

The Pensions Brief

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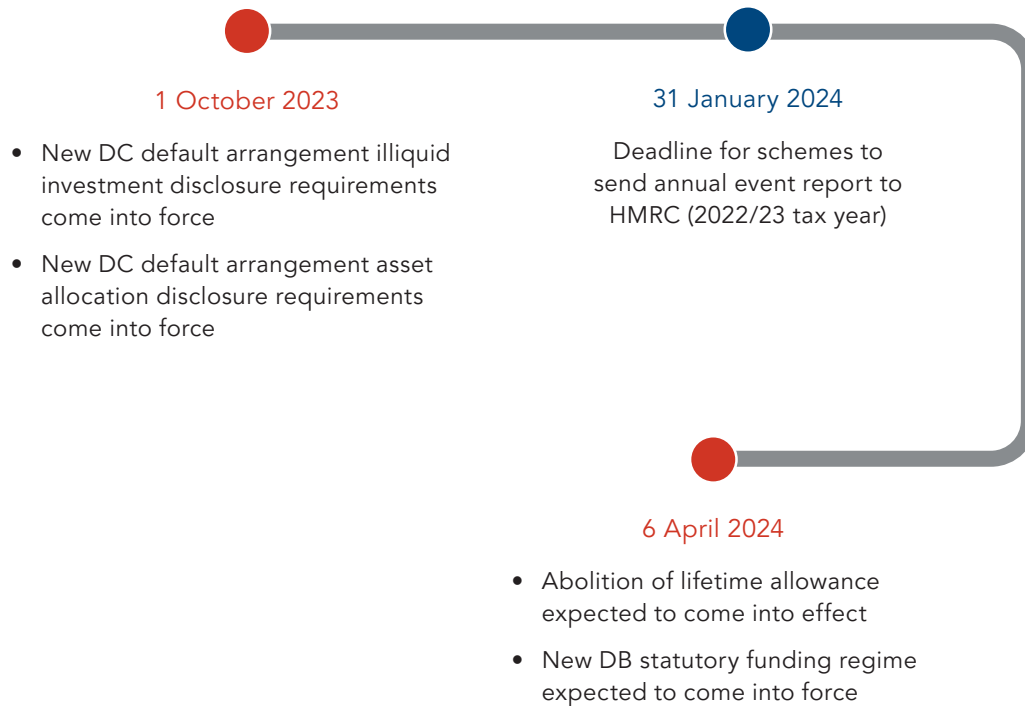
Updated Pensions Regulator guidance

▲ Action required

▲ Monitor development



Dates to note over the next 12 months



Key:

- Important dates to note ● For information

Issues affecting all schemes

Climate scenario analysis – blog post

The Pensions Regulator (TPR) has published a [blog post](#) on how trustees can make climate scenario analysis “decision-useful”. The post looks at some of the problems that have been identified in relation to the climate scenario analysis being conducted by trustees and sets out steps that trustees should take to improve their scenario analysis.

Action

Trustees of schemes that are subject to the climate change governance and reporting requirements (i.e. schemes with £1 billion+ of assets) should review the blog post and factor TPR’s comments into their next climate scenario analysis.

Equality, diversity and inclusion (EDI) – blog post

The Pensions Regulator (TPR) has published a [blog post](#) on EDI. The post:

- Notes that TPR is committed to attracting diverse talent.
- Explains how the results of TPR’s recent diversity and inclusion survey will help TPR to understand the current position as regards EDI on trustee boards and to develop its approach and next steps for improving EDI.
- Reiterates the benefits of improved EDI on trustee boards and reminds trustees of TPR’s EDI guidance.

Action

No action required.

Pensions dashboards – connection deferral

The government has updated its [guidance](#) on deferral of connection to the dashboards ecosystem to reflect the recent changes made to the statutory framework for dashboards, in particular the introduction of a single connection deadline of 31 October 2026.

Action

No action required.



Issues affecting DB schemes

DB superfunds – updated guidance

The Pensions Regulator (TPR) has reviewed and updated its [guidance](#) for trustees and employers on transferring to a DB superfund. TPR has also published a [blog post](#) on the review and the updated guidance. This notes that the key areas where the guidance has been amended are:

- Changes to the gateway principles to ease the way for schemes transferring to a superfund.
- Changes to TPR’s funding expectations.
- Signalling a change in TPR’s position on profit extraction – TPR will engage further with the industry on how this will work and will issue an update in due course.
- Greater clarity on some of TPR’s expectations for the assessment process.

Action

No action required.

Benefits – data accuracy

The Pensions Administration Standards Association has published [guidance](#) for DB schemes on benefit accuracy. The guidance is designed to support schemes in understanding key areas which will support benefit accuracy and focuses on:

- Benefit specification.
- Data specification.
- Benefit audit.
- Automation.
- Independent assurance.

Action

No action required.

Employer distress – issuing winding-up petitions

The High Court has approved a decision by the trustee of a DB scheme to issue petitions for the winding-up of the scheme's two sponsoring employers. The employers owed a significant level of outstanding contributions to the scheme and the evidence indicated that they would not be able to pay the scheme what they owed in the future. In addition, the employers had repeatedly failed to provide the trustee with complete and/or meaningful information on their financial situation and business prospects. As a result, the scheme was suffering from "scheme drift" i.e. where the scheme is in deficit and its proportionate funding level worsens with the passage of time. However, the scheme was also experiencing "Pension Protection Fund (PPF) drift" i.e. where the longer it takes for an employer to suffer a qualifying insolvency event, the greater the level of PPF compensation that will be payable to members e.g. because a greater number of them will have reached normal pension age. The trustee had reached a decision in principle to issue the winding-up petitions, but had expressly decided not to take the existence of the PPF into account in reaching that decision.

The Court held that the trustee had considered and taken into account:

- The financial circumstances facing the scheme, including the debts owed to it and the likelihood of the employers making good on any or all of them.
- The consequences for members of the continuation of the scheme without its winding up i.e. scheme drift and the continued erosion of the scheme's assets.
- The trustee's duties to call in and protect the scheme's assets.
- The trustee's duties to protect the interests of the scheme members.

The trustee had also sought to keep its information on the employers' position updated and had taken appropriate advice.

In addition, the Court held that the trustee could not have sought to take advantage of the existence of the PPF to justify failing to take steps to prevent the scheme deficit (and scheme drift) increasing further.

Action

No action required.



Issues affecting DC schemes

Default arrangement investments – updated guidance

The Pensions Regulator has updated the following guidance for DC schemes to reflect the new charging and disclosure requirements in relation to DC default arrangements that were introduced earlier this year:

- [DC code of practice](#).
- [DC investment governance](#).
- [Communicating and reporting: DC schemes](#).

For more information on the new charging and disclosure requirements, please see our [legal update](#).

Action

No action required, but trustees may find the updated guidance helpful when complying with the new requirements.

Mayer Brown news

Upcoming events

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

- **Trustee Foundation Course**
[6 September 2023](#)
6 December 2023
- **Trustee Building Blocks Classes**
8 November 2023 – Pensions dashboards
- **Quarterly webinars**
[27 September 2023 – Preparing a benefit specification for buy-in or buy-out](#)
13 December 2023 – topic TBC

Recent Mayer Brown work

- [Richard Evans](#), [Beverly Cox](#) and [Liam Kellett](#) advised the trustee of the ITB Pension Funds on a £290 million buy-in with Just Group. The transaction is the fifth and final buy-in completed by the Funds Open Fund, which has now fully secured all members benefits using a phased buy-in strategy.

Mayer Brown legal updates

- [OPEN Talks: Equality, Diversity and Inclusion – The Pensions Regulator’s Guidance](#).

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.

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