

Lifetime Allowance (LTA) protection available from 6 April

January 2021



Any benefits above the LTA will be subject to a tax charge, known as a "Lifetime Allowance charge", at the point that the benefits are crystallised. The rate of tax charged will depend on whether the excess is taken in pension or lump sum form.

The LTA reduced from £1.25 million to £1 million in April 2016. The Government recognised that the reduction of the LTA would have a retrospective impact on members who already had benefits valued over £1 million.

The Government's solution was to offer 'transitional protection' to members who would be impacted by the reduction (as they did on previous occasions).

From 6 April 2016, there are two further types of protection available to individuals::

- Fixed Protection 2016 (FP 2016) and
- Individual Protection 2016 (IP 2016).

The transitional protections are not provided automatically, but require the individual to apply to HMRC for the protections and to take other actions as well.

Importantly, Fixed Protection can be lost if the member becomes an active member of the Teachers' Pension Scheme after 5 April 2016 or if there is any relevant benefit accrual.

These actions are described in this Briefing Note.

Fixed Protection 2016 ("FP16")

Any member can apply for FP16, whether benefits exceeded £1 million or not, however in order for FP16 to be maintained the individual cannot have any 'relevant benefit accrual'. Relevant benefit accrual includes any contribution to a money purchase (i.e. a defined contribution) scheme after 5 April 2016 or where the growth in a person's benefits in a defined benefit scheme (such as the Teachers' Pension Scheme) after 5 April 2016 does not exceed the 'relevant percentage'. To avoid the risk of losing FP16, certain individuals, after consulting a financial adviser, may have opted out of their pension schemes before 6 April 2016. You cannot have FP16 if you have any other type of protection, although IP 16 can be applied for and will remain dormant until FP 16 is lost.

If a member has FP16 their LTA is fixed at £1.25 million. Individuals with FP16 are able to take lump sum rights equal to 25% of their remaining fixed LTA.

Members of the Teachers' Pension Scheme who wish to maintain FP16 may need to opt out of the Scheme each time they take up teaching employment covered by Teachers' Pensions regulations.

Individual Protection 2016 (“IP16”)

In order to be able to apply for IP16 the value of a person’s benefits in registered pension schemes from all sources, including the Teachers’ Pension Scheme, had to be equal to or in excess of £1 million as at 5 April 2016. IP16 enables an individual to accrue further benefits in a defined benefit scheme, such as the Teachers’ Pension Scheme, without losing this protection.

But if a member has IP16, their personal LTA is equal to the value of their benefits at 5 April 2016 but subject to a maximum cap of £1.25 million. Therefore, assuming the person qualifies for IP16 and the total value of benefits are, say, £1.175 million at 5 April 2016, if the value of benefits at retirement were £1.5 million, their personal LTA fund would remain at £1.175 million and there would be a LTA charge due on benefits in excess of £1.175 million. Individuals with IP16 are able to take lump sum rights equal to 25% of their remaining personalised LTA.

IP16 is only available if the person does not already have primary protection. Those holding Enhanced Protection, Fixed Protection 2012 or Fixed Protection 2014 could apply for it, but the person must have had total pension assets as at 5 April 2016 in excess of £1 million to be eligible for IP16.

IP16 can also be lost if the individual undertakes a ‘non-permitted transfer’ after 5 April 2016 e.g. a transfer from a defined benefit scheme to a money purchase scheme.

The valuation of benefits

For the purposes of valuing benefits for protection, the standard HMRC LTA valuation factor for ‘un-crystallised’ pension benefits is 20 for every £1 of accrued pension plus the value of any automatic lump sums (if any) as at 5 April 2016. The valuation of benefits which are already in payment is more complicated and depends on whether the benefits were crystallised before or after 6 April 2006. If a pension was taken before 5 April 2006, the annual amount of the pension in payment at the date of the first crystallisation on or after 6 April 2006 needs to be multiplied by 25. This should be converted to a percentage based on the LTA in force at the first crystallisation and this percentage is then multiplied by the amount of LTA in force at the next crystallisation event to provide the remaining capital element of the LTA at 5 April 2016 (i.e. £1.25 million). With regard to any crystallisations since 6 April 2006, percentage values of all crystallisations need to be collated and valued against the LTA in force as at 5 April 2016 (i.e. £1.25 million).

HMRC Online applications for transitional protection

Members can still apply for these protections using HMRC’s online self service tool, which is available to individuals or their authorised representative. The information needed by HMRC will be similar to that in respect of the previous declarations for Fixed Protection 2012 (“FP12”), Fixed Protection 2014 (“FP14”) and Individual Protection 2014 (“IP14”).

The legislation providing for the reduction in the LTA to £1 million and the availability of FP16 and IP16 came into force with effect from 6 April 2016.

If a member applies for both types of protection, FP16 will have precedence over IP16. HMRC has indicated that there will no longer be an application deadline for obtaining FP16 and IP16 (unlike IP14). These protections however must be in place before the members benefits come in to payment.

If benefits were to come into payment on the assumption that a valid FP16 or IP16 reference number was in place, but the protection is subsequently found to be invalid, this could lead to an underpayment of tax and an overpayment of benefits.

The information in this Briefing Note is based on our current understanding of the tax and legal position and do not allow for any changes that may be communicated after the date of publication. This document is for reference purposes only and does not constitute financial advice. It is the member's responsibility to ensure that they pay any tax due on their pension savings. We recommend that you take independent financial advice from a regulated individual, who can assess and quantify the extent of any tax liability that is due. You can find a list of independent financial advisers at www.unbiased.co.uk.