

**STEPHENSON
HARWOOD**

PENSIONS SNAPSHOT

October 2026

IN THIS MONTH'S SNAPSHOT WE COVER...

- + DC Guided Retirement latest
- + Small pots consultation
- + Private Market investment: Regulator's research
- + Court ruling on what's needed for a part-timer claim

DC GUIDED RETIREMENT LATEST

Schemes with DC benefits have a great deal of work to do on the Guided Retirement (**GR**) front. The design and communication aspects will present challenges, and affected schemes will have to grapple with ongoing implementation once the GR offering is established. The Pension Schemes Act 2026 (**PSA26**) introduces the GR requirement, but regulations setting out the details have yet to emerge. Trustees are therefore having to start their GR planning without full knowledge of exactly how all the parts of the puzzle will fit together.

FIRST QUESTIONS

PASA has published guidance on how trustees and scheme administrators can start preparing for GR, albeit while the policy framework is still being developed. The guidance includes a checklist of questions for trustees and administrators to ask about strategy, systems, data, governance, communication, risk and compliance, and delivery and planning.

DESIGNING GR

Trustee fiduciary duties require them to act in members' best interests. They also have to act in line with the scheme rules. Added to this, PSA26 requires trustees to take account of members' needs and interests when designing their GR offering*.

PSA26 also says that trustees must come up with a strategy which, among other things, will cover what the trustees must do in order to understand members' "*requirements*" with regard to GR. The same provision also says that regulations may require the trustees to publish, alongside the strategy, information or evidence on whether and how they have complied with the GR requirements.

In a recent speech**², the Pensions Regulator said that "*Housing, health, family circumstances and other sources of wealth can all influence which default pensions are likely to work best for different groups of members ... if members answer some key questions it will enable better outcomes*".

Trustees faced with the prospect of demonstrating that their GR offering is in members' best interests will need to walk a tricky tightrope. In practical terms, they will need to navigate a degree of meaningful engagement with members' needs and interests while maintaining a proportionate approach which facilitates compliance.

MEMBER COMMUNICATIONS

Member communications will need to be handled very carefully so as to avoid straying into regulated financial advice territory. PASA's guidance points out that administrators will probably need to develop additional training and escalation routes.

TIMING

GR will present a significant layer of additional work for schemes with DC benefits, despite the relaxed implementation deadlines (between July and September 2029 for Master Trusts and FCA regulated schemes, and between July and September 2030 for single employer trusts and schemes using Retirement-CDC default pensions).

For example, PASA has pointed out that many administration platforms are designed for accumulation, not ongoing retirement journeys, noting that administrators may need to use manual workarounds where those systems can't support the multiple options and processes involved in implementing GR.

The Pensions Regulator has confirmed in a recent speech***³ that it intends to consult jointly with the DWP (and FCA) this Autumn on developing a GR framework.

*s50(5) PSA26 says that regulations may set out how trustees are to assess the needs and interests of members (as a whole and any subset of members the trustees consider appropriate) – the GR "*default pension benefit solutions*" must take account of those needs and interests, as well as the members' circumstances, under s50(4).

** New era, new expectations – 1 October 2026

***Time to act (8 October 2026) – Nausicaa Delfas (Chief Executive)

SMALL POTS CONSULTATION

The DWP is consulting on small pots automatic consolidation, with a further consultation planned for late 2027/early 2028, to cover requirements for ceding schemes.

It is not surprising that the DWP views members with small, default, dormant pots as disengaged. There are a couple of areas, however, where the draft framework anticipates that those members may decide to act:

- + The automatic nature of small pots consolidation represents a belief that such an exercise would normally be in members' interests, unless the trustees think otherwise. On the other hand, the DWP suggests that a member may opt-into a consolidation transfer even if they will lose valuable protections and the trustees think that the pot shouldn't transfer.
- + Value for Money ratings (alongside other factors, such as the consolidators' approach to investment and charges) are to be made available to members so that they can compare consolidators, but the premise upon which consolidation is to be restricted to default arrangements is that the member is considered to lack engagement with the scheme they're in.

As well as the notices that ceding trustees and consolidators will need to provide, there will also be information duties imposed upon employers, some of which will involve changes to their auto enrolment duties (such as collecting member personal email addresses and updating key member records every 12 months). Employers will also have to tell trustees about members whose contributions have stopped because they're temporarily absent from work (for example, on parental leave) but they intend to return and start contributions again, so the pot won't be consolidated at that stage.

WHEN ARE SMALL POTS CAUGHT?

Default small pots resulting from auto enrolment (i.e., since 1 October 2012), which are worth £1,000 (or less) and have not received contributions for at least 12 months are caught by the new requirements (in future, small pots created before auto enrolment are likely to be in scope too).

The consultation lists exemptions to this, including pots with guarantees or protections which would be lost following the transfer, although trustees will be able to go ahead and consolidate those pots if, say, the pot is of very low value. Members would be able to opt-into the consolidation exercise, however, even if the trustees think the pot shouldn't be transferred.



SMALL POTS CONSULTATION

HOW WILL IT WORK?

The assumption is that where a member already has a pot in a consolidator that will be the default destination, unless the member chooses an alternative consolidator (or opts out). Ceding schemes will need to exchange information with consolidators, find out whether a match has been identified, work out which consolidator should receive the pot, and initiate the transfer. The DWP wants to establish a federated delivery model, underpinned by a central oversight body which will set standards and provide a digital interface.

For members who do not already have a consolidator pot, the DWP proposes that a centrally governed carousel allocation should apply, so that allocation rules are consistently applied and consolidators are treated fairly.

Consolidators must be either a Master Trust or an FCA regulated scheme. Master Trusts will be subject to additional criteria if they seek to operate as a consolidator and will be regulated by the Pensions Regulator. Consolidators will be subject to an improvement plan regulatory framework, and the consultation explores options for what might be done if the consolidator no longer meets the standards expected of it, or if it decides to leave the consolidator market. The consultation lists the kinds of requirements to which consolidators will be subject. These include: accepting any eligible pot, accommodating members' Protected Pension Ages, offering a single consolidator arrangement, meeting auto enrolment standards, and offering a single pot per member.

TIMING

The Government wants to launch small pots auto consolidation in 2030, with a phased approach to implementing ceding scheme duties. The Pension Schemes Act 2026 requires affected schemes to comply within one year from when this comes into force (or from when a pot first becomes small and dormant, if later). The DWP's approach to implementation and delivery timelines will be set out "*in due course*".



PRIVATE MARKET INVESTMENT: REGULATOR'S RESEARCH

The Pensions Regulator (TPR) has published a research paper on schemes' appetite for private market investment. The paper outlines steps which it thinks trustees could take, while acknowledging that there are several barriers to investing in this way. The paper places particular emphasis on UK investment opportunities.

The press release says that “TPR will use its regulatory approach to challenge trustees on their investment strategy and governance capabilities, through supervisory engagement”. It's not clear on what basis TPR would be able to challenge trustee investment strategy decision-making. TPR's paper does acknowledge, however, concerns expressed by trustees over the potential conflict between their duty to act in members' best interests and investing in UK assets which may present a lower return expectation than some alternatives. As a result, some schemes have not set hard targets for UK private market allocations within their private market investment mandates.

The Government's desire to encourage schemes to invest in UK assets has been a running feature, and is expressly referred to in Torsten Bell's press release statement “we want schemes to be able to back UK growth”. TPR's research paper appears to be inspired by the 2025 Mansion House Accord, which resulted in 17 large DC schemes agreeing to invest (by 2030) at least 10% of their default funds in private markets “and, within that, at least 5% of the total” invested in UK private markets. TPR expects DC schemes may move beyond these percentages as they gain scale and more experience of the asset class.

Most Master Trusts already invest in private market investments, but material allocation is less common. DB schemes don't have much appetite for these investments due to their healthy funding levels and the impact which this illiquid investment class would have on their endgame flexibility.

The research identifies barriers to investing in private market assets, pointing out that Government, regulators, and industry can improve the situation. The barriers relate to policy and regulatory uncertainty, capability and knowledge gaps, opaque fee structures, limited transparency, restrictive market structures, and limited availability of suitable investable opportunities.

TPR identifies actions which trustees could take, which include:

- + Considering how the scheme might develop over the next 5-10 years and the possible implications for its investment governance, investment management, monitoring, and risk management arrangements.
- + Improving trustee knowledge and understanding and trustee bandwidth. On bandwidth, the paper says trustees should consider “how other pension industry change might impact” that in the future – this may be an indirect reference to the DWP's consultation issued in December last year, aimed at raising trustee standards*.
- + Discussing with their advisers about setting up appropriate investment risk and governance controls for private market investments they expect to hold.
- + Reviewing the resources and capabilities of, and objectives for, their investment advisers/in-house investment service providers.
- + Challenging current/potential investment managers on disclosure, transparency, and performance reporting around these investments.

The push for greater levels of pension scheme participation in UK private market investment shows no sign of abating. A recent speech** by TPR touched on this again. Once Value for Money requirements are up and running, affected schemes will have to disclose their asset allocation, to help show what might be driving historic performance (rather than directly determining the scheme's VFM rating). Trustees' focus should remain on their fiduciary duties and acting in accordance with their scheme rules, with the benefit of appropriate support from their advisers.

* Trust-based pension schemes: Trustees and governance, building a stronger future

** Time to act (8 October 2026) - Nausicaa Delfas (Chief Executive)

COURT RULING ON WHAT'S NEEDED FOR A PART-TIMER CLAIM



Trustees dealing with any part-timer claims will need to take on board a recent Supreme Court decision. The court decided that the right to bring a direct discrimination claim under the part-timer regulations* arises when part-time status is an effective cause of, or has a significant or substantial influence on, the less favourable treatment. The part-timer's status does not have to constitute the sole or main cause of the less favourable treatment.

The employee was a part-time driver for a small cab company who paid the same fee as full-timers in order to access the employer's booking system. He argued that the impact of a higher access charge per hour of work, when compared with full-timers, constituted less favourable treatment.

The court considered the origins of the UK regulations* - in this case, a Directive and Framework Agreement** which said that part-timers should not be treated less favourably "*solely because*" they work part-time.

Under the UK regulations, however, part-timers only need to show that their treatment is "*on the ground that*" they work part-time. By the time the regulations were made, other direct discrimination case law had decided "*on the ground that*" meant the prohibited ground did not have to be the main or sole reason for the treatment.

The Supreme Court noted that the UK could adopt a more generous approach than that of the Directive by making its own legislation. In the end, that persuaded the court to reach its decision.

Augustine v Data Cars Limited – Supreme Court – Unanimous decision

* Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 SI 2000/1551 (reg 5)

**Directive 97/81/EC and Framework Agreement



DATES FOR YOUR DIARY



**2026 (NO SPECIFIC
DATES KNOWN YET)**

The Verity Judgement

LATE AUTUMN 2026

Surplus extraction guidance consultation expected from the Pensions Regulator

FIRST HALF OF 2027

VFM Code of Practice consultation expected from the Pensions Regulator

SPRING 2027

HMRC guidance on IHT and pensions change

FROM APRIL 2027

Surplus extraction legislation and guidance expected to be in force

BY 6 APRIL 2029

HMRC guidance on salary sacrifice changes



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