

**STEPHENSON  
HARWOOD**

# **PENSIONS SNAPSHOT**

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March 2026

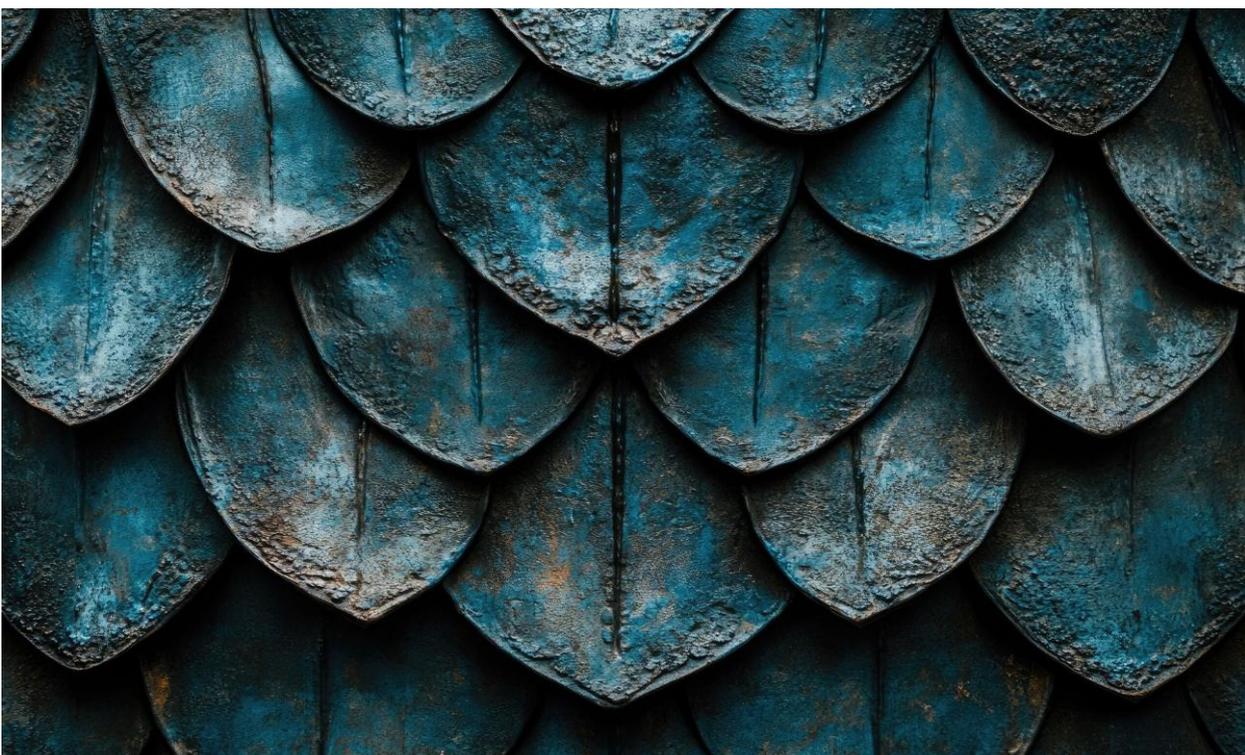
# THE VIRGIN MEDIA 'FIX' IN THE PENSION SCHEMES BILL: HOW TO MAKE THE PROCESS AS SMOOTH AS POSSIBLE

As most of you will be aware, the Virgin Media litigation unveiled an industry-wide issue. Historic amendments to contracted-out schemes were found to be void where there was no evidence of the required actuarial certificate. Given that all amendments across all contracted-out schemes were potentially affected, the Government proposed a legislative fix within the Pension Schemes Bill 2025/26 (the Bill).

The Bill – still in draft, albeit with no planned amendments to the relevant sections – allows Trustees to ask an actuary, in writing, to retrospectively certify past amendments.

Alterations are treated as valid when, in the actuary's reasonable opinion, they would not have prevented the pension scheme from continuing to satisfy the statutory standard. To assist actuaries, the Financial Reporting Council has published guidance, which will be updated once the Bill receives Royal Assent.

Whilst the guidance confirms that actuaries can take a pragmatic approach – certainty is not required, only that it is reasonable for them to reach their conclusion – we have set out below some information for trustees to be aware of, including what information to provide (and what not to provide).



## THE PROCESS

1. **Firstly, trustees can only request an actuarial confirmation for ‘Potentially Remediable Alterations’ (as defined in the Bill), which are broadly where:**
  - (i) a section 37 certificate would have been required at the time;
  - (ii) the amendment was treated as valid; and
  - (iii) neither the trustees nor the scheme took positive action on the basis that the amendment was void.

There are also various exclusions in the legislation, for example, for schemes that are in or have concluded litigation on the matter.

The guidance reminds actuaries that they should not be drawn into giving legal advice, and so where they have doubts as to whether or not the amendment constitutes a Potentially Remediable Alteration, they should suggest that the trustees seek independent legal advice.

2. **The actuary must understand the rule alteration:**

They should seek clarification from the trustees, or their legal advisers, if they are uncertain.

3. **The actuary should ask for sufficient information:**

There will be some cases where it is clear that no further information is needed about the details of the amendment. For example, where benefits did not decrease, or where benefits remained subject to a reference scheme underpin. However, other cases may need more information.

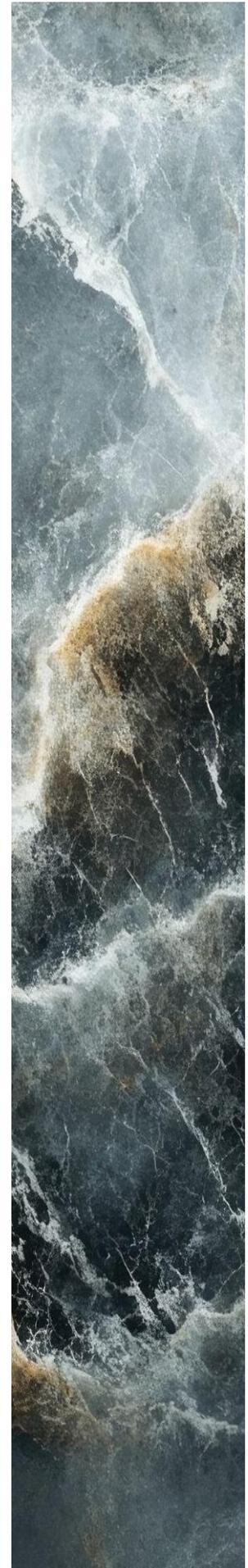
The guidance sets out the types of data to be provided to the actuary:

- + Legal advice, trustee minutes, or member communications that relate to the rule amendment;
- + Reference scheme test or contracting-out certificates, or any reports produced after the alteration that include details of the change (for example, valuations or annual reports);
- + Other contemporaneous documents that discuss the change.

It is for the trustees or managers to decide how much time and effort to spend on obtaining data and then for the actuary to confirm that information provided is sufficient.

4. **The actuary’s decision:**

The actuary must confirm that the scheme would have continued to meet the reference scheme test after the amendment. However, they need not be certain but instead must only “*reach a reasoned and justifiable conclusion taking into account all the relevant facts and circumstances identified after taking a proportionate approach to the gathering of data.*”



## RISKS FOR TRUSTEES

Before sharing legal advice, trustees should consider whether there is a risk of waiving privilege that exists over that advice.

As privilege can be lost where the recipient of that advice shares it with a third party, trustees should be wary before disclosing documents to the actuary. Whilst there are some exceptions, there will always be a danger of losing privilege where legal advisors are not involved in that sharing process and it is not clear that confidentiality is being maintained.

Trustees should consider whether it is strictly necessary for the advice to be shared with the actuary before doing so (which will of course depend on what the advice covers). It may be that the actuary can rely on other sources for the information.

The trustees should consider what protective steps could be taken, if sharing is necessary, such as sharing a limited summary of the advice (once again, handled carefully) or relying on a limited waiver of privilege, properly documented with the actuary before sharing takes place.

Note that the waiver of privilege rules are complex and so legal advice should be sought before sharing documents that contain advice.

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## NEWS IN BRIEF

- + The PPF confirmed a zero levy for 2026/27. Schemes must still submit an Annual Scheme Return submission in full via Exchange, including s179 valuations and asset backed contribution (ABC) information.
- + The PPF has published a factsheet [here](#) and confirmed that schemes do not need to provide:
  - Voluntary information that was previously submitted via Exchange solely to obtain a levy saving, including: deficit reduction contribution and contingent asset certifications.
  - Any data previously submitted directly to the PPF – such as ABC certificates, contingent asset documents, special category employer (SCE) applications and Exempt Transfer evidence.
- + The FCA published the final Targeted Support [Rules](#) on 26 February. There are only minor changes to the rules since they were published as near-final in 2025, such as to cross-refer to the targeted support legislation. An explanation of the changes can be found in the latest FCA handbook [here](#).

# DATES FOR YOUR DIARY

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## SPRING 2026

- + Expect new training and a webinar from the Pensions Regulator on pensions scams.
- + The Pension Commission's report is due to be published.

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## MID 2026 (NO SPECIFIC DATES KNOWN YET)

- + The Pension Schemes Bill will receive Royal Assent.
- + The Verity judgment.
- + We are still waiting for the HMRC [guidance](#) on VAT deduction on the management of pension funds that was due in 'autumn 2025'.

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## BEFORE END OF 2027

- + Surplus extraction: new Pensions Regulator guidance is expected by the end of 2027, including illustrative examples of how members can benefit from surplus sharing.

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## BEFORE APRIL 2029

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- + [HMRC](#) will publish guidance as to the changes to salary sacrifice



**STEPHEN RICHARDS**

*Partner*

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



**ESTELLA BOGIRA**

*Partner*

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



**PHILIP GOODCHILD**

*Partner*

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