

PENSIONS ESSENTIALS

November 2025

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WHAT THE BUDGET MEANS FOR PENSIONS

Yesterday's budget had quite a lot in it which could impact pensions. Most notable were the proposals on salary sacrifice arrangements for pension contributions. However, changes were also announced in relation to distributing surplus to members, the operation of the IHT proposals and pre-April 1997 increases on PPF and FAS compensation.

The Budget contained a number of proposals which might have an impact on pension provision. Our [Budget Briefing](#) looks at these and other things which are relevant from an employment and incentives perspective in more detail. However, the key points to note in relation to pensions are:

- **Salary sacrifice:** The Government is introducing changes to the way salary sacrifice works in relation to pension contributions. From 6 April 2029 there will be a limit of £2000 on the amount of salary sacrifice for pension contributions that will be exempt from national insurance. If an employee sacrifices more than this, both employer and employee national insurance contributions will be due on the excess.
- **Surplus:** The Budget says that the Government intends to “enable well-funded DB pension schemes to pay surplus funds directly to scheme members over the normal minimum pension age, where scheme rules and trustees permit it, from April 2027”. It is not clear exactly what this means, but it could relate to allowing one-off lump sum payments of surplus to members (which would not currently be authorised payments).
- **Inheritance Tax:** In the 2024 Budget, the Government announced that it would impose inheritance tax on unused pension funds and death benefits (although not death in service benefits) from 6 April 2027. In the intervening year, there has been ongoing consultation with industry on the practicalities of implementing these proposals and the Budget has announced further practical changes to the operation of the new regime.
- **PPF and Financial Assistance Scheme compensation:** Under existing legislation, where members receive compensation from the PPF or FAS, no increases are paid in respect of pre-April 1997 service. The Government is proposing to introduce “CPI-linked increases, capped at 2.5% a year, on [compensation in respect of] pre-1997 pension accruals where their original schemes provided this benefit, from January 2027”.

More information: If you would like more information about the Budget generally, have a look at our [Budget Hub](#).

Practical points:

- *Watch out for further information.*
- *Consider whether salary sacrifice proposals will have any impact.*

MEANING OF “INTERESTS” IN AMENDMENT FETTER

In a recent case, the High Court held that a fetter in an amendment power which provided that an amendment could not be made which reduced “the accrued rights or interests” of any member did not protect future service benefits.

Background - the BBC case: In July 2024, the Court of Appeal considered a fetter in an amendment power which provided that no alteration could be made in relation to active members “whose interests are certified by the Actuary to be affected” unless additional protective criteria were satisfied.

Upholding the decision of the High Court, the Court of Appeal adopted a wide construction of the meaning of “interests” and held that it was “a deliberately simple, broad and open-textured word... not tied to “rights”; still less to rights that have “accrued” or been “secured”. Nor is it limited by reference to any particular cut-off date. Nor is there any limitation by reference to “past contributions” or “contributions already made”.”

“Interests” in this provision included future accrual but the Court of Appeal was clear that the meaning of words used in an amendment power fetter (as in other scheme rules provisions) was context dependent.

The decision caused other schemes with references to “interests” in their amendment powers to consider whether amendments which affected future service, for example closure, had been validly made.

3i case: The amendment power in the 3i Plan provided that amendments could not generally be made if they would “diminish any pension already being paid under the Plan or the accrued rights or interests of any Member or other person in respect of benefits already provided under the Plan save with the written consent of the Member concerned”.

The High Court was asked whether the wording prevented amendments to benefits which had not been accrued at the date of the amendment. This was of particular concern as the Plan had closed to future accrual via a deed of amendment in 2010.

The Court concluded that the wording in the Plan was very different to the wording in the BBC case.

The natural meaning of the fetter was that the word “accrued” related to both rights and interests. The judge concluded that “the start and end point of the analysis is the natural meaning of the Fetter seen in its context. The Fetter is concerned with preventing amendments to the Plan which would diminish past service benefits. Its language is unambiguous.”

Takeaways: When construing pension scheme documentation, courts attach significant importance to the words actually used (as opposed to looking at the history of the provision and its commercial context). This decision illustrates the importance of reading the whole of any provision in scheme rules and the context in which words are used.

The decision will be a welcome one for many schemes and reflects what the Court of Appeal said - the meaning of “interests” depends on how and where it is used. There is no “one size fits all” interpretation.

Practical points:

- When amending scheme documents, consider amendment fetters carefully.
- Do not consider words in isolation - read the whole provision.

PENSIONS REGULATOR GUIDANCE ON SCHEME DATA

A recent press release says that in the Pensions Regulator’s view, many schemes still place too much reliance on administrators when considering data quality. As a result, the Regulator has issued updated guidance which sets out and consolidates its expectations of trustees in relation to scheme data.

TPR has been talking about the importance of ensuring the accuracy of pension scheme data for some time, particularly as the dashboards are nearly upon us. Accurate data will be a key element in ensuring that the dashboards are successful.

Research on data quality: TPR has been engaging with the industry on data quality and its report shows that although progress has been made, some schemes still have more to do, particularly in relation to the “value data” that will be used

to display member benefits. In addition, in many cases, trustee scrutiny of data quality was limited, with trustees relying heavily on scheme administrators.

TPR concludes that: *“The gaps identified in our report risk undermining dashboard readiness and highlight the importance of trustees adopting robust, consistent practices across all aspects of data management.”*

Guidance on data: To help schemes to improve data quality, TPR has issued [revised member data guidance](#) (based on the previous record-keeping guidance) that consolidates existing guidance on scheme data, sets out TPR’s expectations and provides best practice examples to help schemes achieve better data management capability.

The guidance reminds trustees that data management is their responsibility and they are ultimately accountable for it. It also identifies a number of data-related actions that TPR expects trustees to be taking which include:

- Having governance and internal controls in place to monitor and improve data, even where data-related tasks are delegated. This includes having a clear data management strategy in place, allocating resources for improvements and dealing with issues.
- Ensuring administrators have adequate controls and processes in place.
- Obtaining regular [data reports](#) from administrators (see below for more on what such reports should contain).
- Being able to demonstrate that trustees are maintaining and monitoring scheme member data in line with legislative requirements and TPR’s expectations.
- Where necessary, putting in place a data improvement plan which sets out the objectives the scheme is trying to achieve, the scope of work, who is responsible for what, measurable outcomes and a timeline.
- Submitting accurate data scores in the scheme return. PASA has also just [issued guidance](#) which can help trustees and administrators with this.
- Considering data quality regularly at board meetings, and reflecting it on the risk register as appropriate.
- Ensuring that data is processed in accordance with data protection legislation and [Information Commissioner’s Office guidance](#).
- Ensuring the trustee body as a whole has sufficient understanding and experience in administration and data management and keeps up to date with relevant developments and best practice.

The guidance also lists the data that schemes are expected to hold about members and says that a data review exercise should be carried out at least annually (which reflects the General Code of Practice) and it is not enough simply to check that each data field has been populated. The guidance suggests that data should be assessed in a number of different ways, including determining whether it is complete, accurate, consistent and available when needed. The outcome of this assessment should be included in a data report to the trustees.

Practical points:

- *Identify current data scores.*
- *Consider whether more needs to be done in relation to data accuracy.*

TAX TREATMENT OF UNFUNDED PENSION SCHEMES

A recent [Court of Appeal case](#) has determined that payments made by an employer to meet an unfunded pensions promise were not tax deductible as they were not incurred wholly and exclusively for the purposes of the employer’s trade but rather as part of a tax-saving scheme.

Background: The Finance Act 2004 does not contain any freestanding provisions which allow for employer payments in relation to pension arrangements to be tax deductible. Instead, [relief is given](#) under the normal tax rules for the deductibility of the expenses of a trade. This means that any contribution or pensions expense must be paid *“wholly and exclusively for the purposes of the [employer’s] trade”* for it to be deductible. HMRC guidance is clear that a pension

payment by an employer will normally satisfy this test even when the employees in respect of which the contribution is being made are retired or those of another employer.

However, not all amounts will be deductible. In particular, there are anti-avoidance provisions which limit deductibility, where (for example) expenses are shown in an employer's accounts in respect of an unregistered employer financed retirement benefits scheme (an EFRBS) but no contributions are actually made. [HMRC guidance](#) provides that generally, an employer may only get relief in respect of payments in relation to an EFRBS when an individual receives their benefits.

Court of Appeal decision: In a [recent case](#), the Court of Appeal was asked to consider unregistered pension arrangements implemented by two companies. Under the arrangements, the companies promised to provide a pension based on what an annuity would have provided, using an amount calculated by reference to a percentage of company profits each year. The accrued liabilities under the arrangements appeared in each company's accounts.

The Court of Appeal upheld HMRC's position that the arrangements were adopted as tax-saving schemes "*and the provision of pensions was "at best" an incidental aim*".

The Court said that if the object of an expense was to remunerate employees for their services, the mere fact that that aim was sought to be achieved in a way that avoids tax would not prevent a deduction being obtained. However, in this case, the real driver was not remuneration or pension provision but tax saving, and the provision of pension benefits was at most an incidental aim. Therefore, the court was entitled to conclude that the "*wholly and exclusively for the purposes of trade*" test was failed in relation to the arrangements, because their principal purpose was tax avoidance. This meant that the costs relating to these arrangements were not tax deductible.

Practical points:

- *Sponsors should be aware of this decision if they have unfunded pensions promises.*
- *Tax advice should be sought in relation to benefits provided outside registered schemes.*

FINANCIAL SUPPORT DIRECTIONS - BOX CLEVER SAGA CONCLUDES

In December 2011, the Pensions Regulator issued financial support directions against 5 companies in relation to the Box Clever Pension Scheme following the failure of a joint venture. The Regulator [has announced](#) that many years of litigation and negotiation have now concluded with an agreement to transfer the members of the Box Clever Scheme into the ITV scheme.

Financial support directions (FSDs): Financial support directions are one of the powers that enable TPR to chase money around corporate structures where there is an underfunded pension scheme.

Unlike their contribution notice cousin, there does not have to have been any intention to move money out of the reach of a pension scheme for an FSD to be made. The test for an FSD is a purely factual one based on the strength of the employer and other companies connected or associated with it.

For TPR to issue an FSD, the scheme employer must either be (a) a service company whose only source of income derives from supplying services to other group companies or (b) "insufficiently resourced". "Insufficiently resourced" means:

- The scheme employer has resources which are worth less than 50% of any section 75 debt which would be due from it in relation to the scheme; and
- There are one or more entities connected or associated with the employer whose assets alone or together are at least equal to the difference between the value of the employer's assets and the section 75 debt.

The test must be satisfied at some time during the two-year period prior to TPR warning the parties that it is considering issuing an FSD (although this has changed over time).

If the relevant requirements are satisfied and TPR considers it reasonable to do so, TPR can issue an FSD which requires the entities named in it to put in place arrangements to financially support the scheme for so long as it remains in existence.

When assessing reasonableness, TPR [has said](#) that it will consider factors such as the relationship the relevant entity has or had with the employer and the value of any benefits it receives from the employer.

The Box Clever case: Box Clever was a joint venture set up between Granada and Thorn in 2000. Employees received benefits from the Box Clever Scheme, which mirrored the Granada and Thorn pension arrangements. Box Clever entered administration in 2003, at which time the Scheme had a material deficit. Granada was taken over by ITV in 2004. The Scheme entered a PPF assessment period in 2014 (and member benefits were restricted to PPF levels from that point).

In 2011, TPR issued warning notices that it was considering issuing FSDs against 5 companies, including ITV plc, requiring them to provide support to the Box Clever Scheme. ITV argued on a variety of grounds that TPR should not have issued the FSDs, including that it was not reasonable to impose the FSD in relation to events that occurred before the relevant legislation was in force. In 2019 the Court of Appeal held that TPR could look at conduct that predated the implementation of the FSD provisions when considering whether it was reasonable to issue an FSD.

TPR finally issued the FSDs in relation to the Scheme in 2020. Negotiations continued with the parties and in 2024, when the buy-out deficit in the Box Clever Scheme had reduced to about £77 million, **the parties agreed** to a bulk transfer of around 2,800 members to the ITV Pension Scheme and to make back-payments to those members whose benefits had been restricted to PPF levels since the PPF assessment period started in 2014.

Takeaways: The case has gone on for so long that it is difficult to determine what lessons should be learned from it, other than the tenacity of TPR and its willingness to argue points over decades where it is in members' interests to do so.

It also illustrates the need for purchasers to be careful of what might be lurking in historic pension arrangements, as they may find themselves unexpectedly liable for them.

Practical points:

- *Ensure appropriate due diligence is done on corporate transactions.*
- *Be aware that TPR can take into account historic actions in some circumstances.*

PENSIONS OMBUDSMAN: DISTRIBUTION OF LUMP SUM DEATH BENEFIT

A recent Ombudsman determination considered the distribution of a lump sum death benefit and the enquiries that should have been made, focussing in particular on whether it was appropriate to rely on representations from only one potential beneficiary.

The determination: K was a member of the L&G Scheme. He died in 2018 without a will but leaving 4 surviving children, including C. The Scheme Rules provided that lump sums were payable to a member's dependants or other beneficiaries (who included children) at the discretion of L&G as scheme administrator. C notified the Scheme of K's death and completed a questionnaire saying that he was K's only surviving child. The whole of the £61,000 lump sum death benefit was paid to C. In 2020, liability for K's policy under the Scheme was transferred to ReAssure and in 2021 one of K's other children approached ReAssure to allege that C had fraudulently claimed the benefit. ReAssure said that the money had been distributed in accordance with the provisions of the Rules and in good faith.

The Deputy Pensions Ombudsman **determined** that L&G as scheme administrator had had absolute discretion how to distribute the lump sum death benefit. However, before doing so, it was necessary for it to determine who the potential beneficiaries were - this was a factual issue, not a discretionary one. A discretionary power could not properly be exercised without proper consideration of the facts.

The DPO said that: *"It is not unreasonable for a pension scheme to adopt a proportionate approach when distributing lump sum death benefits and to carry out a more limited investigation where the lump sum death benefit is of a low value. It is also not unreasonable to make use of documents such as [a questionnaire]. However, the responsibility for identifying the potential beneficiaries and gathering sufficient information about them remains the responsibility of the trustee or manager exercising the discretion".* In addition, *"where unverified information is provided by a person who claims to be the sole beneficiary, it may be prudent to consider the possibility of fraud and the need to take extra steps to ensure that proper information is obtained"*.

In this case, the decision to award the lump sum death benefits payable on K's death to one child only was made in ignorance of the existence of the other potential beneficiaries and without proper consideration of the other potential

beneficiaries. It was therefore not a valid exercise of discretion and ReAssure was directed to reconsider the payment of the lump sum death benefit.

Take-aways: It is an established rule of trust law that when exercising a discretion, trustees should take into account all relevant factors and no irrelevant ones. If the failure to take relevant factors into account is sufficiently serious, the trustees' decision can be set aside as being in breach of trust. This determination provides some helpful guidance as to how far trustees have to go in determining relevant factors such as the potential class of beneficiary. It is not enough just to ask one interested person and rely on them, but the trustees can take a proportionate view in relation to what more is required.

An additional practical pitfall to note here was that L&G's successor was directed to reconsider the distribution of the death benefit without having recovered the money from the original recipient. As the facts on which the original distribution was decided were incorrect, it is difficult to see how the same decision could be reached again. This leaves ReAssure potentially having to pay the death benefit to different recipients and also having to consider incurring the costs of recovering some or all of the original payment.

Practical points:

- *Ensure administrative processes around death benefit distribution are reviewed from time to time.*
- *Consider if processes allow for reliance on information from one party and if they need to be updated.*

PPF CONSULTATION ON LEVY

The PPF has already announced that it is intending to collect a zero levy in the 2025/26 levy year and it is now consulting on the levy rules for 2026/27. It is again planning a zero levy for most schemes.

The PPF is consulting on the levy for the 2026/27 levy year.

It is proposing to collect a zero levy from conventional DB schemes. However, this is dependent on the Pension Schemes Bill removing the requirement to impose a levy and the restriction on a levy being no more than 25% greater than the previous year's levy estimate. If the provisions of the Bill do not progress as intended, the PPF proposes to publish final levy rules on the basis of the 2025/26 rules, including the provision that allows it to recalculate the levy at zero if the Bill continues to make progress.

The position is different for "alternative covenant schemes" (ACSs). These are schemes where there is no reliance on conventional employer covenant support, including commercial consolidators. The levy is calculated differently for such schemes because they pose different risks to the PPF - employer insolvency is not a risk, but there are both funding and investment risks.

The PPF wants to continue to support the development of the superfund market whilst also recognising the risks that it could pose to both it and conventional levy-payers in the future. Therefore, the PPF will continue to collect a risk-based levy from ACSs in 2026/27, although there will be a new discretionary power to recognise and give credit for arrangements which reduce underfunding risk. The PPF is also inviting views on the methodology for calculating the levy for ACSs generally and whether any changes should be made.

Practical points:

- *Consolidators should consider responding on the methodology for calculating the ACS risk-based levy.*
- *Other schemes should note the intention for the PPF levy to be zero in 2026/27.*

HMRC UPDATE

HMRC's most recent newsletter contains some useful reminders for schemes, including the need for all scheme administrators to be UK resident by 6 April 2026.

The 2024 budget announced that with effect from 6 April 2026, all scheme administrators of UK registered pension schemes need to be UK resident. For tax purposes, the scheme administrator is the entity responsible for complying with various

obligations under the Finance Act 2004. In occupational pension schemes, this role is usually filled by the trustees. As a result, where a scheme currently has any trustees who are resident outside the UK, thought will need to be given to whether they can remain a trustee after April 2026 (or alternatively, whether the scheme needs to change who acts as its scheme administrator for Finance Act purposes). [The newsletter](#) sets out how changes need to be dealt with on HMRC's Managing Pension Schemes online service.

The newsletter also deals with some filing requirements when a scheme has wound-up. In particular, where a scheme was open during the 2025/26 tax year, once [an Event Report to wind it up](#) has been submitted to HMRC (informing HMRC that the scheme has wound up and the date the wind-up was completed - due within 3 months of completion of the wind-up), scheme administrators will receive a notice to file a pension scheme return for 2025/26, and this return will be due within 3 months of the notice being issued.

Finally, the newsletter contains some further comments on refunding lump sums following HMRC's confirmation (discussed in the [last edition of Pensions Essentials](#)) that if an action has resulted in a tax consequence, and an attempt is made to reverse it, the resulting tax consequences cannot generally be undone, although there is an exception where a transaction falls within FCA rules that require cancellation rights to be provided. HMRC says:

- There are no legislative provisions for a tax-free lump sum (eg a PCLS) to be returned to a registered pension scheme and for the tax consequences of the original payment of that lump sum to be undone.
- If a payment is classified as an unauthorised payment, it will not use up the lump sum allowance or lump sum and death benefit allowance as the payment of an unauthorised payment is not a relevant benefit crystallisation event.
- HMRC may challenge alternative interpretations of the tax consequences of tax-free lump sums that have been returned after 5 December 2024, when it first made its position clear.

Practical points:

- *Check whether new scheme administrator requirements will be complied with by 6 April 2026.*
- *Be aware of HMRC's position on returning lump sums to a scheme.*

WATCH LIST

For upcoming developments see our [Pensions: What's Coming webpage](#).

	Topic	Details	Relevant dates
1.	Collective defined contribution schemes	The Government has issued draft regulations permitting CDC schemes for unconnected employers, paving the way for commercial providers to offer such schemes. It has also consulted on the possibility of allowing trustees to select retirement only CDC arrangements as a default retirement option for members	Regulations intended to come into force in July 2026 on unconnected employer CDC. Consultation on retirement CDC arrangements closes on 4 December 2025.
2.	Dashboards	Trustees of the majority of registrable UK schemes with active and/or deferred members will need to ensure that their scheme is connected to the dashboard eco-system over the next 12 months.	Compulsory connection deadline of 31 October 2026 for schemes with 100+ active and/or deferred members at year end between 1 April 2023 and 31 March 2024. Detailed staging timetable set out in DWP guidance.
3.	Decumulation options - DC	The Pension Schemes Bill will require trustees to provide access to a default retirement solution for DC members. See 1. above for use of CDC schemes as a solution for these purposes.	Provisions in Pension Schemes Bill due to be enacted in 2026 with regulations also anticipated in 2026. Phased implementation from 2027.
4.	Default funds - DC	The Pension Schemes Bill will require multi-employer master trusts and GPPs used for auto-enrolment to have a main default fund with assets of £25 billion. It also sets out a regime for the approval and supervision of such funds.	Provisions in Pension Schemes Bill due to be enacted in 2026. Requirements in force in 2030 with transitional provisions to 2035.
5.	Notifiable events on corporate activity - DB	It appears TPR has ceased work on the notifiable events code of practice so it is not clear whether there will be any further developments.	No dates are known as to when or if any progress will be made. It seems this change may have been dropped.
6.	Small pots consolidation - DC	The Pension Schemes Bill provides for the consolidation of dormant DC pots of £1000 or less. Consolidators are likely to be DC master trusts.	Provisions in Pension Schemes Bill due to be enacted in 2026. Consolidators selected in 2029 and consolidation to start in 2030.
7.	Superfunds - DB	The Pension Schemes Bill sets out a framework for the authorisation and supervision of superfunds and transfers to them. The possibility of a public consolidator is still being considered.	Provisions in Pension Schemes Bill due to be enacted in 2026 with regulations anticipated in 2027. Coming into force in 2028 alongside a new code of practice.

	Topic	Details	Relevant dates
8.	Surplus - DB	The Pension Schemes Bill will repeal the requirement to have passed a resolution before April 2016 to retain a power to distribute ongoing surplus and include a new statutory power to amend scheme rules to allow a refund.	Provisions in Pension Schemes Bill due to be enacted in 2026 with draft regulations also anticipated in 2026. Requirements in force in 2027 and guidance issued.
9.	Tax issues	Draft legislation has been published in relation to inheritance tax (IHT) on inherited benefits and death benefits (excluding lump sum death in service benefits and dependants' scheme pensions). The 2025 budget has announced a cap on salary sacrifice arrangements for pension contributions of £2000.	Final-form legislation is anticipated to be included in the next Finance Bill, to be issued following the 2025 Budget. IHT changes are anticipated from 6 April 2027. These proposals are due to be implemented in April 2029.
10.	Value for money - DC	Pension Schemes Bill allows for regulations to set out a new value for money framework for occupational pension schemes.	Provisions in Pension Schemes Bill due to be enacted in 2026 with regulations also anticipated in 2026. First new assessments and published data in 2028.
11.	Virgin Media remediation - DB	Pension Schemes Bill will allow actuaries to retrospectively certify an amendment to contracted-out benefits where historic confirmation cannot now be found.	Bill due to be enacted in 2026.

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