

PENSIONS ESSENTIALS

October 2025

QUICK LINKS

[Developments in relation to collective defined contribution schemes](#)

[Pension Ombudsman on statutory transfer requirements](#)

[Trustee decision to terminate buy-in and distribute surplus](#)

[Taxation of lump sums returned to scheme](#)

[Pensions Regulator analysis of market](#)

[Watch list](#)

DEVELOPMENTS IN RELATION TO COLLECTIVE DEFINED CONTRIBUTION SCHEMES

The Government has published its [response to consultation on unconnected multi-employer CDC schemes](#), alongside [draft regulations](#) which are due to come into force next summer. It has also issued a [consultation paper on the use of CDC as retirement option for members of DC schemes](#) - referred to as “retirement CDC”.

Background: In a CDC scheme, employers and employees pay fixed contributions to fund a target retirement benefit. Benefits are provided directly from the scheme, but are not guaranteed. Members, including pensioners, collectively bear the longevity and investment risk, which means that pensions in payment can go down as well as up.

Under the current legislation, CDC schemes must be for single or connected employers only (preventing commercial schemes from being set up). They must also be authorised by TPR and satisfy various design and operational requirements.

CDC schemes for unconnected employers: For many people, DC does not provide nearly the level of income that the DB schemes of yesterday would have done. New pensions models could address some of the shortfall, and in October 2024, the Government [launched a consultation](#) on draft regulations to allow unconnected employer CDC schemes.

It has now [responded to that consultation](#) and issued [draft regulations](#) to allow such schemes to be established, which are intended to come into force at the end of July 2026. This will allow commercial providers to set up CDC schemes. For more details on what the new regime will look like, have a look at our [Pensions Briefing](#).

CDC as a decumulation option: The [Pension Schemes Bill](#) contains provisions which will require trustees to offer DC members a default retirement solution, providing a pension income in retirement. This default can be provided via another scheme if it is not reasonably practicable to do so in the original scheme and using another scheme would provide a better outcome for members. The Government says that allowing members to transfer to a CDC scheme on retirement could be an option and that some providers have expressed an interest in offering this.

A [new consultation paper](#) looks at how this type of “retirement CDC” arrangement could work. Crucially, this new option will be available for trustees to offer to members but will not be accessible directly by members. The key elements of the Government’s proposals are again set out in our [Pensions Briefing](#).

Consultation closes on 4 December 2025.

Practical points:

- *Sponsors may wish to consider the possibility of using CDC in the future.*
- *DC trustees should be aware of the future potential of CDC as a decumulation option for members and watch out for developments.*

PENSION OMBUDSMAN ON STATUTORY TRANSFER REQUIREMENTS

A recent Ombudsman determination sheds some light on the requirement for a transfer credit in an occupational pension scheme to be used to provide “rights allowed to an earner”.

Background: Legislation requires a statutory transfer to an occupational pension scheme to be used to provide “transfer credits”, defined as “rights allowed to an earner” under the rules of an occupational pension scheme. Since the High Court decision in *Hughes v Royal London* in 2016, this has generally been interpreted as meaning that a transferring member must have earnings from some source (but not necessarily from a participating employer).

Determination: In a recent determination a member’s benefits were transferred to a liberation scheme and she argued, amongst other things, that she did not have any “earnings” and therefore the conditions for a statutory transfer had not been met.

The Deputy Ombudsman (DPO) said that the parties in *Hughes* had agreed that the legislation required a member to have earnings. The judge raised the question of whether the reference to “rights allowed to an earner” actually referred to the character of the rights that the receiving scheme had to provide, but in the event neither party wished to pursue this argument. The DPO has now said that this interpretation of the statutory wording is correct. What the legislation requires is that the rights to be provided under the receiving scheme are rights of a type which could be provided to earners - in other words, not some unusual alternative, such as a short-term pension.

She was able to reach this conclusion despite the earlier court decision as she said: “Where a legal proposition is assumed to be correct in a judgment, but was not the subject of argument or consideration, it is not binding as authority for that legal point, even if it is an implicit part of the decision’s reasoning”.

The DPO also concluded that there was no general duty on trustees to protect members from, or to advise or warn them about, potential fraud or scams.

Conclusions: This determination represents a departure from the Ombudsman’s previous stance but represents a sensible reading of the legislation and will no doubt be welcome to trustees and administrators where past transfer due diligence failed to pick up whether a member was receiving any form of earnings from employment prior to making a transfer.

It is worth noting that, following the introduction of new transfer conditions in 2021, trustees will need to ask members transferring to any occupational pension scheme (other than an authorised master trust or public sector scheme) to provide evidence of an employment link with the receiving scheme. Failing to supply the required information may mean either that the transfer cannot be made or that the member needs to take appropriate guidance first.

Practical points:

- Bear in mind if there are any member complaints about historic transfers.
- Ensure current transfer due diligence reflects statutory requirements.

TRUSTEE DECISION TO TERMINATE BUY-IN AND DISTRIBUTE SURPLUS

An interesting 2024 case on a decision to unravel a buy-in agreement has recently been reported. The courts took a pragmatic decision in relation to a compromise agreement allowing for a reduced termination payment and the employer agreeing to trigger a wind-up of the scheme.

The case concerned the Coca-Cola Pension and Assurance Scheme. The trustee had used the majority of the assets to purchase a buy-in policy with AXA, although £46 million remained in the scheme. The liabilities were reinsured with a captive reinsurer within the Coca-Cola group. The buy-in policy allowed for the arrangements to be terminated and a termination payment (which triggered a correlating payment from the reinsurer). The triggers for termination included the wind-up of the scheme but the trustee had no power to trigger a wind-up in the circumstances.

In 2024, it was estimated that the termination payment would be £232 million, whereas the cost of buying out the liabilities would be £150-£160 million. This meant that termination would generate a surplus within the scheme. However, the principal employer would not agree to trigger a wind-up unless the termination payment due under the reinsurance arrangement was reduced.

A compromise was proposed under which the trustee agreed to vary the termination payment to match the cost of a new, replacement 'buy-in' policy covering the same liabilities and the principal employer would give notice to terminate the scheme. This would allow the trustee to wind the scheme up and it proposed to use the remaining assets to augment benefits equally for all beneficiaries by up to 27%. The trustee sought the consent of the court to the variation and augmentations.

In a pragmatic decision, the court held that the decision to agree to the proposed compromise and augment benefits equally was one which a reasonable trustee, taking into account all relevant factors, could properly have arrived at. The compromise allowed the trustee to augment benefits now rather than relying on the possibility there might be a greater surplus in the future, especially as the employer was under no obligation to ever trigger a wind-up and could simply allow the scheme to run on until the last beneficiary had died.

Practical points:

- *Consider whether buy-out is an appropriate long-term objective for scheme.*
- *If entering to a buy-in contract, be aware of termination provisions.*

TAXATION OF LUMP SUMS RETURNED TO SCHEME

As large numbers of people are being reported as wanting to access pension benefits and take tax free cash in advance of the November budget, HMRC have issued a newsletter on the tax treatment of lump sums and how they work with cancellation rights, should people regret their choices after the budget.

In December 2024, HMRC [Newsletter 165](#) confirmed that where members take pension commencement lump sums or uncrystallised lump sums because of speculation about tax changes, the payment cannot normally be undone or the member's lump sum allowance restored to the level it would have been if they had not taken the lump sum. [HMRC Newsletter 173](#) follows on from this and sets out the interactions between the tax position and cancellation rights under certain financial services contracts, including pension transfer contracts and contracts to join a personal pension scheme. The FCA has issued a [parallel statement](#) setting out more detail around cancellation under FCA rules.

HMRC confirms that if an action has resulted in a tax consequence, and an attempt is made to reverse it, normally the resulting tax consequences cannot be reversed. However, the tax consequences can (exceptionally) be unwound where a transaction falls within FCA rules that require cancellation rights to be provided (for example, the cancellation within 30 days of a contract to take drawdown income or transfer a pension). This ability to reverse the tax treatment is limited to those contracts that are expressly referred to in the [relevant FCA rules](#).

Contracts allowing a person to take a pension commencement lump sum or uncrystallised funds pension lump sum do not carry cancellation rights under the FCA rules. Once the lump sums are paid, the associated tax consequences (including any use of the member's available lump sum allowance and lump sum and death benefit allowance) cannot be undone, even if the payment is returned or cancellation rights are exercised.

A registered scheme can choose to offer cancellation rights for the lump sum elements of cancellable contracts (such as the purchase of an annuity). However, if it does, it is essential that it ensures that customers understand that the tax consequences of payment of a lump sum will not be reversed, even if the payment is subsequently returned or cancelled.

Practical points:

- Trustees should be aware of HMRC's position if a member wants to unravel a lump sum that has been paid.
- Trustees can provide members with information but should ensure that they do not give tax advice.

PENSIONS REGULATOR ANALYSIS OF MARKET

The Pensions Regulator has recently issued a number of reports setting out trends in both the DB and DC markets and what schemes are currently doing in relation to various issues.

DB market: The [DB survey](#) was carried out in March and involved around 200 schemes. The key findings include:

- 93% of schemes have a long-term objective with 58% intending to buy out and only 6% aiming to run on and generate a surplus.
- Although only 1% had an objective of transferring to a commercial consolidator, 27% described consolidation as an attractive option.
- 34% of schemes indicated that their rules allowed the payment of an ongoing surplus to the employer. 8% of schemes with a surplus had released some in the previous year but none had released any to the employer. 53% said even if surplus release is made easier, their trustee boards would still have concerns.
- 95% of schemes had a cyber security incident response plan, although most relied on the plan of a third party such as the employer or their administrator.
- 60% of schemes had increased the amount spent on managing/improving data over the previous two years, and 46% expected this to increase in the next two years. Fewer schemes reported additional investment in administration technology or automation.
- 17% of schemes rated ESG as a high priority relative to their other responsibilities, whereas 36% described it as a low priority, although attitudes varied by scheme size.

In addition, TPR has also recently published its [analysis of DB funding](#) based on 18 schemes with valuation dates between 22 September 2022 and 21 September 2023. The main points TPR draws from its analysis are:

- 62% of schemes reported a surplus.
- The average assets to liabilities on a technical provisions basis was 104%.
- The average recovery plan length for schemes in deficit was 4.4 years.

DC market: TPR conducted a similar survey of 200 DC schemes in March 2025, the key findings from which include:

- 97% of DC members were in schemes that demonstrated all of the elements associated with assessing value for members. Larger schemes were more likely to be compliant than smaller ones and many smaller schemes (with assets of less than £100 million) were still not complying with all of the detailed value for members requirements.
- Just over a quarter of schemes offered decumulation benefit options to their members, although every surveyed master trust did this. Awareness of the proposed duty in the Pension Schemes Bill to provide default decumulation options varied widely, increasing by scheme size.
- While every master trust surveyed and most large and medium schemes provided support to members with retirement decisions, a significant minority of smaller schemes only provided statutory communications.
- Nearly one in ten schemes planned to transfer their members to a master trust.
- As with DB, a relatively small proportion of trustee boards treated ESG as a high priority in comparison to other responsibilities, and around two-fifths saw their fiduciary duty as a barrier to investing in a net zero economy.
- Smaller schemes with a professional trustee reported higher standards of governance and administration across many areas, compared to those with no professional trustee.

Practical points:

- *It is interesting to note that some DB schemes report caution around refunding surplus.*
- *The low priority of ESG may result in further action from TPR.*

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).	Final-form legislation is anticipated to be included in the next Finance Bill, to be issued following the 26 November Budget. IHT changes are anticipated from 6 April 2027.
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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