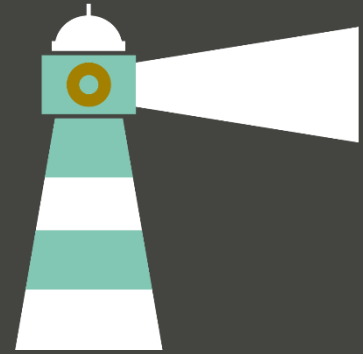


# What's Happening in Pensions

Issue 123 – June 2026



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## In this issue:

**Surplus release expected to be available from April 2027:** The Government has launched the widely anticipated consultation on the draft regulations that set out the conditions defined benefit schemes will need to meet before a surplus payment can be made to a sponsoring employer from an ongoing scheme. The regulations are expected to come into force on 6 April 2027.

**Pensions Commission issues interim report:** On 19 May 2026, the second Pensions Commission published its interim report. It contains no recommendations but sets out the evidence gathered so far and the main areas the Commission will examine further before finalising its report in Spring 2027.

**Pensions UK updates retirement living standards:** Pensions UK's Retirement Living Standards have been updated for the 2025 figures. The research helps individuals picture their lifestyle in retirement and the everyday costs associated with three different levels of living.

**DWP launches consultation on amending the 2021 Conditions for Transfers Regulations:** The Government has launched a consultation on proposed amendments to the 2021 Conditions for Transfer Regulations. The consultation seeks views on proposed amendments to address the risks of fraud within SSAs as well as making long called for changes to the existing transfer conditions to address the operational issues seen since they were first introduced.

**Forthcoming pensions tax changes:** HMRC is consulting on technical amendments to the calculation of pension input amounts where a GMP conversion exercise has taken place. They have also laid the awaited regulations that make the various final technical amendments required following the abolition of the lifetime allowance which will be backdated to have effect from the 2024/25 tax year onwards.

**HMRC makes unannounced change to VAT recovery for occupational pension schemes:** On 4 June 2026, HMRC made certain updates to its internal VAT Input Tax manual which impacts the VAT recovery position for supplies made in relation to occupational pension schemes. This guidance was expected (and over-due), but it goes further than what was expected.

**DC to CDC transfers without member consent permitted from 31 July 2026:** Regulations have been laid before Parliament to allow transfers of DC benefits without member consent to authorised CDC schemes - these will come into force on 31 July 2026. The DWP's non-statutory guidance on bulk transfers of money purchase benefits without guarantees without consent has been updated to reflect changes made by the regulations.

**Government to review flexible apportionment arrangements:** The Pensions Minister has announced that the Government will review the regulations governing flexible apportionment arrangements (FAAs) in light of the deal announced in December 2025 under which Aberdeen Group agreed to replace Stagecoach as sponsoring employer of the £1.2bn Stagecoach Group Pension Scheme under a FAA.

**TPR publishes AI plan:** The Pensions Regulator has published its AI plan setting out its initial expectations as to how trustees should govern the use of artificial intelligence (AI) as well as describing how TPR itself will use AI. TPR confirms regulatory guidance will be published in 2026, following its engagement with the pensions industry.

### In this issue (continued):

**To be or not to be a forfeiture clause – a recent Pensions Ombudsman determination:** In the determination of Mr G v the European Metal Recycling Limited Pension and Life Assurance Scheme, the Ombudsman held a scheme rule not to be a forfeiture clause, noting its striking similarity to the drafting of the purported forfeiture clause in the *Axminster Carpets* case.

**Pensions Ombudsman extends the usual recovery period for overpayments in the case of Ms N:** In a departure from the general "rule of thumb", the Pensions Ombudsman has directed in a recent determination that recoupment of an overpayment from future pension payments should take place over a period of 36 months and not the 3 month period over which the payments were made.

**FCA consults on simpler climate reporting rules for investment firms:** The FCA has launched a consultation on proposals to replace detailed product-level reports based on the TCFD disclosures with simpler, more targeted information. Pension trustees will still be able to request key emissions data from firms to comply with their own TCFD reporting requirements but investment firms will no longer need to publish this in full reports.

**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](#).

## Surplus release expected to be available from April 2027

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The Government has launched the widely anticipated [consultation](#) on the [draft regulations](#) that set out the conditions defined benefit (DB) pension schemes will need to meet before a surplus payment can be made to a sponsoring employer whilst a scheme is ongoing. The regulations are expected to come into force on 6 April 2027. The proposed conditions replace the existing conditions in legislation, including the requirement for the trustees to be satisfied that the payment is in the interests of the members, which was difficult to overcome in practice. The new conditions are:

- **Funding threshold:** Trustees may only release surplus if the scheme is funded to at least the low dependency funding basis, as opposed to the current buyout basis. This is intended to align surplus release with the 2024 funding and investment regime and the long-term objective that the scheme should be able to provide benefits without further employer support in most reasonably foreseeable scenarios.
- **Procedure:** Having obtained an actuarial assessment of the scheme's assets and liabilities, either as part of a triennial valuation or in between, trustees must take advice from the scheme actuary and consult with the employer on both the amount and proposed payment date of any surplus payment. The Trustees must then notify members in writing at least 3 months before the intended payment date, stating the amount and, where applicable, whether any benefit enhancements will be made. TPR guidance will provide further details about how trustees could approach the notification to members of the enhancement of their benefits. The consultation stresses that the final decision to release surplus remains one for trustees but states that three months allows sufficient time for members to communicate with trustees over the decision.
- **Actuarial certification:** Once the 3 months has passed, trustees must obtain the employer's consent to the payment. They must also obtain a certificate confirming that in the scheme actuary's opinion, the scheme is funded above the low dependency funding basis at the time of the proposed release and that it is "*at least as likely*" to remain funded at or above that level at any point during the following three years. The payment must then be made within 5 working days of the certificate. This is a material change from the current regime, under which a certificate may remain valid for up to 15 months. The Financial Reporting Council has [confirmed](#) that it will be developing technical actuarial guidance to help scheme actuaries to provide the required certification.
- **Notification to TPR:** Within one week of making the payment, trustees must notify the Pensions Regulator. Unlike the current position, certain information has to be included in that notification which is listed in the regulations.

The consultation also confirms that amendments will be made in the Finance Bill 2026-27 to ensure any lump sum surplus payments made to members are authorised payments. Again, the scheme must be funded to at least the low dependency funding basis before a payment to members can be made. Helpfully, the Government has also confirmed that whilst one-off payments cannot be made to members unless they are at or above Normal Minimum Pension Age (NMPA), trustees will still be able to award authorised member surplus payments to members below NMPA, but payment of these will be deferred until the member reaches NMPA. Any such deferred award must be revalued to NMPA by reference to the final salary method as a minimum.

By way of reminder, the [Pension Schemes Act 2026](#) contains a new statutory power for trustees to modify an ongoing scheme by resolution to give a power to make payments to employers. Where there is already such a power, a resolution may remove or relax any restriction imposed by the scheme on the exercise of the power. There is also provision in the Act to repeal section 251 of the Pensions Act 2004, which required trustees to have passed a resolution before 6 April 2016 in order to retain a scheme power to pay surplus to an employer. Any such existing resolutions are not, however, invalidated. These provisions are also expected to come into force when the regulations are made. The consultation closes on 2 September 2026.

Ahead of formal supporting guidance, which will be consulted on later this year, the Pensions Regulator has also published [its early views](#) on the principles that trustees should consider when releasing surplus along with an illustrative example of how trustees should proceed with surplus release now, if permitted under a scheme's trust deed and rules, and how this could change when the new legislation is in force. In it, the Regulator recommends that trustees:

- put a surplus policy in place;
- consider whether the trustee board has sufficient expertise to manage a scheme in run-on, if that is the intention;
- have up-to-date information regarding the level of funding on a low dependency basis and the current investment strategy;
- review the quality of their scheme data and administration – where any material issues or concerns are identified, consider prioritising further work in this area; and
- start engaging with the employer as soon as possible to understand their motivations and reasons why they want surplus released.

## Comment

As expected, the draft regulations do not mandate that surplus must be used for a particular purpose. Neither do they contain a specific legislative requirement for trustees to consider sharing surplus with members. However, the consultation document points out that agreement will be required between the trustees and the sponsoring employer before any surplus can be released to the employer. It goes on to note that as part of obtaining that agreement "*Trustees may also wish to consider and agree how any surplus could be used to enhance member benefits*". The Pensions Regulator also anticipates that such discussions will include whether members and the employer will benefit from surplus release and sets out some considerations for trustees when holding those discussions.

The perhaps unexpected element of the drafting is the proposed introduction of a 3-year forward-looking test to indicate whether the scheme is expected to remain at the low dependency funding level once surplus has been released. There had been talk in the industry as to whether some employers would seek to agree a return of surplus and then complete a superfund transaction which, from 6 April 2028, will only require trustees to show that as at the date of the application the financial position of the transferring scheme is not strong enough to enable the trustees to arrange an insurer buy-out. It is unclear whether the requirement has been introduced to address this fear, address potential trustee "regret risk" or something else but its introduction will inevitably have an impact on how much of the estimated aggregate £160bn in UK DB schemes will likely be released to benefit employers, members and the wider economy.

## Pensions Commission issues interim report

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On 19 May 2026, the second Pensions Commission [published its interim report](#). The 2006 Pensions Commission led to the introduction of automatic enrolment and the simplification of the state pension and was "revived" by the Government in July 2025 to make recommendations to "*map out a pensions system that is truly adequate, in the broadest sense of that word*". The second Pensions Commission is being led by Baroness Jeannie Drake (who was also involved in the 2026 Commission), Sir Ian Cheshire and Professor Nick Pearce.

The interim report contains no recommendations but instead sets out the [evidence gathered so far](#) and the main areas the Commission will examine further before finalising its report in Spring 2027. The overarching message is that, whilst auto-enrolment has materially increased pension participation, current contribution levels and the scope of coverage are unlikely to produce adequate retirement incomes for a significant proportion of future retirees. The main findings (on which the Commission welcomes views) are:

### **The UK's ageing population requires renewed fair and sustainable solutions**

The share of the UK's population over the age of 65 is projected to reach 28% by 2075, up from 19% today. State Pension age increases and slowing life expectancy increases have kept down the old-age dependency ratio during the past 20 years, but over the next decade it is expected to reach 3 pensioners for every 10 working-age adults and 4 for every 10 by the 2070s. Spending on pensioner benefits (including the State Pension) is projected to grow from around 6% of GDP in 2024-25 to around 9% by the early 2070s, while spending on health and social care could rise by around 8% of GDP over a similar period. What is more, since the first Pensions Commission, there has been weak productivity and wage growth, which has direct implications for the value of pensions savings and people's ability to save, amid other challenges to achieving strong economic growth.

Working longer – and in particular reducing labour market inactivity among people in their fifties – is a necessary part of achieving adequate incomes in retirement. Although the UK's State Pension age is not low by international standards, we have a low average labour market exit age, with women typically leaving work 4 years earlier than in the US, New Zealand or Japan, and men exiting 2 years earlier than in Ireland.

### **Pension policy should enable everyone to achieve a decent standard of living in retirement with the non-means tested State pension acting as a foundation**

The various methods of assessing "retirement adequacy", whether you consider income replacement rates (which compare retirement incomes to people's earnings during their working lives), minimum retirement living standards as prepared by Pensions UK or the relative poverty threshold, (regarded as 60% of the contemporary median disposable income) all raise concerns about the extent of under saving for retirement. Those most at risk of poor retirement outcomes are low and middle earners, those without private pension income, renters (particularly in the private sector), the self-employed and other under pensioned groups, which consist of women, some ethnic minorities, LGBTQ+, those with disabilities, multiple jobholders and carers.

The report proposes a "hybrid" metric of adequacy which builds on replacement rates for middle earners while focusing on a basic adequacy standard for lower earners to help guide future pensions policy. The flat-rate State Pension is playing the role as a firm foundation for adequacy but more is needed from earnings-linked private pensions saving to help people to achieve a decent standard of living in retirement.

How and when pension pots are accessed, along with investment returns, are also crucial determinants of adequacy. Retiring at 57 (soon to be normal minimum pension age) compared to retiring at 65 could reduce the average saver's annual workplace pension from nearly £9,000 a year to just over £4,000 a year. The report suggests focussing on increasing employment rates amongst the over 50s and enabling people to work for longer, with a particular focus on reducing early, permanent exit from the labour market well before the State Pension age.

The variance in investment returns is wider in the UK than in comparable countries and can greatly affect outcomes. Just a 1% increase in annual rates of returns could deliver around a 30% increase in the size of a defined contribution pension pot at retirement. The new value for money framework being introduced under the Pension Schemes Act 2026 seeks to address this but a coherent regulatory framework and robust governance will also be needed.

### **Stronger guardrails are needed around decumulation choices**

The 2006 Commission was produced when the assumption was that DC pots would generally be used to buy annuities to deliver a regular pension income for life. However, the 2014 pensions freedoms reforms gave UK retirees far greater

pension flexibility than counterparts in other countries and has seen high levels of full cash withdrawals, widespread early access of 'tax-free lump sums', and high withdrawal rates that risk running down savers' pension wealth too quickly. Whilst the introduction of targeted support, guided retirement and the expansion of collective defined contribution may improve the situation for some savers, a more protective default mechanism is required to ensure the vast majority of savers are protected from risk.

## Comment

With last year's increase in employer National Insurance contributions making it politically difficult for the Government to increase coverage and contributions rates under automatic enrolment in this Parliament, they will no doubt be looking to the Pensions Commission to suggest other ways to address the UK's retirement adequacy challenge.

Redefining what we mean by retirement adequacy and addressing under saving amongst the self-employed may well feature as recommendations in the short-term, but it will be interesting to see whether the Government will look to restrict savers from taking their full pension commencement lump sum (PCLS) on retirement and/or increase normal minimum pension age. Allowing a PCLS to be taken in stages post-retirement will ensure pensions savings remain invested for longer, as will increasing the age at which members can access their pensions. Both of those proposals would be controversial and we will need to wait and see whether the Commission is prepared to go there once the final report is published next year.

## Pensions UK updates Retirement Living Standards

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The second method of assessing retirement adequacy identified by the Pensions Commission, [Pensions UK's Retirement Living Standards](#), have since been updated for the 2025 figures. We are proud to help fund Pensions UK's research which allows individuals to picture their lifestyle in retirement and the everyday costs associated with three different levels of living. The latest update shows that the typical annual costs for those living outside London have increased across all three levels:

- **Minimum** has increased from £13,400 to £13,900 for a one-person household and from £21,600 to £22,500 for a two-person household. This covers basic needs with some left over for "fun", being one UK holiday a year, eating out once a month and some affordable leisure activities once or twice a week.
- **Moderate** has increased from £31,700 to £32,700 for a one-person household and from £43,900 to £45,400 for a two-person household. This provides more financial security and flexibility and includes an annual overseas holiday, a long weekend off-peak UK break, one takeaway a week and eating out twice a month.
- **Comfortable** has increased from £43,900 to £45,400 for a one-person household and from £60,600 to £62,700 for a two-person household. This allows for more spontaneity in retirement including additional long weekends away in the UK and some extra day trips spent on eating out and social activities.

The figures are based on income after tax, today's costs and do not include rent and mortgage payments.

The research also finds that around 82% of the working population is expected to reach the Minimum level of living standards, whilst only 23% is expected to reach the Moderate level, and 9% the Comfortable level. Therefore, it supports the Pensions Commission's initial findings that without higher levels of saving, there is a risk that many will face a significant drop in income when they stop working.

## DWP launches consultation on amending the transfer regulations

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The Government has launched a [consultation](#) on proposed amendments to the [Occupational and Personal Pension Schemes \(Conditions for Transfers\) Regulations 2021](#). Following a series of high profile Pensions Ombudsman determinations on scam transfers made to small, self-administered schemes (SSASs) the consultation seeks views on proposed amendments to address the risks of fraud within SSASs as well as making long-called for changes to the existing transfer conditions to address the operational issues seen since they were first introduced on 30 November 2021.

By way of reminder, for transfers made on and after 30 November 2021, currently trustees can only pay a transfer value where either of the following two conditions are met:

**First Condition:** the transfer is to a public service scheme, an authorised master trust or an authorised CDC scheme; or

**Second Condition:** No red flags are present in respect of the transfer AND if an amber flag is present the member has taken pensions scams guidance from the Money and Pensions Service (**MaPS**).

The proposals include:

- The introduction of a new type of receiving scheme within the First Condition to which transfers can be made without further checks. In addition to transfers to public service pension schemes, authorised master trusts and CDC schemes, trustees or managers will be able to make such a transfer to a scheme which they consider on the balance of probabilities to be "*a reputable scheme*".
- Where a member has provided the evidence required under regulation 11 to demonstrate an employment link but the trustees decide it does not demonstrate such a link between the member and the receiving scheme, it will now be a red flag as opposed to an amber flag, meaning that the transfer cannot proceed. It is hoped that this will protect members from scam transfers to SSAs.
- The existing problematic "*overseas investment*" amber flag will be removed.
- Where an amber flag is identified, members will not be required to take MaPS guidance if the member can evidence that they have taken such guidance within the 12-month period prior to making a transfer request.

Whilst there have been some calls amongst the industry to also amend the incentives red flag, this will be retained as it remains an important and effective scams indicator. The consultation closes on 21 July 2026.

## Comment

The introduction of a permitted transfer to a "*reputable scheme*" paves the way for administrators to reintroduce "*clean lists*", a practice which was widespread prior to November 2021 but has since become less common due to concerns that making such a transfer could be regarded as a breach of law were the matter to come before the Pensions Ombudsman. By relaxing the legislation to expressly allow such lists, the Government intends to support effective trustee decision-making alongside balancing appropriate protections for members.

The consultation proposes that the regulations include a non-exhaustive list of factors to which trustees and scheme managers may have regard when assessing whether a receiving scheme is reputable as part of their due diligence. However, the risk of prescribing any factors in legislation is that the legislation will not keep pace of the ever-evolving tactics of the scammers. After all, the current regulations were initially reviewed by the DWP in June 2023, but it has taken until now to see proposed changes to the legislation. To that extent, it may be preferable for such a list to be included in regulatory guidance or in guidance issued by the Pension Scams Action Group who are likely to be able to move more quickly than Parliamentary time allows.

## Proliferation of forthcoming pensions tax changes

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Following publication of the [information sharing regulations](#) which set out the information pension providers and personal representatives must share in respect of a deceased's pension assets for deaths on or after 6 April 2027 which we covered in [WHiP 122](#), HMRC has also launched a [consultation](#) on [a draft Order](#) which makes technical amendments to the calculation of pension input amounts where there has been a GMP conversion exercise. Under current rules, when pension schemes equalise GMPs using the D2 method approved in *Lloyds Banking Group Pension Trustees Limited v Lloyds Bank Plc* (2018) deferred members may lose their Deferred Member Carve-Out (**DMCO**) protection and thus face unexpected annual allowance tax charges. The regulations ensure that DMCO protection is maintained following GMP conversion, regardless of the equalisation method used. The consultation closes on 13 July 2026.

[Regulations](#) have also been laid before Parliament making the various final technical amendments required following the abolition of the lifetime allowance to ensure that the legislation accurately reflects the intended tax position. The changes needed were originally announced in September 2025 in [HMRC Newsletter 173](#) and are covered in more detail in [the Explanatory Memorandum](#) accompanying the regulations. They primarily relate to fixes to the calculation of the permitted maximum pension commencement lump sum, the treatment of transfers between UK and overseas pension

schemes and lump sums paid from overseas schemes to UK residents, various notification and disclosure requirements, and references and definitions. Once made, the regulations will be backdated to have effect from the 2024/25 tax year onwards.

## **HMRC makes unannounced change to VAT recovery for occupational pension schemes**

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On 4 June 2026, HMRC made certain updates to its internal VAT Input Tax manual (at [VIT44650](#)) which impacts the VAT recovery position for supplies made in relation to occupational pension schemes. This guidance was expected (and overdue) as a clarification to [HMRC's policy paper dated 18 June 2025](#), but it goes further than what was expected.

The headline (which was not expected) is that the new guidance implies a withdrawal of a long-standing concessionary practice. The practice (detailed in [HMRC's published manual at VIT44700](#) which is now archived) allowed a scheme's statutory employer to reclaim VAT on administration services contracted for and paid by the Trustee of its pension scheme, provided a VAT invoice was issued by the supplier to the employer. The new guidance states that *"Invoices correctly made out to a Trustee, and not the Employer may not be re-issued to the sponsoring employer, in line with normal VAT invoicing rules."* This implies administrative costs will now be treated in the same way as investment management costs. However, the fact that the change was made without any formal announcement from HMRC has caused some confusion within the industry.

Assuming this is the true intention of the new guidance, then to access the best input tax recovery position it is now likely to be necessary for employers and trustees to use either an "on-supply" structure or possibly "VAT grouping" (for various reasons it is often not possible for the employer to contract directly for these services, which is the third option). These options are set out in more detail in our [11 July 2025 briefing](#).

There is also some good news for the industry - the new guidance confirms that, where one of these structures is adopted, employers may be able to recover up to 100% of the input VAT relating to investment management (as well as administrative) costs— this is the 'silver standard' conclusion we reached in our July 2025 briefing.

### **Next steps**

We have written to HMRC to request further clarity on the practical impact of the new guidance for trustees and sponsoring employers and are also liaising with industry groups to ensure the issue is being raised more widely with HMRC. Once we know more, we will publish a further update.

Employers and trustees that are using, or have used, either the "VAT grouping" or "on-supply" routes should act now to make claims in relation to investment management costs for periods in relation to which the four-year lookback period is set to end soon. Other trustees and employers should consider whether to adopt either of those routes as the benefit of so doing is likely to have significantly increased both for investment management and administration costs.

In all scenarios, any advice as to what trustees and sponsoring employers should do in practice will be fact-specific and we and our Tax Group are well placed to provide this advice.

## **DC to CDC transfers without member consent permitted from 31 July 2026**

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The Government has published its [response](#) to part of its consultation on retirement CDC schemes which ran from October 2025. The response relates to the Government's proposal to amend the preservation regulations to allow transfers of DC benefits without member consent to authorised CDC schemes. The [regulations](#) making these changes have been laid before Parliament and will come into force on 31 July 2026, to coincide with the date on which the current CDC regime is expanded to allow unconnected multi-employer CDC schemes.

The amendment mirrors the amendment made in April 2018 to allow transfers of DC benefits to be made to authorised master trusts without obtaining member consent, on the basis that the receiving schemes in both cases will have passed a robust authorisation process and remain subject to ongoing regulatory supervision. In its consultation response the Government recognises that the benefits in CDC schemes may be managed and structured differently to benefits in DC schemes and that the risk profile may also be different. It points out that the benefit itself is still DC without any element of guarantee. However, it accepts that transfers into retirement CDC schemes should continue to require consent, on the

basis that such members will not have a statutory right to transfer out post-retirement. It will consider what steps are needed to exclude retirement CDC schemes from accepting transfers without consent.

The DWP's [non-statutory guidance](#) on bulk transfers of money purchase benefits without guarantees without consent has been updated to reflect the change made by the regulations.

## Comment

Transfers of DC benefits that include guarantees such as with profits or guaranteed annuity routes remain excluded from the without consent process, although these may be able to proceed without consent where trustees have obtained and considered the advice of an appropriate adviser (typically an actuary) who is independent from the receiving scheme.

Where the transfer without consent to a CDC scheme route is used, trustees will still need to ensure that they have the power under scheme rules to make the transfer and that any such transfer is consistent with their fiduciary duties.

## Government to review flexible apportionment arrangements

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The [Pensions Minister has announced](#) that the Government will review the regulations governing flexible apportionment arrangements (**FAAs**) in light of the deal announced in December 2025 under which Aberdeen Group agreed to replace Stagecoach as sponsoring employer of the £1.2bn Stagecoach Group Pension Scheme under a FAA. The statement points out that when FAAs were introduced in 2012 they were designed to ensure that corporate restructurings, mergers and sales did not cause employer insolvency events as a result of a debt being triggered under section 75 of the Pensions Act 1995 when there was an appropriate sponsor who could support the scheme.

Whilst the Aberdeen – Stagecoach transaction complied with the existing FAA mechanism and there is no suggestion of wrongdoing (indeed the Pensions Regulator was heavily involved) the Minister states it used the FAA in a way that was not anticipated when the mechanism was introduced. The review is, therefore, intended to ensure that legislation and regulatory standards are adapted in line with this latest innovation as well as potential further innovation, with the continuing aim being to protect members and the Pension Protection Fund.

## TPR publishes its AI plan

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The Pensions Regulator published its [AI plan](#) on 20 May 2026 setting out its initial expectations as to how trustees should govern the use of artificial intelligence (**AI**) as well as describing how TPR itself will use AI. TPR stresses that whilst AI has the potential to improve administration decision making and member engagement, accountability for member outcomes lies firmly with trustees, regardless of whether activities are delegated to suppliers and advisers. As such, TPR has outlined its expectations for trustees concerning governance, data and innovation:

- **Establish clear governance for AI use**, including assuring themselves that administrators, service providers and advisers have similarly robust arrangements in place.
- **Carry out rigorous testing**, assurance and ongoing monitoring of AI systems.
- **Identify and evaluate risks**, with appropriate controls reviewed regularly and adapted as necessary.
- **Prevent members being scammed** by being aware of AI-driven fraud methods and responding effectively to the evolving threat.
- **Have a clear data strategy**, ensure scheme and member data is of high quality, and comply with data protection legislation – including as it relates to automated decision-making.
- **Seek professional advice**, appropriately and proportionately, when considering or implementing innovations.

TPR confirms its plan to publish regulatory guidance later in 2026 once it has engaged with the pensions industry on AI use in schemes and their supply chains over the summer. It will also work with the FCA to ensure regulatory alignment across the pensions sector. TPR has established an AI Advisory Council to oversee the ethical use of AI applications within its own organisation and will publish its approach to the use of AI this year.

## Comment

In its plan, TPR states that it will work with government and regulatory partners to ensure consistency, share best practice and emerging risks, and remain responsive to a changing legal and regulatory landscape.

One area which we have seen attract attention from other regulators, both in the UK and internationally, concerns frontier AI models and cyber resilience (such as the [joint statement](#) issued by the Bank of England, the FCA and HM Treasury in May 2026). Frontier AI models present a novel and emerging risk which poses a systemic risk to financial institutions globally. They could enhance the discovery of vulnerabilities by bad actors and are expected to increase the probability, speed and scale of cyber-attacks. We therefore anticipate that this could be one of the emerging risks which could attract scrutiny from TPR, particularly in relation to larger schemes.

### To be or not to be a forfeiture clause – a recent Ombudsman determination

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In [a recent determination](#), the Pensions Ombudsman has held that a rule of the European Metal Recycling Pension and Life Assurance Scheme (the **Scheme**) was not a forfeiture clause entitling the trustees to forfeit part of the arrears of a spouse's pension. The complaint was brought by Mr G on behalf the estate of Mrs P who complained that although the Scheme stopped paying Mrs P's pension in 2001, they had only agreed to pay excess pension arrears in respect of the period from 2014 to the date of her death and GMP arrears in respect of the period from 2012 to the date of her death.

Mrs P's husband was an active member of the Scheme. He died while at work in 1996, following which Mrs P started to receive a spouse's pension of £8,311.44 a year, including GMP. In around 2001 Mrs P moved to Turkey. At the same time, for reasons that were not known, the Scheme stopped paying her spouse's pension. On 19 May 2014 the scheme administrator tried to contact Mrs P by letter, sent via the DWP's tracing service, but were unsuccessful. On 29 September 2020, Mrs P died in Turkey. Prior to her death, Mrs P was receiving £769.60 per month in respect of her UK state pension, and £612.10 per month from a pension with Sun Life.

The relevant Scheme rule provided as follows:

***“Section 25 Lien on benefits and forfeiture***

***(b) Forfeiture***

*Any monies payable out of the Plan and not claimed within six years from the date on which they were due to be paid may at the Trustees' discretion may be used for any of the purposes of the Plan.”*

The Ombudsman concluded this was not a forfeiture clause – it merely permitted the Trustees to apply unclaimed monies for other purposes. Despite recognising the need for close textual analysis on a case-by-case basis, he concluded that the rule was strikingly similar to the one considered by the High Court in 2021 in [the Axminster Carpets case](#) that was held not to be effective. In Axminster Carpets, the relevant provision was:

***“25. POWER TO APPLY UNCLAIMED MONIES***

*ANY monies payable out of the Plan and not claimed within six years from the date on which they were due to be paid may (at the Trustees' discretion) be applied:- (i) in augmenting the benefits of those Members still in Service; (ii) in reducing the Employer's contributions to the Plan, or (iii) in payment of the expenses of the management and administration of the Plan.”*

Despite the material distinction between the headings of the two clauses and the fact that in Axminster the clause referred to the Trustees' power to apply unclaimed monies for three specific purposes whilst in the Scheme's rules, unclaimed monies could be used more generally for the purposes of the Plan, the Ombudsman concluded that both provisions were missing words that would deprive or suspend the member's right to the benefit. Therefore, given the similarity in the Scheme's forfeiture clause and the one analysed in Axminster, the Ombudsman followed Axminster and concluded the forfeiture clause to be ineffective.

He upheld Mr G's complaint and ordered the Trustees to pay the outstanding balance of Mrs P's pension and GMP from 2001 to her estate, plus interest calculated using simple interest and the base rate for the time being quoted by the Bank of England from the date each payment was due to the date paid.

## Comment

Whether a scheme's provisions permit forfeiture of unclaimed benefits will depend on how they have been drafted and will likely require legal advice.

The determination is also a useful reminder that since the end of DB contracting out on 6 April 2016, statute only permits GMPs to be forfeited where a claim has not been made within 8 years of the payment becoming due. Therefore, even where scheme rules provide that unclaimed benefits are forfeited after 6 years (which was the statutory position for all benefits before 6 April 2016), trustees must allow 8 years from the date a payment fell due before forfeiting an instalment of GMP.

## Ombudsman departs from "rule of thumb" that the recovery period for overpayments should equal the period over which overpayments arose

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In another [recent determination](#), the Ombudsman considered a complaint brought by Ms N against Teachers' Pensions (TP) that she had to repay an overpayment of £7,939.67 consisting of overpaid pension payments made over a period of 3 months and an overpaid lump sum of £4,618.39. Whilst the Ombudsman concluded that the overpayment was recoverable in full, in a departure from the general "rule of thumb", he directed that recoupment from future pension payments should be made over a period of 36 months and not the 3 month period over which they were made.

The overpayment arose because TP had put Ms N's benefits into payment on the basis that her last day of pensionable service was 31 August 2020, which was the date her employment ended. However, under the rules of the Teachers' Pension Scheme it was a requirement for members to complete a form to opt out of pensionable service. Due to Ms N's oversight, she did not complete and return the opt-out form until 11 November which meant that she remained an active member of TP until 1 December 2020. While this increased her pensionable service for pension purposes, it also resulted in a decrease in the best average salary used to calculate Ms N's benefits which resulted in the overpayment.

Although Ms N had not specifically set out any particular legal defences to recovery or set-off of the overpayment the Ombudsman nevertheless considered whether any applied. He concluded that, on the facts, none of the change of position, estoppel, contract, limitation, laches or financial hardship defences were available to Ms N and consequently the full amount of the overpayment was recoverable.

However, whilst the Ombudsman's general "rule of thumb" is that overpayments should be recovered over a period that equals that over which they were made, he held this would likely cause Ms N undue financial hardship. As such, subject to first obtaining a County Court order for the purposes of section 91(6) of the Pensions Act 1995, the Ombudsman directed TP to recover the overpayment from future instalments of Ms N's pension at a rate of £25 per month for a period of 10 months; followed by £300 per month for a period of 25 months, followed by a final payment of £189.67.

The step-up was due to the commencement of Ms N's state pension after 10 months.

## Comment

Ms N was successful in extending the proposed repayment period because she supplied the Ombudsman's office with detailed evidence relating to her share of the household income and expenditure, as opposed to simply making general claims of financial hardship. This evidence, which included costs for pet insurance and treatments for Ms N's two dogs, was considered carefully by the Ombudsman before making the direction. Trustees faced with similar claims from members should be prepared to request and scrutinise detailed evidence of members' income and expenditure before deciding on the period over which repayment should be made.

Finally, trustees should note that once section 121 of the Pension Schemes Act 2026 comes into force on 29 June 2026 it will no longer be a requirement to obtain County Court approval before recovering an overpayment. An Ombudsman determination will be sufficient.

## FCA consults on simpler climate reporting rules for investment firms

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The FCA has launched a [consultation](#) on proposals to replace detailed product-level reports based on the Taskforce on Climate-related Financial Disclosures (TCFD) with simpler, more targeted information. The changes aim to give pensions trustees and other investors clearer insight into how climate risks – such as floods, storms and other extreme weather events – could affect investment performance, while reducing unnecessary costs to investment firms. Pension trustees will still be able to request key emissions data from firms to comply with their own TCFD reporting requirements but investment firms will no longer need to publish this in full reports.

The proposals follow a [review](#) of how the current rules are working, in which the FCA found that while the rules have improved firms' awareness of climate risks, product-level reports are often seen as too complex by investors and are not widely used. The consultation closes on 13 July 2026.

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