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Current issues

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Articles this month:

We have ourselves a bouncing baby Pension Schemes Act
Financial services: meeting guidance demands & resolving disputes
Back-dated benefit boosts in the LGPS
Dashboards diligence deep-dive
PO presses ‘play’ on McCloud complaints
HMRC news: April 2026
TUPE too much or not enough?

We have ourselves a bouncing baby Pension Schemes Act

The *Pension Schemes Act 2026* received Royal Assent on 29 April 2026, at the last gasp of the 2024/26 session of Parliament. A stalemate had developed that ensured a nail-biting finale (if you’ll pardon the mild hyperbole) rather atypical of pensions legislation. Determined insistence by members of the House of Lords and Government compromise resulted in important changes at the latest of late stages.

Almost the whole of April—though very few days in which Parliament was actually engaged in business—was given over to the Bill’s Consideration Stage, during which each House of Parliament in turn considers the positions taken by the other, in an attempt to hammer out their differences. It’s also known as the ‘ping-pong’ stage, for reasons that soon became evident in this case.

At the start of the month, there were five broad points of contention:

- employer-contribution rates in the Local Government Pension Scheme (LGPS);
- a proposed exemption, for well-performing and innovative schemes, from minimum-scale requirements affecting defined-contribution (DC) master trusts and group personal pensions (GPPs) used for auto-enrolment compliance;
- concerns that the package of DC reforms might stifle competition;
- worries about the long-term prospects for the unfunded public-sector schemes; and
- most controversial of all, the ‘mandation’ power that the Government proposed to reserve for itself, in the event of failure to realize the aims of the (ostensibly voluntary) Mansion House Accord, to require master

trusts and GPPs to invest minimum proportions of their default funds in growth assets, and more-specifically growth assets located in the UK.

LGPS & wider public sector

The sticking point over LGPS employer-contribution rates was resolved by an undertaking, relayed to the House of Lords from the Ministry for Housing, Communities and Local Government. The Ministry has committed to asking the Government Actuary's Department, as part of the LGPS cost-control mechanism—

- to review the levels of prudence underlying contribution-rate calculations;
- to consider fund actuaries' approaches to risk-management and long-term funding objectives, and whether additional illustrative valuations should be included in actuarial reports; and
- whether there's sufficient (and sufficiently comprehensible) engagement with employers on contribution rates.

The Government spokesperson in the House of Lords also noted that there is to be a consultation exercise, later this year, on the mechanism for reviewing contributions between actuarial valuations.

Where members of the Lords wanted a wide-ranging review of the unfunded public-sector schemes, the Government committed to publishing cash-flow projections for the schemes, produced by the Government Actuary's Department, covering a period of fifty years.

Competition & innovation

The Government assuaged peers' desire for performance- and innovation-based exemptions from the DC scale requirement with a new obligation on it to report to Parliament on the effects of the pro-consolidation measures in the Bill. In lieu of a Lords amendment requiring that the Department for Work and Pensions (DWP), Financial Conduct Authority (FCA) and the Pensions Regulator pay heed to the desirability of pensions-market competition, it added a requirement that it and the regulators have regard to the importance of innovation, competition, member outcomes and effective governance when exercising their powers and duties in accordance with the Act (the DWP will also have to consider the goal of achieving pension funds of appropriate scale).

Power to mandate DC asset allocations

Those Government concessions were enough to resolve most of the matters of divergence between the Commons and the Lords, but the impasse over the DC asset-mandating power proved much harder to surmount. Four times, the Government offered compromises in a bid to get the Bill passed with the mandation power intact, only to have its overtures rejected by peers with principled objections to interference with fiduciary duty. On each occasion the Lords replied to the Commons asking it (effectively, the Government) to reconsider. Only on the fifth pass were peers sufficiently appeased by the cumulative effects of the Government's concessions to drop their insistence on the power's removal.

The resulting changes to the asset-allocation requirement are that it—

- is limited to the Mansion House Accord investment targets (ten per cent in growth assets, with five per cent of those being UK-specific);
- now includes infrastructure in the list of '*qualifying assets*';
- can be met by direct or *indirect* investment in such assets;

- will be repealed at the end of 2035, regardless of whether it has been used;
- is suspended (that is to say, there's an exemption available) if the regulatory authority thinks that trustees or providers have reasonably concluded that compliance is not likely to be in their members' best interests;

and that the reserved power—

- can be used only once, and during the period from 1 January 2028 to 31 December 2032; and
- must be preceded by assessments —
  - by the Pensions Regulator and FCA, of the extent to which competition-related conditions are hindering compliance;
  - by the DWP, of existing progress towards the investment targets; and
  - by the DWP, of barriers to compliance, and what is being done to address them.

The Act lays important foundations for reform which, if implemented well, should ensure the pensions system works harder both for individuals and the wider economy. Royal Assent is just the end of the beginning. The Act's success will depend on the design and delivery of secondary legislation, and we can expect multiple consultation exercises over the coming months and years. Getting the detail right will be critical.

Members of the House of Lords played their cards well, and the Act is better for their involvement. The Government should also be applauded for its willingness to listen and make concessions, even though it took things down to the wire. The last-minute changes to the controversial asset-allocation requirement were particularly welcome. Broadening the range of qualifying assets, constraining when the power can be used and requiring the Government to consider competitive and other barriers are all sensible steps, and the details of the revised member-interests exemption now mean that it meets the Act's description of it as a 'savers' interest test'.

Financial services: meeting guidance demands & resolving disputes

The Financial Conduct Authority (FCA) made several announcements recently, notably about steps taken to extend access to expert support for financial decisions. It's also considering changes to its rules about regulated-firms' dispute-resolution procedures and complaints handling within the Financial Ombudsman Service.

Simplified advice

In March 2026 the FCA proposed changes to make it easier for financial advisers to offer simplified forms of advice, in uncomplicated cases where a comprehensive assessment of clients' circumstances is unnecessary.[1] It says that the plans involve only '*small changes*' to its existing rules.

Responses to the proposals can be submitted until 22 May 2026.

Targeted support

The FCA also issued guidance for financial-advisory firms to help them define consumer segments for the purposes of the new 'targeted support' option, which became a possibility on 6 April 2026. Targeted support is where a client is pointed towards a product or other solution that the adviser deems suitable for people occupying a segment of the population that shares certain needs or characteristics. As with the simplified-advice option discussed above, the adviser makes the targeted-support suggestion without undertaking a full review of the client's circumstances.

Complaints handling

Working with the Government and Financial Ombudsman Service (FOS), the FCA published guidance and is consulting on proposed changes concerning the system for resolving consumer complaints about regulated financial services.[2] The guidance highlights good and poor practice by financial-services firms on identifying and rectifying problems. The consultation proposals include—

- new pre-registration and registration stages for the FOS process, intended to ensure that complaints reach a sufficiently developed state before being considered by the Financial Ombudsman (FO);
- revisions to the grounds on which complaints can be dismissed, based on (for example) their merits, complainants' conduct, suitability for FO determination, and the steps that firms have taken to address the complaints; and
- changes to the '*fair and reasonable*' test by which the FO assesses its cases, so that firms are only held to the regulatory standards applicable at the relevant time, and that the question of what constitutes '*good industry practice*' (which is felt to be subjective and a source of uncertainty) is removed from the equation.

The consultation exercise runs until 11 May 2026.

The plans for the FOS seem thematically similar to steps already taken by the Pensions Ombudsman service to manage its case load more effectively, by triaging complaints and weeding out those with poor prospects for success.

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[1] CP26/10: *Simplifying the Pensions and Investment Advice Rules*.

[2] Finalised Guidance: *Good and Poor Practice on Identifying and Rectifying Harm*; and CP 26/9: *Modernising the Redress System*.

Back-dated benefit boosts in the LGPS

The *Local Government Pension Scheme (Miscellaneous Amendments) (Member Benefits) Regulations 2026* have made changes to member benefits in the LGPS in England and Wales, in many cases retrospectively.[3] Most notably, they are intended to make survivors' benefits more equitable, and to narrow the gender pensions gap by amending the family leave rules. The amendments were amongst those published in draft form as part of the '*Access and Fairness*' consultation exercise that began on 15 May 2025.

Survivors' benefits

The Regulations remove remaining disparities in survivor pension calculations related to the sexes of members and their survivors. This change has had a long gestation period, beginning with the 2020 Employment Tribunal judgment in the case of *Goodwin*, in which a female member of the Teachers' Pension Scheme successfully argued that it discriminated unlawfully against female members in opposite-sex marriages and civil partnerships.[4] The survivor's benefit has been increased to the level of the most-generous benefit payable in respect of members in comparable relationships. The change is backdated in each case to the date when the relevant types of relationships were recognized by law.

The Regulations also formally remove, for deaths between 1 April 2008 and 31 March 2014, the requirement for member nomination of surviving cohabitees before those cohabitees can be eligible for survivors' pensions. The requirement for a signed nomination is thought to have been widely dispensed with in practice, already, following the 2017 Supreme Court ruling in the *Brewster* case that it was unlawfully discriminatory and a breach of human rights, and a subsequent letter from the (then) Department for Communities and Local Government indicating that (in the Government's view) it was reasonable for administering authorities (AAs) to follow the Court's decision.[5] The amendment doesn't extend to earlier deaths on the grounds that the pre-2008 LGPS didn't make provision for cohabitees' pensions and therefore didn't factor the costs into its funding.

Other changes remove the age-75 cut-off on eligibility for death grants, and the requirement to direct such grants to deceased members' personal representative if payment is not made within two years of the death.

Mind the (gender) gap

The Regulations make all maternity, adoption and shared-parental leave pensionable, at the employer's expense, from 1 April 2026, in an attempt to reduce the size of the LGPS's gender pensions gap. For similar reasons, they also—

- make short unpaid absences (of fewer than fifteen days) automatically pensionable;
- ensure that the contributions payable to 'buy back' pensionable service that would otherwise be lost during longer unpaid absences (more than fifteen days) don't exceed those that would have been payable but for the absence, and give members up to one year in which to pay such back-dated contributions; and
- require triennial gender-pay-gap reporting by AAs.

The Ministry for Housing, Communities and Local Government has published statutory guidance on LGPS survivors' benefits, to help AAs to implement the changes.

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[3] SI 2026 No. 226.

[4] *Goodwin v Secretary of State for Education* [2021] 007 PBLR (003); ET Case Number: 1308506/2019.

[5] *In the matter of an application by Denise Brewster for Judicial Review (Northern Ireland)* [2017] UKSC 8.

Miscellaneous amendments in the Miscellaneous Amendments Regulations

There are other changes made by the Regulations, including updates to existing legislation to take account of the abolition of the lifetime allowance, and to fix problems identified during the initial implementation of the remedy for *McCloud* discrimination. The latter include measures to ensure that the pension gains resulting from the remedy are carried through to pension sharing orders on divorce dating from before 1 October 2023.

Dashboards diligence deep-dive

The Pensions Regulator has published a market-oversight report and blog post on the state of schemes' pensions dashboards preparations. It says that large schemes are mostly connected, and that many are working on the data and processes that they'll use to make matches to members. However, it reports that significant work remains to be done on the value information that will be provided to members, and that data-quality controls have yet to become business-as-usual activity.

The Regulator has also updated its guidance on dashboards to reflect the progress that has been made with the construction of the central digital architecture, highlight good practice and clarify policy in areas that the Regulator is regularly asked about.

PO presses ‘play’ on McCloud complaints

The Pensions Ombudsman said recently that he intends to publish '*significant determinations*' on complaints about public-sector schemes’ implementation of the statutory remedy for *McCloud* discrimination. The Ombudsman also sketched out his thoughts on how scheme managers ought to address *McCloud*-remedy disputes.

In 2022, the Ombudsman’s office indicated that it wouldn’t typically investigate age-discrimination complaints related to the 2015 reforms to the public-sector pension schemes, following the *McCloud* and *Sargeant* judgments. The rationale for the announcement was that the Government had signalled that it was working on a statutory remedy, and because scheme managers would need time to implement it.

Now, in 2026, the Ombudsman considers that scheme managers should be making progress and have a systematic approach to the task. It’s hoped that the new significant-determinations policy will give managers an indication of the conclusions that the Ombudsman is likely to reach on key issues, helping them to resolve complaints internally; complaints about issues not subject to significant determinations will be dealt with case-by-case.

The Ombudsman has in the same document outlined his expectations of public-sector scheme managers. He emphasises, for example, the importance of member communication and of fully investigating and addressing *McCloud* complaints using internal dispute resolution procedures. He also encourages managers to consider ways of prioritising cases where there’s a risk of immediate detriment.

The new policy shares similarities with the lead-case approach taken in the courts, where a suitably paradigmatic instance of a common issue is selected for litigation, to reduce the need for other legal actions to deal with the same matters. The Ombudsman will be hoping that significant determinations function similarly as a tool for case-load management.

TUPE too much or not enough?

The Department for Business and Trade has called for evidence on the operation of the *Transfer of Undertakings (Protection of Employment)*—'TUPE'—*Regulations 2006*. The call for evidence includes a question asking whether respondents are happy with the (limited) extent of the protections for employees' pensions terms under TUPE.

The TUPE Regulations can apply when a business, or part of it, passes from one owner to another, and have the effect of preserving the contractual terms of those whose employment transfers. The protection doesn't generally apply to rights under occupational pension schemes, except for rights that are not '*old age, invalidity or survivor's benefits*'. However, they do require the new employer to replicate contractual entitlements to workplace personal pension contributions; and there is separate—pensions, not TUPE—legislation that establishes a minimum level of protection for employees entitled, pre-transfer, to membership of occupational pension schemes.

Responses to the call for evidence should be submitted by 1 July 2026.

HMRC news: April 2026

Pension Schemes Newsletter 180 from His Majesty's Revenue and Customs (which has missed the golden opportunity for a darts reference) contains articles—

- on how to file pension scheme tax returns for 2025/26, and review, file and revise returns for earlier tax years;
- reminding readers about the new lifetime-allowance look-up feature available on the Managing Pension Schemes (MPS) service;
- about relief-at-source tax claims, including the move to digitization, or 'DigiRAS';
- on the action required by those who haven't yet migrated to the MPS from the old Pension Schemes Online service;
- providing 'e*arly background*' on the intended scope and effect of forthcoming transitional regulations for the 6 April 2028 increase to normal minimum pension age (NMPA); and
- updating pensions-flexibility and scheme-registration statistics.

The item about the imminent consultation exercise on NMPA transitional regulations is likely to be the most interesting for the greatest number of readers. In broad terms, it's about making allowances for people who have already reached age 55 and become entitled to benefits by 6 April 2028, when the NMPA is set to increase to 57. If nothing is done, subsequent payments could be unauthorized and attract penal tax treatment.

And Finally…

For a small (or ginormous) palate cleanser after the bounteous repast served up by the Pensions Schemes Bill standoff, we direct readers to the judgment in *Innovative Bites Limited v The Commissioners for HMRC*. The issue was one with which, let's be honest, we have all mentally wrestled: do giant marshmallows count as finger food?

The First-tier Tribunal resolved the (literally) sticky issue by enumerating the ways in which giant marshmallows are consumed:

> ***Methods of munching humungous marshmallows***
> *(A) Roasted on a skewer/stick and eaten from the skewer.*
> *(B) Roasted on a skewer, taken off the skewer (after it has sufficiently cooled and eaten with the fingers).*
> *(C) Roasted on a skewer, inserted in the middle of two biscuits with a piece of chocolate and eaten as a 's'more'.*
> *(D) Eaten straight from the pack with the fingers.*

It then assessed the relative frequency with which each method is employed. Helpfully (we are a firm of actuaries after all), it presented the results of those deliberations as a mathematical formulation, thus:

> *because* $A > B$ *and* $C > D$, $(A + C) > (B + D)$

For the benefit of those with humanities rather than STEM degrees, the judge also put his conclusion into words: '*the product is more frequently eaten by one of the non-finger ways than by one of the with-the-fingers ways*'; and so it could not be said that giant marshmallows are a '*sweetened prepared food which is normally eaten with the fingers*'. In essence, the outcome flowed (like lava) from the observation that, when toasted (the *raison d'être* of the giant variety of marshmallow), the interior becomes hotter than the Earth’s core, so that eating them with the fingers is a recipe for a trip to A&E. We also commend to readers the Tribunal's deliberations on whether sandwiching the molten marshmallow (+ chocolate) between two biscuits is simply a means of eating it with the fingers, or whether it makes the marshmallow an ingredient in another foodstuff (what our US cousins call a s'more). The judge's frankly unassailable logic was that one wouldn't consider a burger in a bun to be a vehicle to facilitate eating ketchup with the hands.

Oh!, by the way, all this was necessary because it determined the VAT treatment of the product. If the marshmallows were eaten with the fingers the standard rate of VAT would apply; if not, they would be zero-rated. It was all very reminiscent of the Jaffa Cake wars of the '90s, which were resolved by scaling the product up to seven inches in diameter, at which point it became obvious to the Court that it was more cake than biscuit, and therefore ought to be zero-rated for VAT purposes.

Don't look for reason in the VAT treatment itself: that way madness lies. But if your mouth's not watering at the thought of a 7" jaffa cake, you're dead inside…

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