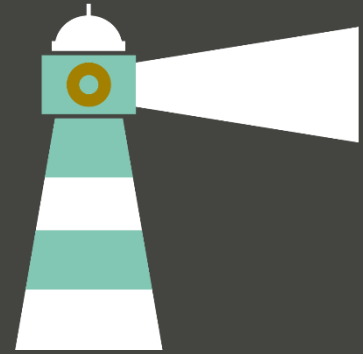


# What's Happening in Pensions

Issue 122 – May 2026



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## In this issue:

**Pension Schemes Act 2026 enacted:** The Pension Schemes Act 2026 received Royal Assent on 29 April 2026, having been through four rounds of parliamentary "ping pong". The final points of disagreement related to the scale requirement, the long-term sustainability of unfunded public service schemes and the mandate clause. There is a lot for the industry to do in the coming months and years and we look forward to the challenge.

**Inheritance tax on pensions:** HMRC has published a helpful technical note giving more information on how unused pension funds and death benefits will be treated for inheritance tax purposes for deaths on or after 6 April 2027. The note also sets out what HMRC expected to be included in the information sharing regulations and confirms an indicative timetable for next steps.

**Increase in Normal Minimum Pension Age:** Pending the publication of transitional regulations to address the position of individuals who have reached age 55 but not age 57 by 6 April 2028, HMRC has provided some early background about the intended scope and effect of the legislation.

**Increase in the State Pension Age:** The State Pension Age has now started to climb from 66 to 67. Trustees should review scheme rules and member communications for any unexpected consequences as a result of the increase, particularly where the scheme provides a bridging pension or similar arrangements.

**Government's salary sacrifice proposals receive Royal Assent:** The National Insurance Contributions (Employer Pensions Contributions) Act 2026 which contains the primary legislation to cap National Insurance contribution tax relief on pension contributions made through salary sacrifice from April 2029 also received Royal Assent on 29 April 2026. We await publication of the draft regulations for further detail.

**Countdown to the Pensions Dashboard:** As we approach the 31 October 2026 deadline for all schemes with over 100 active and/or deferred members to be connected to the Pensions Dashboard, we have seen a flurry of additional guidance and information released from the Pensions Regulator, the Pensions Management Institute and the Pensions Dashboards Programme to help trustees and providers.

**TPR publishes its Annual Funding Statement:** TPR has published its latest Annual Funding Statement. As only the second statement published following the introduction of the new DB funding and investment regime, it will be of relevance to trustees of all defined benefit schemes.

**TPR publishes report on benefits of DC consolidation:** TPR has published a report into evidence on the emerging benefits of scale arising from the consolidation of small DC schemes into master trusts which confirms that there is little evidence so far that bigger schemes achieve better investment outcomes for members.

**TPR lays updated CDC Code of Practice before Parliament:** TPR has laid its updated Code of Practice for collective defined contribution (CDC) schemes to include unconnected multi-employer CDC schemes before Parliament. The regulations covering unconnected multi-employer CDC schemes come into force on 31 July 2026, with the Code expected to come into force in mid-October 2026.

### In this issue (continued):

**Pensions Ombudsman determination on considering whether to exercise a trustee discretion:** This recent determination acts as an important reminder to trustees that, where a discretion exists in scheme rules, it is incumbent upon them to consider whether to exercise it in situations where it may apply even where a general policy as to its application has been agreed.

**TPR updates pension scams leaflet:** TPR has made an unannounced change and updated the pension scams leaflet prepared by Pension Scams Action Group (PSAG) which they expect trustees to include either in hard copy or as a weblink in members' annual benefit statements and when members request a transfer.

**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 Act 2026 finally enacted

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The [Pension Schemes Act 2026](#) received Royal Assent on 29 April 2026, having been through four rounds of parliamentary "ping pong". The final points of disagreement related to the scale requirement, the long-term sustainability of unfunded public service schemes and the mandate clause. The House of Lords agreed on 20 April to remove an amendment that the dormancy requirement for small pots be extended from 12 to 36 months and also agreed not to oppose regulations that dictate the type or location of investments for the Local Government Pensions Scheme.

The scale requirement is designed to ensure that DC master trusts and group personal pension plans (**GPPPs**) have a main scale default arrangement of £25 billion by 2030. The Lords were concerned as to the impact this requirement would have on competition and innovation in the master trust and GPPP market, particularly for new entrants. To counter these concerns, the Government agreed that within 12 months of the Bill receiving Royal Assent, the Secretary of State will prepare and publish a report about the effects of consolidation on innovation in the design and operation of in-scope master trusts and GPPPs. They also agreed that the regulations relating to the scale and asset allocation requirements would have regard to the importance of these matters as well as the importance of improving member outcomes, achieving appropriate scale and having effective governance.

In response to the Lords' concerns about the sustainability of unfunded public service schemes the Government agreed section 128 which requires the Government Actuary to prepare and publish cash flow projections for each of the unfunded public service schemes over the next 50 years and lay those projections before Parliament by 28 April 2027.

This left the mandate clause which provides that master trusts and GPPPs can only continue to be authorised for automatic enrolment purposes if they meet the asset allocation requirement in relation to their default fund. The final Act contains a number of important guardrails which must be met before the Government can introduce regulations to exercise this power, being:

- the regulations cannot require in-scope schemes to hold more than 10% of default fund assets in "*qualifying assets*", with no more than 5% of such assets being held in assets of a UK-specific description
- "*qualifying assets*" will be prescribed in regulations but may only be included if they represent a direct or indirect holding in private equity, venture capital, private credit, interests in land, infrastructure or unlisted equities. Importantly, the extension in this definition will now allow the use of listed investment companies as a vehicle to access private markets to count towards the asset allocation requirement, an omission which we commented upon in [WHIP 121](#)
- the power to introduce regulations can only be used once and only in relation to an in-scope scheme's main default fund

- the required regulations cannot come into force before 1 January 2028 and must be preceded by the preparation and publication of a report containing:
  - a joint assessment by the Financial Conduct Authority and the Pensions Regulator (**TPR**) of the extent to which there is evidence of competitive conditions restricting in-scope master Trusts and GPPPs from investing in "*qualifying assets*", including in circumstances where such investments may be in the best interests of members of such schemes;
  - the Government's assessment of the extent to which in-scope master trusts and GPPPs have made progress towards achieving—
    - 10% of scheme assets held in main default funds to be "*qualifying assets*", and
    - 5% of such held scheme assets to be of a UK-specific description;
  - the Government's assessment of any barriers to in-scope master trusts or GPPPs investing in "*qualifying assets*", including in particular where such assets are located in the United Kingdom;
  - the steps taken to address any such barriers;
  - how the financial interests of members of in-scope master trusts and GPPPs are or would be affected by the proposed regulations;
  - what effects the proposed measures could be expected to have on economic growth in the United Kingdom; and
  - any other matters the Government considers appropriate
- if the power to introduce regulations has not been exercised by the end of 2032, the Government's ability to do so will be repealed at that point (section 133(6))
- if regulations have been passed, the mandation power will be repealed by the end of 2035 meaning that in-scope master trusts and GPPPs will not be subject to the requirements after that point (section 40(17))
- any regulations must include a power for TPR to suspend the asset allocation requirement where an in-scope master trust or GPPP makes an application stating that it considers that meeting the requirement "*is likely not to be in the best interests of members of the scheme*". The Regulator must grant such a suspension where it is of the view that it is reasonable for the applicant to have reached that conclusion. As this is a subjective test, clear documentary evidence of the applicant's thought-process and rationale will be required, with further detail to be set out in the regulations. The Regulator's determination will be subject to a right of appeal to the Upper Tribunal.

Much of the Act's provisions will come into force in the coming months and years by subsequent regulations and the Government has said it will be updating its [Workplace pensions: a roadmap](#) document to reflect any revised timescales. We will provide further detail in due course.

## Comment

Given that the Government has consistently said it expects never to have to use the mandation power as the Mansion House Compact and Accord should deliver the levels of investment in unlisted equities and private markets that it is looking for, it is perhaps surprising that it fought so hard to retain it against such strong opposition from the House of Lords. The guardrails contained in the Act should do much to assuage fears as to what a future Government could do with such a draconian power and ensures that trustees have express scope to argue that complying with the asset allocation requirement is inconsistent with their fiduciary duties in relation to scheme investment.

We welcome the enactment of this landmark piece of pensions legislation which contains a plethora of changes long called for by the industry. These include the relaxation of the legislative requirements governing the return of surplus from ongoing defined benefit (DB) schemes, a contractual override to allow bulk transfers from FCA-regulated schemes without member consent, the legislative framework for DB superfunds, the Virgin Media legislative fix and confirmation that the Pensions Ombudsman is a "competent court" meaning it will no longer be necessary for trustees to obtain a County Court order to recoup overpaid benefits.

The defined contribution (DC) aspects of the Act fire the starting gun on an exciting future phase of change and innovation in the DC pensions landscape, with a focus on consolidation, delivering better outcomes for members, including through value for money assessments, and fixing the "*nastiest, hardest problem in finance*" through the introduction of default decumulation solutions. There is a lot for the industry to do in the coming months and years and we look forward to the challenge.

## Inheritance tax on pensions

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Following the enactment of the [Finance Act 2026](#) on 18 March 2026, HMRC published a [technical note](#) giving more information on how unused pension funds and death benefits (described as "*notional pension property*") will be treated for inheritance tax (IHT) purposes for deaths on or after 6 April 2027. The note also sets out what HMRC expected to be included in the information sharing regulations and confirms an indicative timetable for next steps with the main milestones being:

- **Spring 2026:** Draft information sharing regulations published for consultation alongside draft templates for withholding and payment notices and draft guidance on evidence of personal representative identity
- **Spring/Summer 2026:** Information sharing regulations to be laid with a commencement date of 6 April 2027
- **Autumn/Winter 2026/2027:** HMRC to share draft guidance with industry stakeholders
- **Spring 2027:** Publish guidance and other supporting materials – these will be contained in the GOV.UK and HMRC tax manuals.

The [information sharing regulations](#) have now been published, for consultation. This closes on 11 June 2026.

The main deadlines for pensions trustees to note are:

- any IHT due must be paid to HMRC by the end of the sixth month after a member has died. So, if a member dies on 12 May, IHT must be paid by 30 November. After this, late payment interest will accrue on any outstanding tax.
- following the death of a member, on receipt of a formal request from the personal representative (PR), the trustees must provide:
  - a valuation of the notional pension property within 28 days of receiving the request; and
  - the split between exempt and non-exempt beneficiaries by the later of 28 days from the request or 14 days after beneficiaries are determined.
- where IHT is due, on receipt of a request from the PRs, the trustees must provide the name, address and, where known, the National Insurance number of each beneficiary along with the value of the notional pension property payable to each beneficiary. This information must be provided by the later of (i) 28 days beginning with the date the request is received and (ii) 14 days beginning with the date beneficiaries are determined.

- where a valid payment notice is received, being a notice from PRs and/or pension beneficiaries to pay any IHT and interest due on the notional pension property directly to HMRC, trustees must make payment within 35 days beginning with the day on which they receive the notice. To constitute a valid payment notice, various requirements must be met, with the main one being that the amount payable must be for at least £1,000 and an exact amount. If payment is not made within this deadline, the trustees become jointly and severally liable with the PR and the beneficiary for the amount specified in the notice.
- to help PRs calculate how much of a deceased member's lump sum and death benefit allowance has been used, within 3 months of making the final payment, trustees must notify the PR of the amount of the tax-free lump sum death benefit (including death-in-service benefits) paid to each beneficiary and any IHT paid by the scheme directly to HMRC.

In most cases, trustees will not be liable for IHT, the exceptions being where a payment notice is served or where a withholding notice is served. Withholding is only expected to apply in a minority of cases and allows PRs to instruct trustees to withhold up to 50% of an individual's benefit entitlement where the PR knows, or has reason to believe, that IHT may be due on the notional pension property.

Whilst the 28 day deadline for providing PRs with a valuation of the notional pension property and the split between exempt and non-exempt beneficiaries does not start to run until the PRs formally request the information, trustees who become aware of a member's death from other sources should contact PRs (or a surviving family member) as soon as possible to ensure they have the information needed to identify any potential beneficiaries of a lump sum death benefit and to reach a decision as to whom it should be paid. This is because PRs need to know how much of the notional pension property will be going to non-exempt beneficiaries to determine if an IHT account needs to be filed. We do still see cases where lump sum death benefits are paid up to or occasionally more than 2 years post-death. With IHT attracting late payment interest after the end of the sixth month post-death, there is an even greater incentive for trustees to ensure that their mortality screening processes are fit-for-purpose and to ensure that they receive regular reports from their scheme administrators as to how long the scheme takes to process and pay death benefits.

The technical note contains a lot more information regarding how notional pension property is calculated for both DC and DB schemes including which benefits should be excluded from the calculation, alongside who is considered an exempt beneficiary for IHT purposes (broadly spouses and civil partners where they are long-term UK residents). There is also detail as to the how the new rules dovetail with existing tax legislation in relation to the lump sum and death benefit allowance and income tax on death benefits from pensions.

## Comment

HMRC's technical note makes the point that it is not draft guidance, which will not be available until later this year, but with unused pension funds and death benefits becoming subject to IHT in less than a year's time, the decision to publish the parameters of how HMRC expects the system to work now is welcome. HMRC has only committed to publishing the final guidance in Spring 2027 and with the drafts only being shared with certain industry stakeholders before then, many will not see the detail until shortly before the regime comes into force. This does not give trustees and scheme administrators much time to prepare and implement the detail of any new systems so keeping an eye on HMRC updates and clarifications in the coming months will likely be vital.

## Increase in the Normal Minimum Pension Age from 6 April 2028

By way of reminder, normal minimum pension age (**NMPA**) is the lowest age at which registered pension scheme benefits can generally be taken without incurring an unauthorised payments tax charge. It is currently age 55 but under section 10 of the [Finance Act 2022](#) it will rise to age 57 on and from 6 April 2028. The Act does contain some transitional protections for individuals who immediately before 4 November 2021 (the date the consultation was announced) had an existing unqualified right to take benefits from earlier than age 57. Further details can be found in [WHiP 94](#).

Pending the publication of draft transitional regulations to address the position of individuals who have reached age 55 but not age 57 by 6 April 2028, HMRC has provided some early background about the intended scope and effect of the legislation in [Pension Schemes Newsletter 180](#). It confirms that:

- where a member was aged 55 or 56 on 5 April 2028 and has taken steps to access their pension benefits, such as designating funds for drawdown, applying those funds towards the purchase of an annuity, or becoming entitled to a scheme pension, those benefits can continue to be paid on or after 6 April 2028 as authorised payments.
- where a member aged 55 or 56 on 5 April 2028 has become entitled to a lump sum that would have qualified as a pension commencement lump sum or a pension commencement excess lump sum had it been paid on or before that date, but no payment has been made, that lump sum can still be paid on or after 6 April 2028 as an authorised payment.
- an uncrystallised funds pension lump sum paid on or after 6 April 2028 will only be an authorised payment if the member has reached the new NMPA of 57 at the time the payment is made. Any uncrystallised funds pension lump sum payments made before that date which were authorised payments at the time they were paid will remain authorised payments.
- where a member who has started their pension having reached NMPA transfers their crystallised pension rights on or after 6 April 2027 whilst not yet aged 57, the replacement pension under the new pension scheme may be an authorised payment.

## Practical next steps

Trustees should continue to inform members of the increase in normal minimum pension age in scheme newsletters and other member communications. In particular, once the regulations are finalised, they should highlight the impact on those members who will be aged 55 or 57 as at 6 April 2028.

## Increase in the State Pension Age

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The State Pension Age has now started to climb from 66 to 67 with those who celebrated their 66th birthday on 6 April 2026 having to wait a further month before they can take their State Pension. Broadly speaking, over the next year, as each month passes, State Pension Age will increase by a further month. As a result, those born on 6 March 1961 will have to wait the full year, until their 67th birthday, before they can start to receive the State Pension. Pending the Government's review of the State Pension Age, the next increase – to age 68 – is not due to begin until 2044.

## Practical next steps

Trustees should review scheme rules and member communications for any unexpected consequences as a result of the increase in State Pension Age, particularly where the scheme provides a bridging pension or similar arrangements (e.g. state pension offsets or income levelling arrangements).

## Government's salary sacrifice proposals receive Royal Assent

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The [National Insurance Contributions \(Employer Pensions Contributions\) Act 2026](#) which contains the primary legislation to cap National Insurance contribution tax relief on pension contributions made through salary sacrifice from April 2029 also received Royal Assent on 29 April 2026. Further detail on the Act is contained in [WHiP 119](#) and we will report further once the draft regulations have been published and we have more detail from HMRC. No timescale has been published for either and with other more pressing items on HMRC's agenda, it is unlikely that this will be available for some time.

## Countdown to the Pensions Dashboard

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As we approach the 31 October 2026 deadline for all schemes with over 100 active and/or deferred members to be connected to the Pensions Dashboard, we have seen a flurry of additional guidance and information released. In response to the latest guidance from the Money and Pensions Service, ongoing developments, learnings and clarifications of policy intent from the DWP, TPR has updated its [dashboards guidance](#). It has also published a [blog](#) highlighting its recent [findings](#) as to how well prepared large schemes are for the launch of the Pensions Dashboard, along with examples of best practice and lessons learnt. It concludes that, whilst schemes have stepped up activity to improve data quality in anticipation of the launch of the Pensions Dashboard, there is more to be done. Specifically:

- whilst most schemes had multiple data quality controls in place, there were areas for improvement for many of these. Some schemes reviewed or audited their controls annually, but many did not.
- nearly all schemes had discussed their approach to possible data matching with administrators or suppliers, although few had fully finalised this by the time of the research in August 2025. Many schemes were concerned about having enough operational capacity to manage possible matches. Some are exploring web-based solutions or artificial intelligence to help resolve possible matches, while others plan to recruit additional staff.
- most schemes had commissioned or received bespoke assessments of the quality of their matching data. Addresses were often identified as a weakness, although few schemes planned to rely on them for matching. Many schemes were actively working to improve their data, for example by tracing deferred members, resolving temporary National Insurance numbers with employers, and collecting additional contact details such as email addresses and mobile numbers. However, relatively few schemes had clear plans for maintaining the quality of matching data over time.
- all schemes had started preparing value data (the information shown to members through dashboards about the value of their pensions). However, for many schemes, this work was less advanced than their preparation for matching, and few had received a specific readiness report from their administrator or connection provider.

TPR has also updated [its guidance on reporting breaches of the law](#) to include two dashboard-related examples of green breaches that do not need to be reported if they are not of material significance.

The Pensions Management Institute has published a [Dashboard Industry Guide 2026](#) which is designed to give trustees, administrators and providers a practical insight into what dashboards will require, how they will shape future expectations around data and governance and where they create opportunities to improve engagement and transparency.

Finally, the Pensions Dashboards Programme has published an [updated draft version of the reporting standards](#) for pension providers and schemes. The updated draft makes no change to what data must be generated, recorded and reported but makes changes to how the data is to be reported to the Money and Pensions Service.

Whilst all in-scope schemes must be connected to the Pensions Dashboard by 31 October 2026, we continue to await confirmation of when dashboards will be made available to the public. The launch date will be decided by the Secretary of State for Work and Pensions, based on a range of criteria, and 6 months' notice will be given to industry. However, the Pensions Dashboards Programme has recently confirmed that it expects the MoneyHelper Pensions Dashboard to be available to the public in financial year 2027/28. A further update on launch plans will be provided around the time of the 31 October 2026 connection deadline.

## TPR publishes its Annual Funding Statement

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TPR has published its latest [Annual Funding Statement \(AFS\)](#) which is particularly relevant to DB schemes with valuation dates between 22 September 2025 and 21 September 2026. However, as only the second AFS published following the introduction of the new DB funding and investment regime, it will also be of relevance to trustees of all DB schemes. Its key messages are:

- Most schemes continue to see positive funding levels with estimates as of 31 December 2025 indicating that around:
  - 90% of schemes are in surplus on a technical provisions (TPs) basis

- 80% of schemes are in surplus on a low dependency basis (it is expected that the forthcoming surplus release regulations under the Pension Schemes Act 2026 will permit surplus release if a scheme is fully funded on this basis)
- 60% of schemes are in surplus on a buy-out basis.

Nevertheless, trustees should recognise the potential impact of ongoing macroeconomic uncertainty on both scheme investments and the employer covenant.

- TPR expects most schemes in this tranche to be shifting their focus from deficit recovery to endgame planning.
- TPR's experience to date suggests that around 80% of schemes should be able to meet the Fast Track approach under the new DB funding and investment regime with minimal or no cost to the employer. Whilst TPR does not currently envisage making any changes to the Fast Track parameters, it is keeping these under review and if higher gilt and high-quality corporate bonds yields and stronger equity markets persist, they may consider revising these for the next tranche of valuations.

The Statement includes additional clarification as to how trustees should approach their assessment of supportable risk, including how TP surplus and asset backed contributions should be allowed for in the assessment of that risk. It also identifies cyber incidents and climate change and wider sustainability issues as key risks which can materially impact the employer covenant which should be monitored by trustees in conjunction with the employer.

TPR says it will in due course publish analysis of the data provided in the statements of strategy so that there is greater transparency around the different approaches being taken by schemes. It also confirms that it will publish a statement setting out its views on surplus release when consultation on the required regulations begins. Consultation on more detailed surplus guidance to sit alongside the final regulations will follow later this year.

### **TPR publishes evidence on benefits of scale arising from DC consolidation**

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On 7 May 2026, TPR published its [report into evidence on the emerging benefits of scale](#) arising from the consolidation of small DC schemes into master trusts which confirms that there is little evidence so far that bigger schemes achieve better investment outcomes for members. TPR notes that as the UK evidence base is still developing, the report has been supplemented by insights from Australia where large-scale DC arrangements have been established for longer and operate at significant economic scale. The research suggests that:

- larger schemes are able to negotiate lower service provider fees and can generally operate more efficiently, with lower average expenses. This trend was particularly pronounced for administration expenses, where realised economies of scale were greater than for investment expenses.
- annual management charges tended to be higher in multi-employer provider schemes than in single employer trusts (SETs) – with median averages of 0.32% and 0.24% respectively. However, the report notes that response rates were quite low as a share of the SET market and the possibility that some employers may subsidise costs in SET schemes.
- SETs are more likely to invest in UK listed equities than multi-employer providers, such as master trusts. The proportion of schemes that held one or more investments in infrastructure, private equity, venture capital, renewables or in LTAFs increased in line with scheme size (ranging from 17% of micro schemes to 72% of master trusts). The majority of funds with these investments had invested some or all of their portfolio in the UK.
- the current UK evidence linking scheme size with gross investment returns is weak. In Australia, some evidence suggests there is a modest positive relationship between AUM size and investment performance.

### **TPR lays updated CDC Code of Practice before Parliament**

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On 29 April 2026, TPR laid its [updated Code of Practice for collective defined contribution \(CDC\) schemes](#) which has been expanded to cover unconnected multi-employer CDC schemes before Parliament. The Code sets out how to apply for authorisation, what TPR will take into account when considering applications, its expectations for the conduct and practice of those responsible for complying with the legislative requirements for CDC schemes and how TPR will use its powers in this area. Alongside the Code, TPR has also published its [response](#) to the 29 responses it received to its consultation on the Code.

The [regulations](#) covering unconnected multi-employer CDC schemes come into force on 31 July 2026, with the Code expected to come into force in mid-October 2026. For further background see [WHIP 119](#).

## **Pensions Ombudsman considers discretion to extend scheme time limits amidst the pandemic**

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The Pensions Ombudsman has recently published a determination in the case of [Mrs T v NHS Pension Scheme](#), in which he upheld Mrs T's complaint that the NHS Business Services Authority (**NHS BSA**) had failed to consider whether to exercise a discretion under the NHS Pension Scheme Regulations to extend the time limit for requesting a re-assessment of her ill-health early retirement benefits.

Mrs T left NHS employment on 26 November 2017 on the grounds of ill-health. She had been diagnosed as suffering from anxiety and depression and post traumatic stress disorder following a heart attack. Under the Scheme Regulations, her entitlement was either:

- subject to evidencing that she was permanently incapable of efficiently discharging the duties of her existing employment, a pension based on her actual service to the date of retirement without actuarial reduction ("**Tier 1 benefit**"); or
- subject to evidencing that she was permanently incapable of any regular employment, her Tier 1 benefit but enhanced by 2/3 of her prospective membership from the date of retirement to her normal pension age of 60 ("**Tier 2 benefit**").

Mrs T was awarded a Tier 1 benefit on 26 September 2018 and advised that under the Scheme Regulations, she could apply for a reassessment of whether she subsequently met the condition for payment of a Tier 2 benefit within 3 years of the date of the original award. Mrs T applied for a reassessment on 19 November 2021, some 7 weeks out-of-time. When NHS BSA declined her application for a reassessment, she complained to the Ombudsman stating that the deadline had expired during the COVID pandemic, at a time when she was unable to get regular support in completing the application from her Support Worker and at a time when two of her brothers had died.

The Ombudsman noted that there was a general discretion to extend any time limit contained in the Scheme Regulations but that NHS BSA had not considered whether to exercise it. Whilst the Ombudsman made no comment as to whether, given the unusual facts and Mrs T's individual circumstances, the discretion should have been exercised to extend the 3-year time limit, he did find that a failure to consider whether to exercise it at all was wrong and directed NHS BSA to now do so. He also ordered that Mrs T be paid £500 for her distress and inconvenience. In doing so, the Ombudsman agreed with one of his predecessor's decisions in which it was said that "*An inflexible adherence to a policy, without consideration of the individual's particular circumstances and whether an exception to the usual policy should be made, may amount to a fettering of discretion*".

### **Comment**

This determination is an important reminder to trustees that where a discretion exists in scheme rules, it is incumbent upon them to consider whether to exercise it in those situations where it may potentially apply, even where a general policy as to its application has been agreed.

A particularly topical current example is where trustees have a discretion under scheme rules to award pension increases. Trustees should consider whether to exercise that discretion each year, notwithstanding that they may not have applied discretionary increases in the past and/or have adopted a policy not to award discretionary increases. As part of this process, trustees should consider documenting their reasons for not exercising a discretion, so that they have an audit trail in the event of a future challenge. With improvements in scheme funding, such challenges are becoming more commonplace with a recent example being the [announcement from the Pensions Ombudsman](#) that it has identified a lead case to take forward in relation to a dispute between the Trustees of the Nissan Pension Plan and some scheme members in relation to decisions not to award discretionary increases in 2023, 2024 and 2025.

### **TPR updates pension scams leaflet**

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TPR has made an unannounced change and updated the [pension scams leaflet](#) prepared by Pension Scams Action Group (PSAG) which they expect trustees to include either in hard copy or as a weblink in members' annual benefit statements

and when members request a transfer. The changes made are to page 2 to refer to the FCA Firm Checker tool as opposed to the Financial Services Register.

Speaking at PSAG's Fighting Pension Fraud webinar 2026, the Fraud Minister, Lord Hanson [urged trustees](#) to take every opportunity to protect their members from fraudsters.

## Practical next steps

Trustees should check with their scheme administrator that their processes have been updated to reflect the updated guidance and materials. The latest regulatory materials on pension scams can be found [here](#).

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