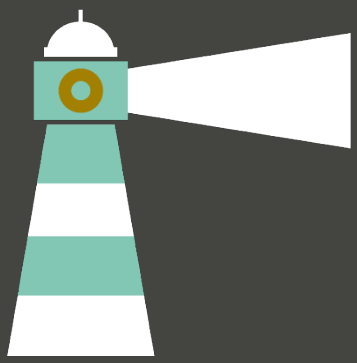
BRIEFING

TRAVERS SMITH

What's Happening in Pensions

Issue 126 – November 2026



LinkedIn

#TraversSmithPensions

In this issue:

Response to trusteeship and governance consultation: The Government has published its response to its trusteeship and governance consultation. The proposals to strengthen trustee governance largely do not introduce new legislative or regulatory requirements but build on what is currently in place. More substantial changes are proposed in relation to pension scheme administration and the Master Trust authorisation and supervision framework.

DWP publishes response to surplus release consultation: The DWP has published its response to its surplus flexibilities for defined benefit (**DB**) schemes consultation. The Government will retain the proposed safeguards whilst making the process more proportionate and workable. The regulations are expected to be laid before Parliament early in 2027 to come into force on 6 April 2027, alongside the related tax changes for authorised member surplus payments.

DWP consults on investment and fiduciary duty guidance: The Government is also consulting on draft guidance to assist and support pension trustees in understanding and complying with their investment and fiduciary duties. The guidance does not introduce new duties or alter existing legal obligations but seeks to provide increased clarity in applying legal principles to contemporary investment questions. The consultation closes on 27 January 2027.

TPR and ICO AI guidance: TPR has published guidance encouraging trustees to explore how to responsibly adopt artificial intelligence (**AI**) to support the running of their scheme and to help them ask the right questions, apply oversight, manage risks and support responsible innovation in members' interests. The ICO has also published guidance on responding to AI-generated subject access requests.

Response to pension transfer conditions consultation published: The Government has published its response to consultation on amending the conditions for transfers regulations. Amendments to the regulations will be published in due course and are expected to come into force from April 2027.

Finance Bill 2026/7 published: The Finance Bill has been published, setting out draft legislative provisions for the changes announced in the Budget, as well as confirming the provisions to ensure that any lump sum surplus payments made to members from 6 April 2027 are authorised payments.

Guided retirement and retirement-CDC consultation: The Government has launched two linked consultations designed to ensure that private sector defined contribution (**DC**) savers are given the option of an income that lasts through their retirement, with one of the ways to achieve this being the use of a Retirement Collective DC pension.

Master Trust significant event notifications: TPR has published guidance explaining when a failure of a system or process used to run a Master Trust may need to be reported. The Government has also confirmed its intention to strengthen significant event notification requirements for Master Trusts in its response to the trusteeship and governance consultation.

PPF update: The PPF has confirmed its 2027/28 levy decision, along with the assumptions to be used for PPF valuations.

In this issue (contd):

No change to automatic enrolment: With the Pensions Commission due to report in February 2027, the Government has made no changes in relation to automatic enrolment thresholds and the alternative quality requirements for DB, hybrid, DC and CDC schemes.

FCA consults on changes to DC charge cap: The FCA has launched a consultation to exempt certain performance fees from the charge cap that applies to the default funds of DC automatic enrolment workplace pension schemes operated by firms it regulates. Consultation closes on 14 January 2027.

First dashboard launch expected summer 2027: At a recent conference, the Pensions Minister told delegates that the MoneyHelper Pensions Dashboard is expected to become publicly available in the summer of 2027.

Call for evidence on TPR regulatory framework: The DWP has launched a call for evidence on how TPR's framework and capabilities should evolve to enable effective and proportionate regulation of the future workplace pensions market. It confirms the Government plans to give TPR a formal statutory role in relation to financial stability.

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.

Response to trusteeship and governance consultation

On 10 November 2026, the Government published its response to its eagerly awaited December 2025 trusteeship and governance consultation which we covered in WHiP 119. The proposals to strengthen trustee governance largely do not introduce new legislative or regulatory requirements but instead look to build on what is currently in place. However, there are more substantial changes in relation to pension scheme administration and the master trust authorisation and supervision framework. No timescale has been confirmed for any required legislative changes – these will be taken forward at the earliest opportunity.

Key points to note include:

- **Master Trusts**: The Master Trust authorisation and supervision regime will be amended to include governance and conflict management arrangements across the provider entity, as is currently the case in the superfunds and collective pensions regimes. Fit and proper requirements will be strengthened and the Pensions Regulator (**TPR**) given power to approve key function holders as well as stronger powers to intervene at an earlier stage where a Master Trust is at risk of failing to meet the authorisation criteria. The Department of Work and Pensions (**DWP**) will work with consumer groups and industry to ensure that conflicts of interest within Master Trusts do not risk long term confidence in workplace pension saving. Finally, the Government will also consider whether it would be appropriate to increase the minimum number of trustee appointments on the board of megafunds to ensure that boards have the necessary skills and capacity, as well as appropriate diversity of thought.
- **Professional trustees**: Responding to concerns regarding concentration risk and the growing provision of bundled advisory and trustee services within some parts of the professional trustee market, the Government has concluded it would not be proportionate to place restrictions on the provision of scheme advisory services where a commercial relationship exists between the advisory firm and a professional trustee firm represented on the scheme's trust board. Instead, where those relationships occur, the scheme should be able to explain why the arrangement is appropriate, explain how conflicts are managed and how they have satisfied themselves that the service provides value for members. The number of trustee appointments held by any one trustee will not be restricted but will be kept under review.

- **Professional corporate sole trustees (PCST)**: The Government will work with TPR and the industry to set clearer criteria on the appropriateness of the appointment of PCSTs to schemes going forward. It will also introduce a new requirement for existing trustee boards to approve any transition to a PCST model proposed by the sponsoring employer, with a resolution process if the proposal is rejected.
- **Trustee appointment**: The Government has decided not to limit the term of a trustee appointment and continue to allow individual schemes to manage appropriate tenure. It does not currently intend to introduce a public trustee to be appointed to a scheme by TPR. It will continue to work with TPR to establish and test the feasibility of introducing an initial Trustee Directory by 2029, using existing data and powers where possible and will consider what legislative changes might be required to support this.
- **Trustee skills and knowledge**: The Government will not mandate accreditation for any type of scheme trustee at this stage. Instead, it will work with TPR to update the trustee knowledge and understanding framework so that it reflects the changing demands of trusteeship. This will include areas such as providing default pensions for savers; investment governance; oversight of advisers and service providers; trusteeship of large and systemically important schemes; cyber security; data governance; and AI.
- **Member voice**: Further consideration will be given to how governance within automatic enrolment schemes that do not currently have member-nominated trustees can best provide effective challenge and embed consideration of member perspectives in strategic decision making.
- **Administration**: Trustees should retain overall responsibility for the administration of their scheme and for member outcomes. However, to provide clearer accountability, the Government plans to introduce requirements for pension scheme administrators relating to data and operational resilience and will work with the industry to design and introduce mandatory minimum standards for pension scheme administration providers. It plans to base these standards around existing standards for administration, including those published by TPR and the Pension Administration Standards Association. Administrators will also be required to register with TPR, who will be given the same power to identify and manage risks in relation to administrators as they do in relation to trustees of occupational pension schemes. This will include the power to issue warnings, improvement notices and financial penalties where there are serious failings.

Response to surplus release consultation published

On 24 November 2026, the DWP published its response to its surplus flexibilities for DB schemes consultation, which we covered in WHiP 123. Broadly, the Government will retain the proposed safeguards, including full funding on a low dependency basis as the minimum threshold for surplus release, the minimum 3-month member notification, the three-year forward-looking test and the requirement to notify TPR whilst making the process more proportionate and workable. This includes enabling smaller phased payments, simplifying how actuarial requirements can be met and making practical changes to the payment and notification processes. The amended draft regulations are expected to be laid before Parliament early in 2027 and, subject to parliamentary approval, will come into force on 6 April 2027 alongside the related tax changes for authorised member surplus payments.

The Government's response confirms the framework set out in the regulations is permissive. As such, meeting the legislative requirements does not require trustees to release surplus, give employers an automatic entitlement to it or prescribe how surplus should be shared. Trustees remain responsible for deciding whether a payment is appropriate and how much surplus can be released, taking account of their scheme's circumstances and their existing duties. Changes that will be made to the draft regulations include:

- **Procedure:** The requirements will be amended to facilitate a series of surplus release payments being made. For a series of phased payments, trustees must decide the maximum amount that may be released over the series. Members will then receive a single written notification to cover a series of payments setting out the target dates and maximum amount payable, with each series lasting up to three years from the first payment. An actuary's certificate will still be required before each and every payment. However, where appropriate, the scheme actuary may roll forward the previous actuarial assessment to the certificate date. The actuary will take account of material changes to inform their decision for the certificate. If circumstances change, trustees may pay less, postpone, or stop planned payments.
- **Actuarial certification:** A certification will still require the scheme actuary's confirmation 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. However, the regulations will now require the payment to be made within 10 working days of the certificate, as opposed to 5 working days.

- **Notification to TPR:** There will be no requirement to notify TPR if a surplus payment is suspended or cancelled. There will also be no requirement to notify if 100% of the surplus release has been allotted to members. Trustees will be required to notify TPR within 20 working days beginning with the day on which the payment was made to the employer, as opposed to the week proposed originally.
- **Multi-employer schemes**: Employers will be able to nominate a person to act as their representative for the purpose of consenting to a surplus payment. Where no representative has been nominated, all employers must consent. More than one employer can be listed on the actuarial certificate - there is no requirement to provide a separate certificate for each employer who will receive surplus within the payment.
- **Revaluation of awards made to members before normal minimum pension age (NMPA)**: The response confirms that authorised member surplus payments below NMPA will not be permitted. However, where an authorised member surplus payment is awarded before NMPA and payment is deferred, minimum statutory revaluation will continue up to normal pension age (**NPA**) rather than NMPA. Where a member dies before payment, the Finance Bill 2026/7 allows an authorised member surplus payment to be made to a dependant following the member's death (see below).

TPR will consult on guidance to support trustees in considering the relevant factors when deciding whether and how surplus should be used, including member benefit considerations, communication with members, trustee independence, appropriate advice, employer covenant and funding buffers. Recognising that the issue of discretionary pre-1997 increases is complex, the guidance will be strengthened to raise awareness and ensure the discretion is properly considered when decisions are made about surplus so as to provide the best balance between fairness to members, scheme affordability and long-term sustainability. Whilst the guidance will contain some illustrative case studies to illustrate how considerations highlighted in the guidance could come into play, case studies should not be seen as benchmarks.

The Financial Reporting Council (**FRC**) will also publish guidance alongside the regulations which will provide support to scheme actuaries.

Comment

We are pleased to see the Government confirm that the surplus release regime will be permissive, recognising that giving trustees a discretion as to whether and how surplus should be used is the best way of ensuring that the circumstances of individual schemes and employers can be taken into account. The potential release of surplus is an extremely important decision and one which is likely to attract significant member, union and potentially press attention. It is therefore particularly critical that good governance is at the heart of trustee decision-making when trustees are considering exercising these new powers.

One surplus use case which respondents asked to be confirmed was whether DB surplus could be transferred to a separate DC master trust to fund employer contributions. However, the Government has confirmed it is not currently minded to change the definition of a "recognised transfer" in section 169 of the Finance Act 2004 to confirm that such transfers would be authorised payments. The response states: "*We recognise that there may be benefits to employers if they were able to directly transfer DB surplus to DC schemes, but this is outside the scope of the draft regulations and would require a range of wider legislative changes. In some circumstances, schemes within the same trust are able to share surplus under existing arrangements. However, these new regulations will provide greater flexibility for all schemes wishing to use surplus from a DB scheme to support contributions to a DC scheme, via the employer. The existing tax treatment of payments of surplus to employers would continue to apply. The government is not amending the wider regulations to enable a direct transfer of surplus between schemes where they are held under separate trusts as part of these changes but will keep this under review".*

DWP consults on investment and fiduciary duty guidance

The DWP has launched a consultation on draft guidance to assist and support pension trustees in understanding and complying with their investment and fiduciary duties. The guidance does not introduce new duties or alter existing legal obligations. It seeks to provide increased clarity in and confidence about what the law requires and permits in practice and is designed to assist trustees in applying legal principles to contemporary investment questions. The consultation closes on 27 January 2027.

Key points include:

- **Decision-making**: When trustees make an investment decision, relevant matters are to be taken into account and irrelevant matters are not to be taken into account. Having identified relevant matters, the trustees will then need to weight them to reach a balanced decision. In weighing relevant matters and making an investment decision, trustees are making a judgement; different boards of trustees may reach different decisions in the same circumstances. Trustees are entitled to take a practical and proportionate approach, having regard to the circumstances of their scheme. Where trustees follow and evidence a careful and proper decision-making process, taking account of all relevant matters, they can be reassured of the robustness of their decision in legal terms.
- **Financially material considerations:** Financially material considerations are relevant matters and are considerations that are reasonably capable of affecting risk, return, outcome or opportunity in the context of the investment of the fund and achieving its purpose (to pay pensions over time to members). Where proportionate, trustees will need to consider system-level risks and opportunities where these are or may be financially material to the fund. More factors may be financially material than has traditionally been considered, and materiality can vary with context and change over time.
- **Non-financial matters:** The guidance notes that many relevant factors which appear to be non-financial will, in fact, when analysed be financial. Where this isn't the case, the guidance states that trustees should consider taking advice about the approach to be followed. It also notes that identification of pure "non-financial matters" will be infrequent (as most, when analysed, will be financially material). Where that is the case, the guidance cites the Law Commission's tests for taking non-financial matters into account: (i) trustees should have good reason to think members would share the concern, and (ii) the decision should not involve a risk of significant financial detriment to the fund.
- **Stewardship:** Trustees should consider how the rights and influence arising from their investments can be used, directly or through their investment managers and others, to manage financially material risks and opportunities and protect and enhance long-term value for members. Where appropriate, trustees may act collectively with other investors and stakeholders. Where a financially material risk or opportunity has a system-level dimension, and effective action cannot reasonably be achieved by the pension fund acting alone, trustees may consider proportionate forms of collaboration, engagement or collective action where this serves the interests of the pension fund and its members.
- **Member views:** Generally, trustees are not required to seek member views on investment strategy or other aspects of investment decision-making. They are however entitled to do so. Where they do seek member views that does not mean they must follow those views or give them weight.

Comment

Proposals to give the guidance statutory force were of course defeated by the House of Lords as the Pension Schemes Act 2026 made its way through Parliament (see WHiP 121). As such, were it to be considered by the Courts (in the context of whether a trustee board had complied with its fiduciary duties in making investment decisions), its content would be persuasive at best.

However, the consultation document says the Government will consider whether there is merit in placing the guidance on a statutory footing in future, once a suitable legislative opportunity arises. To that end, trustees and their legal and investment advisers should take the opportunity to engage with the consultation as it could form the basis of stronger statutory guidance in future.

TPR and ICO guidance on use of AI in pension schemes and subject access requests

Following on from the publication of TPR's AI plan in May 2026 which we covered in WHiP123, it has now published guidance encouraging trustees to explore how to responsibly adopt AI to support the running of their scheme and to help them ask the right questions, apply oversight, manage risks and support responsible innovation in members' interests. It points out that the use of AI does not change trustees' existing duties and responsibilities and confirms that trustees remain responsible for making sure their scheme is governed and administered effectively in line with legal and regulatory requirements, regardless of which technologies are being used.

The guidance sets out some key principles that should guide trustees' approach to the use of AI and proposes certain questions that trustees should ask themselves in relation to each significant use of AI. Trustees should:

- Consider if the board, or specific individuals, require specific training or advisory support on AI.
- Establish clear governance and accountability for significant AI use. They should consider both the likelihood of harm and the impact to members if the system fails. Governance arrangements should include a way to identify significant changes to the model, data, function, access, or scale of use. They should also define how decisions are made on whether those changes require further scrutiny, assurance, or updates to controls. Establish AI policies to prevent staff, advisers and providers from using publicly available tools outside approved processes - shadow AI – which risks exposing sensitive scheme or member data.
- Seek assurance that providers have the necessary skills and training to use and govern AI and assess whether the level of assurance is appropriate for how the provider uses AI. Where AI is used by external providers, trustees should ensure that their level of oversight reflects the risks and potential impact of the AI use, as well as the size, nature and complexity of the scheme. Exit provisions, including how scheme and member data will be transferred or returned if the scheme changes provider or brings the service in-house, should also be considered when negotiating contracts with providers.
- Evidence how they have reached decisions. This includes demonstrating that trustees understood the relevant information, applied appropriate scrutiny, took professional, technical, and/or legal advice where needed, kept suitable records, and used their own judgement.
- Ensure that the level of trustee oversight and challenge is proportionate to the risk. Risk assessment should not be a one-off exercise. AI-related risks should be reviewed as part of the scheme's risk management cycle. This includes whether existing controls remain effective as the technology, uses, provider arrangements, law, regulation, or industry practice changes. Relevant AI risks should feed into continuity planning, exit planning, provider oversight, and change management. Be aware of compliance requirements that may be triggered under other legal frameworks (e.g. data protection, EU AI Act and anti-discrimination).
- Satisfy themselves that where AI is used to improve data quality, for example by identifying gaps or inconsistencies in scheme data, outputs are reviewed appropriately and changes to member data are made through controlled and auditable processes. Trustees should know where data is stored and how it is used if shared with an AI tool.
- Recognise AI's role as an accelerator of, and defender against, cyber risk. It enables more convincing phishing and impersonation attacks, but it can also support resilience by detecting unusual activity and identifying vulnerabilities. Trustees should check whether existing payment verification controls remain effective against AI-enabled fraud, whether staff are trained to recognise increasingly sophisticated scam attempts, and whether any AI used for cyber monitoring is itself subject to appropriate human oversight.
- Where AI directly affects a member's experience or outcome, consider what members need to understand how they can access support and whether any groups could be disadvantaged. Trustees should warn members about the enhanced risk of fraud, the risks of using AI tools and signpost members to trusted sources. They should also consider how communications could be interpreted or summarised by AI tools used by members, and whether important information, qualifications or context could be lost or misunderstood.

A week before issuing its use of AI in pension schemes guidance, TPR also published guidance setting out actions for trustees to take in light of the potential concentration risks that arise with the increasing influence AI and the companies developing it have on global markets. TPR expects trustees to understand their scheme's aggregate exposure to AI and

related investments, assess how the scheme might behave during a possible market downturn and take proportionate steps to manage this risk. TPR's action points include:

- asking advisers and investment managers to identify direct and indirect AI-related exposure across the scheme's entire portfolio;
- stress-testing a severe but plausible downturn in AI-related assets and comparing the results with existing stress tests;
- considering how passive strategies (particularly market cap-weighted strategies) may become more concentrated as the value of AI-related companies rises;
- asking active managers how they identify, measure and manage concentration risk; and
- having a clear member communication plan which can be executed quickly in the event of a material market downturn to minimise the risk of poor decision-making by members.

The Information Commission (**ICO**) has also published guidance on dealing with AI-generated subject access requests (**SAR**). It points out that:

- a SAR is not invalid just because a person used AI to help draft it or because it contains inaccurate or false information or AI hallucinations. As data controllers, trustees must treat an AI-assisted SAR in the same way as any other SAR. What matters is whether it is clear that the person is asking for their personal information;
- from a practical perspective, trustees can ask the person to clarify their request, extend the deadline for responding if the SAR is complex or the person makes several rights requests at the same time and consider if the request is manifestly unfounded or excessive. The guidance gives examples of where this may be appropriate. It also suggests publishing optional example prompts or templates that people can adapt, while making it clear that they aren't required to use them and reminding people to review any AI-assisted SAR before sending it (for example to ensure that the correspondence address is correct and to remove irrelevant or unclear details);
- to mitigate against the risk of fraud, if a SAR includes an address for correspondence, including an address of a third-party representative acting on the person's behalf, trustees should check it against the contact details they have on record. If trustees are unsure about a person's identity or think that their identity or authority documents may be fake, they should verify this with the data subject. If trustees think a letter of authority may have been generated using AI, they should contact the data subject directly. Where appropriate, they could also explain to the third party what they need to provide to prove their authority.

Comment

TPR's guidance is perhaps overdue but nevertheless helpful in that it helps trustees ask the right questions. However, as the guidance itself recognises, it is not comprehensive and nor can it ever be given the speed at which AI technologies and uses are developing, with regulatory frameworks inevitably lagging somewhat behind. To that end, trustees should continue to engage with their advisers to ensure they remain up to date with the latest developments in relation to both AI and cyber risk to help identify and respond to emerging risks, including by putting appropriate documentation in place. They should also ensure they monitor both TPR and ICO updates.

Response to pension transfer conditions published

The Government has published the response to its summer 2026 consultation on amending the conditions for transfers regulations, covered in WHiP 123. The intention is to strengthen the protections available to members wishing to transfer into Small Self-Administered Pension Schemes (**SSASs**), which have been a particularly fruitful target for scammers, whilst amending the existing legislation to ensure that transfers can be processed more efficiently in areas which present low risk to members. Amendments to the regulations will be published in due course and are expected to come into force from April 2027. Detailed guidance will also be published.

The current regulations provide that 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**).

To strengthen protection for members transferring to a SSAS whilst still ensuring there is sufficient flexibility to allow legitimate transfers to proceed, where the trustees or managers of the transferring scheme determine that the evidence provided by the member to demonstrate an employment link between the member and the receiving scheme does not demonstrate such a link, it will now be a red flag as opposed to an amber flag, meaning that the transfer cannot proceed. The Government will support trustees with details of the type of information and evidence which may be considered when making this assessment.

In addition to the employment relationship red flag, the Government will introduce a new amber flag for transfers into a SSAS where an employment ***or other relationship*** has been demonstrated and the transfer is otherwise able to go ahead. This will mean that members will be required to attend a MaPS appointment before the transfer can proceed, thereby ensuring they receive appropriate support and are better informed before deciding whether to go ahead.

The First Condition will be widened so that trustees or managers can make transfers without further checks where they are satisfied that the transfer is to a "reputable" pension scheme. Whilst a non-exhaustive list of factors to support trustees with deciding whether a receiving scheme is "reputable" will be provided, it isn't clear from the response whether these will be included in the regulations as originally proposed or in TPR guidance. The response simply states that DWP will work with TPR to develop the list of factors to ensure they accurately capture the most appropriate safe characteristics.

Where an amber flag is identified, members will not be required to attend a MaPS appointment if they can evidence that they have taken such guidance within the 12-month period prior to making a transfer request. This will be the case even where members propose transferring to a different type of scheme from the one in relation to which they took the earlier guidance. The exemption will not apply to transfer requests to a SSAS.

Finally, the existing problematic "overseas investment" amber flag will be removed.

Comment

These amendments will require changes to existing administration processes once implemented. In particular, agreeing, maintaining and implementing a reputable scheme list will no doubt raise some concerns amongst trustees given the tendency to move away from such lists since the regulations were introduced in 2021. Nevertheless, it appears that any factors the DWP and TPR propose will, at least initially, be prudent to ensure that only those schemes with the safest characteristics make the cut. This is key at a time when the industry is being asked to rebuild public confidence in the private pensions savings system.

Finance Bill 2026/7 published

The Finance Bill has been published, setting out the draft legislative provisions for the changes announced in the Budget which we covered in our Budget 2026 special, with further detail in HMRC's Newsletter 186. It contains the following provisions:

- Clause 25 confirms the provisions consulted upon over the summer to ensure that any lump sum surplus payments made to members are authorised payments (see WHiP 124). The revised drafting confirms that an authorised member surplus payment is not to be taken into account for the purposes of determining whether there is benefit accrual in relation to an individual under an arrangement, thereby ensuring that and pre-A day protections are not lost.
- Clause 26 removes the two-year rule for pension and lump sum death benefits, meaning that tax-free pension and lump sum death benefits will no longer become taxable solely because they are paid more than two years after the pension scheme administrator first knew, or could reasonably have been expected

to know, of the member's death. The change applies in relation to payments made on or after 28 October 2026.

- Clause 27 and Schedule 4 make retrospective changes to lump sum death benefit excess charges with effect from 6 April 2024. Where the available lump sum and death benefit allowance of a member who died before age 75 is exceeded, the excess will no longer be treated as pension income of individual beneficiaries. Instead, a tax charge will be raised against those beneficiaries on their portion of the excess by reference to their marginal rate of income tax for the year the lump sum was paid.
- Clause 28 introduces increased flexibility to allow a serious ill-health lump sum to be paid where a member can ***reasonably be*** expected to live for less than a year as opposed to the current position which requires medical evidence that the member ***is*** expected to live for less than a year. Amendments are also made to the definition of a registered medical practitioner to allow a medical practitioner based outside the UK to provide medical evidence of a terminal diagnosis if the member lives in the country where the practitioner practises medicine. This change will come into force on the date of Royal Assent.
- Clauses 43 and 44 make changes in relation to the inheritance tax legislation coming into force on 6 April 2027, allowing a prospective personal representative to direct pension scheme administrators to pay inheritance tax, and introducing flexibility on how notional pension property is counted when part of the estate if left to charity.

Comment

The two-year rule for pension and lump sum death benefits has regularly caused problems in practice, often resulting in members raising IDRP complaints and then escalating matters to the Pensions Ombudsman. Trustees and administrators will, therefore, be pleased to see it go – indeed the decision to apply the change to payments made on or after 28 October 2026 means that some clients are seeing immediate benefits and resolving ongoing IDRP complaints regarding delayed payments by writing to the beneficiary to advise them that the payment will not be taxed after all.

Trustees should review their scheme rules to see if they contain any references to requiring payments to be made within two years of when the trustees first knew, or could reasonably have been expected to know, of the member's death. They should also review whether the conditions for ensuring a serious ill- health lump sum is an authorised payment have been hard wired into the scheme rules (as opposed to tracking the conditions contained in the Finance Act 2004 as amended over time). Where any such references exist, they should seek legal advice as to whether the rules require amendment.

Guided retirement and retirement CDC consultation

On 3 November 2026 the Government launched two linked consultations designed to ensure that today's 17 million private sector defined contribution (**DC**) savers are given the option of an income that lasts through their retirement, with one of the ways to achieve this being the use of the new option of a Retirement CDC pension, or Retirement Collective Pensions (**RCPs**) as they are now to be called in a bid to make pensions industry terminology clearer and more accessible to those not familiar with it.

The consultation papers build on the Government's policy paper published in July 2026 which set out its guiding principles for guided retirement (see What's Happening in DC – the Pension Schemes Act 2026 special) and give trustees and providers a much clearer sense of what they need to do to ensure they comply from summer 2029 onwards.

For more detail on what the new regime will require, who it applies to, when it will come into force, what DC trustees (master trusts and single employer trusts), FCA-regulated providers and employers should start doing now, see our detailed Gearing up for guided retirement: turning pots into pensions briefing.

Significant event notifications for Master Trusts

The Pension Schemes Act 2017 requires individuals involved in running an authorised Master Trust scheme (including professional advisers) to notify TPR if certain significant events occur in relation to the scheme. These are set out in Regulation 14 of the Occupational Pension Schemes (Master Trusts) Regulations 2018. Significant event (j) is a failure of the systems or processes used to run a Master Trust that has a significant adverse effect on the security or quality of data, or on service delivery.

On 13 October 2026, TPR published guidance explaining when a failure of a system or process used to run a Master Trust may need to be reported as a significant event (j). The guidance covers the test for reporting, how to assess significant adverse effect, when and how to notify TPR, who has reporting duties, and includes examples using a red, amber and green traffic-light approach.

TPR's list of illustrative examples of "red events" (which must be reported where there has been a significant adverse effect) includes:

- a breach of cyber security resulting in the loss of the availability or control of Master Trust IT systems or an incident that results in unauthorised access to, or malicious software present on, their information and communication systems.
- failures of the systems or processes used in running the scheme which have a significant adverse effect on the quality of data with examples being:
    - corruption of member records or other incidents causing member data loss.
    - a failure in transition processes, onboarding processes, update processes or other events leading to significant inaccuracies or omissions in member records.
- failures of the systems or processes used in running the scheme which have a significant adverse effect on service delivery with examples being:
    - late issuance of or a failure to send member communications or statutory member communications which directly impact member decision making;
    - a failure to conduct a consultation or obtain members consent in accordance with statutory requirements;
    - a failure to process core financial transactions into and/or out of the scheme;
    - a failure in controls resulting in members funds being invested outside of the range of permitted investments;
    - a failure in systems or processes leading to an unauthorised individual obtaining funds through fraud;
    - a failure in systems and processes involving ‘standing’ data which results in an investment fund being required to recalculate its unit price, restate/calculate its net asset value or restate its performance.

The guidance also contains a reminder that paragraph 379 of TPR's Code of Practice 15 on the authorisation and supervision of Master Trusts states that where significant event (j) occurs, TPR considers that the requirement to notify TPR in writing "as soon as reasonably practicable" in this context means within one working day of the person becoming aware of the failure.

Finally, in its response to its trusteeship and governance consultation covered above, the Government confirmed its intention to strengthen significant event notification requirements for Master Trusts so that TPR receives timely information about developments that could materially affect a Master Trust’s governance, financial sustainability or continued ability to meet the authorisation criteria. This will require amending legislation which we await in due course.

PPF update

Following publication by the Pension Protection Fund (**PPF**) of its 2026/7 levy rules (see WHiP 121) in which it confirmed it would set a zero levy for conventional DB schemes but maintain a proportionate risk-based levy for alternative covenant schemes, which includes DB superfunds, the PPF has said it will continue not to charge conventional DB schemes a levy in 2027/28 and will pause the alternative covenant scheme levy for one year.

It also published its response to 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). The revised assumptions will be implemented as originally proposed (see WHiP 124), save that the new section 179 assumptions will now apply to valuations with an effective date on or after 30 November 2026.

No change to automatic enrolment for now

The DWP has published its annual review of the automatic enrolment thresholds. Unsurprisingly, given the work currently being undertaken by the Pensions Commission, which the Pensions Minister confirmed at the Pensions UK Annual Conference in Liverpool last month will deliver its final report in February 2027, there has been no change.

The earnings trigger at which eligible workers must be automatically enrolled will remain at £10,000 for 2027/8 and the qualifying earnings band which is the band of earnings on which contributions are paid will remain at £6,240 to £50,270.

There will also be no change to the alternative quality requirements for DB, hybrid, DC and CDC schemes that are used for automatic enrolment.

FCA proposes changes to DC default charge cap

The FCA has launched a consultation on proposals to exempt certain performance fees from the charge cap that applies to the default funds of DC automatic enrolment workplace pension schemes operated by FCA regulated firms. In its current form, the cap can dissuade pension schemes from considering asset classes where performance fees are more common including private markets such as private equity, venture capital and private credit funds.

The charge cap was introduced in 2015 and generally limits charges to 0.75% of funds under management in workplace default pension funds. It applies to trust-based schemes through legislation and is replicated for contract-based schemes through FCA rules.

For default funds of occupational DC pension schemes used for automatic enrolment, the Occupational Pension Schemes (Charges and Governance) Regulations 2015 were amended in 2023 to exclude specified performance-based fees from charge cap calculations. Conditions apply to what qualifies as a specified performance-based fee structure for the charge cap exemption. To help occupational pension schemes determine whether particular costs and charges fall within the scope of the charge exemption or not and what factors trustees should take into account when agreeing to performance-based fee structures, the Government has issued statutory guidance (**Guidance**).

The FCA's proposals seek to largely (but not entirely) replicate the existing legislation and Guidance that exists for occupational pension schemes. Its proposals include:

- **Definition and scope**: The FCA proposes that fees be exempt from the charge cap if they meet two conditions:
    - they are fees calculated solely by reference to increases in investment performance, i.e. they are in substance performance fees. The FCA definition makes clear that this includes arrangements which are not formally labelled as performance-based fees, but which nonetheless operate as charges by reference to performance, such as profit-sharing arrangements (e.g. carried interest); and
    - a minimum set of requirements have been pre-agreed between the provider and the manager at the time of entering into the investment. These pre-agreed terms would provide consumer protection by ensuring the provider understands and agrees how performance fees are to be calculated, and when and how payment is due. The terms would also aim to mitigate the effects of short-term fluctuations in investment performance.
- **Transparency and look-through disclosure**: in addition to the pre-agreed terms set out above, performance fees would only be exempt from the cap where fund managers have pre-agreed an information sharing obligation requiring them to disclose information relating to the performance-based fee on request (this is not an express requirement in the Guidance). Additional member disclosures will apply, drawing on the principles set out in the Guidance. The FCA also clearly indicates that providers will be expected to "look through" fund of fund structures when considering performance fees in this context, although it remains unclear to what extent providers are expected to look through other types of structures or when assessing other types of charges.

- **Commercial terms:** The FCA considers that pre-existing FCA rules, including Consumer Duty, already mirror the requirements in the Guidance on how providers consider risk and return, how the performance fee links to the net benefit return that savers could receive, and in relation to seeking professional advice on investments. No changes are, therefore, proposed.
- **Fairness between savers**: The FCA will adopt requirements from the Guidance as to how schemes should work with fund managers to consider how performance fees should be charged in a way to ensure fair allocation towards savers, although it is not prescriptive on how this should be done. The Consumer Duty will be relied upon to ensure that a pension product provides fair value and that fees are reasonable compared to benefits.
- **Due diligence on governance and valuation practices**: The FCA proposes to introduce a requirement that scheme providers should carry out due diligence of managers' valuation governance – this is more definitive than the Guidance. Where an operator cannot establish that appropriate policies and procedures are in place, the firm must not proceed with the investment.
- **Physical asset costs:** It proposes introducing an exemption from the charge cap for physical asset costs, largely mirroring the exemption that applies in relation to occupational pension schemes. Unlike occupational pension schemes, valuation fees will not be excluded from the charge cap.
- **Value for money:** The FCA notes that although performance fees meeting the above conditions would be excluded from the charge cap, they would still be in scope for the purposes of providers' value for money assessments.

The consultation closes on 14 January 2027 and the FCA expects to make final rules in summer 2027. The consultation evidence and findings will be shared with DWP so they can consider whether any potential changes are needed in relation to the occupational pension scheme market.

Comment

The Guidance that applies to occupational pension schemes is not comprehensive and working out what is inside and outside the charge cap is not straightforward, particularly in relation to private market investments. Manager charges may change over time if the implementation of the strategy changes and the old perimeter on what was inside and outside the charge cap may no longer be appropriate.

In addition, the Government has also included comments on specific aspects of the charge cap regime (such as the extent to which trustees are required to 'look through' different types of investment structures) in various past consultations and consultation responses. These comments have not always been entirely clear or consistent. As a result, schemes often have to incur legal expenses to seek to resolve any uncertainties.

It is, therefore, reassuring to see the FCA recognise this concern in the consultation and make the point that it believes employers and members should be able to understand the principles that have determined which costs have been capped as administrative costs and which are exempt as transaction costs. It is hoped, therefore, that the outcome of this consultation will go some way towards resolving some of these uncertainties in relation to both occupational and contract-based pension schemes.

First dashboard launch expected in summer 2027

Speaking at a town hall event hosted by MaPS on 19 November 2026, the Pensions Minister told industry delegates that the MoneyHelper Pensions Dashboard is expected to become publicly available in the summer of 2027. He reiterated the Government's commitment to providing the industry with six months' notice of the date the dashboard will launch publicly.

Call for evidence on TPR's regulatory framework

The DWP has launched a call for evidence on how TPR's framework and capabilities should evolve to enable effective and proportionate regulation of a future workplace pensions market, characterised by fewer, larger pension institutions managing a greater proportion of assets and serving larger numbers of savers. Evidence is being sought as to:

- how TPR's statutory objectives should be updated to reflect the changing pensions landscape – the Government plans to give TPR a formal statutory role in relation to financial stability and is considering the form this will take
- how TPR's supervisory framework can be strengthened to identify and address emerging risks earlier
- how TPR can secure access to the data, intelligence and analytical capabilities it needs to identify, monitor and respond to risks effectively. The DWP notes that some existing reporting is retrospective, raising the question of whether TPR has sufficiently timely information to identify emerging risks at an early stage
- how TPR's intervention, enforcement and penalties framework should evolve to remain effective and proportionate. The DWP wants to understand whether existing penalties provide an effective deterrent, whether TPR has appropriate options to respond to different types of risk, and whether there are sufficient regulatory levers when concerns arise but formal enforcement action would be premature or disproportionate.
- whether greater regulatory flexibility is required to enable requirements to remain effective and up to date as the market evolves. Consideration is being given to where existing requirements could be simplified, streamlined or removed and whether there are some areas where greater flexibility could be beneficial, particularly where technical or operational requirements may need to evolve over time in response to changes in technology, market practices or supervisory needs.

Responses are requested by 21 December 2026.

Travers Smith's award-winning Pensions Sector Group seamlessly encompasses all the technical legal specialisms our pensions clients need. Our experienced and talented multi-specialist teams are at the forefront of pensions so we can help you to predict and plan for the future. For more information about our services please visit our website or speak to your usual Travers Smith contact.

You can also follow **#TraversSmithPensions** on LinkedIn

FOR FURTHER INFORMATION, PLEASE CONTACT



David James
Head of Department
david.james@traverssmith.com
+44 (0)20 7295 3087



Daniel Gerring
Partner
daniel.gerring@traverssmith.com
+44 (0)20 7295 3341



Niamh Hamlyn
Partner
niamh.hamlyn@traverssmith.com
+44 (0)20 7295 3287



Chris Widdison
Partner
chris.widdison@traverssmith.com
+44 (0)20 7295 3604



Catrin Young
Knowledge Counsel
catrin.young@traverssmith.com
+44 (0)20 7295 3876



Alexander Economides
Senior Counsel
alexander.economides@traverssmith.com
+44 (0)20 7295 3142

The information in this document is intended to be of a general nature and is not a substitute for detailed legal advice. Travers Smith LLP is a limited liability partnership registered in England and Wales under number OC 336962 and is authorised and regulated by the Solicitors Regulation Authority. The word "partner" is used to refer to a member of Travers Smith LLP. A list of the members of Travers Smith LLP is open to inspection at our registered office and principal place of business: 3 Stonecutter Street, London EC4A 4AW.