Government response on DB Options

June 2025

What to do with a problem like a surplus?

The government's ongoing initiative to allow Trustees to release a surplus back to the employer without having to trigger a wind-up of the scheme has taken a further step forward with a response to their consultation on options for DB schemes.

The rationale, in brief, is that by allowing Trustees to release a surplus back to the employer sooner rather than later will reduce employer concerns around trapped surplus and make it more attractive for Trustees to take investment risk even when well-funded. This of course gives more potential for them to invest in productive assets and, in particular, UK based productive assets.

Employers, who may have paid millions into the scheme over many years, should also be more likely to support this decision if there is greater opportunity for them to realise any upside gain without having to wait until they wind-up the scheme. The changes mean they can invest this into their business, or into current staff benefits rather than it being tied up in what is often a legacy arrangement.

There are a few moving parts to the response, which we'll summarise in this note. All of this will require further legislation, but we understand that the basis of this will be covered in the forthcoming Pensions Bill, due imminently.

Key points

Surplus extraction

- Schemes will only need to be fully funded on a low dependency basis (not a full solvency basis) before a surplus can be returned.
- Any refund of surplus will only be done at the discretion of the Trustees (who need to act in members interests) and require the advice of an actuary. The finer details will follow - in legislation and guidance from the Pensions Regulator.
- The protections for members' interests that exist in legislation will be reviewed and clarified.
- The new legislation will allow all schemes to make a rule amendment to benefit from this, removing the current rules lottery whereby your Scheme rules may preclude the return of surplus in an ongoing scenario. Those with longer memories may recall previously having to pass resolutions to retain the right to make such payments from their scheme in 2011 and again in 2016.
- Returns of surplus will continue to be taxed at 25%. Calls to improve the tax treatment of surplus payments were rejected. There are no specific incentives mentioned to encourage surplus payments being repurposed for the benefit of defined contribution members.

Public Sector Consolidator

- Remains as something the government is considering. However, it will not be included in the upcoming Pensions Bill and the scope is evolving so that it will complement the existing market rather than risk disrupting it.
- The arrangement would be run by the Pension Protection Fund (PPF) and be a “run-on” model rather than target a transition to buy-out. It would therefore be a final destination for the scheme.
- No decisions on if/how the consolidator would be underwritten.
- The government has been reassured that most smaller schemes can be provided for in the current market and could transact with a buy-out insurer or superfund over time.

- The government has therefore focussed more on providing an exit route for cases where the scheme is underfunded with low likelihood of reaching full funding. Employers would remain liable for contributions while the scheme resides in the Consolidator vehicle, based on an agreed payment plan.
- Eligibility would only be for closed schemes.

Other areas

- For upside sharing with members – schemes wanting to pay one-off lump sums to members in conjunction with a distribution of surplus would require a new authorised payment. The government has not commented on this.
- The potential plan for a system whereby schemes can apply for 100% PPF coverage in return for a super levy has been rejected.

Broadstone comment

While the government was no doubt keen on the concept of surplus extraction for the ancillary benefits for their growth agenda, this is a balanced and considered consultation response. Historic barriers to surplus payments, such as the vagaries of the ways in which the governing documents have been drafted, are to be addressed. Such levelling of the playing field can only be a positive step.

Also positive is the recognition that such payments have to be in the interests of members. Confirming that Trustees will be in control of this process, with support and guidance from the Regulator, acknowledgement of their fiduciary duties and the need for actuarial advice, gives valuable safeguards to member benefits.

It will be interesting to see how much of the headline grabbing £160 billion potential surplus is actually released. We suspect most trustees would build in some margins to cover additional uncertainty or help bridge the remaining gap to buy-out rather than rushing to release this funding. However, some larger well-funded schemes with a strong sponsor and longer time horizons could find this a very sensible way to steadily release surplus funds. The potential implications and flexibility for investment strategy and scheme management would appear to be good news for members and employers alike.

The proposed Public Sector Consolidator remains on the table as something that could be created to support schemes and members who need an alternative solution, albeit perhaps still some way off. Again though, we are pleased that pragmatism and longer term market stability has won the day over a potential short term cash grab to support the productive finance agenda.

We will continue to monitor the progress through the finer detail and engage with government, the PPF and other relevant bodies to try and ensure that the right outcomes are reached for members, trustees and employers.

Find out more

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