



PLSA North London Group legal update

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Today's talk

1. Abolition of lifetime allowance
2. DB funding and investment strategy
3. General Code
4. Recent cases on benefit changes
5. Forthcoming DC changes



Abolition of lifetime allowance (LTA)

Overview

- Lifetime allowance charge was removed on 6 April 2023 and lifetime allowance itself is removed from 6 April 2024
- Two new lump sum allowances now apply, per person across all registered schemes:
 - Lump sum allowance
 - Lump sum and death benefits allowance
- These allowances are modified for individuals with transitional lifetime allowance protections

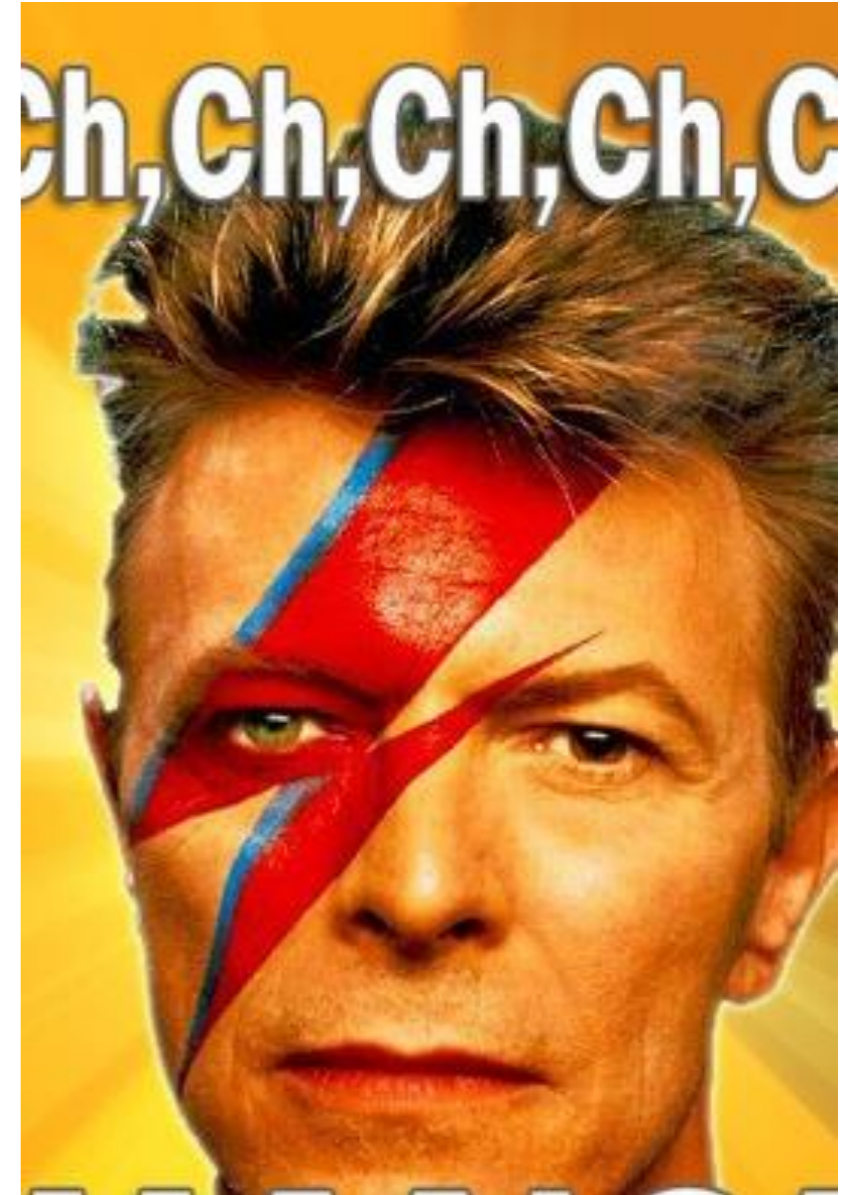


Abolition of LTA 2: lump sum allowances

	Lump sum allowance	Lump sum and death benefit allowance
Standard amount:	£268,275	£1,073,100
Payments that count towards it	<ul style="list-style-type: none"> ▪ PCLS ▪ Tax free elements of UFPLS 	<ul style="list-style-type: none"> ▪ PCLS ▪ Tax free elements of UFPLS and serious ill-health lump sums ▪ Certain non-taxable lump sum death benefits (excluding e.g. trivial commutation lump sum death benefits and lump sum death benefits paid from funds crystallised before 6 April 2024)
Tax on payments exceeding allowance	Income tax charged at member's marginal rate	

Abolition of LTA 3: some changes to note

- New pension commencement excess lump sum (PCELS) (as lifetime allowance excess lump sum is abolished). Where a member had a right to a lifetime allowance excess lump sum, they should now have a right to a PCELS
- UFPLS now may be paid after age 75
- Old regime – both pension and lump sum were tested against allowance. Now, just lump sums are tested
- Transitional provisions – the LSA and LS&DBA will broadly be reduced by 25% of any lifetime allowance used up before 6 April 2024



Abolition of LTA 4: last minute changes still pending

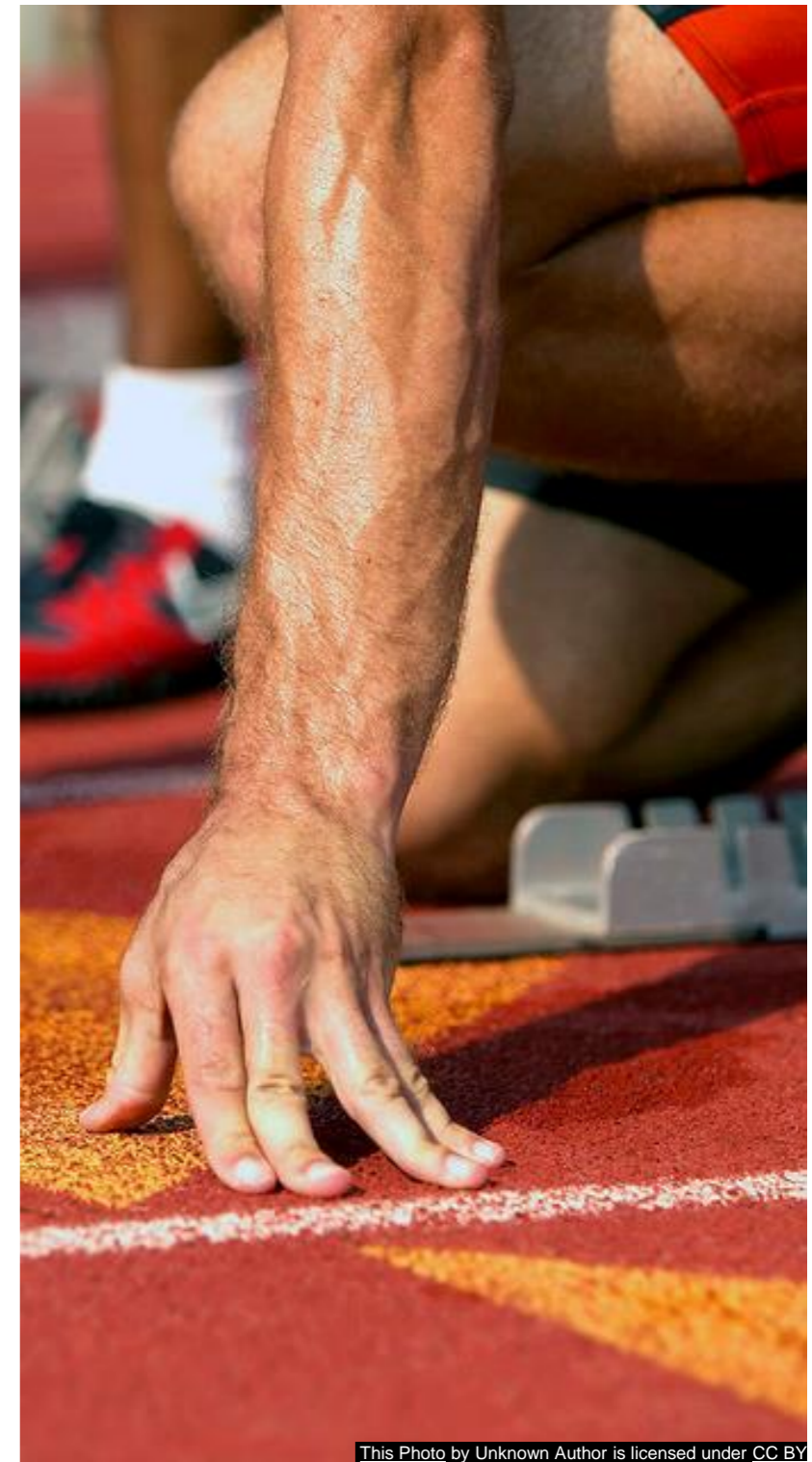
Forthcoming changes are anticipated to be made by further regulations on 18 April, but with retrospective effect from 6 April, relating to:

- transfers for members with enhanced protection (to enable them to retain tax protection) and transfers to QROPS (issues for members with pre-A-Day pensions in payment, and members transferring funds designated for drawdown)
- preserving the PCLS available for members with protected lump sum rights of more than £375,000
- payment of a PCLS where the member has scheme specific lump sum protection (i.e. rights to greater than 25%)
- lump sum death benefits paid from funds which crystallised before 6 April 2024



Abolition of LTA 5: practical actions

- Last minute transitional amendments preserve scheme benefit caps that are drafted by reference to the lifetime allowance. These caps will remain in place until 5 April 2029.
- Consider whether any (further) rule amendments are required
- Consider what to communicate to members
- Updates likely to be required to administrative practice



DB Funding and Investment Strategy

- The revised DB Funding and Investment Strategy Regulations came into force from 6 April 2024 and will apply to actuarial valuations of defined benefit pension schemes from 22 September 2024
- At "relevant date", aligned with reaching "significant maturity", schemes must be at least fully funded on a basis of "low dependency" on their sponsoring employer, with their investment allocation and funding basis set accordingly
- Low dependency on the employer means that no further contributions are (reasonably foreseeably) expected to be required



DB Funding and Investment Strategy 2: trustee actions needed

Under the Regulations, trustees of DB pension schemes are required to:

- have a funding and investment strategy (prepared alongside each actuarial valuation) for ensuring that pension scheme benefits can be provided over the long term. The trustees must consult with the sponsoring employers on that strategy
- the strategy must set out the funding level, defined as a ratio of assets to liabilities, and the investments that trustees or managers intend the scheme to have at a 'relevant date' on which the scheme is estimated to reach "significant maturity". The funding and investment strategy must set out a journey plan to that funding level
- Final detail to be contained in a new TPR funding code

General code 1: overview

- The Regulator's General Code of Practice came into effect on 28 March and consolidates 10 out of the 16 individual codes of practice. It applies to occupational, personal and public sector schemes
- Codes issued by the Regulator are not legally binding but have evidential weight in legal proceedings.
- New content contained in the General Code includes requirements for:
 - Effective System of Governance (ESOG)
 - Own Risk Assessments (ORA)
 - Cyber security



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General Code 2: effective system of governance (ESOG)

- Trustees of most occupational pension schemes are required to establish and operate "*an effective system of governance including internal controls*", "*proportionate to size, nature and complexity*" of the scheme's activities.
- ESOG is collection of policies and procedures a scheme should have to operate effectively, across the following categories:
 - Management of activities
 - Organisational structure
 - Investment matters
 - Communication and disclosure
- Each element of the ESOG must be reviewed at least every three years



General code 3: own risk assessment (ORA)

- Occupational pension schemes with 100 or more members required to carry out and document an own risk assessment (ORA), which examines how well the ESOG is working and how potential risks are being managed
- The ORA should cover:
 - How the trustees have assessed the effectiveness of each of the policies and procedures covered by the ESOG
 - Whether the trustees consider the operation of the policies and procedures to be effective and why
- The ORA should include consideration of the effectiveness of, and risks arising from, elements including documentation, policies for the governing body, risk management policies, investment governance processes, administration and payment of benefits.

General code 4: ORA (continued)

A scheme's first ORA must be prepared:

- within 12 months beginning with the last day of the first scheme year that begins after the Regulator has issued the General Code
- or, if later:
 - within 15 months beginning with the date on which the trustees are next required to obtain an actuarial valuation; or
 - by the date on which the trustees are next required to prepare a Chair's statement

For example, as the Code came into force on 28 March 2024, if your scheme year end is 31 March, the first ORA would be due by 31 March 2026



General code 5: cyber security

- While the Regulator has previously issued guidance setting out good practice on cyber security, it now has a specific module on this in the General Code.
- The Code requires trustees to have cyber-related policies in place, covering:
 - breach reporting
 - incident response
 - policies in line with data protection laws
- Consider the Regulator's intervention report describing how it worked with Capita after its cyber data breach incident in March 2023, which is useful in identifying the Regulator's expectations of schemes

Recent cases on benefit changes – Newell v Rubbermaid

Newell Trustees Ltd v Newell Rubbermaid UK Services Ltd

- High Court held that a fetter on an amendment power which protected accrued benefits only had the effect of protecting the *actuarial value* of the members' benefits at the date of amendment, rather than the DB formula
- The (compulsory) transfer of members' benefits to the new DC section was not prohibited by the fetter, but it did not permit the final salary link to be broken for their accrued final salary benefits



Recent cases on benefit changes – Avon

Avon Cosmetics v Dalriada Trustees

- Concerned conversion of final salary to CARE benefits, where final salary link had not been preserved. Issues not considered in full as judge asked to assume salary link underpin required
- Court considered whether CARE amendment could be severed so that it was generally valid, even though final salary linkage had to be protected by an underpin for those members made worse off by it
- Judge held that it was possible to save the valid part of the amendment, so that the CARE conversion took place for those members who were not made worse off:
 - members considered to be "winners" – benefits unchanged
 - members considered to be "losers" – removed from the amendment



Forthcoming DC changes

- **Value for money:** Following a consultation last year, the DWP, Pensions Regulator and FCA will be moving ahead with a new common framework under which DC pension schemes will have to assess and report on VFM on an annual basis. A consultation is due this Spring
- **Small pots:** the Autumn Statement proposed a 'pot for life' model for DC members. Implementation of the value for money framework remains high on the Government agenda, as we await regulations
- **Long-term asset funds:** In 2024, long-term asset funds (LTAFs) are due to be launched for the first time by many DC providers, enabling access private market asset classes such as private equity and infrastructure
- **Pensions dashboards:** Guidance published on 25 May 2024 sets out the staged timetable for connection, which starts in April 2025. DC auto enrolment schemes with 1,000 members will need to connect by 30 June 2025.

Questions?

