BRIEFING

What's Happening in Pensions

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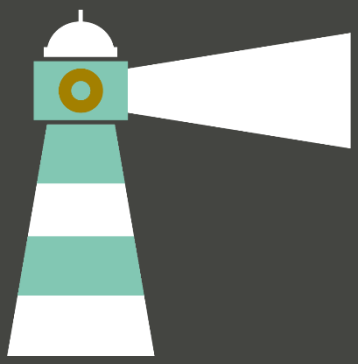

Travers Smith Pensions Sector Group

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Updated guidance on DC master trust capital reserving requirements: the Pensions Regulator has updated its guidance around regulatory capital reserving requirements for DC master trusts. The guidance follows a review carried out by the Pensions Regulator and meets the Government's aim to "*strip back unnecessary regulatory burden*".

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Finance Act 2026: The Finance Act 2026 which includes the provisions introducing inheritance tax on unused pension fund and death benefits for deaths from 6 April 2027 was enacted on 18 March 2026. Draft regulations and HMRC guidance will be published for consultation in the coming months.

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FCA targeted support authorisation gateway opens: Firms can now apply to the Financial Conduct Authority for permission to provide targeted support. From 6 April 2026, banks, pension providers or other financial firms that are authorised for targeted support can provide suggestions designed for groups of consumers with common characteristics, to help them make financial decisions.

PENSIONS RADAR: You may also be interested in the latest edition of Pensions Radar, our quarterly listing of expected future changes in the UK law affecting work-based pension schemes.

SUSTAINABILITY MATERIALS: Our Sustainable finance and Investment Hub includes a section on ESG and sustainable finance issues for pension schemes and their sponsors.

Pension Schemes Bill faces challenge in the House of Lords

A number of non-Government supported amendments were made to the Pension Schemes Bill in its final report stages in the House of Lords. Most significantly, the Lords voted by 217 in favour and 113 against to remove the Government's controversial mandation clause which contains a reserve power effectively to force £25bn+ master trust and Group Personal Pension (**GPP**) funds to invest a proportion of their assets in particular asset classes, including in the UK.

The Lords also passed an amendment to add a scale test exemption for sub-scale defined contribution schemes. Under the Bill, master trusts and GPP funds will need to meet a scale of £25 billion managed under a "*common investment strategy*", in relation to their "*main scale default arrangement*", by 2030, or 2035 where transition pathway relief has been granted. Exemptions to the scale requirement may be prescribed in regulations, with the Bill giving hybrid schemes and master trusts designed to meet the needs of persons with a protected characteristic within the meaning of the Equality Act 2010 as examples of possible exceptions. The Lords have proposed adding another exemption where the Pensions Regulator determines that a master trust or GPP scheme should be treated as having met the scale requirement where the Regulator is satisfied that there is no reasonable evidence that consolidation of the scheme into another arrangement would be likely to improve outcomes for members.

Various Government amendments were made to the Bill in the Lords, the main one being the extension to the pre-1997 indexation provisions on PPF compensation and FAS assistance. The Bill now provides that where a scheme's rules provided for increases to post 1988 GMPs but did not provide for increases to pre-1997 non-GMP benefits, members will receive increases calculated by reference to a prescribed percentage of the pre-1997 compensation or assistance.

The Government also introduced an amendment to give the Secretary of State the promised statutory power to issue guidance in relation to how trustees exercise their fiduciary duties in relation to investment under section 36 of the Pensions Act 1995. The provision says that

"*Guidance issued under this section may, in particular—*

(a) explain the meaning of any expression relevant to that law;

(b) include examples to illustrate how that law applies to particular scenarios".

The Government's drafting suggests it intended moving quickly on this, with the Bill providing that the first guidance be laid before Parliament within 12 months of the relevant provision coming into force. Indeed, the Department for Work and Pensions has already set up a Technical Group and a separate Advisory Group to consider what the guidance should contain. However, in a marginal vote, the Lords voted 202 in favour and 225 against including the amendment which means that as the change was made so late by the Government, it will no longer be part of the Act.

The Bill will now return to the House of Commons to consider the Lords' amendments, with that process due to start on 15 April 2026. Any changes made by the Commons will then return to the Lords for consideration in the usual "ping-pong" process until both Houses reach agreement.

For more background on the above proposals see What's Happening in DC and WHiP 119.

Comment

It is perhaps not surprising that the Lords have made these changes as they all directly or indirectly relate to the most contested and controversial elements of the Bill, being the extent to which Government should seek to influence or intervene in how trustees invest pension scheme assets.

The Financial Times is reporting that ministers plan to bring back the reserve mandation power when the Bill returns to the House of Commons, but with a proposed compromise so that the requirement will be to invest 10% of assets in private markets, 5% of which must be in the UK, to bring it into line with the existing voluntary commitments of the Mansion House Accord. Even if the Government's revised wording is accepted, the Lords did also raise other legitimate issues with the drafting of the power, including its exclusion of the use of listed investment companies as a vehicle to access private markets from the list of qualifying assets that will count towards the mandation requirement. It remains to be seen whether this and any other changes will be made to the Bill before it receives Royal Assent.

Building scale in defined contribution

One objection to the Government's proposed scale requirement was that its early publication would make it difficult for smaller schemes to reach that goal. Whilst "*transition pathway relief*" will be available from the Pensions Regulator where a scheme's main default arrangement has assets of at least £10 billion by 2030 and can demonstrate a credible plan to meet the scale requirement by 2035, and a new entrant pathway will be available for schemes offering materially different innovative product design to existing providers, a number of master trusts currently remain well below the £10 billion target. This is reportedly already resulting in some smaller master trusts being excluded from employee benefit consultants' selection lists for prospective employers due to assumptions being made about their ability to meet the required scale by 2030 or 2035.

As such, on 9 March 2026, the Department of Work and Pensions and the Pensions Regulator issued documents setting out policy intention and principles in relation to the scale requirement. The Pensions Regulator in particular has cautioned employers and advisers against second guessing which master trusts not yet at scale will be unable to meet the requirement within the prescribed timescales. Selection of a scheme in this period of transition, the Regulator says, should be "*focused squarely on saver outcomes*". The Regulator's statement includes indicative scenarios illustrating how growth may be achieved. It confirmed that the scale requirement will start no earlier than 1 January 2030, with some limited exemptions being set out in future secondary legislation. In its statement, the DWP recognised the need for the industry to see the secondary legislation which will set out much of the detail sooner rather than later and confirmed this will be published "*as soon as practicable*" following the Bill's Royal Assent. The Regulator confirms that transition pathway relief approval is expected to begin in 2029.

Comment

Whilst this intervention is welcome, it remains to be seen whether it will have any impact on what is happening in practice. What is really needed is publication of the secondary legislation detailing what exceptions there will be to the scale requirement, how master trusts and GPPs will be treated as "*connected*" so that their respective assets can be combined to meet the scale requirement and what will be meant by a "*common investment strategy*" under which connected schemes' default arrangement assets must be invested to meet the requirement.

Updated regulatory guidance on capital reserving requirements for DC master trusts

On 20 March 2026, the Pensions Regulator published a blog in which it confirmed it has updated its guidance around regulatory capital reserving requirements for DC master trusts in response to the rapid growth and development of the master trust market and in anticipation of further growth and consolidation in the market as a result of the forthcoming introduction of the scale requirement. The guidance follows a review carried out by the Pensions Regulator and meets the Government's aim to "*strip back unnecessary regulatory burden*".

The regulatory capital reserving requirements mean that in any hypothetical triggering event master trusts have enough capital to continue operating until they can transfer members to another arrangement, without any additional cost to members. Overall, the total level of reserves held across the market have accelerated as schemes have grown quickly in terms of membership and assets under management. The updated guidance allows for a more scheme-specific approach and removes, or gives master trusts further clarity, as to the circumstances in which the Regulator would be comfortable with them:

- offsetting more than 20% of financial reserves;
- holding less than 15% of calculated financial reserves in cash or near cash; and
- allowing for reserving requirements required by other regulatory regimes.

Comment

Hopefully, this update will result in more consistency across the market and, as the Regulator says, allow those master trusts with higher capital reserves to invest in their business and deliver better outcomes for members.

Government's salary sacrifice proposals also face challenge in the House of Lords

The National Insurance Contributions (Employer Pensions Contributions) Bill which contains the primary legislation to cap National Insurance contribution (**NIC**) tax relief on pension contributions made through salary sacrifice from April 2029 also met opposition in its final stage in the House of Lords. The House of Commons quickly rebuffed all changes made by the Lords replying that "*Because the Lords Amendment would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient*". The changes made by the Lords were to:

- provide that those repaying student loans will not face extra loan repayments on any pension contributions made via salary sacrifice above the proposed annual cap;
- increase the proposed cap from £2,000 a year to £5,000 a year; and
- exclude small or medium-sized employers and those operating in the charity or social enterprise sector from the new NIC charge.

The Bill was eventually accepted by the Lords before it broke for Easter and should receive Royal Assent when Parliament returns.

Comment

We anticipate the changes proposed in relation to those repaying student loans will be dealt with in the secondary legislation. Given the impact the introduction of the cap is expected to have on the levels of pension savings made by middle earners, it is disappointing, if not perhaps unexpected, to see the proposed increase in the cap being dismissed out of hand.

Enactment of the Finance Act 2026

The Finance (No) 2 Bill received Royal Assent on 18 March 2026 to become the Finance Act 2026. Various late amendments were made to the provisions introducing inheritance tax (**IHT**) on unused pension fund and death benefits for deaths from 6 April 2027. In particular, a change was made to the definition of "*excluded benefit*", being those death in service benefits that will not be included in a member's estate for IHT purposes. The previous version of the Bill had required members to be active members of the scheme for death in service lump sums to be excluded, leading to concerns that where such cover was provided for deferred in service members, they would be subject to IHT. The active membership requirement has now been deleted.

The Treasury has also published the Government's response to the House of Lords Economic Affairs Finance Bill Sub-committee's report which examined the pensions IHT reforms. The Government has rejected the recommendations to extend the deadline for personal representatives (**PRs**) to pay IHT from the end of the sixth month after death to the end of the twelfth month after death and to suspend interest for late payment for an initial transitional period. The response notes that PRs will be able to direct pension trustees to withhold taxable pension benefits for up to 15 months from death and pay the IHT due to HMRC directly. The response contains a helpful indicative timetable of next steps:

- **Spring 2026**: a list of clarifications to common questions that have been raised by industry via HMRC newsletters will be published.
- **Spring 2026**: draft regulations on information sharing requirements for consultation will be published. The regulations will include mandatory timescale for pension trustees to respond to requests for information from PRs.
- **Spring/Summer 2026**: regulations on information sharing requirements between PRs and pension trustees will be made with a commencement date of 6 April 2027.
- **Autumn/Winter 2026/2027**: draft guidance to be shared with industry stakeholders to support them in understanding the new requirements relating to inheritance tax on pensions.
- **Spring 2027**: guidance and other supporting materials to be published. This will include updated HMRC guidance on how to value pension assets for IHT purposes.

We will publish a detailed briefing on the new requirements once the draft regulations are published.

In addition to the provisions relating to IHT on unused pension funds and death benefits the Finance Act 2026 contains provisions relating to registration and deregistration of collective money purchase schemes and master trust schemes. The Act also contains an extension of the existing power in the Finance Act 2024 to enable regulations to make changes to primary legislation in connection with the abolition of the lifetime allowance. The current power has been used three times to rectify various errors and omissions in the original legislation and was due to expire on 5 April 2026 but has now been extended to 30 June 2026. The changes needed were announced in September 2025 in HMRC Newsletter 173 and primarily relate to changes required to authorised lump sum payments but time was clearly running out for consultation on the required changes to take place, hence the need for the extension.

Comment

One concern that remains for PRs is how they will be able to identify and locate an individual's pensions on death. The House of Lords' recommendation that PRs be granted access to the Pensions Dashboard has been rejected by the Government. PRs will, therefore, need to identify a deceased's pension assets in the same way as they identify other assets, by looking at the deceased's paperwork and asking friends, family and professional advisers of the deceased. Whilst the Government's concern that extending access to the Pensions Dashboard in its initial iteration risks exposing members to potential scammers is understandable, potentially with further testing and rigorous security checks, PRs may, in time, be granted access to the Pensions Dashboard. The Pensions Dashboard could be a valuable source of information for PRs in relation to the pensions benefits of those disengaged members who die before retirement, and so it would be helpful if the Government reconsidered this point once the Pensions Dashboard is up and running.

TPR guidance for the Virgin Media legislative fix published

On 26 March 2026, the Pensions Regulator published guidance regarding the *Virgin Media* remedy included in the Pension Schemes Bill to enable affected pension schemes to retrospectively obtain written actuarial confirmation that historical benefit changes met the necessary standards where they meet the conditions to be a "*potentially remediable alteration*".

The guidance (which may be updated if further changes are made to the Bill before it becomes law) has been written for trustees or managers of occupational pension schemes that:

- were contracted-out on the salary-related basis at any point between 6 April 1997 and 5 April 2016, and
- have not been fully wound up or transferred to the Pension Protection Fund or the Financial Assistance Scheme at the date the Bill receives Royal Assent.

Under the Bill, schemes that have been fully wound up or transferred to the PPF or FAS at the date the Bill receives Royal Assent will be treated as having met the legislative requirements from their original effective date, meaning they will not be required to obtain retrospective actuarial confirmation.

The guidance is a useful reminder for trustees of their statutory duties and sets out the Regulator's expectations of the standards required to achieve compliance. It points out that the Regulator has no statutory functions in relation to the remedy and there is no requirement on trustees to report remediation actions to the Regulator. Helpfully, it also confirms that where there has been a past failure to obtain actuarial confirmation under section 37 of the Pension Schemes Act 1993, but the remedy can now be used, the Regulator considers that any historic breach is "*very unlikely to be materially significant*" to it now.

Practical next steps

The guidance contains a number of practical tips for trustees and urges them to consider whether they should arrange training to ensure they understand the Virgin Media judgment, the legislative remedy provided for in the Bill and any other available options to address the issue. It confirms that trustees will normally need to seek advice and information from their legal advisers and may also need to discuss with the scheme's sponsoring employer. Legal advice may also be needed to help write the letter of instruction to the scheme actuary where a decision is made to use the remediation solution in the Bill.

As reported in previous editions of WHiP, we continue to await the outcome of *Verity Trustees v Wood* in which the High Court is considering further questions in this area. It is hoped the judgment will be published before summer.

High Court refuses to strike out Capita data breach claim

The High Court has dismissed an application brought by Capita PLC to strike out claims brought by nearly 4,000 claimants that they should recover damages for the consequences of Capita's failure to ensure the security of their personal data in connection with the cyber breach in March 2023 that affected a significant number of pension schemes.

The claim was brought by those claimants who had responded to an online advertisement placed by Barings Law offering to bring data protection compensation claims on a "*no win no fee basis*" where members had been notified of Capita's data breach by scheme trustees. Whilst some of those letters referred to a possibility that various types of personal data had been accessed and/or exfiltrated and warned members to be alert, Capita said it had no evidence of any illegal use having been made of any member's data. Barings' advertisement invited potential claimants to complete an online form which included a link to a data breach questionnaire in which members were asked whether they had experienced distress, anxiety or other issues as a consequence of the data breach.

Particulars of Claim were then drafted using general descriptions of the claimants' alleged distress, which, Capita argued, did not correspond with the claimants' answers to the questionnaire and were, therefore, effectively invented by Counsel for the claimants. Particular reference was made to the use of the stock expressions "*tormented*", "*violation of the security*" and "*betrayal of trust*". Capita argued that as the Particulars of Claim had taken this form and had been put

to and agreed by the individual claimants, their evidence had become "*tainted*" such that they could no longer properly advance or give evidence as to their cases.

The High Court rejected Capita's application to strike out the claim, noting that Counsel (and solicitors) have a very wide latitude as to how they seek and receive instructions. Whilst those instructions do have to be tailored for individual claims, in cases such as these involving a very large number of claimants, each with a limited claim, there may be good reason to adopt a costs-limited course of advancing a generic allegation of facts provided that each individual claimant is prepared to assent that they believe that allegation as far as they are concerned.

Even if there had been abuse, the High Court did not accept that strike-out was appropriate, noting that the remedy is draconian and effectively a matter of last resort to take place only where it is required to maintain the integrity of the court process or to achieve an objective of similar importance. In this case, strike-out would deny the claimants recourse against Capita for what, in some cases, is an admitted breach giving rise to claims for entitlement to damages which, in the Court's view, seemed to have real potential foundation.

Comment

The case will be of interest to trustees who could also find themselves the subject of multiple low value claims for compensation for data breaches following a cyber breach. It is one of two recent such notable cases, the other being *Farley v Paymaster*, which we covered in WHiP 118. The two cases highlight the difficulties defendants face in attempting to dispose of low-value claims at an early stage. They also confirm that claimants can recover compensation for fear or anxiety about possible misuse of their data, but only if those fears are "*well-founded*" and not if the fear is (for instance) purely hypothetical or speculative.

What the UK's data protection reforms mean for trustees

Continuing with the theme of data protection compliance, as data controllers, trustees should ensure they are familiar with the new series of data protection and e-privacy reforms under the Data (Use and Access) Act 2025 (**DUAA**) – most of which came into effect on 5 February 2026. While a far cry from the sweeping GDPR compliance uplift of 2018, trustees should be aware of how the existing law has changed, what is new and what has (at least in terms of compliance) stayed the same. In particular, they will need to ensure that their processes for handling data protection complaints meet new rules under the DUAA ahead of a **19 June 2026** deadline. The new rules are designed to facilitate complaints being made directly to the data controller and include mandatory information requirements and timeframes.

Our separate briefing contains the detail and sets out the actions trustees should take to ensure they remain data protection compliant.

Vesting of scheme assets – TPR determination in Vedius Pension Trust

The Pensions Regulator has published its determination in Vedius Pension Trust (the **Trust**) which, amongst other regulatory and governance matters, contains a useful reminder of the importance of ensuring that a scheme's assets vest in a newly appointed trustee. The Trust was a "*relevant multi-employer scheme*" meaning it was required to have at least three trustees under Regulation 27 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996. Prior to regulatory action being taken, the Trust had a sole corporate trustee, Vedius Trustee Limited (**VTL**), which only had one director. Therefore, on 19 April 2024, the executive arm of the Pensions Regulator:

- appointed Vidett Governance Services Limited (**Vidett**) as a trustee of the Scheme under section 7(3)(b) of the Pensions Act 1995 (**PA95**) to ensure that the number of trustees was sufficient for the proper administration of the Trust;
- exercised its power under section 7(5)(a) of the PA95 to determine that the appropriate number of trustees for the Scheme was one; and
- under section 8(4)(b) of the PA95 ordered that Vidett could exercise its powers to the exclusion of other trustees.

VTL subsequently resigned as trustee. Following its appointment, Vidett experienced difficulties in identifying and securing the transfer of Trust assets into its control. By way of reminder, there are three ways in which scheme assets legally vest in a new trustee:

- on their appointment by deed, although automatic vesting does not apply to certain assets;
- by an Order of the High Court under section 44 of the Trustee Act 1925; and
- where the Pensions Regulator makes an order under section 9 of the PA95 vesting any scheme property in, or transferring such property to, the trustees in consequence of their appointment or removal.

The Trust rules did not provide for the automatic vesting of assets on the appointment of a new trustee and the deed of appointment appointing VTL as trustee in November 2017 did not mention the vesting of Trust assets. As such, there was a risk that the Trust's assets remained vested in the pre-2017 trustee, GFS Trustee Limited. Furthermore, as Vidett had been appointed under section 7(3)(b) of the PA95, a vesting order under section 9 of the PA95 (a power that must be exercised by the Determinations Panel) was not made at the same time. Had the appointment been made under section 7(3)(a) (c) or (d) of the PA95, all of which invoke powers reserved to the Determinations Panel, a vesting order would have been made at the same time.

The Panel accepted that whilst a High Court vesting order was theoretically available it would, given the Trust's diminished asset value, be disproportionately expensive. The Panel therefore concluded that a vesting order was necessary, proportionate and aligned with the Regulator's statutory objectives.

Comment

Whilst the case is unusual on its facts, it is a reminder not to overlook the importance of vesting. In this case, the assets of the scheme included interests in a number of commercial and residential real estate properties in the UK. Where trustees are seeking to deal with any land assets belonging to a scheme, the Land Registry will ask for evidence that scheme assets have been legally vested in that trustee. An order vesting the assets of a scheme under section 9 of the Pensions Act 1995 constitutes such evidence, as does a validly executed deed of appointment and removal.

PPF levy 2026/7 rules confirmed

The Pension Protection Fund has published its consultation response and final levy rules for the 2026/27 financial year. It confirms its consultation proposals to set a zero levy for the c5,000 remaining DB "*conventional schemes*" but maintain a proportionate risk-based levy for alternative covenant schemes, which includes DB superfunds. Whilst the PPF's consultation response acknowledged that DB superfunds are subject to a strict regulatory regime meaning the risk they pose is currently low, it noted that the sector is developing rapidly and has the potential for a range of different scheme designs and business models to emerge. As such, risks could become more concentrated and the PPF considers that conventional levy payers should be shielded from any levy impacts of this emerging market.

Trustees (and legal advisers!) will no doubt all be delighted to learn that this means that schemes will no longer be required to produce annual deficit reduction contribution and contingent asset certifications to obtain a levy saving. Contingent asset documents will also no longer need to be submitted through Exchange. Schemes will, however, still be required to submit scheme return submissions, including information in respect of s.179 valuations and asset backed contributions as these remain a legislative requirement.

FCA gateway open for targeted support authorisation

Firms can now apply to the Financial Conduct Authority for permission to provide targeted support. From 6 April 2026, banks, pension providers, or other financial firms that are authorised for targeted support can provide suggestions designed for groups of consumers with common characteristics, to help them make financial decisions in relation to DC pensions and retail investments. Initially, only FCA-authorised firms with over £500,000 in capital will be permitted to offer targeted support.

Whilst firms will not be able to provide annuity quotations as part of their "*ready-made suggestion*s", they will be able to direct consumers to whole of market annuity brokerages. The FCA has also provided reassurance concerning the guidance that pension schemes can provide in relation to consolidation, confirming: "*We know firms are already making consumers aware of the option of consolidating when accessing their pension. Firms are describing the key factors that may be relevant to a consolidation decision. We want firms to feel confident to support consumers in this way. Such guidance could be provided before or in parallel to a targeted support journey, provided the guidance is not integral to the ready made suggestion*".

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