

Virgin Media: Joint Statement by the ACA, APL and SPP

Outline

Comment

On 17 December 2024, the Association of Consulting Actuaries, the Association of Pension Lawyers and the Society of Pension Professionals issued a new joint statement in relation to the Court of Appeal's decision in *Virgin Media Ltd v NTL Pension Trustees II Ltd*. By way of brief reminder, that ruling held that amendments to salary-related contracted-out pension schemes from 6 April 1997 required written actuarial confirmation in order to be valid (irrespective of whether the amendments related to past or future service benefits).

The statement confirms that these organisations are engaging with the Department for Work and Pensions, in particular to seek regulations which would enable the retrospective validation of amendments voided due to the absence of written actuarial confirmation.

Trustees and employers alike should keep a watching brief on developments – particularly as a further Court case (*Verity Trustees Limited v Wood*), which we understand is likely to touch on similar issues, is due to be heard imminently. See the statement [here](#).

The accounting implications will also need to be considered. See the ICAEW's note on audit considerations [here](#).

Dalriada Trustees Limited and six additional applicants (PO-16266): trustee duties

Facts

Decision

Comment

Two schemes' members lodged complaints against a mutual corporate trustee (T) and its director-shareholder (S). Scheme funds were, unbeknownst to over 200 members, invested in connected, unregulated, high-risk offshore entities. Many investments failed and T was subsequently wound-up.

T and S had committed various breaches of trust and maladministration. T's defences of consent and contributory negligence failed, as did its attempted reliance on exoneration and indemnity clauses in the schemes' respective rules. As S acted dishonestly, relief from personal liability under s.61 Trustee Act 1925 was refused. S was ordered to pay £9,800,000 into the schemes and £5,000 to each member for distress and inconvenience.

This decision underscores the importance of properly scrutinising trustee investment activities and the liabilities trustees can incur where they fail to do so or act dishonestly. For further detail, see the decision [here](#).

Ballard & Ors v Buzzard [2024] EWHC 2765 (Ch)

Facts

Comment

The High Court granted an order for the rectification of potentially defective amendments to an occupational pension scheme. The scheme's amendment power required that amendments authorised by the employer would only take effect when all five trustees signed a declaration. However, issues arose due to missing signatures and incorrect signature blocks. The Court concluded that the available evidence showed that the amendments had in fact been signed by all trustees. The Court also allowed rectification of an amendment where one of the trustees had signed on behalf of the employer, but not explicitly in his capacity as trustee as well. For further details, see [here](#).

Whilst the pensions industry is currently focussed on one type of more technical execution risk (i.e. *Virgin Media*), this case serves as a reminder that simpler issues such as missing signatories can also jeopardise the validity of historical amendments.

Mr S (CAS-110689-M5K1): discretionary pension increases

Facts

Decision

Comment

A deferred member challenged the decision to limit pension increases to 5% p.a., citing a 1998 newsletter from the trustee which stated the scheme aimed for increases to align with RPI, up to a maximum of 10% a year.

TPO dismissed the complaint, finding the newsletter did not constitute a binding commitment. The Scheme's rules allowed for discretionary increases above 5% p.a. with Principal Employer consent but provided no guarantee. TPO also reiterated that, where there is apparent conflict between Scheme documentation (such as a member communication) and the Scheme's rules, the rules are overriding. Capping increases at 5% was deemed reasonable due to a significant funding shortfall, and the employer's decision did not breach the *Imperial* duty of good faith by being "unreasonable, perverse or irrational".

This decision emphasises the need for employers to consider the *Imperial* duty of good faith when exercising a discretionary power, and highlights the care required when communicating with members regarding potential pension increases. For further detail, see the decision [here](#).



Update on the Government’s pensions review

Outline	Comment
<p>As detailed in our previous update, the Labour Government is undertaking a “landmark” review of the UK pensions landscape, aiming to enhance investment, increase pension savings, and address inefficiencies within UK pensions systems.</p> <p>On 14 November 2024, the Government released an interim response to the first phase of this review, discussing its new proposals and providing a report on trends in UK pension fund investment. This response was released alongside consultation papers setting out the Government’s proposed changes and seeking views on proposed measures for DC market consolidation, addressing the cost-before-value culture in the DC market, and an overhaul of the way the Local Government Pension Scheme invests. These consultations closed on 16 January 2025. The scope of the second phase of the review will be announced “in due course”.</p>	<p>The consultations help to indicate the current direction of travel of the Government’s pension review, with a clear focus on making changes to the DC market to encourage value for money offerings to improve outcomes for savers. We await further information about the second phase of the review. For more detail on the interim response and associated consultations, see here.</p>

Finance Bill 2025: pensions measures

Outline	Comment
<p>The Finance Bill 2025, published on 7 November 2024, contains key changes related to overseas pension transfers and scheme administration, as initially announced in the Autumn 2024 Budget. Among other things, the Bill addresses the removal of the exclusion from the overseas transfer charge for pension transfers to qualifying recognised overseas pension schemes in the EEA or Gibraltar, amendments to the conditions for overseas pension schemes in the EEA which will require such schemes to meet the same conditions as those established in the rest of the world, and the requirement for UK residency for pension scheme administrators.</p>	<p>The proposed changes in the Finance Bill 2025 reflect a tightening of regulations around overseas pension transfers and administration. Schemes and administrators should take note of these changes to ensure they are in compliance with the updated requirements.</p>

DB surplus flexibility reforms: Government announcement

Outline	Comment
<p>On 28 January 2025, the Chancellor of the Exchequer announced plans to introduce greater flexibilities for well-funded occupational defined benefit pension schemes to release surplus funds. Under HM Treasury’s proposals, sponsoring employers (with trustee agreement) could use surplus funds to invest in their business or to enhance members’ pension scheme benefits. For further details, see here.</p>	<p>The details of the Government’s proposals are expected in the Spring, but we welcome this announcement in what will be a positive step forward for many DB pension schemes. Please see here for our earlier response to the Government’s February 2024 consultation on Options for Defined Benefit Schemes.</p>



DB scheme funding: recent updates

Outline	Comment
<p>The new DB funding code came into force on 12 November 2024. As a reminder, the code sets out TPR’s expectations for how schemes should comply with the statutory requirements on funding and investment strategy. It applies to valuations with an effective date of or after 22 September 2024. TPR has also finalised the tests and conditions (full text available here) for schemes which wish to use the “Fast Track” route to demonstrate compliance with the DB funding requirements. The Fast Track conditions require schemes to adopt a low dependency funding basis set out in the DB funding code, calculated using the gilt yield curve, extrapolated appropriately. Additionally, TPR has updated the employer covenant guidance, detailing trustees’ responsibilities in assessing the employer’s financial support and integrating this into the scheme’s funding strategy under the new DB funding code.</p>	<p>Trustees of schemes which are affected by the new DB funding regime should continue to familiarise themselves with the new legislative requirements and expectations from TPR and prepare for their future valuations accordingly.</p>

Pensions Dashboards: initial guidance updated

Outline	Comment
<p>TPR has updated its guidance on pensions dashboards, incorporating changes to how schemes and employers should manage the process. Key updates include the verification of potential members through their GOV.UK One Login, UK address and credit records, the inclusion of references to the General Code, and additional guidance for schemes with multiple sections or administrators on handling data discrepancies and matching issues.</p>	<p>These updates promote more streamlined member access to the dashboards and a consistent approach to handling member information across different sections. Trustees and administrators should keep track of the updates to ensure schemes are compliant by the connection deadline.</p> <p>See here for further detail.</p>

Pensions Regulator moves towards a new style of regulation

Outline	Comment
<p>On 27 November 2024, TPR announced a shift towards "prudential-style regulation" in response to Government consolidation efforts in the DC pensions market. This approach aims to manage financial risks more holistically across the sector, with a vision that includes large DC master trusts enhancing investment opportunities and necessitating broader financial ecosystem risk-management.</p>	<ul style="list-style-type: none"> • The transition to "prudential-style regulation" marks a change in the oversight of pension schemes, reflecting a broader trend towards integrated financial regulation. This approach aims to safeguard the pensions market against systemic risks by focusing on large-scale funds and their impact on the financial ecosystem. • The emphasis on investment governance, data quality, and trustee relationships underscores TPR’s commitment to ensuring the stability and integrity of pension schemes. By focusing on these areas, TPR aims to enhance the operational standards of pension schemes and protect the interests of beneficiaries. • This regulatory shift is expected to have significant implications for the pensions industry, requiring schemes to adapt to new governance standards and oversight mechanisms. The move towards prudential regulation is likely to influence investment strategies, risk-management practices, and the overall landscape of pension fund administration in the UK. <p>For a copy of the Chief Executive of TPR’s speech, please click here.</p>



UK Pensions Horizon Scanning

A reminder of key upcoming developments in the UK pensions space

2025 developments

***Verity Trustees Limited v Wood* – due to be heard in February/March**

Will address scheme power of amendment issues, and may touch on issues arising from the *Virgin Media* litigation

Pension dashboards connection rollout begins – 30 April

The non-mandatory staged connection timetable comes into operation

Government’s response to *Options for Defined Benefits* consultation – Spring

To include details on the Government’s surplus return policy

Pension Schemes Bill – Spring

Expected to cover: (i) consolidation of small deferred DC pension pots; (ii) Value for Money framework; (iii) retirement products; (iv) DB consolidation; (v) reaffirmation of the Pensions Ombudsman as a competent court; and more

2026 onwards

<p>31 October 2026 Pension dashboards Mandatory final connection deadline for all in-scope schemes</p>	<p>6 April 2027 Inheritance Tax changes for pensions Consultation closed on 22 January 2025; draft legislation is expected later in 2025</p>
<p>6 April 2028 Increase in Normal Minimum Pension Age to age 57 The minimum age at which most people can access their pension will increase from age 55 to 57</p>	<p>5 April 2029 Expiration of scheme rules statutory override for Lifetime Allowance abolition The override facilitates the retention of limits under scheme rules which have been drafted by reference to the Lifetime Allowance</p>
<p>2030 RPI alignment with CPIH</p>	