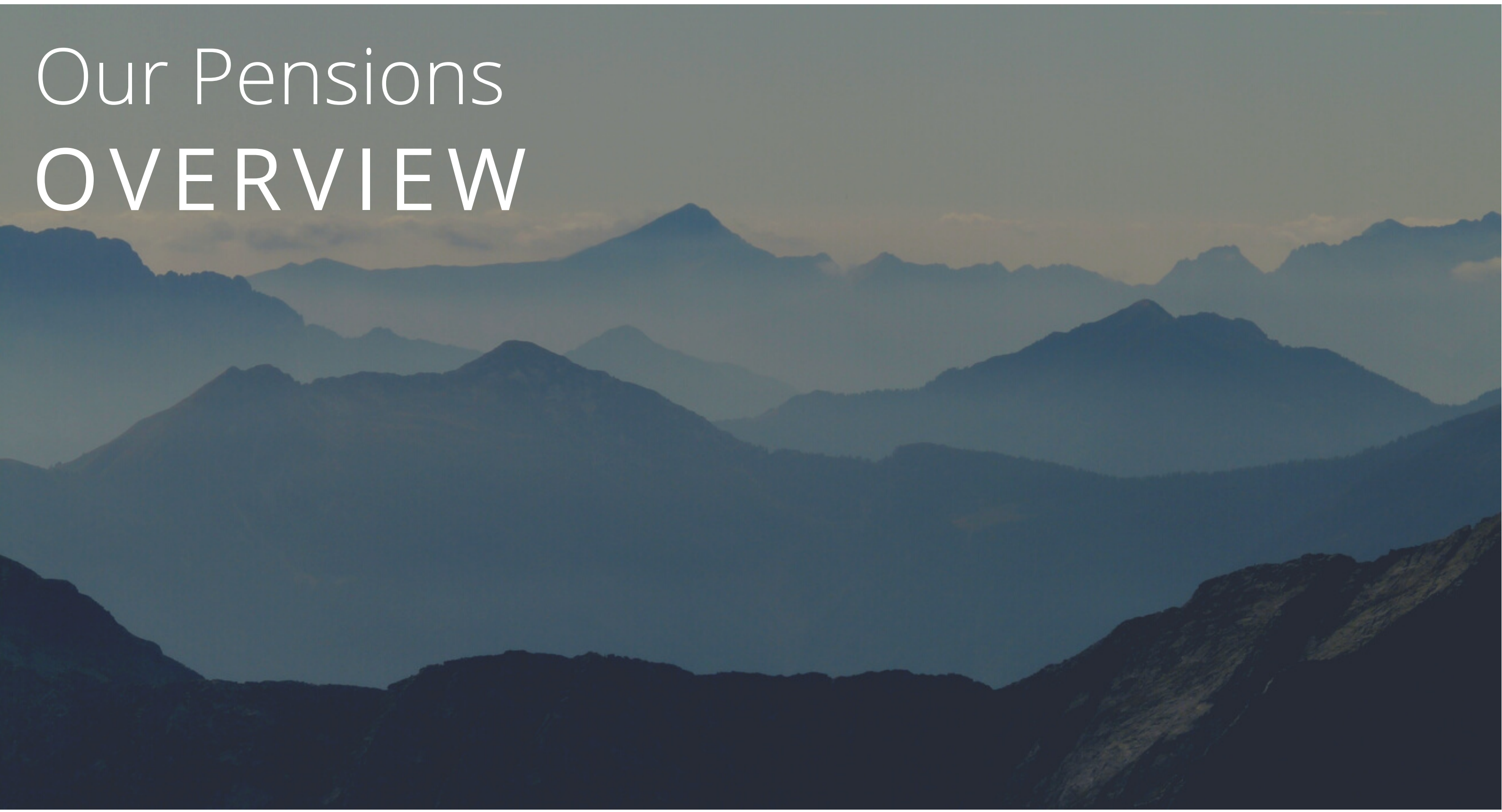
INSIGHT

DEVELOPMENTS IN OCCUPATIONAL PENSIONS

APRIL 2023

hughespricewalker

CONTENT



PENSIONS TAX CHANGES – GOOD FOR YOUR HEALTH?

Surprise Budget pensions announcement

The Chancellor surprised many in his Budget on 15 March, by announcing that the overall Lifetime Allowance (LTA) for pensions savings was to be abolished.

The stated rationale for this change is to encourage older workers over age 50 – particularly senior professionals in the NHS – back to the workplace to promote economic growth, with a more tax friendly environment for pensions savings. The existing tax regime is seen as punitive by these older workers, many of whom have left the workplace in recent years.

This change could also be seen as helping to remove an inequality between defined benefit and defined contribution schemes, with the LTA acting effectively as a tax on good investment performance of members' defined contribution funds.

The LTA abolition also removes an unnecessary limit on the build-up of pensions savings, which is already controlled by the Annual Allowance (AA) - the maximum amount that can be saved tax-efficiently in any single year.

The key headlines

- The LTA charge is abolished from 6 April 2023, with the intention to abolish the LTA in legislation entirely from the 2024/2025 tax year. This means excess benefits currently chargeable at 55% would instead be taxable at an individual's marginal tax rate.
- At the same time the maximum Pension Commencement Lump Sum (PCLS) – unless any special protection already exists - is frozen at £268,275 into the future. This tax-free benefit will therefore be expected to reduce in real terms over time.

- The standard AA increases from £40,000 per annum to £60,000 per annum from 6 April 2023, increasing the scope for additional pensions savings. Unused allowance from the 3 previous years may still be carried forward.
- From 6 April 2023 the adjusted income threshold for the Tapered Annual Allowance (TAA) increases from £240,000 to £260,000, and the minimum TAA increases to £10,000, increasing the scope for additional pensions savings by high-earners.
- The Money Purchase Annual Allowance (MPAA) which lowers the maximum tax-sheltered savings limit where benefits have already been flexibly accessed also increases from £4,000 to £10,000 per year.

Some issues resulting from the changes

Pending full abolition of the LTA, which will not be straightforward in legislative terms, pension scheme administrators will still need to carry out LTA checks and maintain records as happens currently.

Where employers have offered remuneration packages including of a cash benefit in lieu of pension scheme membership to employees affected by the LTA, these arrangements should be reviewed to see if they are still delivering the most tax-efficient form of remuneration.

In addition, some defined benefit schemes could now offer additional benefit flexibility previously inhibited by the LTA. For example, voluntary options to exchange a pension with future increases for an increased starting pension could become more commonplace.

There are potential implications for maximum group life assurance benefits. Some employers have established a mix of arrangements under regulated and excepted policies to limit tax charges where the LTA limit would have applied, and the mix should now be reviewed for optimal future benefit provision.

A cloud now over the Budget announcement is the Labour Party's statement that the changes would be reversed under its administration. It is not known if this intention would be to go back to the exact position before the Budget announcement, or whether some but not all of the changes would be reversed to a greater or lesser extent. This creates uncertainty for members now considering accessing retirement benefits. The legislative and financial issues from a reversal for individuals who opted to draw benefits since the Budget are also daunting.

Concluding thoughts

Will the pensions tax changes in fact bring back more of the badly needed doctors and consultants to assist the NHS workload and improve the nation's health? What about other skilled and experienced employees who could promote economic growth? Or could in fact more older employees now retire, with the removal of a tax burden that would otherwise have reduced prospective retirement benefits?

No doubt the Government of the day will monitor the effects closely, and consider all the levers it has at its disposal to try to achieve its stated aims, and we may see the minimum retirement age again move into sharper focus before long.

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PASA RELEASES GUIDANCE ON DATA READINESS FOR BUY-IN AND BUYOUT

On 27 February 2023 the Pensions Administration Standards Association (PASA) issued guidance to support trustees and administrators in preparing for insurers. Insurers expect trustees to undertake all essential data-cleansing activities to ensure beneficiaries have their correct benefit entitlements established, particularly in the period between a buy-in and buyout. Without complete and accurate data, insurers will make assumptions when determining the premium necessary to insure members' benefits usually on a prudent basis which can significantly increase the cost of insuring members' benefits.

Having good data and carrying out regular data reviews is expected by The Pensions Regulator from a good governance point of view.

In this new guidance schemes are asked to consider some 'quick wins' such as:

- Regular checking of address data (common data reviews)
- Maintaining additional details such as email addresses and telephone numbers and full forenames when received and requesting these from members
- Marital screening – obtaining details of those eligible for contingent spouse's benefits either via a tracing agency or by writing to members
- Mortality screening for pensioners but also useful to identify potentially deceased deferred members ahead of a buyout

During a buyout process a benefit specification detailing all the benefit provisions to be insured will need to be prepared. Having high quality data not only makes it faster and easier to extract membership information, it can also make it simpler to provide evidence of how the scheme has been administered.

Even if buyout is not currently on the horizon, it should not be overlooked that good quality data makes the ongoing running of schemes more efficient and will assist other projects such as Guaranteed Minimum Pension Equalisation and preparing for pension dashboards.
Details of the guidance can be found here.

INVESTMENT CONSULTANT OBJECTIVES – COMPLIANCE REPORTING EXPECTED IN 2024 SCHEME RETURNS

In October 2022 the Pensions Regulator (the Regulator) took over responsibility from the Competition and Markers Authority (CMA) for monitoring compliance with the legal requirements for trustees to:

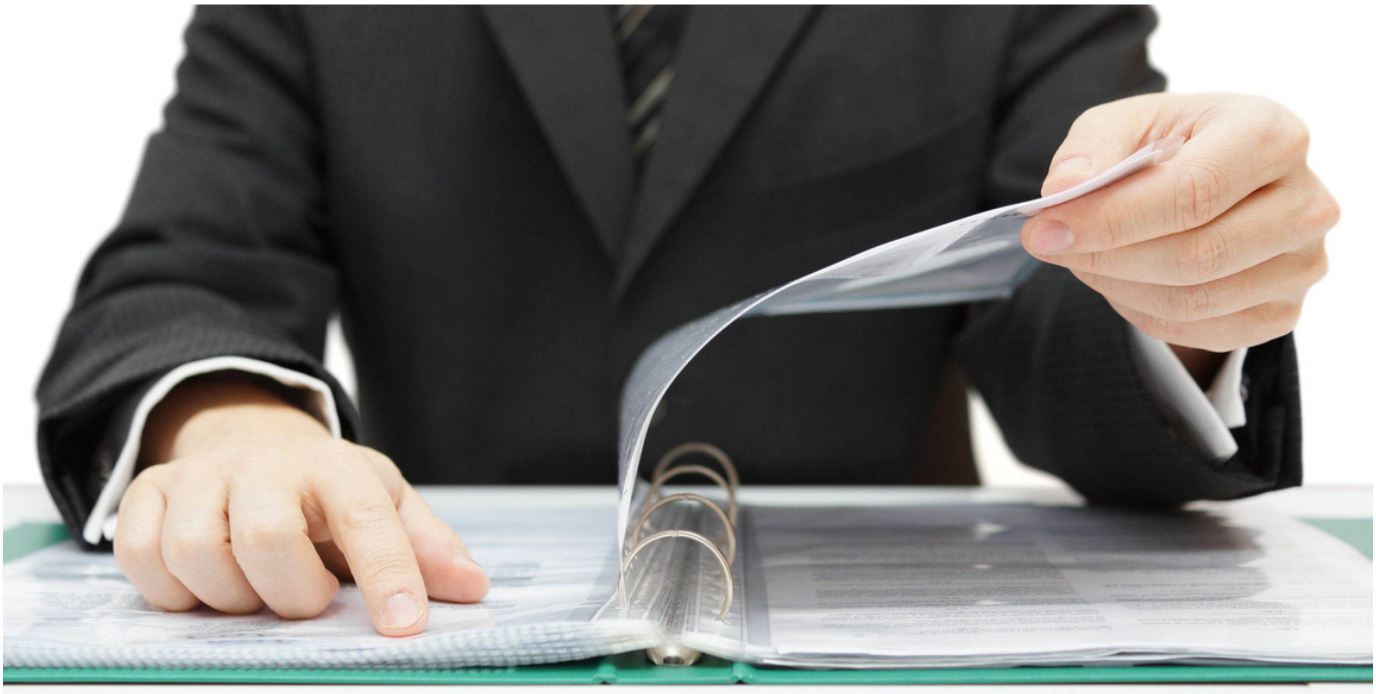
- Run a competitive tender process when appointing fiduciary managers in relation to 20% or more of scheme assets; and
- Set strategic objectives for the investment consultancy provider.

Previously, trustees were required to submit annual compliance statements to the CMA by 7 January each year. When responsibility passed to the Regulator, it was expected that the requirement would be included in the 2023 scheme return; however there was no such requirement this year. It is now expected that confirmation of compliance with the legal requirements will be recorded in the 2024 scheme return.

The Regulator's guidance on setting objectives for a scheme's investment consultant (link here) states that it expects trustees to "document any key decisions and how they were made", for example in meeting minutes. It has also suggested that trustees could have a standalone document setting out what the objectives are, how and when they will be measured, and when actions arising from any review will be addressed by.

HPW will continue to monitor developments in this area and will ensure the necessary actions are taken as and when necessary. If you would like any further information please speak to your usual HPW contact.

THE PENSIONS REGULATOR TO START CHECKING SIPS HAVE BEEN PUBLISHED CORRECTLY



The Pensions Regulator (the Regulator) announced in February 2023 (link here) that it will be launching a regulatory initiative in spring 2023 to check whether trustees are publishing important data on environmental social governance (ESG).

The Regulator will be checking that trustees of schemes with more than 100 members have published a statement of investment principles (SIP) online which includes details on financially material ESG factors, as well as an implementation statement.

The Regulator will then review the SIPs and implementation statements it collected and will share the outcome of the review with the industry to highlight good practice. If trustees fail to publish their SIP and/or implementation statement, the Regulator has the power to impose a fine of up to £50,000 where the trustee is a corporate body.

The Regulator has said that initial analysis of the 2022 defined contribution scheme returns has shown that a number of schemes did not provide valid website addresses for the SIPs and implementation statements, and it has been communicating with these schemes.

HPW has the facility to host SIPs and implementation statements online. If you would like any further information please speak to your usual HPW contact.

EQUALITY DIVERSITY AND INCLUSION

On 28 March 2023, The Pensions Regulator (the Regulator) published equality, diversity and inclusion (EDI) guidance for pension scheme governing bodies and employers to improve the EDI of their scheme's board.

It believes that having diverse views can help pension scheme governing bodies to openly contemplate issues important to those impacted by their decisions. This will increase understanding, mitigate scheme risks and avoid any unintended consequences.

The Regulator has provided specific guidance for scheme employers as it recognises that employers also have an important role in ensuring EDI is considered by their scheme.

The guidance provides recommendations in the following areas:

The role of the chair

- The chair has a key role in making boards more diverse and inclusive; and
- Considerations for employers to consider when appointing a chair.

EDI policy and performance assessments

Trustees should consider setting up an EDI policy outlining:
- An agreed definition of EDI;
- The EDI aims of the governing body; and
- Training plan.

Assessments to include how well EDI has been, and continues to be, incorporated into processes, according to schemes' objectives.

It recommends that EDI goals and objectives, including ways to achieve a diverse and inclusive governing body, should be agreed at the start of the scheme year.

Enhancing board diversity

- Governing bodies should regularly review and assess their body's diversity of life experiences, expertise and skills; and
- Sponsoring employers are encouraged to consider widening the pool of candidates for governing bodies beyond senior management positions.

Fixed-term appointments

- Consider fixed terms, usually between three to five years, for member-nominated trustee positions to encourage bringing new perspectives;
- If a professional trustee is in place, governing bodies might think about changing the individual representative from the firm periodically to support their board's diversity;
- If governing bodies find it challenging to address diversity gaps through member-nominated and employer-nominated trustee positions, they might consider appointing an independent or professional trustee position; and
- Employers or governing bodies looking to potentially appoint a sole trustee should make sure that EDI is considered.

Reasonable adjustments

The governing bodies under the Equality Act 2020 require reasonable adjustments for candidates and existing trustees with disabilities for example, to premises, equipment and technology or the role itself.

Reasonable adjustments might be necessary as part of the trustee selection process – e.g. offering remote access to interviews, providing braille or large-print documents in advance.

Inclusive communications

The Regulator has also added a section on inclusive communications to its guidance on communicating and reporting for defined contribution schemes, to ensure scheme communications are inclusive of the diverse range of backgrounds, needs and vulnerabilities of their savers and to avoid bias and stereotypes.

Trustees are reminded they have legal duties to ensure their communications are accessible for disabled people.

The full guidance for governing bodies can be found here

The full guidance for employers can be found here hpw

DASHBOARD DELAY

The Pensions Dashboards Programme, in conjunction with the Money and Pensions Service, is working to develop the digital infrastructure of pensions dashboards. New technology is necessary to allow individuals to find their pensions by searching thousands of pension schemes which together hold millions of pensions records.

Master trusts with over 20,000 relevant members were originally due to connect by 31 August 2023 and money purchase schemes used for automatic enrolment with over 20,000 relevant members were originally due to connect by 30 September 2023. On 2 March 2023 the Department for Work and Pensions (DWP) announced that the connection deadlines for the Pensions Dashboards will be delayed.

The Parliamentary Under Secretary for Pensions, Laura Trott, has said that she will provide a further update to the House before summer recess, which is provisionally 20 July 2023. The reason for this delay appears to be related to the complexity of building the required systems. She announced that "more time is needed to deliver this complex build, and for the pensions industry to help facilitate the successful connection of a wide range of different IT systems to the dashboards digital architecture". The new Chair of the Pensions Dashboards Programme Board will develop a new plan for delivery. It should be noted that the DWP will legislate to prescribe new connection deadlines, but there is no plan to change the framework and legal requirements for dashboards.

Pensions dashboards services will only launch to the public once full assurance of the security of the ecosystem and the service has enough coverage of pension providers/schemes and contains sufficient information so that it is useful to a significant majority of people.

What to do now?

Stay in touch with developments

On 29 March 2023 the Pensions Administration Standards Association (PASA) released two new sets of guidance to help pension scheme administrators prepare so that they are ready for dashboards ahead of the connection deadlines: firstly, an update on its Data Matching Convention (DMC) Guidance, plus an addendum providing guidance on matching without a National Insurance Number and guidance on 'Possible Match' responses. A National Insurance Number is the closest option the UK has to a unique identification number and is also usually held by pension schemes. However, some members may not have one or the data may not be accurate. The guidance explores how to judge the effectiveness of a set of match criteria for Possible Matching – whether sufficient coverage and sufficient focus in each 'match criteria' exits and the possible use of 'fuzzy comparisons'.

The full PASA guidance can be found here.

The Pensions Regulator will contact all pension schemes at least 12 months before their proposed connection deadline. Trustees should make sure that contact details for the chair of trustees or nominated scheme contact are up to date on Exchange.

The Regulator's regulatory round-up provides update on changes to this guidance. Trustees can also sign up to the Money and Pension Service's Pension Dashboards Programme newsletter to keep up to date (https://www.pensionsdashboardsprogramme.org.uk/).

Discuss pensions dashboards with your HPW administrator or consultant for further details.

LDI guidance published by the Pensions Regulator

The Pensions Regulator (the Regulator) published guidance in April 2023 (link here) setting out practical steps trustees can take to manage risks when using leveraged Liability Driven Investment (LDI) arrangements. Although the guidance concerns leveraged LDI, the Regulator has said that some elements may also apply to non-leveraged LDI.

The guidance sets out specific issues for trustees to consider when investing in LDI, including: setting, operating and maintaining a collateral buffer; testing for resilience; and making sure the appropriate governance is in place.

If you would like any further information please speak to your usual HPW contact.

DB funding code delay

The Pensions Regulator (the Regulator) has announced that publication of the DB funding code has been delayed and is expected to come into force in April 2024 as part of its 2023/24 Corporate Plan.

The Regulator's Corporate Plan stated: "The code will make clear that schemes must reduce their reliance on their sponsoring employer as they become increasingly mature and manage risk effectively.

Trustees also need the flexibility around funding to suit their individual circumstances, which the code will provide. The regulatory framework we build will enable us to act effectively where we need to."

PHONE:
0117 427 8900

EMAIL:
info@hughespricewalker.co.uk

ADDRESS:
Pembroke House 15 Pembroke Road Clifton Bristol BS8 3BA

WEBSITE:
www.hughespricewalker.co.uk