Broadstone

PPF levy and Section 37 update

October 2025

Good news for DB pension schemes with pragmatic progress in two key areas

September (at least so far) has been a month of good news for trustees and sponsors of defined benefit (DB) schemes. Draft amendments to the Pension Schemes Bill provided the prospect of a pragmatic solution to the Section 37 issue and the Pension Protection Fund (PPF) has now announced that there will be no annual levy this year.

With many schemes finding it hard to fully evidence the historic process taken when contracted-out benefits were amended twenty plus years ago, a detailed amendment has been made to the Pension Schemes Bill in relation to section 37, offering a potential solution (for many schemes) to the uncertainty caused by the ruling in the Virgin Media case.

The draft amendment would allow schemes to ask their current Scheme Actuary to certify that a historic change to the scheme would not have prevented it from meeting the statutory standard. There are a few restrictions, and some amendments will be more challenging to try and certify than others, but this potentially provides a pragmatic solution that would allow many schemes to definitively close off this question.

Meanwhile, the welcome news that the PPF will not be charging its annual levy means that £45 million of funding will remain with sponsors - funds that would otherwise have further bolstered the PPF's sizeable surplus.

PPF levy news

Starting with the more recent announcement, on 23 September the PPF advised that they will be “charging a zero conventional PPF levy for this year”. Whilst the wording is slightly odd, it means that schemes will not face the annual demand for risk based and scheme based levies this Autumn.

This is hugely positive news, with the decision being made as a result of the progress made within the Pension Schemes Bill on this issue. In particular, legislative change was required to remove the previous restriction that would have prevented the PPF from reinstating levies at a later date if they were needed.

Section 37 developments

Recap

- The Virgin Media case highlighted that contracted-out schemes needed written confirmation from their actuary in relation to scheme amendments in order for them to be valid.
- Trustees of many former contracted-out defined benefit schemes, even where relatively confident that due process would have been followed, are unable to now locate these historic certifications for at least some of their amending deeds, leaving potential questions over their validity.
- In February 2025, the Verity Trustees case was heard, which raised a number of related queries. The ruling is expected this Autumn and could affect how many schemes view their current exposure.
- In June 2025, the government announced that it would introduce legislation to help resolve this issue by allowing schemes to obtain retrospective actuarial confirmation. Details were limited but earlier this month a draft amendment to the Pension Schemes Bill was submitted to achieve this.

Restrictions

Whilst appearing relatively pragmatic, to the relief of many across the industry, there are some restrictions. For example, the solution will only be available to a “potentially remediable action” as defined under the amendment.

Broadly, these are rule alterations that:

- required a section 37 confirmation for them to be valid;
- have always been treated by the trustees as valid. (This requires no 'positive action' taken on the basis of considering the amendment was or might be void e.g. no related notifications to members or amendments to benefits); and
- have not been subject to legal proceedings.

Once relevant and eligible deeds have been identified, the actuary can be asked (in writing, by the trustees) if the alteration would have prevented the scheme from continuing to satisfy the statutory standard for contracting out.

In many cases, this process may be relatively straightforward but there are complications. Legal input may be needed to identify the deeds for retrospective certification. And the salary definitions used in schemes relative to the statutory standard, for example, could complicate the actuarial signoff process. Many schemes may not have all the relevant historic member data to allow a definitive view, so a degree of actuarial judgment may well be required.

PPF / FAS / wound up schemes

The draft amendment also draws a clearer line under the position for schemes already in the PPF, Financial Assistance Scheme (FAS) or that are already wound-up. No further action would be needed for such cases as the legislation provides for it to be assumed any relevant amendments were always valid.

For potential future entrants, the PPF will be given the power to require trustees to make the request of their Scheme Actuary to investigate this.

Actuarial details to be confirmed

As the likely solution to this problem moves from a legal one to an actuarial one, it seems likely that professional guidance and support will be provided in helping actuaries to understand how to interpret the final legislation. The final wording of the amendment will be critical, but the hope is there will be more room for pragmatic judgment than may have been available to lawyers. More importantly, there should be a degree of finality in providing a statement that would definitively close off this subject, helping those trustees and sponsors who are looking towards buyout and wind-up.

Broadstone comment

The PPF news is hugely positive. There was significant industry push back to their original proposals, which would have seen them reintroduce levies for a number of schemes so that they could continue to collect £100m a year in levies despite their large funding surplus. The fall back to a £45m total consistent with previous years had been a start but, as the PPF had acknowledged, the true prize was always to get sensible legislative change to allow a zero bill. We are therefore delighted with this announcement and are sure that sponsors of DB schemes around the country will be similarly pleased with the news.

With regard to the section 37 issue, we must temper our enthusiasm slightly. It is important to remember that this is only a draft amendment to a draft bill, and it is likely to be well into next year before definitive action could be taken in accordance with final legislation. (There is provision within the amendment for pre-emptive action to be acceptable, assuming of course that the wording does not change.) We also expect a ruling in the next month or so in the related Verity trustees' case, which could also add a number of further nuances to the scope and nature of these discussions.

However, whilst the final details may be many months away, the clear direction of travel is undeniably positive.   As previously, the first step will be to identify relevant deeds, and we know many schemes have already done this. Those looking to go further can potentially now also discuss with the actuary whether or not certification would appear straightforward or is likely to require additional historic data. As always, if more information is going to be needed then the best time to look for missing data was yesterday and the second-best time is now – the chance of plugging any holes rarely improves as time goes on.

Perhaps most importantly, this announcement may well enable many trustees and sponsors who had felt compelled to place on hold their de-risking plans, to once again move forward with greater comfort and certainty.

Find out more

For more information on how Broadstone can help you, please contact your Broadstone consultant or use the details below.

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