MAYER | BROWN

April 2024

The Pensions Brief

At a glance...

Issues affecting all schemes

CLIMATE CHANGE

TPR review of TCFD reports

PENSIONS DASHBOARDS

Updated data standards

NEW LUMP SUM REGIME

Further HMRC guidance

Issues affecting DB schemes

SCHEME FUNDING

TPR annual funding statement

OVERPAYMENTS

TPO decision on defences to recoupment

GBP LDI FUNDS

New buffer requirements

ALTERNATIVE DB OPTIONS

TPR blog post

Issues affecting DC schemes

PENSIONS DASHBOARDS

Guidance on calculating annualised pot values

▲ Action required

▲ Monitor development

Dates to note over the next 12 months

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

Climate change – TCFD reports

The Pensions Regulator (TPR) has published its latest review of TCFD reports. The review covered 30 reports for scheme years ending between 1 October 2022 and 30 September 2023, representing around 10% of the total reports for that period. Key findings included:

- It was helpful to include scheme information near the beginning of reports to put the rest of the report in context.
- When referring to specific investment mandates, it was helpful to explain their size relative to the total scheme assets.
- The quality of reports could be improved by including specifics on policies in place, steps taken to manage risks and information received from advisers, rather than generic wording.
- Reusing parts of previous reports is a sensible way of producing the report efficiently. However, if trustees take this approach, they should include a summary of developments and activities during the reporting year.
- The quality of reports did not necessarily correlate with their length. Some better reports were more concise and efficient in how they addressed disclosure requirements.
- Some reports had excellent plain English summaries aimed at members. This allowed the remainder of the report to be written with a more informed/technical reader in mind, potentially aiding brevity.
- Where trustees have used the reporting process to identify additional work that needs to be carried out, they should set an action plan for this, monitor progress and update on progress in their next report.

The review also provides specific feedback on each section of the reports, setting out good practice observed, issues observed and ways to improve future reports. For more information, please see our legal update.

Action

Trustees of schemes that are subject to the requirement to produce a TCFD report should review TPR's findings and consider what needs to be factored into their next TCFD report.

Pensions dashboards – data standards

The Pensions Dashboards Programme (PDP) has published an updated version of the data standards for pensions dashboards. The data standards set out the data formatting requirements that schemes must follow when returning pensions data and are designed to help schemes understand how to provide the data. The standards remain subject to ministerial approval.

The PDP has also published FAQs on connecting to the dashboards ecosystem and the recently published statutory guidance setting out the staged connection timetable. The FAQs cover:

- Ways to connect.
- What the "connect by" date is and why it is important for schemes to connect by that date.
- Whether the PDP will produce materials to support connection.
- How schemes can defer connection to a later date.

Action

Trustees and administrators should review the updated standards and factor them into their dashboards preparations.

New lump sum regime – further guidance

HMRC has published further guidance on a number of areas relating to the abolition of the lifetime allowance (LTA) and the new lump sum regime, including benefits which are paid on or after 6 April 2024, entitlement to which arose prior to that date. HMRC has also published a consolidated version of the FAQs that it has published in relation to the abolition of the LTA and the new lump sum regime.

Action

No action required, but trustees and administrators may find the guidance and FAQs helpful.

Issues affecting DB schemes

Scheme funding – TPR annual funding statement

TPR has published its 2024 annual funding statement. This is targeted at schemes with an effective valuation date between 22 September 2023 and 21 September 2024. Its key messages include:

- Most schemes have seen material improvements in funding levels, with half expected to have exceeded their estimated buy-out funding levels. This gives trustees and employers an opportunity to reassess their long-term targets and consider run-on, consolidator or insurance options.
- Where funding levels have improved significantly, trustees should consider whether continuing with the existing strategy and level of risk is in the best financial interests of members. If not, they should aim to redirect some of the funding level improvements towards a funding and investment strategy that is aligned with their future plans for the scheme.
- A sizeable minority of schemes are expected to still be in deficit on a technical provisions basis. Trustees of these schemes will need to continue to focus on achieving a recovery plan that is as short as reasonable, based on employer affordability. They will also need to pay careful attention to the employer covenant, given their higher reliance on it.

For more information, please see our legal update.

In addition, changes to the statutory scheme funding regime came into force on 6 April 2024, including:

- The requirement for trustees to determine a funding and investment strategy and to prepare a written statement of that strategy.
- A requirement for a scheme's technical provisions to be calculated in a way that is consistent with the funding and investment strategy.
- A requirement for schemes to submit a copy of their actuarial valuation to TPR as soon as reasonably practicable after obtaining it.

The changes only apply in relation to valuations with an effective date on or after 22 September 2024.

Action

Trustees and employers of schemes that are currently undergoing a valuation or reviewing their funding and investment strategies should review TPR's annual funding statement and take it into account in their funding discussions. Trustees and employers of other schemes may also wish to review the statement.

Overpayments – defences to recoupment

The Pensions Ombudsman (TPO) has upheld a complaint about a scheme's attempt to recoup overpayments totalling over £90,000 that had built up between December 1996 and July 2020. The complaint followed a 2019 court ruling that changes to the scheme's rules in 1992 to introduce higher pension increases were invalid. The scheme trustees were seeking to recover the overpayments by recouping them from the member's future pension payments at a rate of £307 per month. TPO decided that:

- It was not equitable for the trustees to recoup the overpayments that had built up before August 2019.
- The member also had a defence of laches to the recovery of the overpayments that had built up from February 2013 to July 2019. (Laches is a defence which applies where a claimant has failed to bring a claim in a timely manner and the court considers that it would be unfairly prejudice the defendant to allow the claimant to proceed with the claim.)

TPO directed that, subject to first obtaining the approval of the County Court, the trustees could recover the overpayments that had built up from August 2019 (which totalled £6,554) by recouping them from the member's future pension payments at a rate of £200 per month. TPO also directed the trustees to pay the member £1,000 for the significant distress and inconvenience caused.

Action

Trustees and administrators should bear TPO's decision in mind when deciding how to approach recoupment of overpayments.

GBP LDI funds – buffer requirements

The European Securities and Markets Agency has announced that GBP liability-driven investment (LDI) funds established in Ireland and Luxembourg will be required to establish a yield buffer of at least 300 basis points i.e. they must be able to withstand a rise in GBP yields of at least 300 basis points. The requirement applies from 29 April 2024. All GBP LDI funds established on or after that date must comply immediately, while existing funds have three months within which to comply.

Action

Trustees of schemes which have established GBP LDI funds in Ireland or Luxembourg should confirm that the fund will comply with the buffer requirements by the three month deadline.

New DB options – TPR views

TPR has published a blog post on innovation in the DB market. The post notes that new DB models must offer both clear benefits and proper protections for members. TPR plans to publish guidance later this year on profit release mechanisms for DB superfunds and on DB alternative arrangements such as capital-backed journey plans. The post also mentions a new option that has been proposed whereby DC members would transfer into a new scheme that would provide a DB pension. TPR, other regulators and the government are considering whether a solution like this one could be supported and TPR does not expect the market to develop further until this question has been resolved.

Action

No action required.

Issues affecting DC schemes

Pensions dashboards – annualised accrued pot values

The government has published guidance for schemes on preparing an annualised version of accrued DC pot values.

Action

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

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 – topic TBC
  24 September 2024 – topic TBC
  27 November 2024 – topic TBC

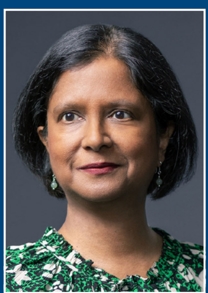
Mayer Brown Insights

- TCFD Reporting Pensions Regulator Review of 2023 Reports | Insights | Mayer Brown
- UK GDPR and the price of non-compliance: ICO issues new guidance on calculating fines | Insights | Mayer Brown
- DB Pension Scheme Funding – Pensions Regulator 2024 Annual Funding Statement | 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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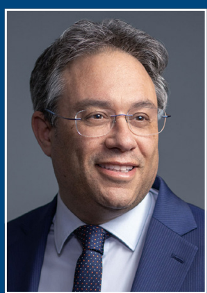

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