

DB aspects of the Pension Schemes Act 2026

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Introduction

The Pension Schemes Act 2026 introduces a series of important changes for defined benefit (DB) pension schemes. While not as wide-ranging in scope as the DC reforms, these measures are nonetheless significant and will reshape how DB schemes are managed.

The Act builds on a backdrop where many DB schemes have moved into surplus as a result of higher interest rates and employer contributions. Government policy is now focused on how those surpluses can be used more flexibly, incentivising schemes to run-on while maintaining appropriate protections for members. The Act also provides some important solutions in respect of PPF levies and the Virgin Media case.

As with the DC provisions, much of the detail will be delivered through secondary legislation, supported by consultations set out in the Government's roadmap.

The key provisions

The main DB-related measures in the Act are:

- Surplus flexibilities – enabling trustees to access surplus funding in ongoing schemes in a more flexible way.
- Superfunds regime – establishing a permanent legislative framework for DB superfunds.
- PPF levy and framework changes – allowing greater flexibility in how the Pension Protection Fund (PPF) operates, reflecting its strong funding position.
- Virgin Media case – providing a pragmatic and proportionate solution for historic documentation issues.

Important information

This document is intended for professional clients, including pension scheme trustees and sponsors. It is provided for information purposes only and does not constitute investment, legal or regulatory advice.

Summary

Surplus flexibilities

A central plank of the DB reforms is the introduction of greater flexibility for schemes to use surplus funding. Historically, accessing surplus has been tightly constrained, with trustees generally only able to return surplus to an employer where the scheme was funded to a buy-out level and statutory conditions were met. In practice, this has meant that surplus has often been “locked” within schemes, even where there was a clear excess.

The Act introduces powers to relax this position, but any release of surplus will remain subject to detailed conditions, to be set out in secondary legislation and regulatory guidance. The requirements are likely to include:

- The scheme is fully funded on a prescribed prudent basis - potentially a low dependency or long-term funding basis.
- There is confidence in the employer covenant - Trustees must be satisfied that the sponsoring employer remains sufficiently strong to support the scheme.
- The scheme’s long-term funding and investment strategy remains robust - the release of surplus should not undermine the ability of the scheme to manage future risks, including market volatility and longevity.
- Member outcomes are not adversely affected - A core principle will be that any release of surplus must not threaten the security of members’ accrued benefits.

In practice, this is likely to mean that surplus extraction will only be possible where schemes are comfortably over-funded on a prudent basis and can demonstrate resilience to downside scenarios.

The detailed regulations are also expected to include safeguards such as use of actuarial certification, member consultation and regulatory oversight to supplement the protections from trustees’ fiduciary duties. Given the sensitivity of surplus extraction, it is likely that TPR will take a close interest in how these powers are used in practice.

Overall, the reforms signal a move towards active management of both deficits and surpluses, rather than purely focusing on elimination of shortfalls. This could encourage more investment in growth assets by providing clearer potential for rewarding upside risk. The detail will be critical though, and trustees will need to monitor developments closely as the regulatory framework evolves.

Superfunds

The Act also provides for a permanent statutory regime for DB superfunds, moving the current interim regulatory regime onto a formal footing. (Superfunds are consolidators that allow DB schemes that cannot fully buy-out to transfer into a larger, better-capitalised vehicle.)

The Act and accompanying policy direction suggest an “easing” of the current gateway tests, which limit the potential to access this market, although the detail will be set out in secondary legislation. The intention is to allow superfunds to play a broader role within the DB landscape as a mainstream consolidation and endgame option, rather than a niche solution.

In practice, the proposed easements are expected to include:

- A more flexible comparison with buy-out: The test may shift from demonstrating that buy-out is not achievable towards a more balanced assessment of whether a transfer to a superfund provides comparable or improved outcomes for members, taking into account timing, affordability and risk.
- Greater emphasis on covenant replacement: More direct focus on whether the superfund provides a stronger and more secure long-term funding and governance structure, effectively replacing the employer covenant with capital-backed security.
- Streamlined evidential requirements: The current gateway test requires significant evidence and justification, which can act as a practical barrier to transactions. Easements are likely to provide greater clarity and proportionality.

From a trustee perspective, the key implication is that superfunds may become a more realistic and accessible strategic option within the endgame toolkit. This may prompt a reassessment of long-term strategy, particularly for schemes where buy-out is uncertain or expected to take a prolonged period to achieve.

PPF compensation – key change for pre-97 benefits

The Act includes powers to update and simplify PPF compensation, enhancing the treatment of pre-97 pension increases.

Under the current framework these benefits are not required to be increased in payment but in future, provided the original scheme included some pre-97 pension increases, the PPF will pay future inflation increases of up to 2.5%.

The PPF has estimated that this could benefit more than a quarter of a million (256,000) PPF and FAS members. They will start writing out to members impacted by this change in the summer.

Virgin Media – resolving historic amendment issues

The Act introduces provisions to retrospectively address uncertainties around historic rule amendments caused by the ruling in the Virgin Media case.

In particular, it introduces a statutory mechanism to validate “potentially remediable alterations”. In essence, an amendment can be fixed where it:

- required actuarial confirmation at the time;
- was treated as valid by the trustees;
- has not been subject to any “positive action” (for example, trustees having adjusted benefits or notified members that the amendment is invalid); and
- has not already been considered through “qualifying legal proceedings”.

Where these conditions are met, Trustees should refer the relevant amendment(s) to the scheme actuary, and ask them to assess whether, had the amendment been validly made, the scheme would have continued to meet the contracting-out test. If the actuary confirms that it is “reasonable to conclude” that this would have been the case, the amendment is treated as having always been valid.

These provisions are already supported by a coordinated regulatory framework, allowing trustees to move forward promptly in resolving such issues.

- The FRC has issued guidance to actuaries, confirming they can take a proportionate approach (including use of indirect evidence where needed) when reaching their conclusion, reflecting the practical difficulty of reconstructing historic decisions.
- In parallel, TPR has provided guidance that sets out its expectations of trustees, including identifying affected amendments, obtaining appropriate advice, formally instructing the actuary and maintaining a clear audit trail of decisions.

For most schemes, this provides a clear route to confirm that historic changes can stand as originally implemented.

Broadstone Comment

While the DB measures in the Act are more targeted than the DC reforms, they still represent a significant shift in policy intent towards a more balanced and flexible approach, without jeopardising member benefits.

The PPF changes and solution to the Virgin Media problem are both timely and roundly welcomed across the industry, with clear benefits for all.

At the heart of the wider DB reforms is the same underlying objective seen in the DC agenda: to ensure that pension scheme assets are used more productively, both for members and for the wider economy.

There are clear potential benefits:

- Greater flexibility for trustees and sponsors to make use of surplus assets with reduced friction in the system where schemes are over-funded;
- Additional endgame options, particularly for schemes not targeting buy-out; and
- Potential to support wider economic growth through more efficient use of capital, longer time horizons and potential to benefit from upside investment performance.

However, a number of key details are yet to be formalised and as a result, the main policy changes are still some time away. Surplus flexibility is only expected to come into force by the end of 2027, and the full statutory superfund regime is not expected until 2028. The precise requirements of the regulatory frameworks will be critical, and we will monitor the various consultations very closely.

For many trustees and sponsors already on the path to buyout, it may not be worth waiting for the changes to be introduced and 'settle in'. For others though, this introduces a more strategic role for trustees as they balance member and sponsor interests. Should upside risk be pursued and used (including for surplus distribution and potential member enhancements)? Does it instead accelerate your path towards buyout? Or should you continue to lock down risk where possible?

Scheme specific circumstances will be crucial, including employer covenant, but trustees will need to evidence robust decision-making with the clear risk of being judged with the benefit of hindsight. Notwithstanding the limitations of the funding code, the changes clearly introduce the opportunity for more divergent strategies in an area that was otherwise becoming increasingly banal.

Overall, the DB reforms mark a meaningful evolution from a deficit-focused regime to one that must also manage surplus effectively. For trustees, the key challenge will be navigating this increased flexibility while maintaining robust governance and a clear focus on member outcomes.

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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