The Pension Schemes Bill begins its Parliamentary journey

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Introduction

Following hot on the heels of last week's three major pensions papers, the Pension Schemes Bill ("the Bill") began its Parliamentary journey today. Designed to "transform the £2 trillion pensions landscape to ensure savers get good returns for each pound they save, and drive investment into the economy", a wide-ranging suite of measures are included. But today's surprise package is that the Government intends to legislate to address the uncertainty caused in the pensions industry by the Virgin Media decision.

Key points

DB only

- Subject to "stringent funding safeguards", DB trustees will have power to pass a resolution amending their scheme rules allowing greater flexibility over the use of any surplus, "worth collectively £160 billion".
- Having been subject to a TPR interim authorisation regime since June 2020, the Bill will provide a legislative framework for commercial DB superfunds, "to encourage growth of the superfund market and underpin the security of members' benefits".
- Recognising that schemes and sponsoring employers need clarity around liabilities and member benefit levels so as to plan for the future, the Government will introduce legislation to deal with issues arising from the Virgin Media case.

DC only

- As expected, the Bill will address the following key DC changes:
  - "to protect savers from getting stuck in underperforming schemes", requirements for a new VFM framework for trust-based schemes, mirroring the FCA's proposals for contract-based arrangements announced last summer
  - automatic consolidation of small DC pots worth £1,000 or less "into a small number of large, good value schemes"
  - subject to a transition pathway for smaller schemes to get up to scale, as well as providing for regulations to set out various exclusions, DC providers and master trusts will have to have £25bn in assets under management ("AUM") in at least one large "Megafund" default arrangement by 2030

- in order to simplify retirement choices, new duties will be placed on trustees to offer a retirement income solution or range of solutions.

LGPS

- With a view to the LGPS using “its scale to support UK investment and regional growth”, reforms are afoot to improve its pooling, governance and administration.

Timing

- Also published today, the Government’s roadmap sets out its timetable for reform, with the Bill expected to receive Royal Assent in 2026. Consultations on draft regulations to introduce many of the measures are then expected to follow, with the aim of all changes being in force by the end of 2030. However, timings are “very much indicative and subject to Parliamentary time where required”.

DB surplus & superfunds

Surplus

Going forward trustees may, by resolution, amend scheme rules to allow payment of surplus to an employer where no power exists or, where trustees already hold such a power, “the resolution may remove or relax any restriction” currently imposed.

Unsurprisingly, there will be “stringent funding safeguards”, including the need for actuarial certification. With the Government minded to shift the threshold at which trustees can share surplus with sponsoring employers (from the current buy-out level down to fully funded on the low dependency funding basis), the Bill paves the way for details to be included in regulations. Members will likewise need to be notified of any surplus payment beforehand.

Section 251 of PA04, which required trustees of pre A-Day schemes to pass a resolution prior to 6 April 2016 so as to keep certain surplus powers, is being repealed.

The Government plans to consult on regulations in 2026, with DWP / TPR guidance “to facilitate trustee comfort” scheduled for 2027, and the flexibilities then due to come into force “by the end of 2027”.

Superfunds

Whilst individual models differ, a DB superfund is essentially an occupational pension scheme set up to facilitate DB consolidation. Common features include:

- that a transfer results in the link to the transferring scheme’s sponsoring employers being severed, with “covenant” replaced by a capital buffer provided through a mixture of external investment and cash injections from the transferring employers, and
- a mechanism enabling returns to be payable to persons other than members or service providers.

The key principles underpinning the proposed legal framework include that:

- superfunds will be authorised and supervised by TPR
- unsurprisingly, superfunds will need to ensure effective governance, including around managing and administering superfunds “in the interests of members” and general compliance

- there will be triggers governing when TPR can intervene, profit can be taken, and the superfund must be wound up
- superfunds will need to have adequate policies and procedures in place for monitoring whether each of four financial thresholds is met, relating to capital adequacy, technical provisions, protected liabilities (ie PPF benefit levels) and solvency. The latter will require that there is "no material likelihood that the scheme will fail to satisfy all the liabilities to and in respect of members that it is required to satisfy during the 6 months beginning with" any given day.

The Government plans to consult on and agree regulations in 2026/27, with the aim of bringing them into force, alongside the accompanying TPR code, in 2028.

Virgin Media

Last year, the Court of Appeal confirmed that a written section 37 actuarial confirmation was required where an alteration to a scheme's rules affected pension benefits attributable to past or future service relating to certain contracted-out rights. Without such a confirmation, an amendment to such rights, known as section 9(2B) rights, would be void. A separate case was heard by the High Court earlier this year, which considered (among other things) various issues around the impact of failing to obtain a section 37 confirmation, including what elements of pension actually fall within the scope of section 37 and what might count as an "alteration" for these purposes.

With that judgment still pending, the Government has taken the opportunity today to announce plans to legislate to give affected pension schemes "the ability to retrospectively obtain written actuarial confirmation that historic benefit changes met the necessary standards". With the announcement light on specific detail, we assume the Government will use existing powers to make regulations.

DC measures

VFM

A new standardised VFM test will apply consistently across the whole pensions market, with the Bill introducing requirements for trust-based schemes to complement those being established by the FCA in the contract-based space. The detailed rules will be set out in regulations.

The VFM framework is intended to enable a shift in focus from cost towards value amongst employers, trustees and managers of workplace pension schemes. By encouraging a holistic view of value (assessing investment, costs and services), the framework aims to improve outcomes for pension savers through a potential improvement in performance (where achievable) or removal (where not possible) of poor performing pension schemes / arrangements from the market.

The aim is for the VFM regulations process to be carried out during 2026/27, with the first assessments expected in 2028.

Automatic consolidation of deferred small pots

The Government recently unveiled its plans to make it easier for individuals to keep track of and consolidate their DC pension savings. Having explored numerous options over the years, the Bill lays the groundwork for a new multiple default consolidator system, under which members with certain deferred small pots would be automatically consolidated into a small number of authorised consolidator schemes.

A pot will become eligible for automatic consolidation 12 months after the last contribution was made into it. Initially pots of up to £1,000 will be in scope, with the Secretary of State having the power to increase or decrease this limit in the future. There will be no minimum pot size.

The Government intends to consult on regulations in 2027/28, with master trusts able to apply to become an authorised consolidator around the same time. The aim is for consolidators to be selected in 2029, with transfer duties due to come into force in 2030.

Default retirement solutions

Following on from comments made in the 2023 autumn statement, the Bill will place duties on DC trustees to provide default retirement solutions for their members (from which they can choose to opt out). Where it is "not practicable" for trustees to design and make available a default retirement solution, trustees will need to partner with another scheme that is able to deliver this. Comparable rules will be required from the FCA for the managers of contract-based schemes.

The plan is for DWP regulations and FCA rules to be agreed during 2026/27 and for the duty to be phased in from 2027, with master trusts first to comply.

Achieving scale in the DC market

The Bill's provisions will deliver on the Government's response to consultation on unlocking the UK pensions market for growth published last week. Measures under the Bill will therefore:

- require DC providers and master trusts to have £25bn in assets under management ("AUM") in at least one large "Megafund" default arrangement by 2030. The assets in question must be managed under a "common investment strategy". Creation of new default arrangements will also be restricted

- allow certain providers / master trusts additional time to reach scale. To be eligible, they will have to demonstrate that they will have at least £10bn in AUM in an arrangement by 2030, and to meet any other conditions set out in regulations

- provide for a "new entrant" pathway, which will allow new market entrants who can demonstrate "strong potential for growth" and an "ability to innovate" to seek authorisation, ie where they are offering something significantly different that could benefit savers or employers

- exempt hybrid schemes and default arrangements that serve protected characteristics, such as religion. Regulations can include other exemptions, and we understand from the Government's recent consultation response that they intend to exclude from scope single employer trusts and CDC schemes which are only available to a closed group of employers related through their industry or profession.

To help overcome the current need for individual consents to transfer, a key barrier to consolidation, the Bill also provides a contractual override, allowing pension providers to transfer pension pots to another scheme without the relevant member's consent. This will be subject to appropriate protections, such as only being permitted where it is in savers' best interests and certified by an independent person. Detailed rules on the use of the new regime will be developed by the FCA.

These measures will be staged. We can expect the contractual override and default consolidation to start in 2028. It will be followed by a review in 2029, ahead of the 2030 deadline for the creation of the Megafunds.

Other changes

Other changes being made under the Bill will:

- remove the requirement for trustees to apply to the County Court to enforce a TPO determination , where the recovery of an overpayment is disputed by a member (this reverses the current position established in a Court of Appeal decision)
- change PPF and FAS compensation rules to enable lump sums to be paid to eligible members with a terminal illness at an earlier stage, ie where life expectancy is less than 12 months rather than six
- given recent experience, remove current restrictions preventing the PPF from calculating a zero levy if appropriate
- facilitate PPF and FAS information being displayed on the Government-backed pensions dashboard service to be provided by MaPS.

Next steps

A Bill's passage through Parliament is a long and winding road, and there could be several twists and turns along the way. With detailed regulations to follow in many cases, there is therefore some way to go before the Bill's provisions reach their ultimate destination. But the scale of some of the changes, coupled with ambitious Government timescales, means that the pensions industry should ready itself for a very hectic period ahead.

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