and employers](#) should ensure that any required information and documentation is submitted by the relevant deadline.

M&A activity – impact on DB schemes

The CEO of TPR has given a [speech](#) on TPR's supervisory expectations and approach relating to protection of pension schemes during M&A transactions. The speech's key messages include:

- TPR's priorities are to protect, enhance and innovate in members' interests.
- Its focus in relation to DB schemes is on making sure they pay the promised benefits.
- TPR's role is not to prevent M&A transactions, but rather to make sure members' interests are represented.
- Schemes should be treated equitably alongside other creditors.
- Early engagement between corporates and the trustees and TPR can ensure that a transaction takes place smoothly.

Action

No action required.

Mayer Brown news

Upcoming events

For more information or to book a place, please contact [Katherine Carter](#).

- **Trustee Foundation Course**
 - 6 March 2024
 - 5 June 2024
 - 11 September 2024
 - 11 December 2024
- **Trustee Building Blocks Classes**
 - 15 May 2024 – topic TBC
 - 13 November 2024 – topic TBC
- **Quarterly webinars**
 - 20 March 2024 – topic TBC
 - 26 June 2024 – topic TBC
 - 24 September 2024 – topic TBC
 - 27 November 2024 – topic TBC

Mayer Brown legal updates

- [Cyber security – Pensions Regulator publishes updated guidance for trustees](#)

Our legal updates from the last three months 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:



Jay Doraisamy

Co-Head of Pensions, London
E: jdoraisamy@mayerbrown.com
T: +44 20 3130 3031



Andrew Block

Co-Head of Pensions, London
E: ablock@mayerbrown.com
T: +44 20 3130 3366

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