BRIEFING

What's Happening in Pensions

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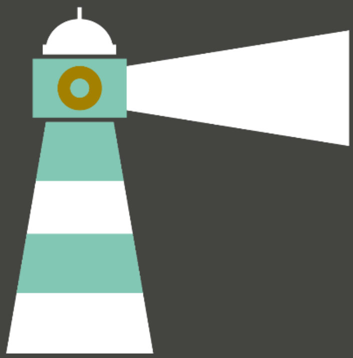

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High Court judgment in relation to a claim for additional pension increases: The High Court has considered the interpretation of an unusual scheme rule which guaranteed above-RPI increases for pensions in payment and deferment in respect of pre-2008 pensionable service of certain members.

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 for members

In the last edition of What's Happening in Pensions, we covered the Department of Work and Pensions' (**DWP**) June 2026 consultation on the draft regulations that set out the conditions ongoing defined benefit (**DB**) pension schemes will need to meet before a surplus payment can be made after 5 April 2027 (see WHiP 123). Since then, the Government has published draft legislation that will be included in the Finance Bill 2026-27 to ensure that any lump sum surplus payments made to members are authorised payments. The draft legislation has been published alongside an explanatory note and a policy paper and feedback is requested by 7 September 2026.

As expected, such surplus payments cannot be paid to members unless they are at or above Normal Minimum Pension Age (**NMPA**). However, trustees will still be able to award authorised member surplus payments to members below NMPA subject to certain conditions being met at the time the award is made. Payment will be deferred until the member reaches NMPA. The relevant conditions that must be met are that:

- The decision to grant the right to receive the payment was made at the discretion of the trustees;
- The assets out of which the payment is to be made were held only for the purposes of a DB arrangement relating to the member. As currently drafted, this would appear to prevent authorised member surplus payments being made to members who have only ever held defined contribution (**DC**) benefits in a hybrid scheme;
- The payment is made to a member who has reached NMPA, or who meets the ill-health condition, or to a dependant of the member following their death;
- The pension scheme is not being wound-up; and
- The payment would have been an authorised employer surplus payment had it been made to the employer. This means that the trustees must also be satisfied that the new conditions for making a surplus payment to an employer from an ongoing scheme are met (see WHiP 123).

Lump sums will be taxed as pension income at the recipient's marginal rate of income tax. They will be excluded from pension input amounts for the purposes of the annual allowance and will not affect an individual's entitlement to lump sum allowances.

VAT recovery for occupational pension schemes

Following on from WHiP 123 in which we covered the updates HMRC made to its internal VAT Input Tax manual (at VIT44650) on 4 June 2026, HMRC has also updated VAT Notice 700/17, its guidance note for employers and trustees on recovering input tax on the costs involved in running DB occupational pension schemes. The updated VAT Notice arguably contradicts the amended VAT Input Tax manual which implied a withdrawal of the previous concessionary practice under which employers could recover input tax on any administration charges incurred by trustees of occupational pensions schemes where the VAT invoice was addressed to the sponsoring employer. The wording that raises questions is in paragraph 2.1 of the VAT Notice, the drafting of which was not updated in the revisions published on 9 July 2026. It reads:

"*The management of your own employee pension scheme is a part of your normal business activities. If you're a VAT-registered employer and set up a pension scheme for your employees under a trust deed, the VAT incurred in both setting up the scheme and on its day-to-day management is your input tax. This applies even where responsibility for the general management of the scheme rests (under the trust deed) with the trustee, or the trustees pay for the services supplied*".

Paragraph 2.4 goes on to say: "*You should hold tax invoices made out in your name. If the trustees pay for the supplies on your behalf, you should arrange for the suppliers to make out the invoices in your name*".

We are aware that some in the industry (including ourselves) have written to HMRC to seek clarification of whether the previous concessionary practice is still available. A number of industry groups have since written to HMRC asking them to publish a clear definitive answer to this question so that schemes and sponsors can have clarity on this point. We continue to monitor developments.

Comment

An immediate practical implication of the updates to the VAT Input Tax Manual is that it impacts the way in which advisers can invoice for services provided to trustees. Whilst historically trustee advisers have been able to address their invoices to a scheme employer upon request, in reliance on the historical HMRC concession mentioned, the updates made to the Manual on 4 June 2026 place significant doubt on whether there remains a current valid basis on which to do so.

As a result, there is now considerable uncertainty in the industry as to appropriate invoicing practices and the circumstances in which input tax can be recovered. The materiality of the issue is often significant for sponsoring employers so it is hoped that the industry's call to action will result in HMRC publishing its clear, definitive position sooner rather than later.

Inheritance Tax information sharing regulations finalised

The Registered Pension Schemes (Provision of Information) (Miscellaneous Amendments) Regulations 2026 which set out the information that trustees will need to share with personal representatives (**PRs**) once most unused pension funds and death benefits become subject to inheritance tax (**IHT**) purposes for deaths occurring on or after 6 April 2027 have been made. Some welcome changes have been made to the draft regulations consulted upon in May 2026:

- Trustees will no longer need to report all death in service payments to HMRC;
- Instead, where PRs are required to file an IHT account, trustees will have to provide PRs with certain information regarding any excluded benefits they have paid or are intending to pay to any beneficiary in the form of:
  - a dependants' scheme pension,
  - a trivial commutation lump sum death benefit derived from an entitlement to a dependants' scheme pension,
  - a dependants' annuity or nominees' annuity purchased together with a lifetime annuity, and
  - a death in service payment; and
- Where payment of a lump sum death benefit has used up a member's lump sum and death benefit allowance, trustees must still provide PRs with information about the scheme and the total amount of the lump sum death benefit paid within three months of the final payment. However, the more detailed information relating to the recipient(s) of the lump sum death benefit, the amount paid to each beneficiary, date of payment and how much of each recipient's lump sum and death benefit allowance has been expended by making the payment, need now only be supplied within one month of a request from the PRs.

HMRC's latest Pension Schemes Newsletter (no. 183) refers to the regulations and confirms that further consequential regulations will be laid later this year. HMRC also plans to publish a further technical note later this summer which will contain information on withholding and payment notices, illustrative scenarios for the new inheritance tax on pensions process and will also address some common queries. HMRC invites schemes to get in touch if they would like any other points covered.

DWP updates Pensions Roadmap

The DWP has published an updated roadmap setting out timelines for implementation of the reforms contained in the Pension Schemes Act 2026 (**PSA2026**). The original roadmap was published in June 2025. The main changes to note are:

DB schemes

- The DB surplus release regime will come into force on 6 April 2027 (the previous roadmap said 2027);
- The authorisation and supervision regime for DB superfunds will be put back slightly, with the regime now expected to come into force some time between January and October 2028 (the previous roadmap said 2028).

DC schemes

- Value for money (**VFM**) assessments and ratings for master trusts, large single employer trusts (**SETs**) (50,000+ members) and open multi-employer contract-based schemes will be required in 2028 although no formal VFM consequences (including closure measures) will apply in the first assessment cycle of 2028. Smaller SETs and legacy/bespoke arrangements will submit data only, without publication, until 2029 when full disclosure and assessment obligations apply to all in-scope schemes. The previous roadmap envisaged all in-scope schemes being subject to the full VFM requirements from 2028.
- The legislation and the Pensions Regulator's (**TPR**) Code for retirement collective defined contribution schemes (**CDC**) are expected to come into force in Q4 2028, with applications for authorisation opening at the same time. This means the first retirement CDC schemes could be authorised between April and June 2029.
- The timing of the introduction of the guided retirement framework has been confirmed. Master trusts and FCA-regulated schemes must comply between July and September 2029, with SETs following between July and September 2030.

The updated roadmap goes into detail as to when we can expect to see consultations launched and guidance published. Documents have already been published in relation to some of the proposed changes relating to DC schemes, specifically value for money, guided retirement and the scale requirements. We have covered these in a special edition of What's Happening in DC. It is also worth being aware that TPR has created a website page dedicated to the PSA 2026 which summarises the new requirements. It is being updated regularly as secondary legislation develops and detailed guidance is published.

Comment

The pensions industry is facing an unprecedented level of legislative and regulatory change between now and 2030. We welcome the fact, therefore, that some of the initial deadlines have been pushed back to allow more time for consultation and engagement with industry on the detail.

Given the huge potential of retirement CDC schemes to improve retirement outcomes, by providing DC members with a secure income throughout their retirement, it is particularly pleasing to see the guided retirement requirements being delayed until retirement CDC schemes are up and running. Now that we have a roadmap in place for retirement-CDC, we look forward to news of providers looking to operate in that space.

Future regulatory priorities

TPR has finalised its corporate strategy for 2026 to 2031. The DWP has also set TPR four 2026 growth goals in its Regulation Action Plan. The growth goals (performance against which will be measured by achievement of the milestones contained in the Action Plan) are:

- Reform the workplace pensions sector to boost growth and support adequate income for pension savers in retirement;
- Unlock surplus/capital to benefit savers, employers and the economy;
- Support productive investment to help grow the economy and increase saver returns; and

- Promote the responsible and safe use of AI technologies in pensions to improve saver outcomes.

TPR's five-year corporate strategy confirms that it is taking a more forward-looking, innovative and system-wide approach to regulation. Its engagement with trustees and the market will be risk-led, expert and proportionate, all aimed at driving better outcomes. TPR has set itself six outcomes, being to ensure that:

- Member savings are secure;
- Workplace pension members benefit from investment and services that deliver long-term value and support a sustainable income in retirement;
- People have fair access and opportunity across the workplace pensions system;
- Schemes are governed and administered by independent, forward-looking and highly skilled trustees and managers;
- We have a resilient, financially secure pensions system that supports UK growth and operates efficiently; and
- We have a seamless and integrated pension system from joining to retirement, with innovative products and services connected to how people live their lives

Alongside this corporate strategy, TPR has confirmed its priorities for the forthcoming year in its most recent corporate plan. These include raising the quality of scheme governance and administration, enhancing value for money throughout a member's pensions journey, ensuring members are confident entering retirement and can transition into products that produce a sustainable income in later life and further strengthening TPR itself as a modern, behaviourally informed, capable and data-driven regulator. It has also published its own pensions reform roadmap to help schemes, providers, adviser and employers prepare for the changes introduced by the PSA 2026.

Comment

It is unsurprising that TPR's priorities for the next 5 years are closely aligned to the priorities of Government in implementing the changes introduced by the PSA 2026. There is a strong emphasis on the need for the pensions system to evolve, with TPR seeing part of its role as actively supporting and steering innovation in products, data, technology (particularly AI), investment and service design to increase confidence in retirement choices and deliver better long-term outcomes. TPR highlights the importance of ensuring that governance evolves quickly to meet the challenges and opportunities of AI adoption and confirms it will be clear on its expectations and the standards required.

Long gone is the post-Carillion messaging of TPR becoming a "*quicker, more proactive and tougher regulator*" with the emphasis now on TPR continuing to be a risk-based and proportionate regulator. In terms of its approach to enforcement, TPR says it will "*act early, decisively and proportionately, where it sees risks that could harm members or undermine confidence in the pensions system*".

DWP consults on significant changes to the general levy

The DWP is consulting on proposed changes to the general levy (**levy**) on occupational and personal pension schemes for the period from April 2027 to March 2030. The levy helps funds the Pensions Ombudsman, certain activities of the Pensions Regulator and the Money and Pensions Service and is paid by eligible registrable occupational and personal pension schemes. Levy income has failed to keep pace with the cost of these functions, leading to persistent annual deficits and a growing levy debt.

The DWP proposes to bring the levy that DC schemes, personal pension schemes and master trusts pay into line with the rates paid by DB and hybrid schemes. It proposes a phased increase in rates over the period April 2027 to March 2030. Under the proposals, master trusts and personal pension schemes will see the highest annual increases of 9% per year over that three-year period. DC schemes excluding master trusts would see an increase of 6.2% per year, reflecting a gradual movement towards parity with DB schemes. DB schemes will see an increase of 5% per year over the 3-year period from 2027 to 2028.

The consultation closes at midday on 8 September 2026.

Pension Protection Fund reviews its valuation assumptions

The Pension Protection Fund (**PPF**) has launched a consultation on proposed changes to the assumptions it uses for valuations under section 143 of the Pensions Act 2004 (used to determine eligibility for entry to the PPF) and section 179 of the Pensions Act 2004 (used to determine the level of underfunding on the PPF valuation basis and, historically, used to determine the PPF levy). These valuations must be calculated in line with the PPF's estimated price of securing PPF levels of compensation with a bulk annuity provider and were last reviewed in 2023. Bulk annuity provider pricing has reduced since 2023 so the review is generally expected to reduce estimated liabilities on both valuation bases.

The main proposed changes relate to amendment to the discount rates used (increasing the margin above gilt yields), longevity assumptions and the assumed proportion of members with a spouse or civil partner. Whilst not part of the PPF's proposals, they are also seeking views on the use of s179 valuations in the context of superfund wind-up triggers.

The consultation closes on 16 September 2026 and the PPF intends to publish its final decision in the first half of October 2026. It is proposed that the revised assumptions will apply to valuations with an effective date on or after 31 May 2026.

HMRC consults on NMPA increase transitional regulations

HMRC has launched a consultation on draft regulations to address transitional issues arising from the increase in the NMPA from 55 to 57 with effect from 6 April 2028. The regulations were first flagged by HMRC in its Pension Schemes Newsletter 180 back in April 2026, which we covered in WHiP 122. As expected, the draft regulations ensure that:

- Where a member was aged 55 or 56 on 5 April 2028 and has already taken steps to access their pension benefits, those benefits can continue to be paid on or after 6 April 2028 as authorised payments;
- Where a member has become entitled to a pension as of 5 April 2028 and is aged 55 or 56 on that date but does not receive payment of their pension until on or after 6 April 2028, they are deemed to have met the new NMPA of 57 immediately before the payment of pension;
- Where a member was aged 55 or 56 on 5 April 2028 and had become entitled to a stand-alone lump sum, a pension commencement lump sum, a pension commencement excess lump sum or a trivial commutation lump sum (**TCLS**) as of that date, that sum can still be paid on or after 6 April 2028 as an authorised payment; and
- Where a member is aged 55 or 56 on 5 April 2028 and had received a TCLS on or before that date, they are deemed to have met the new NMPA of 57 immediately before the payment of any further TCLS.

The consultation closes on 28 September 2026.

Unconnected multi-employer CDC goes live

As covered in WHiP 123, the legislation expanding the current CDC pension scheme regime to allow unconnected multi-employer CDC schemes came into force on 31 July 2026. The revised CDC Code of Practice, which was laid before Parliament on 29 June 2026, also came into force on the same date, replacing the previous Code.

To be read alongside the revised Code, TPR published new and updated guidance on the authorisation of CDC pension schemes on 31 July 2026. The guidance has been expanded to provide additional detail on the authorisation process and supervision requirements for unconnected multi-employer CDC schemes. The guidance makes the point that once a scheme has been authorised as a single employer or connected multi-employer CDC scheme, it will not be able to become an unconnected multi-employer CDC scheme without submitting another authorisation application. Applications for authorisation of an unconnected multi-employer CDC scheme are now open and we understand TPT Retirement Solutions has already submitted its application.

TPR intervention in relation to the Plumbing & Mechanical Services (UK) Industry Pension Scheme

TPR has published a regulatory intervention report explaining its use of anti-avoidance powers in relation to an employer participating in the Plumbing & Mechanical Services (UK) Industry Pension Scheme (the **Scheme**). The Scheme is an industry wide multi-employer DB scheme with over 300 participating employers and 30,000 members. As at 5 April 2023 the Scheme had a deficit on a buyout basis of around £258 million. It closed to future accrual in 2019.

One of the Scheme's participating employers, Cliden Construction Limited (**CCL**), ceased to have any active members in the Scheme in late 2018, triggering a section 75 debt of around £251,600. CCL was owed a substantial intercompany debt by one of its minority shareholders, Stuchberry Investments Limited (**SIL**). SIL had substantial property assets. Instead of seeking repayment of that debt, CCL took a series of steps to reduce the assets available to CCL to pay the section 75 debt. These included a share reclassification and payment of a £252,163 dividend to SIL in 2019 along with payment of further dividends in 2020 and 2021. CCL entered liquidation in June 2023.

On 30 June 2025, TPR issued a Warning Notice requesting that contribution notices be issued to SIL and Trevor Stuchberry, who was a director of both SIL and CCL, as well as being a 50% shareholder in SIL. TPR issued information requests to Mr Stuchberry, SIL and CCL's accountants, Thornton Springer LLP, and used its power to compel individuals to attend an interview on three separate occasions. TPR subsequently went on to issue a fixed penalty notice against Thornton Springer LLP for failing to comply with an information request, a decision that was upheld on appeal.

The report confirms that a settlement offer has now been accepted and an undisclosed amount paid to the Scheme.

Comment

Given that the main purpose of the targets' actions was to prevent recovery of the section 75 debt owed to the Scheme, it can hardly be a surprise that TPR considered the use of its moral hazard powers against SIL and Trevor Stuchberry, on a joint and several basis. What is more interesting, however, is TPR's use of its powers to compel individuals to attend an interview and to issue a fixed penalty notice against the target's advisers for failure to comply with an information request. Both powers have been available to TPR since 1 October 2021 but as their use is not separately reported in TPR's enforcement bulletins, it is hard to assess how often they are used and rare to know more about the circumstances in which they have been used.

High Court judgment in relation to claim for additional pension increases

The High Court has handed down judgment in Northumbrian Water Ltd v Northumbrian Water Pension Trustees Limited in which it considered the interpretation of an unusual scheme rule which guaranteed above-RPI increases for pensions in payment and deferment in respect of pre-2008 pensionable service of members within the WPS Section of the Northumbrian Water Pension Scheme (the **NWPS**).

The rule in question guaranteed that excess pension above GMP attributable to pre-1 January 2008 pensionable service would increase each year by 5% or, if lower, the percentage increase in the Retail Prices Index (**RPI**) in the preceding calendar year (the **Guaranteed Amount**). In addition, if in the preceding calendar year RPI had increased by more than 5%, the rule provided for the excess amount to also be awarded, provided that after consulting the scheme actuary, the Trustees "*consider that this can be done without an increase in the Employer's ordinary annual contributions as determined [under the employer contribution rule] following the actuary's initial recommendation or most recent actuarial valuation*".

The NWPS' latest triennial valuation as at 31 December 2022 indicated a growing technical provisions deficit of £181.5m, meaning 81.5% of its liabilities were funded. With RPI above 5% in 2021 to 2023, questions arose as to whether the additional increased above the Guaranteed Amount should be paid. The rule in question affected 2003 members and had a potential value of £26m. The NWPS is closed to accrual meaning that the main employer contributions required under the rules and the statutory funding regime were those needed to fund the deficit arising in relation to accrued benefits for past service.

In its judgment, the High Court considered what was meant by the term "*ordinary annual contributions*", whether that meaning changed following the introduction of the scheme specific funding regime in Part 3 of the Pensions Act 2004, when the Trustee's assessment of an increase in employer contributions fell to be considered and the level of certainty required by the words "*can be done*".

Smith J held that a decision whether to award excess increases required an assessment of whether employer contributions would have to increase in the future if a full RPI increase was paid. It was immaterial whether the increase in employer contributions happened immediately on the date of the pensions increase or at a forthcoming triennial valuation. Furthermore, it would be appropriate for the Trustee to consider the prospect of any increase in employer contributions by reference to the likely approach to be adopted at the next triennial valuation to include all reasonably foreseeable future events as at the increase date.

In relation to the words "*can be done*" the Court held that their meaning must be taken from the context and purpose of the rule as a whole, which required more certainty than a possibility of further employer contributions being required. The excess pension increases must be limited to those that can be safely afforded without the Trustee seeking more money from the employer. Accordingly, the excess increases should not be awarded where there is material uncertainty about whether they would necessitate an increase in ordinary annual employer contributions.

The NWPS had previously been a fully segregated multi-employer scheme but had since pooled all section assets. In assessing whether a full RPI increase could be afforded, the Court held it was not appropriate or required for the Trustee and scheme actuary to only have regard to the assets they considered to be properly attributable to the WPS Section. The NWPS had been de-segregated in 2010 and consequently members of the WPS Section were entitled to the benefit of the scheme assets as a whole, as was the case for those members of other sections of the NWPS, which had similar increase rules.

Comment

This judgment will be welcomed by employers whose schemes contain a similar funding-related affordability test when deciding whether to award additional increases to pensions in payment and/or deferment.

The Court preferred the employer's holistic forward-looking approach and concluded that the trustee's assessment must extend to any future increase in employer contributions, including increases arising at the next triennial valuation. Furthermore, the High Court was clear that the Trustee should not award the excess increases where there was material uncertainty as to whether an increase in employer contributions would be required at the next valuation and that consideration should be given to the effect of the proposed increase on the security of the accrued benefits of all scheme members.

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