HYMANS ROBERTSON

Current issues

September 2025

Articles this month

State pension age review

The Department for Work and Pensions (DWP) has called for evidence as part of a third statutory review of the State pension age (SPA). The call for evidence seeks input on the framework the Government should use to determine SPA arrangements for future decades.

Dr Suzy Morrissey, appointed by the Secretary of State to lead the independent review, will assess:

- the merits of linking SPA to life expectancy;
- SPA's role in ensuring the long-term sustainability of the State Pension; and
- international experience with automatic adjustment mechanisms for SPA.

This review follows previous recommendations from John Cridland and Baroness Neville-Rolfe, both of whom proposed earlier increases to SPA than those currently legislated, alongside fiscal sustainability targets such as capping State Pension expenditure at 6% of GDP.

Trustees and employers are encouraged to engage with the consultation, particularly given its potential implications for retirement planning, workforce strategy, and intergenerational fairness. The DWP has emphasised the importance of hearing from a broad range of voices, including those with insights into the social and economic impacts of an ageing population.

Responses should be submitted by 24 October 2025.

We welcome this review and its alignment with the 2025 Pensions Commission. The State Pension remains a cornerstone of retirement income, and confidence in its future is vital. We support the principle of long-term planning horizons for changes to SPA: ideally with at least 10 years' notice, to allow individuals and employers to financially adapt to the changes.

If you have any questions, please contact your usual Hymans Robertson consultant.

PPF levy invoicing on hold

The Pension Protection Fund (PPF) has announced that it is putting levy invoicing on hold for the current, 2025/26 levy year until it sees how the Pension Schemes Bill progresses.

The PPF's levy rules for 2025/26 already include a provision allowing it to set the levy to zero if legislation providing greater flexibility in setting the levy is brought forward and has made enough progress through Parliament. The relevant changes are included in the Pension Schemes Bill 2024/25, which proposes amending section 175 of the *Pensions Act 2004* to give the PPF discretion over whether to charge a levy at all.

The Bill is due to be debated in Parliament this autumn. In the meantime, the PPF will continue to publish mean Dun & Bradstreet scores for employers linked to eligible schemes, but will not issue levy invoices until it concludes its decision-making. It expects to provide a further update in the autumn.

It is worth noting that the PPF administration levy—used to cover the organisation's running costs—remains payable and has resumed after a two-year break.

'Paper' director was 'party to' detrimental act

The Upper Tribunal (UT) rejected an appeal by a company's ex-director against a decision, made by the Pensions Regulator's Determinations Panel, to impose a contribution notice (CN) upon her.[1] The CN was in respect of her involvement in a transaction that reduced the company's resources at a time when its defined benefit (DB) pension scheme had a substantial funding deficit. The UT upheld the CN even though the director had ostensibly played a relatively passive role in the transaction, and in the course of doing so it increased the amount that she's liable to pay. The Regulator says that its intervention will result in payments to the scheme totalling more than £2.5 million.

Background

The appellant was one of two directors of the company, together with her brother. She, her siblings and their parents were also the ultimate owners of the company and other entities in the corporate group. Her brother was the driving force in the organization; the others were given official roles 'on paper', without in practice becoming involved in the day-to-day running of the business.

The original CN related to three 'acts' (transactions) alleged to have extracted value from the DB scheme's sponsoring employer. The company had for a number of years told the DB scheme trustees that the business was cash-strapped. The scheme had footed the bill for '*significant*' parts of its PPF levies (almost £900,000) and

[1] *Pelgrave v Pensions Regulator* [2025] UKUT 00257 (TCC).

other expenses (over £300,000) in the expectation that it would eventually be reimbursed. Under a long, heavily back-end-loaded recovery plan, the deficit-recovery contributions made by the company were materially reduced. The Regulator's Determinations Panel had concluded that the transactions were detrimental, in a material way, to the likelihood of scheme members receiving their accrued benefits. In the end, however, the UT upheld the CN in respect of only one of the three acts: the use of company resources to buy back shares from family members.

Party pooper

The director argued that she had no knowledge of the scheme, and was not a '*party to*' the acts, on the grounds that she played no part in the decision making or procurement, and was simply someone who benefited. The UT disagreed, preferring the dictionary definition of 'party to', which includes those who are merely concerned in events, or accessories to them. The Tribunal pointed to various features of the legislation as support for its conclusion that active participation is not always a prerequisite for a CN: the broadness of the test for connection to the scheme employer; an implicit indication that the class of parties to an act is somewhat wider than those who knowingly assist in it; and the possibility that the trigger for a CN is a *failure* to act.

The UT also said it was clear that the director had played an active role in some aspects of the transaction, by agreeing to sell her shares in the knowledge that the financing would come from the employer's resources. It acknowledged that the transaction wasn't her idea, but said that she could have prevented it. It concluded that, as a director of the employer, she had behaved '*wholly unreasonably*' (though not dishonestly) by her failure to ask questions or seek advice, and by allowing the company to weaken its resources without making sure that stakeholders' interests were protected.

Litigation risk

In such cases the Tribunal's task is to decide what, if any, action the Regulator should take, rather than simply decide whether the CN should stand or be struck down. That raises the intriguing (and no doubt for CN targets, concerning) prospect that the appeal outcome is that the amount demanded via the CN is increased. In this case, the Panel's decision was to issue the targeted director with a CN for around £180,000, plus interest. In response to the appeal to the UT, the Regulator argued that the CN should be more than £360,00 plus interest. The UT ultimately decided to increase the original CN amount to £245,000 plus interest, having taken into account tax paid by the director, and amounts disbursed to her children.

There's some food for thought here for potential targets of contribution notices. It confirms that someone can be adjudged to have been a party to a transaction despite passive involvement, and that a challenge to the Regulator's decision could see it pushing for a higher CN amount.

FCF payout

The [Pensions Regulator] and the [Fraud Compensation Fund] (FCF) have announced that £81.5 million compensation has been paid to 58 pension schemes in respect of over 2,000 members were victims of fraud. The payments follow the 2020 High Court ruling[2] that clarified that occupational pension schemes set up as part of a scam could potentially be eligible for FCF compensation.

The Regulator notes that more payments are to follow, and the FCF encourages members who think they might be eligible to get in touch with them to see if they are entitled to compensation.

Trustees urged to consider systemic risks

The Pensions Regulator has published a blog emphasising that the identification and management of systemic risks, where financially material, are integral to trustees' fiduciary duties.

The blog highlights the necessity for robust investment governance, particularly in complex areas such as environmental, social and governance factors, and private markets. It advises trustees to make decisions that are long-term, evidence-based, and open to suitable scrutiny. The Regulator is increasing its expectations regarding investment governance, with greater focus on the oversight of systemic risks.

The Regulator references resources designed to support trustees in addressing systemic risks, including its guidance and tools from the Taskforce on Nature-related Financial Disclosures. It also provides questions for trustees to consider when engaging with this subject.

Additionally, following the recent release of the Government's consultation on climate-related transition plans, the Regulator is establishing an industry working group to suggest practical approaches to transition planning for occupational schemes, and invites trustees to provide written evidence by 1 September.

Fire & re-hire to alter pension terms 'unfair'

The Government made amendments to a clause in its *Employment Rights Bill* that aims to constrain the use of 'fire and re-hire' as a method of achieving contractual variations. As a result of the amendments, the dismissal of an employee will be considered automatically unfair if it's done to make a '*restricted variation*' to the employment contract. The list of restricted variations includes '*a variation of any term or condition relating to pensions or pension schemes*'.

Not being pensions or employment lawyers (or lawyers at all), we won't say much more about this. Clearly, it's meant to constrain employers' options for achieving changes to pensions terms in their employment contracts. We imagine that careful negotiation will become more important. Speak to your legal adviser for an expert opinion.

[2] *Board of the Pension Protection Fund v Dalriada Trustees Ltd [2020] EWHC 2960 (Ch)*

HMRC newsletter

HMRC has published Pension Schemes Newsletter 172, which contains articles on:

- Personal-pension contributions tax relief—a change of policy means that more higher-or additional-rate taxpayers may be asked to provide supporting evidence for their tax-relief claims.
- The public-service pensions remedy—the mandatory scheme-pays deadline of 6 July 2027 will now apply to both active and deferred members.
- Lifetime allowance protections—announcing the launch of an authenticated look-up service to verify protections and enhancements and requesting volunteers to help with testing.
- Relief at source—providing updates on administration and reporting processes.