SLAUGHTER AND MAY

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Pensions Essentials

Newsletter

Quick links

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Two GMP consultations

The Government has recently issued two consultations in relation to GMPs. One proposes some changes to the conversion regime and the other looks at the rate of fixed rate revaluation.

Although GMP conversion was introduced in 2009, it was very little used in practice until the Lloyds decision on GMP equalisation in 2018. However, even then, technical issues around the conversion process and the tax implications have meant that it has never proved to be the panacea for resolving GMP-related issues that people hoped.

A consultation paper has been issued to try to address some of these issues. In particular it looks at:

- **Survivors' pensions:** Under the conversion conditions, after conversion, a surviving spouse or civil partner has to be entitled to a pension of at least half the member's pension for service between 1978 and 1997 (when GMPs could have accrued). However, under GMP legislation, the spouse's entitlement is only to 50% of the member's GMP (for different periods of service for widows, widowers and civil partners). It had been queried whether this was correct as it means that a spouse or civil partner would potentially receive a greater pension post-conversion. The draft regulations confirm that this interpretation is correct.
- **Consent:** Legislation requires employers to consent to conversion. Employer is defined as the employer of an "earner employed under a contract of service". However, where a scheme has had a lengthy history and many historic employers, there has been some uncertainty over exactly whose consent is required. Amendments will provide that consent is only required from the current statutory employers for the purposes of the funding regime. Where a scheme has multiple employers, they can nominate one to act on their behalf for the purposes of the consent requirements.
- **Individual conversion and certification:** Currently the scheme actuary must certify that the calculations to convert the GMP into other benefits have been completed, and that the post-conversion benefits are at least actuarially equivalent to the pre-conversion GMP. The certificate must be sent to the trustees within three months of the conversion calculation. This process can be cumbersome where conversion is carried out on an individual basis and as a result it is proposed that the actuary would be able to certify the process rather than individual outcomes. This would need to be done annually.

These changes, coupled with the draft legislation we reported on in June aimed at addressing the loss of the deferred member carve out on conversion, may result in an increased take up of conversion, but as most schemes are now well on the way to completing GMP equalisation using other methods, it may be too little, too late.

The Government is also consulting on maintaining fixed rate revaluation on GMPs at 3.25% for members who leave pensionable service between 6 April 2027 and 5 April 2032.

Practical points:

- Note the proposals on conversion and consider whether they might mean conversion is an option.
- Note proposed retention of fixed rate revaluation rates.

Consultation on small pot consolidation

The Pension Schemes Act 2026 will require consolidation of small DC pots from 2030. The Government is consulting on the mechanics of achieving this.

The Pension Schemes Act 2026 contains provisions to require DC pots in auto-enrolment funds which are valued at £1,000 or less and have been dormant for 12 months, to be automatically transferred into a consolidator scheme.

The Government has issued a consultation paper setting out proposed details in relation to the new regime:

Eligible pots: Some pots will be out of scope, including those created prior to the introduction of auto-enrolment, those where a member has made an active investment choice and pots in a scheme set up to meet specific values. Schemes that are winding-up or with 100 members or fewer will also be out of scope.

There will be cases where a small dormant pot meets the eligibility criteria but has an associated guarantee, contractual entitlement or other protection (such as a protected pension age) that would be lost on transfer to a consolidator. It is proposed that trustees will have to consider whether consolidation in these circumstances would be in the member's interests.

Individuals will have the right to opt into consolidation where trustees have decided that they should not be transferred because of a guarantee or protection.

Choice: Communication will form an important part of the regime, ensuring that members understand what is happening and have a chance to make informed choices. It is anticipated that there will be two "core touchpoints":

- A pre-consolidation notice: This covers eligibility, the process and timescales, details of any guarantees, how to opt out and when, details of the proposed consolidator and where to get more information. Members should be clear both about any choices they have and that they do not have to take any action.

  Where a member already has a pot with a consolidator, this should be made clear and views are invited as to whether such a member needs to be presented with the full range of consolidator options.

  Where members seek to make a choice between consolidator schemes, the information provided needs to be sufficient to enable a meaningful decision. The Government invites views of what level of information might be appropriate.

- A post-consolidation notice: This is from the receiving scheme and confirms completion of the transfer as well as setting out key details of the scheme.

Members will need to be given at least 30 days' notice of an intention to transfer their benefits.

Consolidators: To ensure members are protected, consolidators will need to be authorised and will be subject to ongoing regulatory oversight.

It is proposed that a consolidator scheme will also need to:

- accept any eligible pot identified for consolidation irrespective of whether the scheme is chosen by the member or allocated to them;
- be a qualifying scheme for automatic enrolment and either be a master trust or FCA regulated;
- preserve protected pension ages. Normal minimum pension age will rise from 55 to 57 in 2028 and previously rose from 50 to 55. A right to retire at an earlier age could be retained at each change point where various conditions were met. Legislation permits these rights to be retained on a transfer but receiving schemes do not have to allow it. Consolidator schemes will need to do so;
- offer a single consolidator arrangement;
- comply with the main scale default fund requirements or be on a transition pathway to meet them (with the risk that the consolidator might not meet the requirements in the future);
- provide value for money and be rated as green or light green under the new value for money framework.

Views are invited on whether there should also be requirements on charging and offering a Sharia-compliant fund and whether consolidators should have to consolidate all of a member's pots into a single pot.

Data: Schemes will need to identify eligible pots, determine which consolidator should be used and where a member might have an existing pot.

It is envisaged that transferring schemes and consolidators will communicate directly rather than through a central body. However, there will be central oversight of the communications and data standards. The allocation of a consolidator where a member does not already have a pot with one will also be done centrally.

Employer duties: To support the new framework, employers will be required to request personal email addresses from employees and provide them to pension schemes where employees supply them or notify the scheme that one has not been provided. Employers will also need to update key member details periodically, including name, date of birth, address and email address.

This regime is intended to come online in 2030.

Practical points:

- Commercial schemes should be considering whether they want to act as a consolidator.
- Other DC schemes need to monitor developments.

Update from HMRC

HMRC is seeking views on transitional regulations for the rise in normal minimum pension age in 2028. It has also published more information on how the IHT reforms will work from 2027 and its recent newsletter looks at the disposal of non-standard assets by schemes.

Normal minimum pension age consultation: Normal minimum pension age (**NMPA**) is the earliest age at which pension can normally be paid. Payment of benefits before NMPA will be an unauthorised payment and attract additional tax charges.

When the current tax regime was introduced in 2006, NMPA was 50. This was increased to 55 in 2010. Protections were provided for members who had an unconditional right under scheme rules to retire at an earlier age. NMPA is due to rise again – to age 57 in April 2028. There will be similar transitional protections.

For members who do not have a protected pension age and whose NMPA will rise, there are questions as to what will happen where they are over age 55 but under age 57 when the change comes into force and whether benefits already in payment to them will remain authorised.

HMRC provided some details about the proposed treatment of these members earlier this year and draft Regulations have now been issued for consultation.

The draft regulations confirm that where a member under age 57 became entitled to a lump sum or pension before 6 April 2028, the benefit will be an authorised payment even if payment is made on or after 6 April 2028. However, where an entitlement had not arisen before 6 April 2028, payments to members under age 57 who do not have a protected pension age will generally be unauthorised.

Entitlement for these purposes means the point at which a member has an actual right to receive the relevant benefit without having to fulfil any further conditions or take any further actions.

Schemes need to consider how they are going to communicate this to members to ensure that they are aware of the change and can make informed decisions about when they want to access their benefits.

Technical note on IHT reforms: HMRC has published a second technical note on the IHT reforms due to come into force on 6 April 2027 which will impose IHT on unused DC funds and some death benefits.

The fact that HMRC is on its second technical note (with more to come) gives some indication as to the complexity of these proposals and the care that administrators and schemes will need to take when implementing them.

The note deals with the information sharing requirements (which are fairly extensive) and identifies five stages at which personal representatives (**PRs**) and schemes will need to share information:

- Notification of death and request for basic information: basic information should be asked for by the PR and includes the value of in-scope benefits. The scheme has to provide this information within 28 days and HMRC's note sets out the information required.
- Further information: this is requested by a PR when they are required to file an IHT account and includes the share of in-scope benefits attributable to each beneficiary. There is no deadline for requesting this information, but there are deadlines to provide it. The note explains what schemes need to do.
- Withholding notice: a PR can instruct the scheme to withhold up to 50% of in-scope benefits. The scheme will need to consider if a withholding notice is valid and notify the PR within tight deadlines if it is not. HMRC's note attaches a draft template withholding notice, which includes guidance notes.
- Payment notice: where the PR and/or beneficiaries want to instruct the scheme to pay some or all of the IHT relating to scheme benefits, they will need to provide a valid payment notice. Again, HMRC has attached a draft template with guidance notes.
- Payment of tax-free lump sum death benefits: schemes must provide information about benefits that use up the member's lump sum and death benefit allowance to allow the PR to determine if it has been exceeded. HMRC will provide guidance on this.

A scheme will need to be satisfied that an individual claiming to be a PR has authority to act as such. HMRC's note attaches a draft of proposed guidance on this area.

Disposal of non-standard assets: HMRC deals with the disposal of non-standard assets by registered pension schemes in its latest newsletter.

If a scheme sells an asset (for example an illiquid asset on wind-up) for less than it is worth to a member, sponsoring employer or connected person, the amount of the undervalue is an unauthorised payment. However, where an asset is genuinely worthless then its disposal is unlikely to attract unauthorised payment charges.

An asset may be transferred from one scheme to another if the conditions for a recognised transfer are met. If the scheme rules allow, a partial transfer including assets is possible. However, a partial transfer of a pension already in payment will be an unauthorised payment.

Practical points:

- Consider how to communicate the change in NMPA.
- Ensure administrators are on top of the IHT requirements.

Update from the Pensions Regulator

The Pensions Regulator has published an investment report, as well as its new approach to enforcement, a summary of the latest tranche of DB valuations, and guidance for CDC schemes and on the VFM proposals.

Oversight report on investment: TPR has issued a report setting out the outcome of investment research, which shows that "pension schemes want to invest in private market assets, but are facing barriers including capability and knowledge gaps, fees and a lack of suitable investment opportunities".

Findings from the report include:

- Where DB schemes invest in private markets it is typically in private credit, infrastructure and real estate and there is limited appetite to invest further.
- Most large DC schemes and master trusts are invested in or intending to invest in private markets.
- Vehicles such as long-term asset funds (LTAFs) are creating routes into private market investment.
- Barriers to investment include policy and regulatory uncertainty, capability and knowledge gaps, opaque fee structures, limited transparency, restrictive market structures and limited availability of opportunities.

TPR suggests actions that trustees should consider to support investment in private markets:

- Future development: DC trustees should consider how their scheme might develop over five to 10 years.
- Knowledge and understanding: Trustees should review their experience in relation to private market investments and look to identify and close any gaps.
- Bandwidth: Trustees should address whether they have sufficient time and opportunity to consider private market investments and how investment delegations might need to develop in the future.
- Risk management controls: Investing in private markets can introduce new risks and trustees should develop an appropriate set of investment risk and investment governance controls.
- Adviser support: Trustees should review the resources and capabilities of investment advisers and providers, to ensure they have the necessary skills to support a private markets programme. They should also review the objectives set for investment managers.

TPR intends to engage with trustees on their investment strategy and governance capabilities, and to support industry initiatives that help remove barriers and improve access to suitable investment opportunities.

It will be interesting to see how all of this feeds into the Government guidance on investment we are expecting later this year and how much of a push that guidance contains towards investing in private markets.

Enforcement approach: TPR has published details of its new enforcement approach. It says it "introduces a more focused, agile and outcomes-driven model, aligned with... statutory objectives... corporate priorities and... [a] shift towards a more prudential style of regulation." It is not east to pin down what this means in practice, but TPR says it has five objectives:

- Targeted enforcement that tackles key risks: TPR will target enforcement where the risk to members is greatest and it can deliver the most impact.
- Impactful enforcement through assertiveness, agility and collaboration: Internal TPR teams will collaborate to identify risks early, consider enforcement options, set clear expectations, and shape responses.
- Decisive action, addressing non-compliance, regulatory breaches and economic crime: TPR will act decisively in cases of serious harm that pose high risks to members or undermine trust in the pensions system. If serious economic crime is suspected, it will act quickly with law enforcement partners.
- Enhanced transparency, influencing behaviour and standards: Enforcement outcomes will be published to highlight risks, clarify expectations, and drive improved compliance and behaviours.
- Data-driven enforcement: TPR will use data to detect trends and focus its efforts with greater precision. It will also automate and streamline key processes.

The new approach confirms that TPR is a risk-based regulator, but it will be interesting to see if this leads to any discernible changes in practice.

DB scheme funding: TPR has issued its analysis of schemes with valuation dates between September 2023 and 2024. 67% of schemes in this tranche reported a surplus on a technical provisions basis, whereas only 39% had a surplus at their last valuation. The average length of recovery plan fell from 5.7 years to 4 years.

CDC guidance: TPR has issued an updated code of practice for CDC schemes to cover schemes for non-associated employers – which includes commercial CDC schemes. The code sets out the process and requirements for authorisation and ongoing supervision. There are also various sets of guidance expanding on areas of the code and covering ongoing operational requirements.

VFM: TPR has published a value for money overview to help trustees understand the latest proposals for the VFM framework (see July Pensions Essentials). It also includes information on the expected requirements for in-scope DC arrangements from 2028, particularly on data disclosure and assessing information on investment performance, costs and charges, and quality of service.

Practical points:

- Trustees should consider whether private market investments should be included in their strategy.
- Be aware of more targeted enforcement approach.

Update from the Pensions Ombudsman

There have been several interesting Ombudsman determinations recently, including one on early retirement rights and TUPE and one on recovering overpayments.

TUPE and early retirement: S was a public sector employee with a right to retire unreduced from 55. She was TUPE-transferred to G4S in 2011 and then back to her original employer in 2019. She rejoined the Scheme in 2019 where she had deferred benefits from 2011. She applied for unreduced early retirement at 55 but was told she was not eligible for this in her new section. S complained.

The Ombudsman determined that under the public sector Fair Deal terms, S should have been readmitted to her original section of the Scheme. However, Fair Deal was only a policy, not legislation, and the Ombudsman could not give any directions in relation to compliance with it.

He went on to consider what rights had transferred under TUPE. Although old age benefits are exempt from the transfer of rights under TUPE, this only applies to rights at the end of an employee's normal working life. The right to take benefits unreduced at 55 was not an old age benefit and therefore transferred to G4S in 2011 and back to S's original employer in 2019.

However, the requirements of TUPE did not override the rules of the Scheme, which contained no mechanism for S to be paid an unreduced benefit at 55. This meant that her employer was directly liable to pay any shortfall in her benefits and the Ombudsman directed it to purchase an annuity and pay any additional lump sum due.

This determination illustrates the complex issues that can arise in relation to early retirement benefits on TUPE transfers. The Government issued a call for evidence on TUPE earlier this year and it is to be hoped they address the issues on early retirement benefits.

Recovery of overpayment: N was incorrectly paid a duplicate lump sum of £8,250 in 2016. She was later told that her pension had been underpaid and part of the overpayment would be recovered from the arrears due. N did not agree to this as she said she had made irrevocable financial decisions and complained.

The Ombudsman said that N should have realised one payment was made in error but the scheme could not recover a disputed overpayment by offsetting it against arrears without an "order of a competent court", which did not then include the Ombudsman. However, amended legislation now provides that an Ombudsman determination will suffice for these purposes.

This is a reminder that disputed overpayments cannot be offset against benefits until the dispute is resolved or there is a court order or Ombudsman determination.

Practical points:

- Consider early retirement benefits on TUPE transfers.
- Note restriction on recovering disputed overpayments.

Interpretation of pension increase provision

The High Court recently considered how to interpret an increase provision which referred to not increasing an employer's ordinary annual contributions.

In the recent Northumbrian Water v Northumbrian Water Pension Trustees case, the court had to consider the correct interpretation of pension increase provisions. The provision said pre-2008 benefits would increase by a guaranteed amount plus an additional amount if RPI was over 5% and, following consultation with the actuary, the trustee considered that it could be paid without an increase in the employer's ordinary annual contributions.

As RPI rose above 5% between 2021 and 2023, issues arose as to the interpretation of this provision, in particular whether the meaning of the employer's ordinary annual contributions included future increases which might be required at the next actuarial valuation.

The judge concluded that an increase in the employer's ordinary annual contributions encompassed both immediate increases and increases at the next valuation. It was appropriate for the trustee to consider the prospect of an increase in employer contributions by reference to all reasonably foreseeable future events including any impact on the security of benefits.

The court was also asked to consider what degree of confidence was required in relation to whether the employer could be required to pay additional contributions. It concluded that a realistic possibility no additional contributions would be required was not enough. Additional increases could only be provided where there was no material uncertainty whether additional contributions would be needed.

As the scheme was sectionalised (but the assets were not segregated), the question arose whether the trustee could consider all of the scheme's excess resources as available to provide increases for members of a single section. The judge said no, members of the relevant section should not be treated as solely entitled to any excess and potential increases payable in relation to other sections also needed to be considered by the trustee.

The case turned on the precise wording of the scheme rules, but the need to take into account the future when assessing the impact on employer contributions is of more general application, as is the degree of certainty required when the rules refer to whether something "can be" done.

Practical points:

- Consider need to look forward when rules contain a requirement for actuarial advice.
- Carefully consider any conditions required for increases.

Inquiry into auto-enrolment contributions

The Work and Pensions Committee has launched an inquiry examining how auto-enrolment contributions could be reformed.

A Work and Pensions Committee's inquiry is considering the adequacy of auto-enrolment contributions, particularly in the context of securing "a decent retirement income for low earners".

This follows the interim report of the Pensions Commission earlier this year, which concluded that auto-enrolment has been a major policy success, "but… there remain challenges in the depth and growth of people's private savings… [and] there is good reason to be concerned about the level of the legal floor for automatic enrolment contributions, which has become more of a norm than a minimum."

Currently, minimum auto-enrolment contribution levels are 8% of earnings split between employee (5%) and employer (3%), and only for those earning over £10,000.

The Committee is considering:

- To what extent AE contributions need to increase?
- How should any increase be shared between employers and workers?
- What are the trade-offs for employers and workers between current spending needs and long-term savings? How might policy design help balance them?
- An appropriate timetable for any increases?
- Is there a case for reducing or removing the lower earnings limit on contributions and/or the earnings trigger for auto-enrolment?
- To what extent are employers and the public persuaded of the need for contributions to increase?

The Committee observes that the Government currently has no plans to increase minimum contributions. Indeed, primary legislation which could have lowered the age for auto-enrolment eligibility and required contributions from the first pound earned has never been brought into force.

The Pensions Commission is due to publish its final report early next year and, the interim report suggested that it may focus on the need for individuals to work longer. It will therefore be interesting to see how much interest there is in what the Committee concludes.

Practical points:

- Watch out for the Pension Commission's final report.
- Be aware of issues in relation to pensions adequacy.

PASA guided retirement readiness guidance

PASA has published Guided Retirement Guidance, designed to help trustees, administrators and providers assess how ready they are to deliver the new guided retirement requirements.

By way of reminder, provisions in the Pension Schemes Act 2026 will require trustees to provide a default retirement option for DC members which provides a regular income in retirement. The default option will need to be designed with the needs of members in mind.

The Government's updated pensions roadmap says that the guided retirement requirements should come online for master trusts and personal pension schemes in 2029 and other DC schemes in 2030.

New guidance from PASA looks at the practical changes likely to be required to support guided retirement and payment of benefits under it.

The guidance suggests a number of key questions that schemes should consider to identify where operational change might be required, including:

- Is administration being thought about early enough? It should be embedded in default design discussions with roles and responsibilities clearly defined and the operating model understood and documented.
- Is the data there to support guided retirement? Data needs to support the proposed default approach, gaps in data should be understood and there should be a plan to improve it where required.
- Can the operating model support guided retirement at scale? Systems and processes need to be able to support default pensions at scale, including dealing with member consent, alternative choices and ongoing monitoring.
- Can the scheme pay retirement income reliably? The scheme should assess whether administration can support the proposed benefit payment structure.

There is also a detailed checklist of practical questions to address covering strategy, systems, data, governance, communication, risk and compliance, and planning.

Practical points:

- Note upcoming guided retirement requirements.
- Begin to consider how scheme might comply and what an appropriate default might look like.

Watch List

Topic	Details	Relevant dates
Collective defined contribution schemes	Regulations are now in force which permit CDC schemes for unconnected employers and pave the way for commercial providers to offer such schemes. TPR has issued an updated code of practice and guidance for schemes seeking authorisation. The Government has also consulted on the possibility of allowing trustees to select retirement-only CDC arrangements as a default retirement option for members.	Regulations on unconnected employer CDC came into force on 31 July 2026. Consultation on retirement CDC regulations expected later this year and likely to come into force in 2028.
Dashboards	Trustees of the majority of UK schemes with active and/or deferred members will need to ensure that their scheme is connected to the dashboard ecosystem by 31 October 2026. A detailed timetable is set out in DWP guidance.	Compulsory connection deadline of 31 October 2026 for most schemes. No go live date for members yet.
Default retirement options - DC	The Pension Schemes Act 2026 will require trustees to provide access to a default retirement solution for DC members either through their scheme or, where this is not possible or is not in members' interests, through a transfer to another arrangement. See above for use of CDC schemes as a solution for these purposes.	Consultation on draft regulations expected in 2027, to be finalised in 2028. Phased implementation from 2029.
Default funds – DC	The Pension Schemes Act 2026 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.	Regulations needed. Requirements in force in 2030 with transitional provisions to 2035.
Inheritance tax	Changes in the Finance Act 2026 will impose inheritance tax on inherited DC benefits and some death benefits. There will be numerous associated requirements on scheme administrators in relation to providing information, paying tax directly on request and withholding benefits.	Changes come into force from 6 April 2027. There are tight time limits for providing required information.
Investment	The Pension Schemes Act 2026 provides for regulations which can require multi-employer master trusts and GPPs used for auto-enrolment to invest a stated percentage of assets in prescribed investments. The Government has also said it will issue guidance for trustees on their fiduciary duties in an investment context.	The Government has said the power is a reserve one. It must be exercised between 2028 and 2032, and the regime will fall away in 2035. Draft guidance is due later this year.
Minimum pension age	The minimum age at which a pension can normally be paid and be an authorised payment is due to rise from 55 to 57. HMRC has issued guidance and draft regulations on transitional issues for members aged between 55 and 57 on implementation and when benefits can be paid to them before age 57.	The change will be effective from 6 April 2028.
Pensions Commission	The Commission is considering long-term questions in relation to pensions adequacy and retirement outcomes. It has reported that people are under-saving for retirement and will make recommendations next year.	Interim report issued May 2026. Final report due early 2027.
Salary sacrifice	The 2025 budget announced a cap on salary sacrifice arrangements for pension contributions of £2,000. Enabling legislation is set out in a new Act but regulations are required to bring the change into force.	Proposals due to be implemented on 6 April 2029.

Topic	Details	Relevant dates
Small pots consolidation – DC	The Pension Schemes Act 2026 provides for the consolidation of dormant DC pots of £1,000 or less. Consolidators are likely to be DC master trusts. The Government is consulting on the detail. Consultation closes on 17 November 2026.	Consolidators due to be selected in 2029 and consolidation to start in 2030.
Superfunds - DB	The Pension Schemes Act 2026 sets out a framework for the authorisation and supervision of superfunds and gateway conditions for transfers to them.	Regulations anticipated in 2027 and regime coming into force in 2028 alongside a new code of practice.
Surplus - DB	Provisions in the Pension Schemes Act 2026 will facilitate refunds of ongoing surplus for schemes with no or limited powers in scheme rules. The statutory conditions for doing so have also been changed. Draft regulations have been issued on the process and funding test as well as preliminary guidance from TPR. Detailed guidance is expected later this year.	Detailed guidance due in draft in late 2026. Legislation due in force in April 2027.
Value for money - DC	The Pension Schemes Act 2026 allows for regulations to set out a new value for money framework for occupational pension schemes providing DC benefits. A joint FCA/TPR consultation has set out the detail of the metrics that are likely to be required and draft regulations and FCA rules have been issued. Consultation has closed.	Regulations anticipated in early 2027. DC schemes to collect data between July and December 2027 and submit in March 2028. First assessments and published data in 2028 for commercial and large schemes.

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