

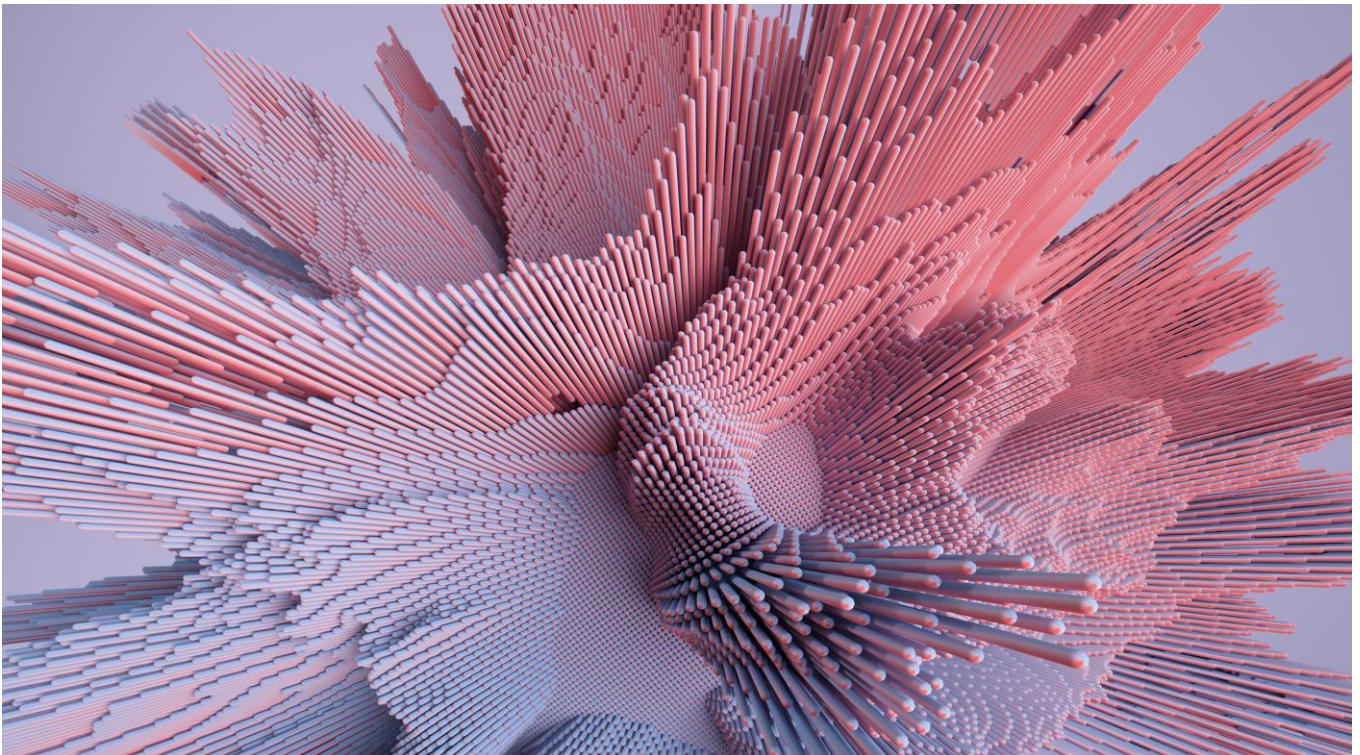
**STEPHENSON
HARWOOD**

PENSIONS SNAPSHOT

September 2025

IN THIS MONTH'S SNAPSHOT WE COVER...

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RETIREMENT: FROM GUESSWORK TO GUIDED PATHWAYS

The Pension Schemes Bill (the Bill) introduces a requirement for trustees of defined contribution schemes to offer guided retirement pathways to members. We set out an overview of the proposal below so you can start to prepare and be ready for when the legislation goes live.

The Stephenson Harwood pensions practice is unique - we regularly offer advice to individuals on retirement planning, including on tax planning and fitting pension planning into wider retirement plans. We work regularly and closely with independent financial advisers. We understand this side of pensions and we look forward to helping our trustee clients navigate these new and unfamiliar expectations.



WHAT IS GUIDED RETIREMENT?

Guided retirement is a new initiative, suggested by the Department for Work and Pensions, to offer members suitable retirement income solutions, that fit their particular needs.

Currently, members have a range of options including annuities, flexible income drawdown, partial cash withdrawals, or full lump sums. Trustees have historically been reluctant to include any detail in member communications around what options members may want to select for their retirement for fear of inadvertently giving regulated financial advice. As a result, many members make decisions about accessing their pension savings without receiving any financial advice.

Trustees will need to design and offer one or more 'default pension benefit solutions' taking into account members' needs and interests. For example, a proportion of a member's pot used to pay a pension commencement lump sum and provide flexi-access drawdown, with the remainder used to purchase a lifetime annuity.

WHY DO WE NEED THESE CHANGES?

The current system does not help pensions savers to understand how to plan for and structure their retirement. Most (4 in 5) DC savers are not making active choices about how to access their pension at retirement. Around half of those who do not make a choice take their entire pension pot as cash, which is unlikely to be optimal for long-term retirement income.

In oral evidence to Parliament, Ian Cornelius, the CEO of NEST, thought that "guided retirement solutions are overdue" as his members have "been opted into a retirement savings scheme, and they end up with a pot of money rather than an income".

This process of converting savings and investments into retirement income - known as decumulation, or "the decumulation phase" - is often carried out without regulated advice. Looking specifically at the younger population, almost half (45%) of 18-34-year-olds relied on social media for investment research. However, it's not just the young, only about 9% of consumers receive regulated financial advice with the rest turning to friends, family or social media, according to the Financial Conduct Authority's Financial Lives Survey in 2025.

RETIREMENT: FROM GUESSWORK TO GUIDED PATHWAYS

WHAT THE FUTURE COULD LOOK LIKE?

The legislation does not mandate particular guided retirement products, and we are waiting for regulations that will fill in the detail. We do know, however, that trustees will need to use member data, such as age and pot size, together with their likely needs, to design appropriate, sustainable default solutions. It is expected that trustees will have to gather information from the member regarding his or her other pension savings, so that the member's full circumstances can be taken into account.

Trustees will also have to ensure that their communications to members are clear and accessible in describing the default options that are available.

We are expecting that there will be some exemptions from these obligations, for example where designing a strategy for a given member is not practicable, or where the trustees identify an alternative, more suitable, arrangement to which the member's benefits could be transferred.

The Financial Conduct Authority (FCA) has proposed a new regime to complement guided retirement, known as "targeted support". It is hoped that this regime will support trustees and enable them to provide clear, detailed and well-designed default pension benefit solutions without fear of crossing the line into providing financial advice.

THE GAPS IN THE CURRENT PROPOSAL:

The need for improved data standards and understanding of scheme membership could pose a significant challenge. As the Bill progresses through Parliament, we look forward to seeing the development of this legislation and the implementation of secondary legislation.

Whilst there is broad support for these changes - expressed by various experts in their oral and written evidence to Parliament - as with any proposal for change, there are some concerns in the industry.

Helen Forrest Hall, Chief Strategy Officer at the Pensions Management Institute called for "piloting what good looks like in terms of both the guided retirement requirements and the FCA's proposal for targeted support" to give providers time to explore options and understand what is expected of them.

We note also that the timing is tight for implementation in 2027 given that we are yet to see even draft regulations.

WHAT TRUSTEES NEED TO DO?

Trustees will need robust member data to design suitable default retirement income solutions and to calibrate targeted support. Once we have the draft regulations and therefore more information on the requirements and expectations, trustees may want to start auditing data quality and coverage, considering how members can be segmented. Trustees will then be able to begin to define and document appropriate default options for each cohort. We will update you as soon as more information is published.

VIRGIN MEDIA: NEW LEGISLATION INCLUDED IN THE PENSION SCHEMES BILL

In September, the Public Bill Committee added amendments to the Pension Schemes Bill that are intended to help schemes affected by the implications of the Virgin Media Ltd v NTL Pension Trustees judgment.

The decision called into question historic amendments to contracted-out benefits made without actuarial confirmation that the amendments would not cause the scheme to stop meeting the reference scheme test (or where there is no evidence of such confirmation). The requirements were set out in section 37 of the Pension Schemes Act 1993, and consequently the confirmation is known as a "section 37 certificate".

THE PROPOSED AMENDMENTS:

As the Pension Schemes Bill passes through parliament the proposed provisions could change, but the following is based on the draft Bill on 18 September 2025.

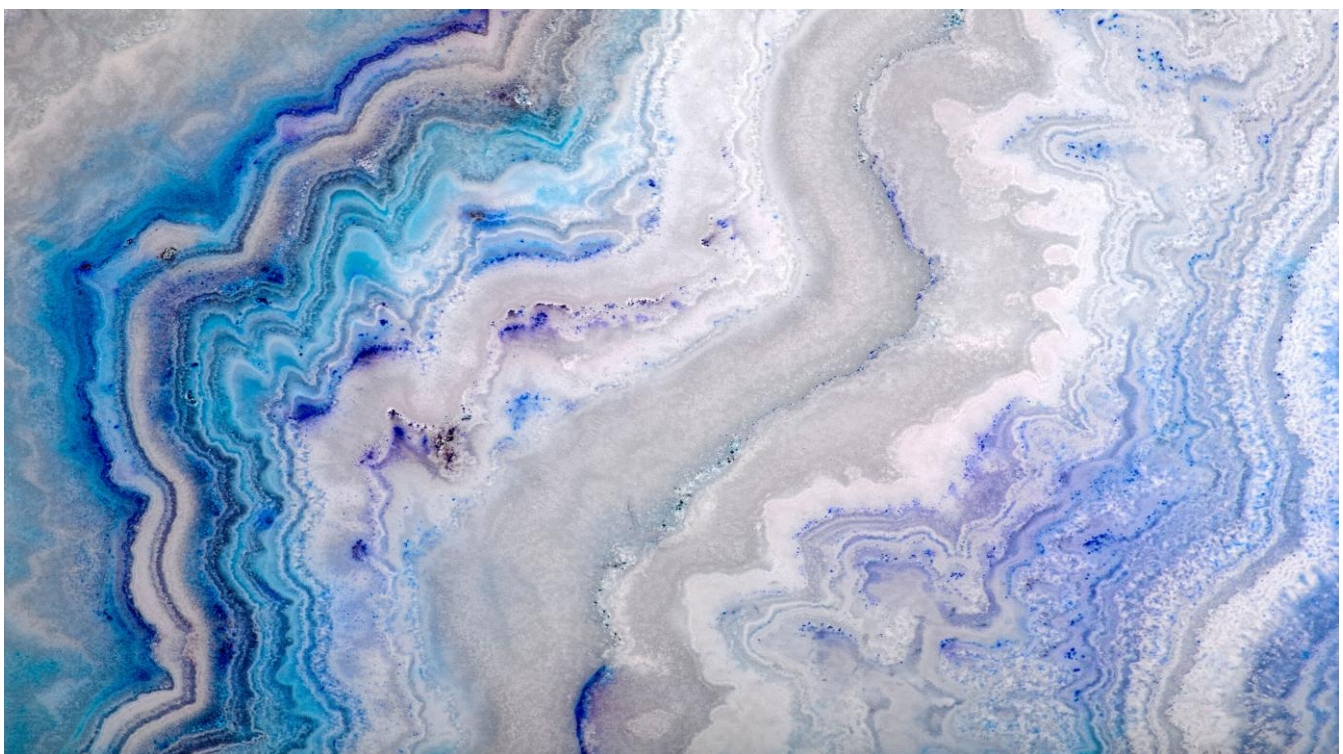
The amendments are split into two categories of schemes:

1. Subsisting schemes; and
2. "Other schemes", which are schemes that have wound up, transferred to the PPF, or are qualifying pension schemes under the Financial Assistance Scheme Regulations.

SUBSISTING SCHEMES:

For these schemes, in the absence of any evidence of a valid section 37 certificate or other confirmation from the time of the amendment, an amendment will be treated as having met the section 37 requirements if:

1. The trustees ask the scheme actuary to consider the amendment; and
2. The scheme actuary reasonably considers that the amendment would not have prevented the scheme from continuing to satisfy the statutory contracting-out requirements that were in effect at the time of the amendment. I.e. if the actuary considers that the necessary section 37 confirmation could have been given at the time.



VIRGIN MEDIA: NEW LEGISLATION INCLUDED IN THE PENSION SCHEMES BILL

OTHER SCHEMES

For these schemes, because it is not practicable to obtain the confirmation above, the proposed legislation will retrospectively deem the amendment to have met the requirements for obtaining a section 37 certificate.

WHAT ABOUT SCHEMES THAT HAVE ALREADY LITIGATED THE POINT?

Not all schemes can rely on this “legislative fix”. Schemes that have already begun legal proceedings questioning the validity of an amendment in relation to section 37, are excluded from benefiting from the proposed new legislation.

The draft legislation currently excludes schemes where the issue:

- + has been determined by a court before the provisions come into force;
- + was in legal proceedings before 5 June 2025 but has been settled; or
- + was in issue on or before 5 June 2025 and remains in issue when the provisions come into force.

This comes at a time when the Government is regularly being accused of stepping into the Court's remit, and therefore these exclusions are likely an attempt to respect the decisions of the Court. This is not to say that such schemes will necessarily find that their deeds are not valid, but that any solution they have will need to come from the Court rather than in reliance on the new legislation.



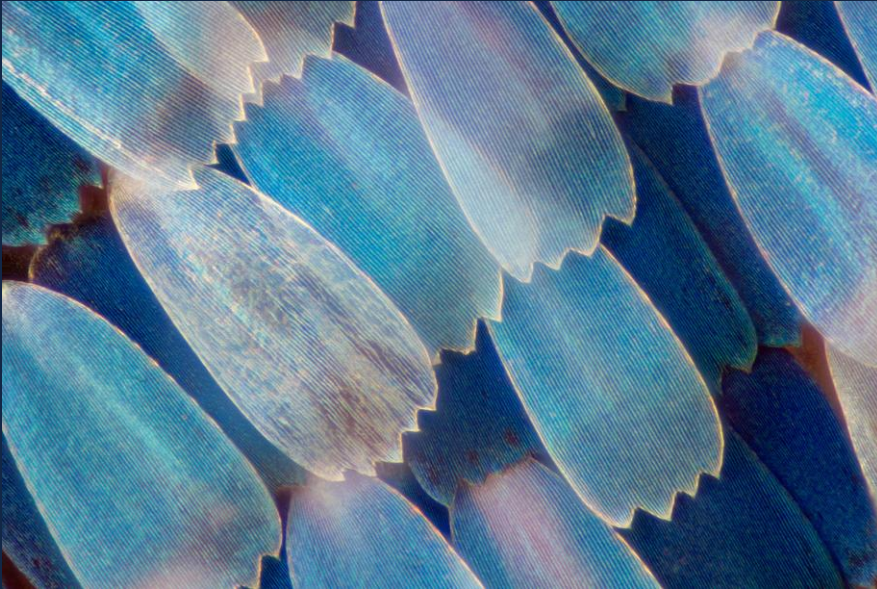
WHEN WILL WE KNOW MORE?

The Pension Schemes Bill has moved to the Report Stage, where additional amendments can be added and will be read for a third time in the Commons. No date has been set for the Report stage as yet.

INTERACTION WITH THE VERITY TRUSTEES CASE

If the proposed legislation in the Pension Schemes Bill comes into effect, trustees and actuaries will need to understand which amendments required a section 37 certificate. The Verity judgment is expected to provide commentary that will support trustees with determining when actuarial confirmation was required.

THE PENSIONS REGULATOR'S NEW ENFORCEMENT STRATEGY



The Pensions Regulator is seeking comments on its new enforcement strategy, published on 16 September 2025. On the same day, Executive Director of Regulatory Compliance, [Gaucho Rasmussen](#), published a blog explaining that the new strategy is aimed at, amongst other things, putting saver outcomes first, preventing harm and building confidence in the market. The new strategy is intended to focus on the biggest risks and acting earlier to prevent harm.

While much of the new strategy largely echoes the existing one it does extend the Regulator's focus into 'prevention' of 'potential' harms and 'building confidence'.

We will monitor the responses to the consultation, which closes on 11 November 2025.

The Pensions Regulator's blog: [Have your say on our new Enforcement Strategy | The Pensions Regulator Blog](#)

The consultation: [A new approach to enforcement consultation document](#)

HOW CLEAR ARE YOUR COMMUNICATIONS?

The last month has seen two Ombudsman cases that, whilst not setting out new law, serve as a reminder about the importance of clear and accurate communications.

"POORLY DRAFTED" COMMUNICATIONS

A recent case involved Mr and Mrs D, pensioners who said their only pleasure was going to garden centres for a meal. After 21 years of inadvertent overpayments, the trustees sought to recover a significant sum from the couple. While Mr and Mrs D accepted that their future pension payments should be corrected, they challenged the recovery of past overpayments, citing financial hardship and a lack of clear communication from the trustees.

The decision noted their position, including that "the scheme has been administered by various companies at different times. Those companies did not spot the overpayments; so they question why they should have been expected to."

The Trustees sent announcements to members in 2013 and 2019 about the overpayments, but neither explained that the money would or could be recovered. The Deputy Ombudsman found the 2013 announcement to be "poorly drafted and did not explain that overpayments were continuing to build up".

In April 2020, the Trustees wrote to Mr and Mrs D about their decision to reduce the benefits going forward and recoup overpaid pension from payments going forward.

However, the Deputy Ombudsman found that it would not be equitable for the Trustees to recover overpayments made before April 2020 as Mr and Mrs D had acted in good faith and had not been properly informed. The pensioners were also awarded compensation for distress.

LINKS TO THE CASES

- + [Mr D and Mrs D \(CAS-52136-P6D3 and CAS-52149-F8K1\)](#)
 - + [Mr R v South Wales Fire & Rescue Authority and Rhondda Cynon Taff County Borough Council](#)
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INCORRECT MEMBER STATEMENTS

In a separate decision regarding the Firefighters' Pension Scheme 1992, a member relied on incorrect benefit statements. The case was primarily related to temporary promotions within the fire service, but it also serves as a reminder that scheme managers/administrators owe a duty of care to provide accurate information, and members may recover loss where they reasonably rely on incorrect statements.

Applying the test in *Corsham and Others v Police and Crime Commissioner for Essex and Others* [2019] EWHC 1776 (Ch), the Pensions Ombudsman asked the following questions:

- + Did Mr R rely on the statements that his pensionable salary would be based on his temporary promotion pay?
- + Was that reliance reasonable?
- + Would Mr R have acted differently if he had been told the correct position?

On the evidence, the Ombudsman found that Mr R would have acted differently had he been correctly informed and, as such, he would not have suffered any financial loss. The Ombudsman ordered that the member be put in the position he would have been in had not been given the incorrect information together with £1,000 for serious distress and inconvenience.

These decisions highlight the importance of clear, accurate and timely communication with members.



FINALLY...

YOU CAN'T GAME HMRC

HMRC has confirmed in its most recent newsletter that tax-free lump sums are not cancellable contracts and so any associated tax consequences cannot be undone. Members who take tax-free cash in anticipation of the budget will not be able to rewind the transaction in the event that the speculated changes are not introduced.

Here is a link to the newsletter: [Newsletter 173 – September 2025 - GOV.UK](#)

PPF LEVY AMENDMENTS EXPECTED IN THE PENSION SCHEMES BILL:

The PPF has confirmed that there will be no levy payable this levy year, 2025/2026, as the PPF currently has sufficient assets to be able to cover potential liabilities for the year.

An amendment proposed by John Milne MP aimed at abolishing the PPF administration levy was withdrawn after the Minister for Pensions, Torsten Bell MP, confirmed that the government intends to lay amendments at a later stage "that will achieve the same aim" (at column 351).

This leaves the question about what will happen to the surplus. We will let you know as soon as we hear anything.

DATES FOR YOUR DIARY:

- + Autumn Budget 26 November
- + We are still waiting for the date of the Verity judgment.
- + As yet, no date has been set for the Report Stage of the Pension Schemes Bill.

We will let you know as soon as we hear more.



STEPHEN RICHARDS

Partner

+44 20 7809 2350
stephen.richards
@stephensonharwood.com



ESTELLA BOGRIA

Partner

+44 20 7809 2298
estella.bogria
@stephensonharwood.com



PHILIP GOODCHILD

Partner

+44 20 7809 2166
philip.goodchild
@stephensonharwood.com