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Current issues

October 2025

Articles this month

I owe you nothing (ooh yeah, nothing at all)

The Pension Protection Fund (PPF) has confirmed its intention to set its 2025/26 levies at £zero. The announcement applies only to '*conventional*' private-sector defined-benefit schemes.

Background

The estimate of the amount to be raised by the 2025/26 levies has gone from £100 million, to £45 million, and then to nothing, within the space of a year. The PPF consulted on initial proposals for the levies from 12 September to 13 October 2024. At that point, it aimed to collect £100 million, the same estimate as for 2024/25. By January 2025, in response to consultation submissions, it had revised that estimate downward, to £45 million. However, it also gave itself latitude to impose no levies at all, on conventional schemes, if the Government initiated and made sufficient progress with legislative changes that gave the PPF confidence that it could resume charging significant levies if necessary.

The appropriate amendments form part of the current Pension Schemes Bill and have, as reported elsewhere in this edition of *Current Issues*, successfully survived the Public Bill Committee stage in the House of Commons.

Unconventional schemes

As noted in the introductory paragraph, the zero-levy announcement applies to '*conventional*' schemes. The PPF uses that description to distinguish the ordinary schemes that constitute the bulk of the protected DB-scheme population from '*alternative covenant schemes*' (ACSs) that don't have the support of a trading sponsor.

The PPF's announcement doesn't detail its approach to the levies for ACSs for 2025/26, but does link to the levy rules that were set in January.

Onwards ~~and upwards~~

The PPF says that it will publish its levy plans for 2026/27 '*in due course*', and that they '*will be informed by the remaining passage of the* [Pension Schemes] *Bill.*'

Looking a little further back in history, that means that the amounts targeted by the pension protection levies have dropped from £620 million for 2020/21 to zero this year. It's a testament to the dramatic turnaround in DB funding fortunes, and the PPF's investment results.

Pension Schemes Bill progress

At the beginning of September, the Government tabled upwards of 260 amendments to, and new clauses for, the current Pension Schemes Bill, ready for the first Public Bill Committee sittings. Notably, the changes put forward includes a much-desired solution to the Virgin Media conundrum, and the removal of a controversial provision from proposed new rules about Local Government Pension Scheme (LGPS) asset pools. The Government's changes were all (or almost all—see below) successfully incorporated into the Bill; those put forward by other parties were not, although in a couple of places the Pensions Minister offered reassurances that similar provisions would be introduced at a later stage. Its Committee Stage completed (in jig time), the Bill as amended in Committee will now proceed to the next parliamentary hurdle.

A compilation of the records of the Committee sittings and the fate of each clause, schedule, amendment and new clause are available on the UK Parliament website.

Validity of historical alterations to contracted-out DB schemes

As promised in June 2025, the Government has brought forward new clauses to address issues arising from the *Virgin Media* ruling, which called into question the validity of some past deeds of amendment when no section 37 actuarial confirmation can now be located (in respect of changes to the terms of defined-benefit (DB) schemes that were contracted out of the State additional pension).[1]

The proposed clauses would provide a basis for the retrospective validation of '*potentially remediable alterations*'. In broad summary, the scheme actuary would need to confirm that the alteration would not have prevented the scheme from meeting the 'reference scheme test' that formed part of the standards for contracting out. Under the proposals, the actuary would be given discretion over the assumptions and presumptions that they rely upon, as long as they're professionally acceptable, and could use such information as is available and sufficient for the purpose. The new clauses would come into force two months after the Bill receives Royal Assent.

Special provision is proposed for schemes that will have wound up or been taken on by the Pension Protection Fund (PPF) or Financial Assistance Scheme (FAS) by the time the legislation comes into force. It may mean that schemes in those circumstances won't need further action.

Although the Pension Schemes Bill Committee agreed to the new clauses, they are still subject to change, and the Bill will need to receive Royal Assent before they can come into force. The Department for Work and Pensions (DWP) would also have powers to amend and affect the new

[1] *Virgin Media Ltd v NTL Pension Trustees II Ltd* [2023] EWHC 1441 (Ch).

legislation using regulations. Trustees and scheme sponsors should seek legal advice on any decisions that they intend to make in light of the new clauses.

LGPS pooling

The Bill in its original form would have enabled the Government, in some circumstances, to direct an LGPS asset-pooling company to carry out its investment management activities in the manner specified. The Pensions Minister, Torsten Bell, proposed removing that power, saying that '*It was never the Government's intention to intervene in those decisions by pools'*.

Other amendments would make it possible to extend the new LGPS pooling powers to Scotland. Pensions Minister Bell said that that came at the request of the Scottish Government. He also introduced a new power enabling the Government to step in with 'powers of last resort' (Bell's phrasing) if an administering authority (AA) or asset pool fails to follow directions requiring the AA's participation in, or exit from, a particular pool.

There was a minor procedural mishap with another LGPS-related amendment. The Bill contains a clause intended to exempt certain contracts between AAs and asset pooling companies from public-procurement rules. The Government wanted to swap that clause for a new version, but Committee members got confused and responded 'Aye' when the Chair asked if the original clause should remain in the Bill. If the Government still wants to make the switch it will have to reintroduce the amendment at a later stage.

Additional Government amendments

The Committee plowed through the lengthy Bill, clause-by-clause, and the sheaves of tabled (mostly Government) amendments, in just three days. As is generally the way when the governing party enjoys a majority and relative order within its own ranks, the Government's amendments were (with the exception of the example given above) successful. They included changes—

- clarifying that the existence of powers in scheme rules to pay DB surplus to sponsoring employers on winding up wouldn't prevent the use of the proposed new power to modify rules to permit surplus payments on an ongoing basis;
- correcting a phrasing problem that could have prevented application of the planned defined-contribution (DC) value-for-money framework to hybrid schemes;
- requiring the Department for Work and Pensions (DWP) to reconsider the proposed new £1,000 small-pot-transfer limit at least triennially;
- giving the Treasury and/or DWP powers to restrict the creation of new default arrangements, and to require consolidation of existing default arrangements;
- requiring the Treasury and DWP to review and report on the continued existence of default arrangements other than main scale default arrangements;
- enabling a new obligation on employers to provide trustees with information about active members of auto-enrolment qualifying schemes; and
- allowing the Government to confer on LGPS AAs that aren't local authorities certain powers already enjoyed by AAs that are local authorities.

Consolation prizes

No amendments tabled by opposition parties made their way into the updated version of the Bill. However, in a couple of cases an amendment was withdrawn after the Government threw its proposer a bone.

The Liberal Democrats put forward an amendment to abolish the Pension Protection Fund (PPF) administration levy. The Pensions Minister said that he broadly supported the intention behind it, but felt that the amendment was technically defective. He reassured the proposer of the Government's intention to lay amendments at a later stage that would achieve the same aim. On that basis, the amendment was withdrawn.

In response to another amendment (also Lib Dem-led) that would have disqualified company-executive trustees, the Pensions Minister reiterated an intention to consult, in the autumn, on aspects of the governance of trust-based schemes.

Tidbits

Other interesting snippets of Bill-related information have emerged during the last month. Torsten Bell indicated during a Pension Schemes Bill Committee hearing on 9 September that he'll continue to consider the merits of a lifetime-provider model (as opposed to the current Bill's multiple-consolidator approach), '*in the longer term*', for small DC auto-enrolment pots.

Outside of the Committee, a Written Question from Ben Obese-Jecty MP (Conservative), asked about the progress made by the Ministry for Housing, Communities and Local Government on reforming the LGPS to require that local-growth priorities are considered in investment strategies. In response, Alison McGovern MP, the new Local Government Minister, responded on 16 September 2025, pointing to Pension Schemes Bill clauses that could be used to oblige LGPS AAs funds to set out their approach to local investment in their investment strategies, and would require them to co-operate with strategic authorities (SAs) on suitable opportunities. She also noted that the English Devolution and Community Empowerment Bill contains (in clause 41) a duty on SAs to reciprocate by working with AAs.

Next steps

The Pensions Schemes Bill will now proceed to the Report Stage in the House of Commons. That's where an updated version of the Bill, incorporating the successful Committee Stage amendments, is presented to the House, and MPs have the opportunity to speak, propose amendments and vote on its contents. The final debate opportunity will be Third Reading, which is usually scheduled immediately after (on the same day as) the conclusion of the Report Stage; no amendments are allowed. Thereafter, the Bill will go to the House of Lords.

Meet the new boss ~~same as the old boss~~

The start of meteorological autumn (on 1 September) brought upheaval in Government, occasioned by the resignation of Angela Rayner as Secretary of State for Housing, Communities and Local Government, and the Deputy Prime Minister. For once, however, the UK pensions world remained (relatively) unruffled by a reshuffle.

Torsten Bell remained in place as Pensions Minister, and also retained his alternative seating option as Parliamentary Secretary at His Majesty's Treasury (to be honest, we don't know if he actually has two desks). However, his boss at the Department for Work and Pensions is now Pat McFadden, rather than Liz Kendall.

Jim McMahon left the Government, and therefore his role as Local Government Minister, with its associated responsibility for Local Government Pension Scheme matters. His replacement is Alison McGovern. Since it was Angela Rayner's sudden departure from the top role at the Ministry of Housing, Communities and Local Government that caused the ructions in Government, McGovern's boss, Steve Reed, is also new to the job.

No transfer due-diligence obligations prior to 2021

The Pensions Ombudsman has set out his stance about the steps expected, historically, before transfers were made out of occupational pension schemes.[2] He found no legal obligation or duty of care that would have required a trustee, in 2014, to perform extra-statutory transfer due diligence and warn a member about the presence of scam 'red flags'. The position may have been different had the transfer been from a personal pension, or if the trustees had undertaken in some way the due-diligence obligation; and it has, in any case, been changed by the Conditions for Transfers Regulations, which came into force in 2021.

Background

In February 2013, the Pensions Regulator published a leaflet bearing the image of a scorpion, and warning members that '*Predators stalk your pension*'. The scorpion leaflet was accompanied by an action pack that encouraged trustees and administrators to look out for certain signs that it said were characteristic of pensions scams.

In August 2014, the trustee of a defined-benefit scheme received a request to transfer the value of a member's deferred rights to another occupational pension scheme. The member was the only trustee of the receiving arrangement, a small self-administered scheme (SSAS), as well as being, ostensibly, the managing director of its sponsoring employer. He signed statements to the effect that he had read and understood the scorpion leaflet, and hadn't been subject to any undue influence.

In fact, it appears that the transfer had been prompted by an unsolicited approach by an unregulated adviser, which had persuaded the member to invest in a share of an overseas hotel resort. In July 2020, having realised that the investment was likely to be worthless, the member complained (via a claims-management organisation) that the trustee ought to have identified the red flags highlighted in the scorpion communications and warned him about them.

Determination

The Ombudsman concluded from the facts and circumstances of the case that the member would probably have proceeded with the transfer even if he had been warned about the red flags. On that basis, he declined to uphold the member's complaint.

However, he went on regardless to consider the legislation on the statutory right to transfer, as it stood in 2014, as well as the duties of care confirmed by judicial precedents. He found that there was no requirement, prior to the 2021 Conditions for Transfers Regulations, for trustees to carry out the due-diligence recommendations in the Regulator's scorpion action pack.

The 2021 Regulations require trustees to apply extra scrutiny to transfer requests (unless the destination is a public-sector, master-trust or collective-money-purchase scheme).[3] Certain features of requests are designated as 'red flags', preventing transfers from proceeding; or 'amber flags', which will become red flags if members neither supply additional information to resolve the matter, nor accept guidance from the Money and Pensions Service. The red flags include the application of pressure or incentives to transfer; the amber flags cover such

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[2] *Mr D, CAS-81940-Z2S8* (26 August 2025).

[3] The *Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021* (SI 2021 No. 1237).

things as a suspicious incidence of requests involving the same receiving scheme or adviser, or a destination scheme that has overseas investments.

Other schemes & future developments

Advertising the determination, a news item on the Ombudsman's website suggests that he is likely to follow the same approach in other, factually similar cases (and in fact, the Deputy Pensions Ombudsman has since applied the approach in a determination involving a transfer to a qualifying recognized overseas pension scheme). The Ombudsman notes in his determination, however, that the result might have been different if—

- the trustee had voluntarily undertaken to conduct due diligence, and had communicated as much to the member;
- it had been a transfer from a personal pension scheme, with a provider that was subject to Financial Conduct Authority rules; or
- it had been a discretionary, rather than statutory, transfer (the Ombudsman said that the scheme rules would have been especially relevant).

The announcement on the website implies that additional determinations are in the works that will elucidate the Ombudsman's position on transfers from personal pension schemes, and transfers made under trustees' discretionary powers.

DB funding analysis

The Pensions Regulator has published its annual funding analysis for occupational defined benefit (DB) and hybrid schemes. This year's report covers tranche 18 valuations, with effective dates between 22 September 2022 and 21 September 2023.

The Regulator has updated the assumptions used to calculate the Single Effective Discount Rate (SEDR), which approximates the maturity profile of schemes. These updates use improved methods to better reflect when and how much money will need to be paid out to members. Due to the change, trustees should be careful when comparing this year's results with previous years'.

The analysis, which covers 1,640 valuations, shows that most schemes were in a stronger funding position than in previous years. Schemes were on average 104% funded on a technical provisions basis (up from 89% at the previous valuation round, three years earlier), with 62% of schemes showing a surplus position (up from 27% three years prior). The average recovery-plan length reduced from 6.3 years, three years previously, to 4.4 years.

HMRC newsletters: September 2024

In *Pension Schemes Newsletter 173*, His Majesty's Revenue and Customs (HMRC) opens with a statement confirming that a member who takes a pension commencement lump sum (PCLS) or uncrystallised funds pension lump sum (UFPLS) cannot reverse the tax consequences simply by paying back the lump sum. That means, importantly, that the pension associated with a PCLS must commence within six months if the latter is not to be considered an unauthorised member payment, and subject to tax penalties. The statement mentions a similar cautionary note included in *Pension Schemes Newsletter 165*, in December 2024, following queries from members who took PCLSs or UFPLSs in response to pre Budget press speculation that tax-free lump sum rights might be curtailed.

The Financial Conduct Authority (FCA) contemporaneously released a statement concerning cancellation rights connected with PCLS. In summary, a contract with a regulated firm allowing a person to take a PCLS is not one of the '*cancellable contracts*' listed in the FCA's rules, though in some circumstances the firm may have voluntarily established cancellation rights. Even so, it doesn't change the tax implications.

Other contents of the September Newsletter include—

- a reminder that the ability to report transfers to qualifying recognised overseas pension schemes (QROPS) will be added to the online Managing Pension Schemes (MPS) service later this year, replacing the current APSS262 reporting form—HMRC is also looking for user-research volunteers for the new MPS feature;
- an announcement that there will (in early 2026) be more '*minor technical amendments*' to the tax legislation as it stands following the abolition of the lifetime allowance, where it touches on matters such as
  - lump sums from overseas pension schemes;
  - valuation of relevant crystallised pension rights for trivial commutation lump sums;
  - calculation of scheme-specific PCLS;
  - transfer of stand-alone lump sum rights; and
  - treatment of enhancement factors;
- a reminder about pension-scheme-tax-return submission deadlines (if HMRC has issued a notice to file a return); and
- a note for relief-at-source scheme administrators about outstanding annual returns.

And Finally…

Elsewhere in this here edition of *Current Issues* we mention, parenthetically, a case in which the Deputy Pensions Ombudsman followed the Ombudsman's recent change of tack on historical transfers. You'll remember (you did read all that other stuff before you got here, didn't you?) that the Ombo has concluded that trustees and scheme administrators generally had no legal obligation to go full Woodward-and-Bernstein on members' transfer requests.

In the DPO's determination, the member had been cold called and persuaded to transfer the value of his DB pension to an overseas scheme. The money was invested in a fund that has turned out to be, at the very least, highly illiquid, and (the DPO thought) quite likely worthless.

So far, so depressingly familiar. The name of the investment, though? The Green Renewable Redeemable Energy Investment Fund. That's right, the member literally came to GRREIF with his transfer.

Is that a case of nominative determinism? There's some letter-transposition and Tony-the-Tiger-esque pronunciation ('*Frosties— They're GRRRRRReat!*'), but still, it's a little too on-the-nose, don't you think? Good grreif…

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