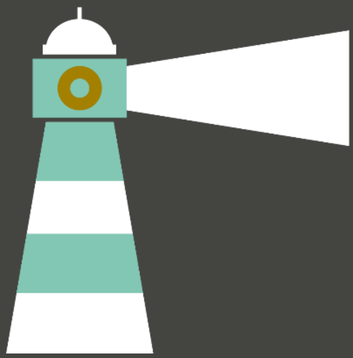
BRIEFING

TRAVERS SMITH



What's Happening in Pensions

Issue 115 – March 2025

Travers Smith Pensions Sector Group

LinkedIn
#TraversSmithPensions

In this issue:

Pension protection levy: The Pension Protection Fund has announced its pension protection levy estimate for the 2025/26 levy year and published its policy statement and levy rules. 99.7% of schemes are expected to pay a lower levy than last year and there remains the possibility of a nil levy. Contingent assets, such as guarantees, may still be useful in support of scheme funding arrangements.

Pension scams: The Pension Scams Action Group scams leaflet that the Pensions Regulator expects schemes to give to members has again been amended without announcement. A Pensions Regulator blog post outlines other ways of helping to combat pension scams.

Virgin Media – ICAEW 'helpsheet': The Institute of Chartered Accountants in England and Wales has issued a 'helpsheet' for employers and auditors regarding the implications of the *Virgin Media* case for the accounts of affected scheme sponsors.

TPR priorities: The Pensions Regulator has published a blog post 'Implementing our vision - what you can expect from us this year'. This covers both DC and DB.

TPR data strategy: The Pensions Regulator has published a new data strategy document, setting out what it will be doing in this area and the use of artificial intelligence.

Pensions dashboards: The Pensions Dashboards Programme's standards for pension schemes and personal pension providers have been approved by the Secretary of State. Three volunteer participants have successfully fully connected to the dashboards ecosystem. A website article outlines steps for schemes and providers to take.

TPR DC and master trust supervision: The Pensions Regulator has published a report 'Market oversight: DC and master trust supervision'. This announces changes to the supervision and regulation of DC master trusts, in particular.

Government review of regulators: The Government has published a policy paper 'New approach to ensure regulators and regulation support growth'. This includes, in an annex, key pledges from various regulators including the Pensions Regulator.

Arcadia scheme merger: The High Court has approved an amendment of the Arcadia staff pension scheme's trust deed to permit the merger into it of an underfunded executive scheme, and also the trustees' decision under the amended provisions to accept the transfer.

PENSIONS RADAR: You may also be interested in the latest edition of Pensions Radar, our quarterly listing of expected future changes in the UK law affecting work-based pension schemes.

SUSTAINABILITY MATERIALS: Our Sustainable finance and Investment Hub includes a section on ESG and sustainable finance issues for pension schemes and their sponsors.

Pension protection levy

The Pension Protection Fund has announced its pension protection levy estimate for the 2025/26 levy year and published its policy statement and levy rules.

The total levy estimate is £45 million. This is down from £100 million last year. 99.7% of schemes are expected to pay a lower levy than last year.

The PPF and Government are still in discussions about giving the PPF greater flexibility to reduce the levy, given its very large surplus. The PPF says that it might end up charging no pension protection levies (except for 'alternative covenant schemes') if the law is changed in time: the determination includes a provision permitting that.

There is once again, therefore, less need for contingent assets (such as a parent company guarantee) this year but of course they can also be used to support scheme funding arrangements and do not need to be certified for that purpose.

The changes of interest to the levy rules this year are mostly minor ones:

- **Deficit recovery contributions**: The 'Option Beta' simplified certification process for deficit recovery contributions is extended to all schemes, including open schemes and schemes of any size. Ad hoc special contributions can be recognised even when there is no recovery plan in place.
- **Special category employers**: These are employers with proximity to government that are not assessed using the standard Dun & Bradstreet insolvency risk measures. The definition is extended to include a wider range of such employers.
- **Levy waivers**: It has been clarified that schemes with a full buy-in policy can apply for a levy waiver.

There are no material changes to the requirements for contingent assets. As usual, certification and recertification of contingent assets for levy purposes must be done by the end of March.

Pension scams

Another new scams leaflet

The Pension Scams Action Group scams leaflet that the Pensions Regulator expects schemes to give to members has again been amended without announcement.

The new version is dated January 2025. The other recent unannounced change was in December 2024: see WHiP Issue 114.

The new changes (all in 'Step 4') remove content about PensionWise, presumably since the work it does is not concerned with scams. The leaflet also now mentions that MoneyHelper is independent.

The Regulator expects the leaflet to be given to members with annual benefit statements and when responding to transfer requests.

TPR blog post

A Pensions Regulator blog post 'Working together to strengthen our defences against scams' does not mention the leaflet changes but notes as follows:

- To improve intelligence sharing, the Regulator has embedded intelligence experts within the City of London Police and the National Economic Crime Centre.
- Savers and industry members are told to report suspicions to Action Fraud, which is improving the current reporting process.
- There will be a Pensions Regulator webinar on 25 March 2025 on fighting pension fraud. The web page for this says that Action Fraud will be replaced with a new service.

Virgin Media – ICAEW 'helpsheet'

The Institute of Chartered Accountants in England and Wales (ICAEW) has issued a 'helpsheet' for employers and auditors regarding the implications of the *Virgin Media* case for the accounts of affected scheme sponsors.

After an introductory background section, the note has content "for general informational purposes only" and "does not make any recommendations". Sponsors and auditors "are encouraged to use their own judgement" but there are helpful steers in some areas.

The ICAEW says that **trustees** will be taking one of three approaches, and explains when each might be appropriate:

- A wait-and-see approach
- An information-gathering approach
- Performing a detailed analysis

At the very least, the ICAEW says, trustees should have formed an initial view of their potential exposure.

There is then a section for **sponsors** on accounting considerations, i.e. when preparing their corporate accounts. The potential accounting treatments are:

- Do not recognise any amounts or make any disclosure.
- Disclose the potential implications of the ruling in the pension note but do not recognise any amounts.
- Remeasure the defined benefit obligation and recognise a change to the liability.

The clear steer in the majority of cases is the second option. The note mentions the expectation of future relevant judgments and possible Government regulations, the outcomes of which are not yet known. But the first or third option will be appropriate where in the particular circumstances of the scheme it is clear that there is no impact or that there is. The ICAEW adds, however, that even where there is considered to be no impact, investors may expect to be told that that is the position.

Finally, there is a section for **auditors**. The options for auditors' reports include, in decreasing order of likelihood:

- No impact on the auditor's report.
- Include an 'Emphasis of Matter' paragraph to draw attention to the issue.
- Include a qualified opinion arising from a limitation of scope due to a lack of available information.

The note stresses to auditors that they may not be given access to advice obtained by the trustees. Sponsors may therefore have an interest in seeking their own advice and making that available to their auditor, in order to avoid the possibility of having qualified accounts.

TPR priorities

The Pensions Regulator has published a blog post 'Implementing our vision - what you can expect from us this year'.

The Regulator's CEO, Nausicaa Delfas, says:

> *"Over the next 12 months, we will:*
>
> - *say more about the need for better data and how we will support you to raise standards, capitalise on new opportunities, and reduce regulatory burden and frictions in how you share information with us* [see below]
> - *continue to change how we supervise the most strategically significant schemes – starting with master trusts – to make sure that we anticipate and mitigate future risks to savers, enhance outcomes and foster innovation* [also see below]
> - *launch our innovation hub to encourage industry to support market innovation and facilitate open and transparent conversations on new models and ideas at an early stage*
> - *set out our future approach to enforcement and tackling serious crimes*

- *make sure value for money is at the heart of our work, progressing the joint value for money framework, to ensure schemes embed value and ultimately allow savers to choose the right scheme for them*
- *continue to protect savers' outcomes from climate-related risks and benefit from opportunities from the UK's transition to a net-zero economy*
- *implement a more strategic approach to raising standards of trusteeship*
- *help defined benefit schemes consider the full range of alternative models of provision through new guidance"*

TPR data strategy

The first of the above items was quickly followed up, by the publication of the Pensions Regulator's data strategy.

The Regulator says that it will:

- *"set clear standards and expectations for data and provide relevant guidance and interventions*
- *ensure all data collected for its purposes is directly related to good saver outcomes and supports efficient and effective regulation, competition and industry innovation*
- *modernise how it collects data to reduce burden on employers, schemes, administrators and advisers by working towards creating an internal data marketplace – a centralised platform facilitating the discovery, access, and sharing of data among employees – which links to the government's National Data Library and the wider external data ecosystem*
- *where appropriate and in savers' interests, collaborate with industry to find ways to make it easier to access, use, modify, and share data".*

The Regulator will be creating a working group to help the pensions industry improve its use of digital tools, data and technology. It also calls on schemes to safely adopt new technologies, including artificial intelligence.

Pensions dashboards

The Pensions Dashboards Programme (PDP) has reported that its standards for pension schemes and personal pension providers have been approved by the Secretary of State. These set out the rules and controls for ongoing connection to the pensions dashboards ecosystem.

The same press release also announced that three of the 20 volunteer participants in the PDP's early connection exercise are now successfully fully connected to the dashboards ecosystem.

A separate PDP website article outlines what schemes and providers need to do to connect to the pensions dashboards ecosystem. This covers the following steps:

- Confirm your 'connect by' date
- Confirm your route to connection
- Consult the dashboard standards
- Prepare your data
- Decide your data matching approach
- Stay up to date
- Use PDP guidance and support

TPR DC and master trust supervision

The second of the above items was also quickly followed up, with the publication by the Pensions Regulator of a report 'Market oversight: DC and master trust supervision'. This announces changes to the supervision and regulation of DC master trusts, in particular, to help identify market and saver risks sooner.

The Regulator says:

> *"The shift in approach will see schemes split into four segments of supervision:*
>
> - *monoline master trusts*
> - *commercial master trusts*
> - *non-commercial master trusts and collective defined contribution schemes*
> - *single and connected employer DC schemes*
>
> *Each segment will have tiers of engagement based on the specific risks they present to market and saver outcomes.*
>
> *As part of the new regime, every scheme in the monoline and commercial [master trust] segments will be allocated a dedicated multi-disciplinary team of named individuals with expertise in financial analysis, business strategy, investment and governance.*
>
> *While driving high levels of compliance will still be a priority, TPR is also seeking open and transparent dialogue to help schemes capitalise on new opportunities which benefit savers."*

Government review of regulators

The Government has published a policy paper 'New approach to ensure regulators and regulation support growth'. This includes, in an annex, key pledges from various regulators including the Pensions Regulator.

The Pensions Regulator's pledges are as follows:

> *"TPR will review the amount of capital reserving that Master Trusts are required to hold, with a view to safely freeing up millions of pounds for schemes by the end of 2025/26.*
>
> *Develop an innovation framework and criteria to trial pensions innovation ideas and launch a hub to test a variety of innovation services with the market by the autumn of 2025.*
>
> *Reduce unnecessary regulatory burdens and improved data and data-sharing by: i. Over the course of 2025/2026, TPR will monitor its engagements with schemes and employers seeking to reduce unnecessary regulatory burden whilst maintaining current high levels of compliance. As part of this it will monitor the quality and value of regulatory interaction and make sure that new interventions are not just clearly linked to delivery of better outcomes for savers but are also efficient and effective in delivery. ii. TPR will conduct a review of its scheme return and supervisory return data collection requirements by the end of March 2026 to identify options to reduce unnecessary burdens on schemes. Subject to the outcome of the review, the government will consider how and what we capture including amendments to legislation as required.*
>
> *Encourage consolidation and consideration of investment in productive assets by: i.* [sic] *The Value for Money framework will bring public disclosure of long-term risk adjusted net returns to help drive competition, growth and enhanced member outcomes. In advance of this TPR will drive consolidation in savers' interests and encourage the voluntary disclosure of asset allocation data to shine a light on the relationship between asset allocation and net performance."*

Arcadia scheme merger

In Arcadia Group Pension Trust Ltd v Smith, the High Court approved an amendment of the Arcadia staff pension scheme's trust deed to permit the merger into it of an underfunded executive scheme, and also the trustees' decision under the amended provisions to accept the transfer.

The trustees sought confirmation that the amendment was within the scope and purpose of their scheme powers and also approval of their decision-making as regards accepting the proposed merger.

An interesting factor was that the receiving staff scheme was in surplus whereas the transferring executive scheme was in deficit (but was presumably significantly smaller, though liability values are not stated in the judgment). So, the funding position of the staff scheme would be diluted by the merger to some degree.

The intention of the merger was to allow members of both schemes to receive full benefits. There was no relevant restriction on the amendment power and it expressly continued beyong the triggering of a winding-up, which had happened when Arcadia had entered liquidation. Arcadia's liquidator was neutral in the matter. Following the insolvency, the amendment power was vested solely in the trustees.

The judge agreed that the amendment was within the scope of the trustees' powers and the purpose of the scheme. He also approved the exercise of the staff scheme trustees' new power to accept the transfer. He took into account the relationship between the two schemes, which shared the same sponsor, and the aim of providing equally full benefits to members of both.

Key factors in the decision were:

- The staff scheme trust deed stated the scheme's objective as the provision of 'scale benefits', which was defined to mean the benefit set out in the rules. This could be achieved after the merger as well as before.
- There was no right to augmentation of any benefits on a winding-up in surplus – only a contingent interest.
- The schemes' investments had been managed in tandem and it had not been intended that the funding positions would diverge.

Travers Smith’s award-winning Pensions Sector Group seamlessly encompasses all the technical legal specialisms our pensions clients need. Our experienced and talented multi-specialist teams are at the forefront of pensions so we can help you to predict and plan for the future. For more information about our services please visit our website or speak to your usual Travers Smith contact.

You can also follow **#TraversSmithPensions** on LinkedIn

FOR FURTHER INFORMATION, PLEASE CONTACT

Susie Daykin
Partner, Head of Pensions
susie.daykin@traverssmith.com
+44 (0)20 7295 3247

Daniel Gerring
Partner
daniel.gerring@traverssmith.com
+44 (0)20 7295 3341

Niamh Hamlyn
Partner
niamh.hamlyn@traverssmith.com
+44 (0)20 7295 3287

David James
Partner
david.james@traverssmith.com
+44 (0)20 7295 3087

Chris Widdison
Partner
chris.widdison@traverssmith.com
+44 (0)20 7295 3604

Nick White
Knowledge Counsel
nick.white@traverssmith.com
+44 (0)20 7295 3472

10 Snow Hill | London EC1A 2AL | T: +44 (0)20 7295 3000 | F: +44 (0)20 7295 3500 | www.traverssmith.com

The information in this document is intended to be of a general nature and is not a substitute for detailed legal advice. Travers Smith LLP is a limited liability partnership registered in England and Wales under number OC 336962 and is authorised and regulated by the Solicitors Regulation Authority. The word "partner" is used to refer to a member of Travers Smith LLP. A list of the members of Travers Smith LLP is open to inspection at our registered office and principal place of business: 10 Snow Hill London EC1A 2AL. Travers Smith LLP also operates a branch in Paris.