

# The Pensions Brief

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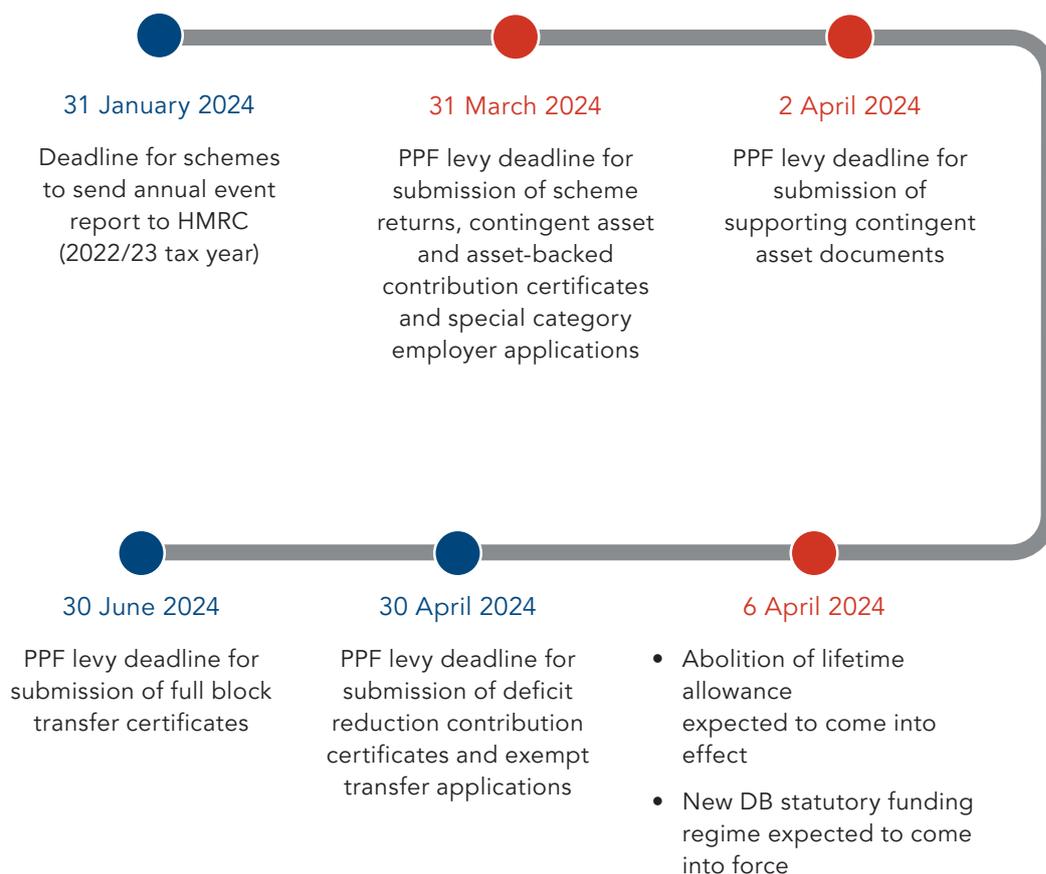
Draft guide on investment decision-making

▲ Action required

▲ Monitor development



## Dates to note over the next 12 months



**Key:**

- Important dates to note
- For information

## Issues affecting all schemes

### General levy – proposed reforms

The government is consulting on proposed changes to the structure and rates of the general levy on occupational and personal pension schemes in light of the ongoing deficit in levy funding. Three options are proposed:

1. Continue with the current levy rates and levy structure – this would see the levy deficit continue to grow, requiring greater rises at a later date.
2. Retain the current levy structure and increase rates by 6.5% per year – this would bring the cumulative deficit back into a compliant level by 2031.
3. Increase rates by 4% per year and impose an additional premium rate for schemes with under 10,000 members from 2026 – this would allow for a lower initial increase across all schemes, while still paying off the deficit and supporting the consolidation of smaller schemes. This is the government’s preferred option.

The consultation closes on 13 November 2023.

#### **Action**

Trustees should monitor the outcome of the consultation.

### Transfers – application of statutory conditions

The Pensions Ombudsman has decided that the trustee of a transferring scheme had not acted unreasonably in determining that an amber flag was present in relation to the transfer and therefore requiring the member to take guidance from MoneyHelper before it would process the transfer.

The member had applied to transfer his benefits from an occupational pension scheme to a personal pension scheme. In one of his responses to the transferring scheme’s due diligence questionnaire, the member said that his benefits would be invested in “global funds”. Based on this answer and further information about the funds provided by the member’s financial adviser, the trustee notified the member that an amber flag (specifically the overseas investment flag) was present and that he would need to take MoneyHelper guidance in order for the transfer to proceed. After further correspondence between the trustee and the member and his financial adviser, the member attended a MoneyHelper appointment. The transfer was subsequently completed with a transfer payment of £228,000 being made which was around £20,000 less than the member had been quoted. The member complained that the trustee had incorrectly interpreted the statutory transfer conditions and had unreasonably delayed his transfer, causing him financial loss.

The Ombudsman did not uphold the complaint. He noted that “overseas investments” are not defined in the legislation imposing the transfer conditions and it appeared that the wording of the legislation and its intended practical application are not fully aligned. Against that backdrop, and given that the trustee took legal advice, the trustee’s literal interpretation of the legislation was not unreasonable and therefore did not amount to maladministration. Having identified that an amber flag was present, the trustee acted correctly in requiring the member to take MoneyHelper guidance and its actions did not therefore result in any unreasonable delay to the transfer.

#### **Action**

No action required, but trustees and administrators should note the decision.

### McCloud remedy – impact on private sector schemes

HMRC has published [guidance](#) on how administrators of private sector schemes can pay, discharge or request a refund of a member's lifetime allowance (LTA) charge if that charge has changed following implementation of the McCloud remedy. This is a package of changes that were made to public service pension schemes in October 2023 to remove age discrimination that the courts held existed in the schemes in the *McCloud* case.

#### Action

No action required, but trustees and administrators may find the guidance helpful when dealing with situations where a member's LTA charge has changed as a result of the McCloud remedy.

### Pensions dashboards – preparation

The Pensions Regulator (TPR) has published a [blog post](#) on how its pensions dashboards [checklist](#) can help schemes prepare for compliance with their dashboards duties. In particular, TPR notes that there are various tasks that trustees could, and should, be working on already, such as exploring a route to connection to the dashboards ecosystem.

In addition, the Pensions Dashboards Programme has published [FAQs](#) on value data and returning values from multiple sources. The FAQs cover:

- What the dashboards legislation says about illustration dates.
- The government's rationale for having the same illustration date for all value data.
- How the dashboards standards work to ensure value data from different providers can be shown together.

- Whose responsibility it is to determine the illustration date.

#### Action

No action required, but trustees and administrators may find the TPR checklist and the FAQs helpful in their dashboards preparation. They should also consider the tasks that they could be undertaking now.

### Social factors – draft guide on investment decision-making

The Taskforce on Social Factors is [consulting](#) on a guide to considering social factors in pension scheme investment. The guide includes more than 30 recommendations on how the UK pensions industry can better incorporate social factors into investment decisions. The consultation closes on 1 December 2023.

#### Action

No action required, but trustees may wish to monitor the outcome of the consultation.



## Mayer Brown news

### Upcoming events

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

- **Trustee Building Blocks Classes**  
8 November 2023 – Pensions dashboards
- **Trustee Foundation Course**  
6 December 2023
- **Quarterly webinars**  
13 December 2023 – topic TBC

### Mayer Brown news

Mayer Brown sponsored TheCityUK's Future Leaders' Dinner 2023 which took place at Banking Hall, London on 12 October. [Duncan Watson](#) and [Henry Corrigan](#) hosted a table at the dinner which brings together future leaders across financial services institutions in the UK.

### Mayer Brown legal updates

Our legal updates from the last three months are available [here](#).

### Pro bono and CSR

- [Esther White](#) completed the pensions and retirement section of the World Bank's Women, Business and the Law group's labour law questionnaire. The World Bank's Women, Business and the Law group is committed to identifying legal barriers to women's economic empowerment in 190 countries. They achieve this mission by distributing questionnaires on labour law, family law, and laws protecting women from violence to local lawyers and legal experts. Questionnaire responses inform their annual report and dataset on unequal gender laws.
- [Beverly Cox](#) took part as a volunteer lawyer in a drop-in session organised by the Afghan Pro Bono Initiative with the Single Homeless Project providing one-off face-to-face advice to Afghan individuals and families now based in the UK. Typically, these were people who had been evacuated in August 2021 and now have indefinite leave to remain in the UK, but who had to leave behind members of their family who remain at risk from the Taliban or who were separated from a family member en route to the UK.

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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