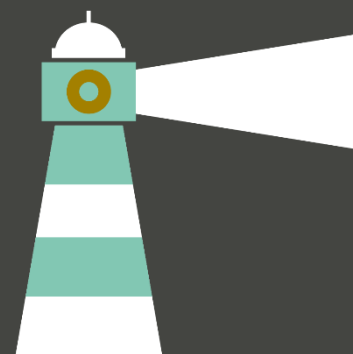


What's Happening in Pensions

Issue 116 – May 2025



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TPR annual funding statement: The Pensions Regulator has published its 2025 annual funding statement for DB schemes. This is the first to address itself primarily to schemes undertaking valuations under the new 'funding and investment strategy' regime, i.e. valuations with effective dates on or after 22 September 2024.

ECCTA – identity verification: The identity verification regime has commenced under the Economic Crime and Corporate Transparency Act 2023. Individuals who are a company director, LLP member, or person with significant control of a UK company or LLP will need to have their identity formally verified.

DC investment – Mansion House Accord: Seventeen of the largest workplace pension providers in the UK have signed the new 'Mansion House Accord', supplementing the July 2023 'Mansion House Compact'. This is designed to increase DC pension fund investment in private markets, including in the UK.

Gender reassignment – Supreme Court decision: The Supreme Court decided that "sex" in the Equality Act 2010 means biological sex only (which does not include the sex stated on a gender recognition certificate). It also emphasised that the Act separately protects individuals from discrimination and harassment on the grounds of gender reassignment. The law was already unclear (except as regards GMPs) on how the issuing of a gender recognition certificate affects DB pension scheme benefits. This decision has not provided any more clarity on that.

Neonatal care leave: New regulations give parents of premature babies an entitlement of up to 12 weeks' leave and pay. This applies from 6 April 2025 where a baby begins neonatal care lasting at least seven days within 28 days of being born.

Small DC pots: The Government has published a report by the Small Pots Delivery Group, including the Government's conclusions on the matters under consideration. This confirms proposals for the automatic consolidation of deferred DC pots of up to £1,000 that have not received contributions for at least 12 months, with the individual having the right to opt out or choose a particular consolidator.

Government response to Select Committee report: The Government's response has been published to Parliament's Work and Pensions Committee's report on DB pension schemes. Most of the content is not new but there is news of a forthcoming consultation on improving governance of trust-based schemes.

Professional trustees – TPR supervision: The Pensions Regulator has announced a framework for oversight of professional trustees. Alongside this, it has published a market oversight report.

TPR on transfers to superfunds: The Pensions Regulator has published a blog post with tips for trustees considering a transfer to a DB consolidator 'superfund'.

Multi-employer collective DC: The Government has announced that it will be laying regulations to allow multi-employer collective money purchase schemes to be established. This will allow commercial operators to develop offerings. Currently, only schemes for single or associated employers are permitted.

Continued...

Pensions Ombudsman – GMP equalisation implementation: The Pensions Ombudsman has ruled in favour of trustees in a claim that they had been too slow to implement GMP equalisation. But he ruled against them for failing to keep in contact with the complainant, to whom they had promised updates.

HMRC Pension Schemes Newsletter: HMRC's Pension Schemes Newsletter 168 mentioned that QROPSs in the EEA will cease to qualify as such if they do not confirm that they meet new conditions applicable since 6 April 2025. There is also a reminder that fixed protection 2016 and individual protection 2016 can no longer be claimed.

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](#).

TPR annual funding statement

The Pensions Regulator [has published](#) its 2025 [annual funding statement](#) for DB schemes. This is the first to address itself primarily to schemes undertaking valuations under the new 'funding and investment strategy' regime, i.e. valuations with effective dates on or after 22 September 2024.

The Regulator notes key messages as follows:

- *"Most schemes continue to see positive funding levels, with our estimates as of 31 December 2024 showing around:*
 - *85% of schemes in surplus on a Technical Provisions (TPs) basis*
 - *76% of schemes in surplus on a The Pensions Regulator (TPR) derived low dependency basis*
 - *54% of schemes in surplus on a buyout basis*
- *With this continued strong funding position, we expect most schemes to be shifting their focus from deficit recovery to endgame planning.*
- *Despite healthy funding positions, trustees should keep in mind the potential for heightened trade and geopolitical uncertainty and understand any risks to the scheme's investment strategy and employer covenant.*
- *We estimate that around 80% of schemes should be able to meet Fast Track. Fast Track enables TPR to reduce regulatory burden, as schemes can provide less information as part of the statement of strategy."*

The Regulator is not making any changes to the Fast Track parameters published in November 2024: see [WHiP Issue 113](#)). It reiterates that the alternative 'bespoke' approach is equally acceptable.

Schemes continue to be grouped into three broad categories:

- **"Group 1: funding level is at or above low dependency**
Focus should be on end game planning. See our DB end game guidance when published [see below] for more information around the different options available. If schemes decide to run on, they will need to weigh the benefits against the ongoing risks and put in place suitable monitoring and management strategies. They will also need to continue monitoring the employer covenant to ensure it continues to provide the necessary support for the risks.
- **Group 2: funding level is above TPs but below the low dependency funding target**
Focus should be on ensuring the scheme continues on the path to achieving the low dependency objective by the relevant date.

- **Group 3: funding level is below TPs**

Focus should be on addressing the deficit. TPs should be consistent with the scheme's journey plan to reach low dependency by its relevant date. The level of risk should be dependent on employer covenant support and, subject to that, the maturity of the scheme. Any deficit should be recovered as quickly as the employer can reasonably afford to."

Some other points of interest raised by the Regulator are as follows:

- The requirements for the statement of strategy allow flexibility when describing the scheme's long-term objective. Where there is an aim to buy out at an unspecified point after the 'relevant date' (while reaching low dependency by that date), trustees need to decide if the commitment to achieve buyout is clear and settled enough for it to be included in the funding and investment strategy. (Employers may have their own views on what it says in these circumstances, regarding the implications for their accounts.)

The Regulator's response to the consultation on the statement of strategy (see [WHiP Issues 108](#) and [112](#)) should be published in "Spring 2025" alongside the launch of the new digital platform for submitting valuations etc..

- Trustees are encouraged to remind themselves of the Regulator's LDI guidance (see [WHiP Issue 102](#)), with the Regulator expecting volatility in the gilt market. The Regulator adds: *"We encourage trustees to carry out periodic stress tests to evaluate the robustness of their LDI strategy and the trustees' ability to replenish interest rate buffers within five days. We also ask trustees to be more aware of the concentration risks associated with the assets earmarked for sale during stress events. You may consider whether a diversified pool of collateral assets and a more flexible approach may be more prudent."*

Appendix 1 seeks to clarify the Regulator's December 2024 **covenant guidance** (see [WHiP Issue 102](#)) in a number of respects, under the following headings:

- Taking a proportionate approach to assessing your employer covenant
- Scheme funding needs should not be considered when assessing the reliability period
- Assessing the reliability period where employer cashflows are limited or negative
- The interaction between employer cash flow forecasts and defining the end of the reliability period
- The difference between the two cash measures: maximum affordable contributions (used for assessing supportable risk, alongside contingent asset support) and employer's available cash (used for assessing reasonable affordability for recovery plan purposes)
- The role of covenant longevity in setting a scheme's journey plan to low dependency
- The role covenant should play when a scheme is fully funded on a low dependency basis
- Why a Pension Protection Fund (PPF) standard guarantee is not considered a 'look through' guarantee
- What to do when the approach and nuances of the business model set out in the covenant guidance is not applicable or does not work when assessing an employer's covenant (for example, their cash flows)
- The move away from covenant ratings at TPR
- Assessing the employer covenant when using the Fast Track route

Appendix 2 seeks to provide clarifications on assessing **supportable risk**, under the following headings:

- Further detail for modelling when carrying out an assessment of supportable risk over the reliability period
- Whether to stress employer forecasts when assessing support for a scheme-related stress event
- Assessing supportable risk when the period to a scheme's relevant date is shorter than the reliability period
- Impact of an actual scheme-related stress event occurring halfway through the reliability period and preventing the scheme access to the maximum affordable contributions already foregone in earlier years

A separate, unpublicised [market oversight statement](#) looks at current volatility and what trustees should do. (This has suggestions for trustees of DC schemes too.)

ECCTA – identity verification

The identity verification (IDV) regime has commenced under the Economic Crime and Corporate Transparency Act 2023. Individuals who are a company director, LLP member, or person with significant control (PSC) of a UK company or LLP will need formally to verify their identity.

This will affect new and current directors of Trustee companies.

This can be done either (a) directly via Companies House or (b) through an authorised corporate service provider (ACSP) which also provides IDV services. Companies House guidance has been published for [individuals](#) and [ACSPs](#).

The timings are as follows:

- From Autumn 2025 (exact date to be confirmed), all new directors, LLP members or PSCs of UK companies or LLPs who are individuals will need to complete IDV checks. This includes company directors, LLP members or PSCs of UK entities that are newly incorporated after the go-live date.
- Existing individual directors, LLP members and PSCs will need to complete IDV checks by the date that the company or LLP's next annual confirmation statement is due at Companies House after the Autumn 2025 go-live date.

A [Travers Smith briefing](#) explains the requirements in more detail.

DC investment – Mansion House Accord

Seventeen of the largest workplace pension providers in the UK have signed the new '[Mansion House Accord](#)', supplementing (not replacing) the July 2023 'Mansion House Compact' (see [WHiP Issue 104](#)). This is designed to increase DC pension fund investment in private markets, including in the UK.

Under the Accord, signatories commit to:

- *"allocating at least 10% to private markets across all main DC default funds by 2030; and*
- *within that, at least 5% of the total going to UK private markets, assuming a sufficient supply of suitable investible assets for providers."*

This is all subject to trustees' fiduciary duties and the 'consumer duty' for FCA-authorised firms. There are also significant caveats around the Government and regulators doing their bit on various "critical enablers".

An Association of British Insurers [web page](#) provides more detail.

The Accord is not legally binding. The Government will reportedly introduce legislation with the power to make regulations to compel investment in private markets, which it intends to use if the Accord is not effective enough. We should hear more about this when the final report of phase 1 of the Pensions Review is published (see [WHiP Issue 113](#)).

Gender reassignment – Supreme Court decision

As widely reported, in the case [For Women Scotland Ltd v The Scottish Ministers](#) the Supreme Court decided that "sex" in the Equality Act 2010 means biological sex only (which does not include the sex stated on a gender recognition certificate). The Court emphasised that the Act separately expressly protects individuals from discrimination and harassment on the grounds of gender reassignment. The Act also continues to provide protection from discrimination and harassment on the grounds of sex (which includes not only biological sex but also the individual's perceived sex if this was the reason for the discrimination or harassment).

The law was already unclear (except as regards GMPs) on how the issuing of a gender recognition certificate affects DB pension scheme benefits. This decision has not provided any more clarity on that. Where a question arises, please seek specific advice from your usual Travers Smith contact.

Our Employment team has written a [briefing note](#) for employers on the Supreme Court decision and Equality and Human Rights Commission guidance).

Neonatal care leave

[The Neonatal Care Leave and Miscellaneous Amendments Regulations 2025](#) and [separate regulations on statutory pay](#) give parents of premature babies a new entitlement of up to 12 weeks' leave and pay. This applies from 6 April 2025 where a baby begins neonatal care lasting at least seven days within 28 days of being born.

Terms and conditions of employment continue to apply during such leave, except as regards wages or salary. But there is a statutory neonatal care pay entitlement, subject to eligibility criteria, and employers may contractually or voluntarily continue payment of wages or salary. The regulations mirror those for other forms of family leave, so DC pension contribution entitlements are based on pay or statutory pay received.

Small DC pots

The Government [has published a report](#) by the Small Pots Delivery Group, including the Government's conclusions on the matters under consideration. This confirms proposals for the automatic consolidation of deferred DC pots of up to £1,000 that have not received contributions for at least 12 months, with the individual having the right to opt out or choose a particular consolidator.

Legislation will be in the forthcoming Pension Schemes Bill and, following consultation, regulations made under that statute. Implementation is likely to be staged, starting in 2030.

Schemes applying to act as a consolidator will need to be an automatic enrolment qualifying scheme and satisfy certain other conditions, including as to scale, value for money, a Sharia option and protections from the effects of flat-fee charges. They will not be permitted to accept transfers only for existing members. The great majority of consolidators are expected to be master trusts, rather than group personal pensions.

Automatic consolidation will be to the consolidator (if any) where the individual has the largest or only savings; otherwise, allocation will be on a 'carousel' basis. There will be a Small Pots Data Platform, funded from the general levy, for checking scheme memberships. But all communications will be from the schemes: one before the proposed transfer and one afterwards. The PLSA will undertake a feasibility review on the data platform, with the report to be published by June 2025.

The Pensions Ombudsman will have jurisdiction to determine complaints alleging transfer errors.

Government response to Select Committee report

The [Government's response](#) has been published to Parliament's Work and Pensions Committee's report on DB pension schemes (see [WHiP Issue 108](#)).

Most of the content is not new: for significant announcements we must wait for the outcomes of the DC / Local Government Pension Scheme pensions investment review (see [WHiP Issue 113](#)) and the consultation on options for DB pension schemes (see [WHiP Issues 107](#) and [114](#)). These are expected alongside the forthcoming Pension Schemes Bill.

The content that is new and of some interest includes the following:

- On the issue of there being no statutory indexation for pre-April 1997 accruals:

"Pension scheme trustees and sponsoring employers need to think carefully about the impact inflation has on members' benefits when they are making decisions about benefit increases.

...

The Department plans to work with TPR to understand the reasons why schemes are not making discretionary pre-1997 payments and monitor trends. The Government's recently announced reforms on the use of surpluses in defined benefit schemes will make it easier for individual schemes to make decisions that improved outcomes for both sponsoring employers and members, which could include discretionary benefit increases.

...

TPR's guidance already requires trustees to consider the situation of those members who would benefit from a discretionary increase and whether the scheme has a history of making such awards. Following our reforms, trustees will continue to consider the correct balance of interests between members and the sponsoring employer when making decisions about surplus funds. Trustees will be responsible for determining how members may benefit from any release of surplus and have a suite of options to choose from—for example, through discretionary benefit increases."

The Government will consider the same issue as regards PPF and FAS compensation: *"These are complex matters requiring a balanced approach for those receiving compensation, levy payers and taxpayers."*

- The DWP will run a public consultation on improving governance of trust-based schemes "later this year". Examples given of what this will consider include:
 - how the DWP and the Pensions Regulator can give lay trustees additional support;
 - conflicts of interest, including for professional trustees (see also below); and
 - an accreditation framework.
- The Government continues to consider whether a PPF-run public consolidator could be an option for schemes less attractive to commercial providers. But this is referred to as a "small, focused" arrangement.
 - The Government is still considering allowing the PPF to set a nil pension protection levy without restricting future increases but it is strongly hinted that this will be done: *"Clearly the PPF should not have to charge a levy when it is not required."*

Professional trustees – TPR supervision

The Pensions Regulator [has announced](#) a framework for oversight of professional trustees. Alongside this, it has published a [market oversight report](#).

Through in-depth discussions with 11 of the largest professional trustee firms, the Regulator sought to understand five key areas:

- ownership structure
- skills and experience
- diversity, equality and inclusion
- conflicts of interest
- fees

The report briefly considers some of the areas where risks to saver outcomes could arise, including:

- relationships with employers;
- profit and remuneration model;
- sole trusteeship;
- in-house advisers;
- scheme decision maker.

The Regulator's market oversight team will establish ongoing supervisory relationships with professional trustee firms starting this summer and covering all firms by the end of the year. It intends to focus engagement in the following areas:

- how relationships with employers are managed;
- profit and remuneration models (including the impact of reduced costs on services and prioritisation of schemes);
- sole trusteeship (reasons for appointment and internal controls);
- in-house advisers (including conflicts of interest and impact on indemnity insurance cover);

- scheme decision-makers and internal controls.

Pension schemes with trustees from professional trustee firms have assets under management of over £1 trillion, with around £75 billion in schemes managed by sole trustees.

TPR on transfers to superfunds

The Pensions Regulator has published a [blog post](#) with tips for trustees considering a transfer to a DB consolidator 'superfund'. Currently this means only Clara-Pensions, to which three transfers have so far been cleared.

The Regulator estimates that at the end of 2024, approximately 40% of DB schemes could potentially have met the gateway tests and could consider whether a transfer to a superfund was in their members' best interests. Of those schemes, around 1,400 had assets of less than £100 million and 900 had less than £25 million. The Regulator hopes that the forthcoming Pension Schemes Bill, which will establish a permanent legislative framework for superfunds, will provide impetus for further innovation and expansion, to provide the scale it says is needed in order for the small schemes to be accepted.

The Regulator confirms that:

- A buyout quote from the insurance market is not required for the purpose of determining whether buyout is affordable for the gateway test. An objective estimate of the cost of executing a buyout from an actuary with experience of the market will suffice.
- Minimal due diligence by trustees on the legal and governance structure, systems and processes and key people of a Regulator-approved superfund is not of concern to the Regulator.
- Schemes must provide a comprehensive rationale for transferring, including supporting advice and evidence. This should set out why transferring is in members' interests and the pros and cons. Member option terms such as commutation may be relevant considerations. The Regulator notes: *"A strong rationale is vital where the scheme has on-going employer support ... but it is a misconception that we will not provide clearance in these circumstances."*
- The gateway test that a transfer improves the likelihood of full benefits is a matter of judgment. *"Stochastic asset-liability modelling, possibly with some modelling of employer insolvency risk and recoveries, may have a part to play, where it is proportionate, but is not a prerequisite."*
- On bulk transfer terms:

"The terms of a transfer, including cash injections from employer and superfund, are often struck based on the financial position of the scheme months before the date of transfer."

To make it highly likely that our capitalisation expectations are met at transfer, even if market conditions change, we see clauses in transfer agreements that trigger the terms to be reassessed if key yields move outside pre-agreed corridors (so-called 'boundary conditions')."

We have listened to feedback that continuing boundary conditions right up to the date of transfer is impracticable. We accept that there comes a time when all parties must commit. In practice, we would unlikely be concerned if boundary conditions terminate on the date members are notified of the pending transfer (normally 30 days in advance). We will, however, ask you to explain why you are comfortable with this."

The Regulator will be publishing 'Defined Benefit Scheme Endgame Options Guidance'. The annual funding statement (see above) says that this will be in "early Summer".

Multi-employer collective DC

The Government [has announced](#) that it will be laying regulations "in the Autumn" to allow multi-employer collective money purchase schemes to be established. This will allow commercial operators to develop offerings. Several organisations are said to be interested in doing so.

Currently, only schemes for single or associated employers are permitted. Royal Mail's scheme is the only such scheme at present.

The legislation would be commenced, subject to Parliamentary approval of the regulations, "as soon as practicable". The 'Collective defined contribution' section of the Pensions Regulator's general code of practice would be updated.

Decumulation-only collective DC provision will not be permitted at this stage but the Pensions Minister confirmed the intention to make this an option. The Government will continue to work with industry stakeholders to develop this.

Pensions Ombudsman – GMP equalisation implementation

The Pensions Ombudsman [has ruled](#) in favour of trustees in a claim that they had been too slow to implement GMP equalisation. But he ruled against them for failing to keep in contact with the complainant, to whom they had promised updates.

Mr N had transferred out of the scheme after leaving service in 1991. The determination does not say when the transfer took place but it appears to have been in the 1990s. He complained about delays in implementing GMP equalisation and failure to keep records.

The Pensions Ombudsman determined as follows:

- He agreed with the opinion of the Adjudicator that the trustee was proceeding appropriately and not out of line with other schemes. There had been no unreasonable delays. In any event, there can be no award for financial injustice in the absence of evidence that there has been any.
- Although the trustee's records did appear to be incomplete, Mr N had transferred out of the scheme "some considerable time ago" and it was normal to keep limited data in respect of past transfers. In any event, again, there was no evidence of any financial loss having been suffered.
- Former members such as Mr N had not received any scheme newsletters. The trustee had agreed to keep Mr N updated on the progress of the project after he had contacted them but it had failed to do so. This will have caused Mr N unnecessary distress and inconvenience, for which a £500 award for non-financial injustice was appropriate.

A notable feature of the determination is that the parties' positions are stated "as at 2023" and it considers developments up to then – an illustration of the already known delays in obtaining determinations from the Ombudsman.

HMRC Pension Schemes Newsletter

HMRC's [Pension Schemes Newsletter 168](#) mentioned (among other things) the following:

- HMRC will be writing to scheme managers of QROPSs in the EEA asking them to confirm that they meet new conditions that apply to them from 6 April 2025 under the [Finance Act 2025](#). If HMRC does not receive a response by 7 May 2025, or if there is a negative confirmation, the scheme will cease to be a QROPS. A considerable number of EEA schemes are therefore likely to cease to be QROPSs.
- A reminder that fixed protection 2016 and individual protection 2016 can no longer be claimed after 5 April 2025.

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FOR FURTHER INFORMATION, PLEASE CONTACT



Susie Daykin
Partner, Head of Pensions
susie.daykin@traverssmith.com
+44 (0)20 7295 3247



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



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



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



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



Nick White
Knowledge Counsel
nick.white@traverssmith.com
+44 (0)20 7295 3472