Clifford Chance

BRIEFING

UK PENSIONS UPDATE: 5 in 5

December 2025

Welcome to our newsletter: "UK Pensions Update: 5 in 5" where we deliver to you what you really need to know about the 5 key developments in UK pensions from the last quarter – digestible within 5 minutes!

Key issues

1. Budget-related developments and the Pension Schemes Bill
2. PPF publishes consultation on 2026/27 levy
3. High Court hands down judgment in *Spirit* case
4. Collective defined contribution developments
5. Regulator consults on new enforcement strategy

1. BUDGET-RELATED DEVELOPMENTS AND THE PENSION SCHEMES BILL

Last month, we brought to you a special edition newsletter covering the pensions reforms announced in the Budget. Since then, there have been several related developments:

Salary sacrifice: Market reaction to the Budget has focused heavily on the 2029 salary sacrifice changes, with HMRC data indicating that c.3.3 million savers currently sacrifice more than £2,000 into their pension and are therefore likely to be impacted.

"This measure is expected to have an impact on 290,000 employers who operate salary sacrifice arrangements for pension contributions"

HMRC

On 4 December, the National Insurance Contributions (Employer Pensions Contributions) Bill was published, which will create a power for the Treasury to apply a primary and secondary Class 1 NICs charge where employer pension contributions are made via salary sacrifice arrangements exceeding a cap to be specified in regulations (the Bill requires the first set of regulations to specify the cap as £2,000 per tax year), with effect from 6 April 2029. HMRC has also published a policy paper confirming that details on the design and operation of the cap will be set out in secondary legislation in due course, following stakeholder engagement.

Surplus release: HMRC confirmed in its pension schemes newsletter published after the Budget that legislation will be introduced to enable defined benefit (**DB**) pension schemes to make direct payments of surplus assets to members (where permitted by scheme rules and subject to trustee discretion). Such payments will be treated as authorised payments and taxed as pension income at the individual's marginal rate of tax. The newsletter states that the payments will be subject to certain conditions, including that the member must have reached normal minimum pension age. The legislation is expected in the Finance Bill 2026-2027, with the change to take effect from 6 April 2027.

The Work and Pensions Committee has also published a letter from the Minister for Pensions confirming the DWP is working with the Pensions Regulator regarding how to support schemes in the consideration of their surplus release powers. The letter says the Pensions Regulator will publish further guidance on surplus release by the end of 2027, following passage of the above legislation. This will outline key considerations for trustees when releasing surplus and will include illustrative examples of how members can benefit from surplus sharing.

"*The Bill is a game changer, delivering bigger pension pots for savers and driving £50 billion of investment directly into the UK economy– putting more money into people's pockets through the Plan for Change.*"

Chancellor of the Exchequer Rachel Reeves

Pension Schemes Bill: Earlier this year, the Pension Schemes Bill passed its first and second readings in Parliament and moved into the Committee Stage (see the June 2025 and September 2025 editions of our newsletter for details). Further amendments were then proposed and debated on 3 December during the Bill's third reading and Report Stage, including:

Pre-1997 increases: new clauses requiring the Pension Protection Fund (**PPF**) and Financial Assistance Scheme to provide capped increases on pensions in payment in respect of benefits accrued from pensionable service completed before 6 April 1997, where a member's original pension scheme provided for increases on any pre-1997 accrual. Debate on the clauses confirmed that there is no current government intention to legislate to require schemes to provide such increases, where their rules do not already mandate this.

Virgin Media*:* changes have been made to the clauses intended to provide a remedy to schemes affected by the *Virgin Media* judgment[1], specifically to clarify what form of legal proceedings would trigger the exclusion of a scheme from the remedial provisions[2], as well as what "positive action"[3] taken by schemes would exclude them from being able to make use of such provisions. (See the September 2024 newsletter for more information on the *Virgin Media* case and the September 2025 edition for more information on the remedial provisions.)

[1] *Virgin Media Ltd v NTL Pension Trustees II Ltd [2024] EWCA Civ 843.*

[2] Broadly, the exclusion will prevent schemes relying on the legislative fix where any question relating to the validity of the alteration (as it pertains to section 37/*Virgin Media*) has been determined by the court or was in issue on or before 5 June 2025 in "qualifying legal proceedings" (including where the matter was in issue and subsequently settled by agreement between the parties before the saving provisions come into force). "Qualifying legal proceedings" are currently defined as proceedings before a court in the UK which will determine a dispute as to the rules of the scheme where the parties include the trustees of the scheme and one or more members / beneficiaries (or representatives of such).

[3] The definition of "positive action" was recently updated to mean where any member has been notified in writing that the trustees consider the alteration to be void (as a result of section 37/*Virgin Media)* and that the scheme will be administered on that basis; or where any member has been notified that trustees are taking/have taken any step in relation to the administration of the scheme which has/will have the effect of altering payments to or in respect of scheme members (as a consequence of the trustees being of the view that the alteration was void due to section 37/*Virgin Media*).

Trustee investment duties: One area of the Bill which continues to attract significant debate is whether the government should be given a power to specify minimum levels of investment in particular assets for certain pension schemes and during the Committee Stage, opposition parties tabled amendments in this regard. While the government did not support the amendments, it confirmed an intention to make legislation empowering the government to publish statutory guidance for trust-based schemes in due course.

"TPR is using its sector insights to understand the range of market opportunities and investment vehicles available to pension schemes, their limitations, barriers and enablers, with an emphasis on UK investment opportunities."

The Pensions Regulator

The Pensions Regulator also recently announced that it is conducting research into the approach schemes take to investing in growth assets and sectors and intends to create a market oversight report so that trustees and expert advisers can benefit from the insights.

The second reading of the Bill in the House of Lords is scheduled for 18 December 2025.

2. PPF PUBLISHES CONSULTATION ON 2026/27 LEVY

Last month, the PPF published its consultation on the levy rules for 2026/27. This follows announcements earlier in the year that the PPF does not intend to charge a levy for "conventional schemes" (broadly, DB schemes with an employer covenant) and a confirmation that the PPF currently has a surplus/reserve of c.£14 billion.

The consultation proposes to set a zero-levy estimate for conventional schemes, whilst maintaining a risk-based levy for "alternative covenant schemes" (schemes which pose different risks (mainly investment risk) to the PPF than standard schemes and for which the PPF uses a different pricing methodology).

The proposals are contingent on the levy changes being passed in the Pension Schemes Bill. As the timing for the Bill to be finalised and come into force remains unclear, the PPF has adopted a flexible approach to align decision-making with the progress of the Bill so that if sufficient certainty is not achieved by 31 March 2026 (the deadline for finalising the levy rules), a "fallback option" would apply, which would entail using last year's levy estimate (but importantly would allow the PPF to recalculate the levy back to zero for conventional schemes if appropriate).

The consultation closes on 5 January.

3. HIGH COURT HANDS DOWN JUDGMENT IN *SPIRIT* CASE

At the end of September, the High Court handed down judgment in the *Spirit*[4] case, which concerned interpretation of the definition of "State pension age" in the context of a bridging pension provision in the scheme's rules.

Overturning the Pensions Ombudsman's decision, the judge considered the rules favoured a static interpretation of the relevant legislation, fixed at the time the rules were put in place. This meant that in this case the definition should be interpreted by reference to age 65 (rather than a dynamic interpretation reflecting the increase to the state pension age which had occurred at law since then). The member therefore did not qualify for the bridging pension to be paid beyond age 65, as would have been the case under the Pensions Ombudsman's decision.

[4] *Spirit (Legacy) Pension Trustee Limited v Alexis [2025] EWHC 2237 (Ch).*

It should be noted that the judgment very much turned on the specific facts (and that there was, fairly unusually, no general interpretation provision in the scheme rules in this case).

Importantly, the judge held that, where pension rules are silent, there is no starting presumption either way as to whether references in pension rules are to legislation as enacted or as amended from time to time and it will depend on the specific language used in the provisions.

4. COLLECTIVE DEFINED CONTRIBUTION DEVELOPMENTS

CDC Schemes: Overview

- A collective defined contribution (**CDC**) scheme is DC in nature with both employers and members paying fixed contributions.
- The CDC scheme pools these contributions and invests them collectively.
- Members are provided with a pension income on retirement based on the value of the scheme's assets.
- Unlike a DB scheme, this income is not guaranteed – the rate of income depends on various factors, including how well the investments have performed and, crucially, the level of pension income can go up or down.
- Only one CDC scheme has so far been authorised; the Royal Mail Collective Pension Plan.

There have been some key developments in the CDC space over recent months, intended to expand the reach of these schemes. Currently, a CDC scheme is only an option for single employers or multiple employers in the same corporate group. However, two recent developments would change this:

Extension to unconnected multi-employer schemes

The DWP has published its response to the 2024 consultation on new regulations to enable unconnected employers to join CDC schemes. The final regulations have been laid before Parliament and are expected to come into force on 31 July 2026, together with an updated Code of Practice from the Pensions Regulator.

It was also announced in the Budget that unconnected CDC multi-employer schemes will be treated as occupational pension schemes for tax purposes and be able to apply to HMRC to become registered pension schemes.

Retirement CDC schemes

The DWP has also launched a new consultation on proposals which could help make CDC schemes a potential default pension benefit solution for defined contribution members at retirement in line with the new proposed duties contained in the Pension Schemes Bill (intended to ensure that savers still have access to the pension freedoms, but get an extra offer of support by being enrolled into default solution/s unless they opt out). The consultation closed on 5 December.

5. REGULATOR CONSULTS ON NEW ENFORCEMENT STRATEGY

In September, the Pensions Regulator launched a consultation on a new enforcement strategy which is intended to reflect a "more focused, agile and outcomes-driven model" as part of the Regulator's shift towards "a more prudential style of regulation".

The proposed enforcement strategy will be shaped around five strategic objectives and in deciding how to act, the Regulator proposes to prioritise enforcement activity by assessing impact, scale and complexity:

- high-impact / high-scale cases will generally be prioritised;
- highly complex cases will be pursued where they support the strategic objectives; and
- less-complex, low-scale and low-impact cases are less likely to result in formal enforcement action unless they form part of a broader pattern or present a risk of escalation, but may still be addressed through other regulatory responses (e.g. communications / guidance).

The consultation closed in November and a response is currently awaited.

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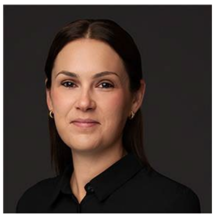

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