By email: policypensions@HMRC.gov.uk and ltaadministration@hmrc.gov.uk

12 September 2023

Dear HMRC,

Proposed Lifetime Allowance Abolishment: Suggestions and Concerns (part 1 of 2)

We are writing on behalf of the Society of Pension Professionals (SPP) in response to the proposed changes on abolishing the Lifetime Allowance (LTA) with effect from 6 April 2024 and the revised lump-sum focused regime, which we understand you are looking to introduce in its place. We welcome the opportunity to provide this input.

We respond here with concern over the capacity of the industry to deliver to the proposed timeframes and the consequent risks of negative outcomes for members. We also include comments on DB flexibility.

We will follow with a further letter sharing comments on the proposed changes[1] and suggestions we believe would better achieve, or help with achieving, the Government's policy intent of simplifying the pensions tax system. This follow up will be shared after the 12th September.

Finally, we note that this correspondence is accompanied by a second letter, from SPP's Legislation Committee, with comments on the proposed draft regulations.

We would be happy to discuss this matter further, if that is helpful.

Yours faithfully

Amit Shanker
Chair, SPP Administration Committee

Fred Emden
Chief Executive, SPP

[1] https://www.gov.uk/government/publications/abolishing-the-pensions-lifetime-allowance/abolition-of-the-lifetime-allowance
and https://www.gov.uk/government/publications/pension-schemes-newsletter-152-july-2023/newsletter-152-july-2023

Detailed comments

Overview

Our comments can be summarised as covering the following:

- Dangers with rushing through changes and the risk of potential errors not being identified.
- Concerns over the time remaining to implement the changes.
- Member experience and the negative impact that could occur.

Risks associated with rapidly implementing changes (including DB flexibilities)

The Chancellor announced on 15 March 2023 (Spring budget) that he was abolishing the lifetime allowance (LTA) for pensions in a future Finance Bill (and generally taken as meaning and effective date of 6 April 2024 – this meant there were just under nine months for HMRC to draft proposed changes, consult with industry, release the final amendments to implement and have in place by the 6 December 2023. We would like to note that the statutory deadline for providing members who have an element of DC benefits with a normal retirement quote for 6 April 2024, requires that Scheme Administrators typically write to members 4 to 6 months in advance of a member's normal retirement. Therefore, this work would need to be completed by 6 November 2023, which is less than three months away (see the timeline at the end of this Appendix for further details).

Considering these changes are the largest to the pensions tax regime since 6 April 2006 (A-Day), when the Lifetime Allowance (LTA) was introduced, nine months is a very short amount of time, especially when you compare it to around the two years taken to initially bring in the LTA in 2006 (this does not take into account the time for any subsequent amendments/corrections).

While much in the drafts released in July 2023 was as expected, they contain some simplifications on pensions and key new rules for the allowed level and tax on lump sums at retirement or death. However, there were two changes which were not expected by the industry and, if they were to proceed, would represent changes beyond those the Chancellor suggested at the March 2023 Budget and would potentially affect pension benefits of all sizes.

One of the proposed changes relates to DC funds - the possible imposition of a new tax charge on death before age 75.

The second proposed change was to defined benefit (DB) schemes that would allow taxed lump sums beyond the usual tax-free allowance - essentially DC Freedom and Choice flexibilities for DB arrangements. Following members of the industry querying about this unexpected introduction, HMRC stated in newsletter 152 that "*it's not the Government's intention to significantly expand pension freedoms*". Therefore, we assume the proposed draft clause is likely to be amended to close off this unintended flexibility. It also seems reasonable to conclude that this unintended policy change may have been a consequence of Government trying to meet an accelerated/tight timeframe. However, at this time, we still do not know how this core element of the regulations will be revised nor what the knock-on effects in other areas might be. Moreover, we cannot iterate strongly enough that new DB flexibility would be a major policy change and would need strong protections to minimise the scope for members to be victims of scams. On the assumption that it would not be offered to unfunded public sector schemes (in order to protect the exchequer), this would further the divide between public and private sector provision, which we do not consider favourable. Such a move might also deliver employment relation issues within the public sector.

There are valid concerns with the speed of the consultation and the fact that industry had to consider items piece by piece rather than the usual thorough review of the whole picture. The concern is that this could create similar unintended policy consequences within the remaining draft clauses or future drafts proposed by HMRC. The main risk is that, due to the short amount of time remaining, there will be insufficient opportunity for a meaningful second review and further unintended policy consequences could go unnoticed by HMRC and industry, likely requiring retrospective fixes to make it work (which might not be available in a timely fashion, eg if they required further primary legislation) in order for the new regime to operate effectively and sensibly from day one of the changes.

The Lifetime Allowance is so embedded within the A-day regime, that removing it (even if there is no intention for significant new policy change) is a complicated task that needs comprehensive (breadth and depth) assessment. The speed at which this is all being proposed - involving some complicated legal changes as well as high-level policy decisions - does bring with it a real risk of errors and unintended consequences.

It is key that HMRC continues to engage with the industry on an ongoing basis as its thinking develops, rather than waiting until the next release of draft material which may not be until November/December in the normal course of events.

Time remaining to implement

Members of the SPP have relayed concerns that there is insufficient time remaining for them to be able to implement relevant changes in time for 6 December 2023, when they are required to issue retirement information for members reaching normal retirement on 6 April 2024.

We are keen to provide clarity on the considerable changes that the industry will be required to implement and the challenges that will come with this. Below is an example of the core work that will need to be taken forward and potential challenges that will be faced across the industry should the proposed abolishment of the LTA from 6 April 2024 proceed:

- Review and understand the changes to implement and provide appropriate specifications etc. This would require the time of individuals with a high level of technical pensions knowledge and understanding. Such a resource is always in demand and in short supply.

- Updates to systems (calculations, screens, validations), that require the time of programmers, developers and testers. As above, such specialist resource is in short supply across the industry and may already have competing priorities such as topical pension projects (e.g. Pensions Dashboards), new client implementations or other earmarked system developments/improvements. These changes are not straightforward and, due to the nature of pensions systems, would take a number of months to complete. In practice, adjustments would first need to be specified for the development team, so they can produce each change in a test environment, and fully test for errors. Finally, there would be a requirement to ensure that relevant calculations are correct (if any amendments are required these will need to be flagged to developers to resolve before going back into the test environment to repeat the process). All these steps are needed before releasing systems to the live environment. Moreover, depending on the complexity of the system, the number of controls/validations in place, and the number of changes that would likely be required could take several months to code, let alone perform the relevant testing iterations, or the time it would take to draft the specifications for the programmers.
- Training staff on the new changes so they are aware and can answer any member queries. New training material would need to be produced as guides, online pages, and live/recorded presentations. This training would then need to be rolled out to members of staff (depending on the size of the company, this would likely involve multiple sessions to avoid negatively impacting the business).
- Communications – update the communications to members and produce communications for Trustees. All member correspondence referencing LTA (leaflets, letters, statements, forms, website pages, smart FAQs on websites etc.) will need to be reviewed and updated to reflect the new regime but also cater for how the old regime interacts with the new regime. This will all need to be written in a simple, easy format for members. Relevant Trustee correspondence would also need to be produced with details of the coming changes and the adjustments the provider is making to comply with them.

The above changes would take a number of months to implement, and where it is not possible to implement all within the short period of time from when the 'final' information is known, this will likely result in additional costs for manual workarounds, manual calculations required by expert staff, queries from members about the new regime – all of which would ultimately be duplication of work and could be avoided with an appropriate period of time to implement the required changes.

We note there are a number of items that HMRC has yet to start discussing with industry, such as the transitional arrangements of how the old regime would eat into the starting position for individuals' new allowances under the new regime. This only adds to our concerns as we believe this would be a key area for the industry of any change to abolish the LTA.

With so much still outstanding, the pensions industry will not be able to determine all the changes necessary until the majority of the details about the proposed legislative framework for the new regime are confirmed. Based on the consultation end date, this is unlikely to be until

November/December at the earliest, and even then, subsequent changes could be made. In reality, the industry would need the details of the large majority of, if not all, changes occurring on 6 April 2024 by 6 October 2023. This timeline may potentially allow them time to understand the changes and then make the relevant adjustments in time for the statutory deadline of 6 December 2023 described above. Even then this ignores the immediate disclosure issues for members requesting retirement quotes now, but effective for dates in the next tax year. Many of those quotes are made via member portals that will require updating (which will require significant programming time) once HMRC are able to provide details of both the new regime and the transitional arrangements.

Even if you were to disregard the lengthy lead time for system updates (which take time and cannot be achieved quickly), an increasing number of professionals and firms within the pensions industry believe that there is already insufficient time to introduce a new regime from 6 April 2024. On that note, it has been suggested that it would be sensible to defer implementation by a year. Such a deferral would allow time for all the relevant changes to be released, considered, and then consulted. This timing would be appropriate to ensure Government´s desired outcomes of abolishing the LTA rather than rushing the measures through and producing a shaky foundation for the new proposed regime. We would ask for a rethink on the degree of urgency to implement the new regime when the LTA charge, in respect of benefits in excess of the LTA, was already removed from 6 April 2023 and replaced by the recipient’s marginal tax rate.

Our timeline below highlights the key dates involved based on how matters would usually proceed and provides a summary to help HMRC and ministers better understand the challenges industry faces.

Date	**Commentary**
18 July 2023	Consultation published with draft clauses for Finance Bill.
20 July 2023	HMRC newsletter published with comments on draft clauses for Finance Bill. *Neither of the above 2 items provided any detail of transitional arrangements to confirm how benefits taken before 6 April 2024 would be dealt with under the new proposed limits, nor those in relation to overseas items such as transfers and international enhancements – these details will be required by industry to allow them to understand what information they require from members to be able to put benefits into payment and determine if the member has not exceeded the new proposed limits.*
12 September 2023	Consultation deadline for responses to draft clauses for Finance Bill.
19 September 2023	Parliament in recess *Therefore unlikely HMRC will have published response to Finance Bill draft clauses consultation.*

6 October 2023	Date majority of industry would need the details of the large majority of, if not all, changes occurring on 6 April 2024 to allow them time to analyse and make relevant changes in time for the below 6 December 2023 statutory deadline.
16 October 2023	Parliament returns from recess.
7 November 2023	Kings speech highlighting Government priorities for coming months
6 December 2023	Statutory deadline for the provision of retirement information for members with a normal retirement date of 6 April 2024 where they have any type of DC benefits, including DC/AVC funds held under a DB arrangement. *This 4 month statutory deadline makes it clear that Government believes members should be provided a minimum of 4 months to consider their options and make an informed decision. Typically industry would write to members 4 to 6 months in advance of their normal retirement date.*
6 April 2024	Current date proposed for abolishing the LTA

To note the above timeline does not take into account the many other pensions related matters whose timings may overlap and compete for resource.

Impact on members

If the new regime is in force on 6 April 2024, for defined contribution members due to retire on that date, pension schemes will need to issue retirement option packs by 6 December 2023 (four months ahead of the intended retirement date) at the latest – this statutory deadline makes it clear that Government believes members should be provided a minimum of 4 months to be able to consider their retirement options and make an informed decision. Typically many schemes aim to send out retirement options to members up to six months in advance to allow them sufficient time to fully consider their options before making a decision. However if schemes do not have all the information and cannot convey this to members in a plain English easy to understand format, then members could be forced to make decisions without properly knowing all the relevant facts and consequences of their decisions.

As the final legislation changes will not be known for some time after 6 December 2023, it is likely any forms received from members for retirement dates close to, on or after 6 April 2024, will be missing any new information schemes will require to satisfy the new requirements and allow them to put those benefits into payment. As the industry will need to send retirement paperwork by the statutory deadline of 6 December 2023, this will result in them having to go back to members to request additional information, which, not only duplicates work and increases costs, but also impacts the members´ experience as they may not easily have access to the new required information resulting in a delay in paying their benefits.

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With an election on the horizon, this creates material uncertainty for industry along with pension scheme members with the potential for serious confusion in some situations.

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We do not represent any particular type of pension provision nor any one interest-body or group. Our ethos is that better outcomes are achieved for all our stakeholders and pension scheme members when the regulatory framework is clear, practical to operate, and promotes value and trust.

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