

Snapshot

April 2024

Overview

- **Pensions dashboards**

The DWP has published further guidance on pensions dashboards, emphasising that all schemes must connect to the pensions dashboards ecosystem by **31 October 2026** at the latest. The guidance also sets out a best practice staged timetable for schemes based on the number of relevant members at the reference date.

- **Statutory funding regime changes for defined benefit pension schemes brought into force**

Regulations have been enacted (and came into force on 6 April 2024) which make important changes to the funding regime for defined benefit (**DB**) pension schemes. The regulations codify under statute the requirement for DB pension schemes to have a funding and investment (**FIS**) strategy and the requirement to prepare a statement of strategy that sets out the FIS strategy.

- **Continued lifetime allowance abolition developments**

HMRC have announced that there will be a second set of amending regulations to deal with some further minor technical changes that are required to ensure that the lifetime allowance abolition framework works as intended. As a result, HMRC have recommended that members wait until this second set of regulations are in place before taking or transferring certain benefits.

- **The Regulator exercises its anti-avoidance powers - Newburgh Engineering Co Ltd Pension and Assurance Scheme**

In this case, the Pensions Regulator (**Regulator**) used its anti-avoidance powers against group companies after the sponsoring employer of a DB scheme transferred assets to those group companies and subsequently became insolvent. The Regulator has stated that this is a clear example that it will use its anti-avoidance powers in respect of schemes of all sizes. The Regulator will be particularly concerned where proper mitigation for pension schemes following corporate activity has not been provided.

- **Mr E (CAS-78897-G8T0) – administrators should be careful if a member's request is contradictory**

The Pensions Ombudsman had little sympathy where a scheme provided benefits to a member notwithstanding that the requests made by the member as to the form of benefits he wanted were mutually exclusive. Where it is clear that a member is confused over what they are requesting, administrators should take care to discuss the member's request further.

In detail

Pensions dashboards

The DWP has published further guidance on pensions dashboards, emphasising that all schemes must connect to the pensions dashboards ecosystem by **31 October 2026** at the latest. The guidance details two ways that schemes can connect to the dashboard, either through an in-house technical solution or a direct connection, or through buying services from an integrated service provider.

The guidance also sets out a best practice staged timetable for schemes based on the number of relevant members at the reference date (being the scheme year end date between 1 April 2023 and 31 March 2024). For the largest schemes, this is 30 April 2025, with the smallest schemes recommended to join by 30 September 2026. It acknowledges that, while not mandatory, meeting the dates in the staged timetable will provide the Pensions Dashboards Programme with adequate time to assist and co-ordinate activities to support the connection of Schemes in advance of 31 October 2026.

The guidance emphasises that connecting to the dashboards ecosystem by these relevant dates will put schemes in a good position to achieve compliance with a practical delivery plan with suppliers, as well as giving them sufficient testing time to enhance the member experience by the legal deadline. It will also showcase good governance and robust risk management on the part of the scheme.

Statutory funding regime changes for DB schemes brought into force

Regulations have been enacted (and came into force on 6 April 2024) which make important changes to the funding regime for DB pension schemes. The regulations codify under statute the requirement for DB pension schemes to have a FIS strategy and the requirement to prepare a statement of strategy that sets out the FIS strategy. There are also changes made to provide that calculation of technical provisions should align with the FIS.

Transitional regulations provide that until a scheme is required to put in place a FIS, the current provisions on the statutory funding objective in section 222 of the Pensions Act 2004, continue to apply. The FIS would need to be produced within the period of 15 months beginning with the effective date of the first actuarial valuation for the scheme after these regulations come into force. The transitional provisions also provide that section 224 of the Pensions Act 2004, which relates to obtaining actuarial valuations, will continue to apply without amendment until the scheme obtains an actuarial valuation with an effective date on or after 22 September 2024.

For more information about the new funding regime, please see our [briefing](#) on the topic.

Continued lifetime allowance abolition developments

We discussed in [last month's snapshot](#) that the Finance Act 2024 had received Royal Assent and the Pensions (Abolition of Lifetime Allowance Charge etc) Regulations 2024 had been published. These regulations were effective from 6 April 2024. That is not, however, the end of things. We await a second set of amending regulations to deal with some further minor technical changes that are required to ensure that the legislation works as intended. As a

result, HMRC have recommended that members wait until these second set of regulations are in place before taking or transferring certain benefits.

This will particularly apply to:

- members with enhanced protection who want to transfer their pension to a new provider and carry over the benefit of their protection. Amending legislation will be needed to permit this and therefore such members may wish to delay transferring to a new provider;
- members who have certain protections which entitle them to tax free lump sums in excess of £375,000. These members may want to either limit the amount of the pension commencement lump sum (**PCLS**) they take or delay taking their PCLS so that they can take their full entitlement;
- the payment of lump sum death benefits where payment is made from funds which crystallised before 6 April 2024. The intention is that lump sum death benefits from such funds would be tax-free because they would have already been tested against the previous lifetime allowance. However, the legislation as it is currently drafted limits the tax-free amount of the death benefit that could be paid by the amount of the available lump sum and death benefit allowance. Any amount that exceeds this would, at the moment, be subject to a member's marginal rate of income tax; and
- members who wish to take a PCLS under scheme-specific lump sum protection. The formula in the legislation applying to this currently double counts certain benefits and therefore members may wish to wait until this error has been rectified.

The Regulator exercises its anti-avoidance powers - Newburgh Engineering Co Ltd Pension and Assurance Scheme

In this case, the Regulator used its anti-avoidance functions against group companies after the sponsoring employer of the Newburgh Engineering Co Ltd Pension and Assurance Scheme (**Scheme**) transferred assets with high value to other group companies.

At the last triennial valuation on the 31 March 2014, the Scheme had a funding deficit of £2.32 million and a section 75 deficit of £8.84 million.

The sponsoring employer's business and assets (worth £16.68 million) were transferred to other group companies from 2005. Assets included working capital support, intercompany loans and a dividend worth £5.67 million funded from a sale of property. The group companies did not give proper mitigation to the sponsoring employer or the Scheme.

The sponsoring employer entered administration in October 2018. The Scheme ultimately transferred to the PPF.

The Regulator issued warning notices seeking financial support directions against six group companies. Ultimately, an agreement was reached between the group companies and the Regulator which was worth £3.52 million. Whilst this was less than the section 75 debt of the Scheme, it represented all of the targets' cash assets and about 80% of their available assets.

The Regulator has stated that this is a clear example that it will use its anti-avoidance powers in respect of schemes of all sizes and will be particularly concerned where proper mitigation for pension schemes following corporate activity has not been provided. The Regulator will, however, consider reasonable settlement offers in order to save costs and resources of all parties involved.

Mr E (CAS-78897-G8T0) – administrators should be careful if a member's request is contradictory

The claimant was a member of the Royal Mail Pension Plan. He completed his retirement forms to indicate he wished to take an early retirement pension without a lump sum. However, he also signed a declaration on the form stating that he would be taking a PCLS. The claimant's responses on the form were, therefore, contradictory.

The scheme administrators paid the claimant a pension reduced for early retirement with no PCLS. The claimant responded that he had incorrectly chosen to receive a pension without a lump sum, and asked for a new form so that he could select the correct option. The scheme administrator indicated that the claimant must provide evidence to the Cabinet Office of exceptional circumstances that would warrant allowing him to change the option he had selected on the form.

The Cabinet Office did not allow him to change his pension from a full early retirement pension to a reduced pension with a PCLS. The claimant consequently complained to the Cabinet Office, who did not uphold his complaint, on the basis that the pension options available to the claimant were clearly stated on the form, and therefore neither the scheme administrator nor the Cabinet Office were at fault. The claimant subsequently complained to the Ombudsman.

The Ombudsman held that the option chosen by the claimant on the form and the declaration he signed were clearly mutually exclusive. Consequently, it should have been clear to the scheme administrators that the claimant was unclear as to which option he wished to select. Moreover, on discovering the error, the claimant immediately contacted the scheme administrators. There was therefore an opportunity to correct the claimant's pension payments within 12 months of the benefit crystallisation event, allowing the sums to be treated as an authorised payment.

On that basis, the Ombudsman directed that:

1. The scheme administrator should calculate the amount that the claimant would have received to date if the claimant had been paid a PCLS and a reduced pension;
2. The scheme administrator should pay the claimant a lump sum equal to the difference between this amount and the sums paid to the claimant to date; and
3. In light of the scheme administrator's failure to address this issue at an earlier stage, the scheme administrator should pay Mr E a sum equal to any additional tax liability on Mr E as a result of the payment of the lump sum.

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