STEPHENSON HARWOOD

PENSIONS QUARTERLY UPDATE

November 2025

CONTENTS

THE GROWTH OF COLLECTIVE DEFINED CONTRIBUTION SCHEMES

Collective Defined Contribution (CDC) arrangements, as an alternative to defined contribution and defined benefit schemes, operate on the basis that members pool their DC funds to allow risk sharing between members in order to achieve a targeted income in retirement. The trustee (rather than the individual) manages the income payments during retirement; the level of which can be adjusted annually based on the investment performance of the collective fund.

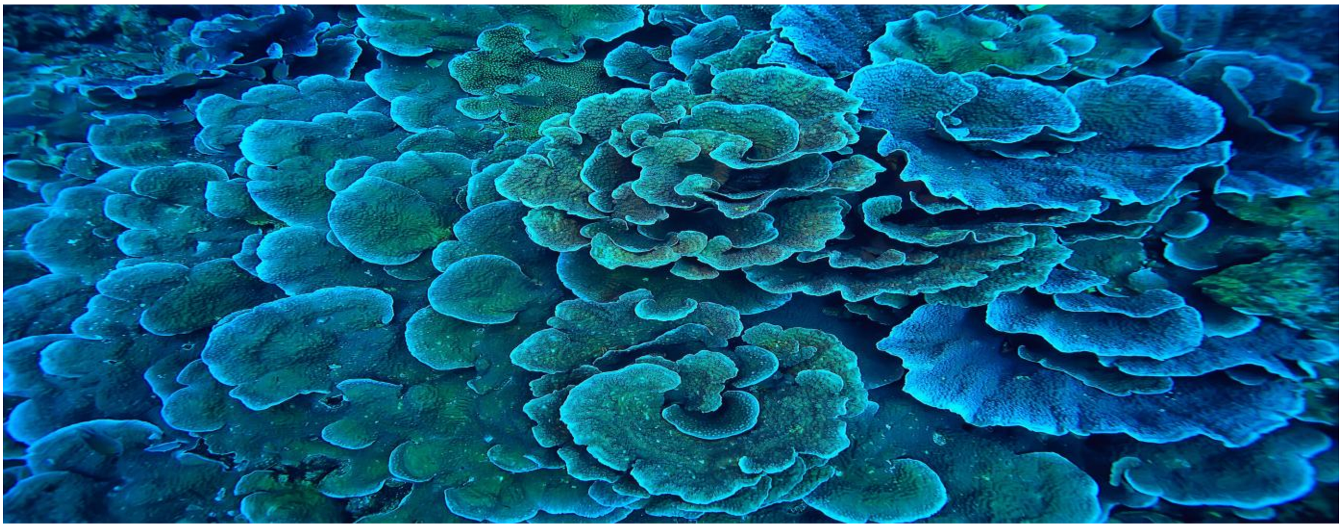
Although CDC schemes do not guarantee fixed benefits, the Government's impact assessment suggests that retirement incomes may be 20% to 60% higher than those provided in DC arrangements.

The Government is introducing CDC in three phases. The first phase allowed single or connected employers to form a CDC scheme. Although this phase completed in August 2022, the Royal Mail is currently the only employer to have set one up.

Phase two will allow unconnected multi-employer schemes to participate in "whole-life" CDC schemes. Whole-life schemes are those that allow employers and employees to contribute to the scheme during an employee's working life and they will also offer retirement benefits. The Government published draft regulations that will implement this phase from 31 July 2026, and we expect several large commercial CDC schemes to emerge quickly after that date.

Finally, phase three will extend CDCs to 'retirement only' schemes, available for pensioner members only, meaning that there will be no need to facilitate accrual via ongoing employer or employee contributions. In effect, this will be a decumulation option that DC scheme trustees can offer as an alternative retirement option for their DC members. The consultation for this phase opened in October, with an expectation that draft regulations will be published in 2027 and come into force in 2028.

The completion of phases two and three will open CDC to a much wider market and represents a major step forward in terms of what the pensions landscape might look like in 10 to 15 years. Employers and DC scheme trustees will no doubt follow these developments with interest.



THE GROWTH OF COLLECTIVE DEFINED CONTRIBUTION SCHEMES

PHASE 2

Unconnected multi-employer CDCs

In October, the Department for Work and Pensions published draft regulations – together with its response to the industry consultation - that will allow unconnected employers to join a CDC scheme.

“We need fewer, bigger and better schemes and collective funds are a key part of that,” said Torsten Bell, Minister for Pensions, in the Ministerial Forward to the response.

How will CDC arrangements work in practice?

In order to operate as a CDC arrangement, the fund will need to apply for authorisation from the Pensions Regulator. The process of obtaining authorisation is expected to take around 6 months, and various procedural requirements must be met:

+ The people involved in the CDC must be ‘fit and proper’, including anyone operating as the Chief Financial Officer, the Chief Investment Officer, the scheme proprietor or any person who promotes or markets the unconnected multi-employer scheme. The test is defined in the regulations and requires various confirmations, including that the person does not have a criminal record or has not been bankrupt or managed a company that has gone into insolvency.
+ The Regulator will need to confirm that the scheme design is appropriate, that it is financially sustainable with adequate, effective systems and communications processes and that it has an adequate continuity strategy, setting out how the scheme intends to proceed following a significant (or ‘triggering’) event such as insolvency or a warning notice from the Regulator.

CDCs will also be subject to marketing and communications restrictions, such as not overpromising or sending out misleading information, the test for which will be determined by the Regulator.

As part of the authorisation requirements, trustees will also need to declare that they have not promoted or marketed the scheme, which includes information sent for the purpose of inducing an employer to use the scheme.

The Regulator is due to consult on a revised code of practice that will detail the authorisation requirements for new CDC schemes. We look forward to seeing this new code to understand more about trustee requirements and restrictions.

THE GROWTH OF COLLECTIVE DEFINED CONTRIBUTION SCHEMES

PHASE 3

Retirement CDCs

On the same day as the release of the phase two regulations, the DWP also opened a consultation on phase three: 'Retirement CDCs'.

Retirement CDCs are intended to be trust based, likely a section of a master trust or part of an unconnected multi-employer scheme, into which DC pots can transfer at the point of retirement. They will admit pensioner members only, and (like all CDCs) will offer income for life at a variable, but targeted, benefit level, thereby eliminating the need for the member to manage their pot in retirement.

Why are retirement CDCs needed?

Under the Pension Schemes Bill 2025, trustees will have a duty to provide default retirement options (see our article on page 7 for more information about default retirement).

However, not all schemes will be able to offer these options and so alternative solutions (under other arrangements) will be needed, and a Retirement CDC arrangement could be one such solution. Under the proposed new rules, trustees will be able to transfer members, without consent, if:

+ it is not reasonably practicable for the trustees to design and make available benefit solutions within the scheme; and
+ the trustees have determined that a qualifying scheme will provide a better outcome for the members than any option they can provide.

In many cases, the requirements for Retirement CDCs will be the same as for phase two's 'whole-life' unconnected multi-employer CDCs. For example, the authorisation and communication requirements and restrictions are intended to apply across both types of CDC.

The Government is keen to encourage flexibility and not over-regulate what the benefits package might look like in a Retirement CDC, however, the consultation states that level (or flat rate) pensions should not be offered. Instead, the suggestion is that a Retirement CDC should seek, as a minimum, to target CPI increases on pension income.

The DWP expects trustees offering a Retirement CDC as an option, to give members information at least 4 months prior to their scheduled retirement date. The information will need to include certain details, such as:

+ that the Retirement CDC will aim to provide an income for life,
+ a target benefit rate, and
+ to explain that the rate of benefit may fluctuate as it is not guaranteed.

A key feature of the current proposal is that Retirement CDCs will only be available to trustees as a decumulation option; there will be no retail market, meaning that members will not be able to access this option directly. It will be interesting to see if this changes over time.

THE GROWTH OF COLLECTIVE DEFINED CONTRIBUTION SCHEMES

WHEN WILL WE KNOW MORE?

+ We are still in the early stages of phases two and three, and we look forward to seeing further information, codes and legislation, explaining how CDCs will work in practice. We will continue to provide updates as and when further information is released.
+ Phase three's Retirement CDC consultation will close in early December.
+ The Pensions Regulator's consultation on revisions to the CDC code of practice is due to open imminently.
+ The draft regulations for implementing the measures for Unconnected Multi-Employer CDC schemes are scheduled to be published on 31 July 2026, after the Pension Schemes Bill 2025 comes into force. The full name of the draft regulations is the Occupational Pension Schemes (Collective Money Purchase Schemes) (Extension to Unconnected Multiple Employer Schemes and Miscellaneous Provisions) Regulations 2025.
+ Draft regulations for phase three are expected to be laid in 2026 and published in 2027.

ICO IMPOSES A £14 MILLION FINE FOR DATA BREACH THAT IMPACTED 325 PENSION SCHEMES

The UK's Information Commissioner's Office ("ICO") has imposed a £14m fine on Capita for a data breach it suffered in March 2023. The breach was suffered after an unknown threat actor gained access to Capita's systems following the inadvertent download of a malicious file onto an employee device, which led ultimately to the theft of the personal data of 6.6 million individuals, including highly sensitive data, such as financial information, criminal record data, data relating to children, and other 'special category' data.

The ICO's press release confirms that 325 pension scheme organisations have been impacted by the breach.

In its penalty notice, the ICO provides commentary on the cyber security measures adopted by Capita, including that it did not act to quarantine the initially-compromised user device quickly enough (the delay was some 58 hours), despite initial automated detection of suspicious activity having occurred almost immediately after the initial file download.

The ICO notice records that this delay in acting permitted the threat actor to gain wider access to Capita's systems, including gaining administrator privileges, and allowed them to exfiltrate approximately 1TB of data. The threat actor then deployed ransomware onto Capita's systems and reset user passwords, preventing Capita employees from accessing its systems.

The ICO's findings include that Capita "failed to ensure the security of processing of personal data" and was "lacking the appropriate technical and organisational measures to effectively respond to the attack".

The ICO sent an initial notice of intent to Capita in April 2025, in which it stated its intention to impose a £45m fine. Capita made representations to the ICO, including submitting mitigating factors, and a voluntary settlement was agreed with a reduced fine of £14m. Capita has accepted liability, acknowledged the ICO's decision, and has agreed not to appeal.

In setting out its final decision, the ICO identified several proactive steps which it says organisations in general should be taking to reduce security risks, including:

+ following guidance issued by the National Cyber Security Centre on preventing "lateral movement" by threat actors within the organisation's systems and networks – a crucial step in limiting the damage that can be done even if an attacker is initially successful in gaining unauthorised access to a particular device or component of the system;
+ regularly monitoring for suspicious activity and responding to initial warnings and alerts in a timely manner;
+ sharing the findings from penetration testing across the whole organisation so that risks can be universally addressed;
+ prioritising investment in key security controls to ensure that they are operating effectively; and
+ ensuring that agreements and responsibilities between data controllers and data processors are well understood by all stakeholders.

Given the scale and impact of this incident across the pensions industry, as well as the increasing frequency and sophistication of cyber-attacks more generally – including the growing risk posed by supply chain attacks – organisations in the pensions sector are advised to review and refresh their cyber policies and procedures. Our cyber and data protection team is well-versed in providing rapid, strategic support at every stage of the cyber life cycle – please do reach out if you'd like to discuss any aspect further.

NEW IDENTIFICATION VERIFICATION REQUIREMENTS FOR CORPORATE DIRECTORS

The Economic Crime and Corporate Transparency Act 2023 (ECCTA) introduced a new identity verification regime that will affect corporate trustees.

Currently, directors can voluntarily verify their identity via the Companies House website.

From 18 November 2025, new directors of UK companies must verify their identity via the Companies House website. Existing corporate directors will be required to verify as part of the company's next confirmation statement after 18 November 2025.

Whilst a failure to verify will not render any actions taken by a director invalid, the ECCTA introduced a new criminal offence of 'acting as a director' without verifying their identity, punishable by a fine.

The law prohibits individuals from acting as a director, and companies from allowing the individual to act as a director, before their ID has been verified. Therefore, we recommend that all directors of corporate trustees complete Companies House' online ID verification process before it becomes mandatory to avoid being in breach of this new requirement.

A link to the Companies House guidance on the verification process.

RETIREMENT: FROM GUESSWORK TO GUIDED PATHWAYS

The Pension Schemes Bill (the Bill) introduces a requirement for trustees of defined contribution schemes to offer guided retirement pathways to members. We set out an overview of the proposal below so you can start to prepare and be ready for when the legislation goes live.

The Stephenson Harwood pensions practice is unique - we regularly offer advice to individuals on retirement planning, including on tax planning and fitting pension planning into wider retirement plans. We work regularly and closely with independent financial advisers. We understand this side of pensions and we look forward to helping our trustee clients navigate these new and unfamiliar expectations.

WHAT IS GUIDED RETIREMENT?

Guided retirement is a new initiative, suggested by the Department for Work and Pensions, to offer members suitable retirement income solutions, that fit their particular needs.

Currently, members have a range of options including annuities, flexible income drawdown, partial cash withdrawals, or full lump sums. Trustees have historically been reluctant to include any detail in member communications around what options members may want to select for their retirement for fear of inadvertently giving regulated financial advice. As a result, many members make decisions about accessing their pension savings without receiving any financial advice.

Trustees will need to design and offer one or more ‘default pension benefit solutions’ taking into account members’ needs and interests. For example, a proportion of a member’s pot used to pay a pension commencement lump sum and provide flexi-access drawdown, with the remainder used to purchase a lifetime annuity.

WHY DO WE NEED THESE CHANGES?

The current system does not help pensions savers to understand how to plan for and structure their retirement. Most (4 in 5) DC savers are not making active choices about how to access their pension at retirement. Around half of those who do not make a choice take their entire pension pot as cash, which is unlikely to be optimal for long-term retirement income.

In oral evidence to Parliament, Ian Cornelius, the CEO of NEST, thought that "guided retirement solutions are overdue" as his members have "been opted into a retirement savings scheme, and they end up with a pot of money rather than an income".

This process of converting savings and investments into retirement income - known as decumulation, or "the decumulation phase" – is often carried out without regulated advice. Looking specifically at the younger population, almost half (45%) of 18-34-year-olds relied on social media for investment research. However, it's not just the young, only about 9% of consumers receive regulated financial advice with the rest turning to friends, family or social media, according to the Financial Conduct Authority's Financial Lives Survey in 2025.

RETIREMENT: FROM GUESSWORK TO GUIDED PATHWAYS

WHAT THE FUTURE COULD LOOK LIKE?

The legislation does not mandate particular guided retirement products, and we are waiting for regulations that will fill in the detail. We do know, however, that trustees will need to use member data, such as age and pot size, together with their likely needs, to design appropriate, sustainable default solutions. It is expected that trustees will have to gather information from the member regarding his or her other pension savings, so that the member’s full circumstances can be taken into account.

Trustees will also have to ensure that their communications to members are clear and accessible in describing the default options that are available.

We are expecting that there will be some exemptions from these obligations, for example where designing a strategy for a given member is not practicable, or where the trustees identify an alternative, more suitable, arrangement to which the member’s benefits could be transferred.

The Financial Conduct Authority (FCA) has proposed a new regime to complement guided retirement, known as “targeted support”. It is hoped that this regime will support trustees and enable them to provide clear, detailed and well-designed default pension benefit solutions without fear of crossing the line into providing financial advice.

THE GAPS IN THE CURRENT PROPOSAL:

The need for improved data standards and understanding of scheme membership could pose a significant challenge. As the Bill progresses through Parliament, we look forward to seeing the development of this legislation and the implementation of secondary legislation.

Whilst there is broad support for these changes - expressed by various experts in their oral and written evidence to Parliament - as with any proposal for change, there are some concerns in the industry.

Helen Forrest Hall, Chief Strategy Officer at the Pensions Management Institute called for "piloting what good looks like in terms of both the guided retirement requirements and the FCA's proposal for targeted support" to give providers time to explore options and understand what is expected of them.

We note also that the timing is tight for implementation in 2027 given that we are yet to see even draft regulations.

WHAT TRUSTEES NEED TO DO?

Trustees will need robust member data to design suitable default retirement income solutions and to calibrate targeted support. Once we have the draft regulations and therefore more information on the requirements and expectations, trustees may want to start auditing data quality and coverage, considering how members can be segmented. Trustees will then be able to begin to define and document appropriate default options for each cohort. We will update you as soon as more information is published.

VIRGIN MEDIA: NEW LEGISLATION INCLUDED IN THE PENSION SCHEMES BILL

In September, the Public Bill Committee added amendments to the Pension Schemes Bill that are intended to help schemes affected by the implications of the Virgin Media Ltd v NTL Pension Trustees judgment.

The decision called into question historic amendments to contracted-out benefits made without actuarial confirmation that the amendments would not cause the scheme to stop meeting the reference scheme test (or where there is no evidence of such confirmation). The requirements were set out in section 37 of the Pension Schemes Act 1993, and consequently the confirmation is known as a "section 37 certificate".

THE PROPOSED AMENDMENTS:

As the Pension Schemes Bill passes through parliament the proposed provisions could change, but the following is based on the draft Bill on 18 September 2025.

The amendments are split into two categories of schemes:

1. Subsisting schemes; and
2. "Other schemes", which are schemes that have wound up, transferred to the PPF, or are qualifying pension schemes under the Financial Assistance Scheme Regulations.

SUBSITING SCHEMES:

For these schemes, in the absence of any evidence of a valid section 37 certificate or other confirmation from the time of the amendment, an amendment will be treated as having met the section 37 requirements if:

1. The trustees ask the scheme actuary to consider the amendment; and
2. The scheme actuary reasonably considers that the amendment would not have prevented the scheme from continuing to satisfy the statutory contracting-out requirements that were in effect at the time of the amendment. I.e. if the actuary considers that the necessary section 37 confirmation could have been given at the time.

VIRGIN MEDIA: NEW LEGISLATION INCLUDED IN THE PENSION SCHEMES BILL

OTHER SCHEMES

For these schemes, because it is not practicable to obtain the confirmation above, the proposed legislation will retrospectively deem the amendment to have met the requirements for obtaining a section 37 certificate.

WHAT ABOUT SCHEMES THAT HAVE ALREADY LITIGATED THE POINT?

Not all schemes can rely on this "legislative fix". Schemes that have already begun legal proceedings questioning the validity of an amendment in relation to section 37, are excluded from benefiting from the proposed new legislation.

The draft legislation currently excludes schemes where the issue:

+ has been determined by a court before the provisions come into force;
+ was in legal proceedings before 5 June 2025 but has been settled; or
+ was in issue on or before 5 June 2025 and remains in issue when the provisions come into force.

This comes at a time when the Government is regularly being accused of stepping into the Court's remit, and therefore these exclusions are likely an attempt to respect the decisions of the Court. This is not to say that such schemes will necessarily find that their deeds are not valid, but that any solution they have will need to come from the Court rather than in reliance on the new legislation.

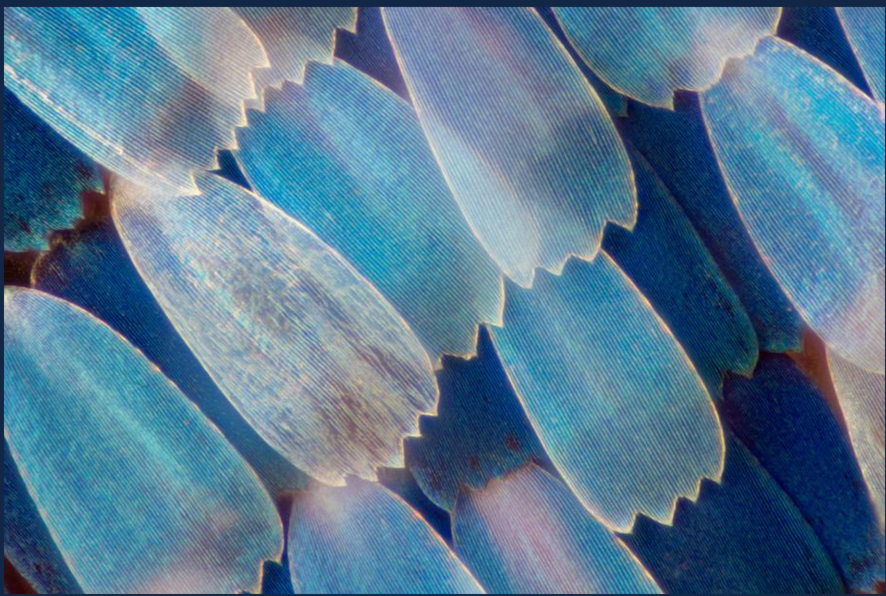
WHEN WILL WE KNOW MORE?

The Pension Schemes Bill has moved to the Report Stage, where additional amendments can be added and will be read for a third time in the Commons. No date has been set for the Report stage as yet.

INTERACTION WITH THE VERITY TRUSTEES CASE

If the proposed legislation in the Pension Schemes Bill comes into effect, trustees and actuaries will need to understand which amendments required a section 37 certificate. The Verity judgment is expected to provide commentary that will support trustees with determining when actuarial confirmation was required.

THE PENSIONS REGULATOR'S NEW ENFORCEMENT STRATEGY



The Pensions Regulator is seeking comments on its new enforcement strategy, published on 16 September 2025. On the same day, Executive Director of Regulatory Compliance, Gaucho Rasmussen, published a blog explaining that the new strategy is aimed at, amongst other things, putting saver outcomes first, preventing harm and building confidence in the market. The new strategy is intended to focus on the biggest risks and acting earlier to prevent harm.

While much of the new strategy largely echoes the existing one it does extend the Regulator's focus into 'prevention' of 'potential' harms and 'building confidence'.

We will monitor the responses to the consultation, which closes on 11 November 2025.

The Pensions Regulator's blog: Have your say on our new Enforcement Strategy | The Pensions Regulator Blog

The consultation: A new approach to enforcement consultation document

HOW CLEAR ARE YOUR COMMUNICATIONS?

This year has seen two Ombudsman cases that, whilst not setting out new law, serve as a reminder about the importance of clear and accurate communications.

"POORLY DRAFTED" COMMUNICATIONS

A recent case involved Mr and Mrs D, pensioners who said their only pleasure was going to garden centres for a meal. After 21 years of inadvertent overpayments, the trustees sought to recover a significant sum from the couple. While Mr and Mrs D accepted that their future pension payments should be corrected, they challenged the recovery of past overpayments, citing financial hardship and a lack of clear communication from the trustees.

The decision noted their position, including that "the scheme has been administered by various companies at different times. Those companies did not spot the overpayments; so they question why they should have been expected to."

The trustees sent announcements to members in 2013 and 2019 about the overpayments, but neither explained that the money would or could be recovered. The Deputy Ombudsman found the 2013 announcement to be "poorly drafted and did not explain that overpayments were continuing to build up".

In April 2020, the Trustees wrote to Mr and Mrs D about their decision to reduce the benefits going forward and recoup overpaid pension from payments going forward.

However, the Deputy Ombudsman found that it would not be equitable for the trustees to recover overpayments made before April 2020 as Mr and Mrs D had acted in good faith and had not been properly informed. The pensioners were also awarded compensation for distress.

LINKS TO THE CASES

+ Mr D and Mrs D (CAS-52136-P6D3 and CAS-52149-F8K1)
+ Mr R v South Wales Fire & Rescue Authority and Rhondda Cynon Taff County Borough Council

INCORRECT MEMBER STATEMENTS

In a separate decision regarding the Firefighters' Pension Scheme 1992, a member relied on incorrect benefit statements. The case was primarily related to temporary promotions within the fire service, but it also serves as a reminder that scheme managers/administrators owe a duty of care to provide accurate information, and members may recover loss where they reasonably rely on incorrect statements.

Applying the test in Corsham and Others v Police and Crime Commissioner for Essex and Others [2019] EWHC 1776 (Ch), the Pensions Ombudsman asked the following questions:

+ Did Mr R rely on the statements that his pensionable salary would be based on his temporary promotion pay?
+ Was that reliance reasonable?
+ Would Mr R have acted differently if he had been told the correct position?

On the evidence, the Ombudsman found that Mr R would have acted differently had he been correctly informed and, as such, he would not have suffered any financial loss. The Ombudsman ordered that the member be put in the position he would have been in had not been given the incorrect information together with £1,000 for serious distress and inconvenience.

These decisions highlight the importance of clear, accurate and timely communication with members.

DATES FOR YOUR DIARY

+ *Autumn Budget **26 November.***
+ *The Pensions Regulator is likely to open a consultation on changes to the CDC Code of Practice in the next few weeks.*
+ *We are still waiting for the date of the Verity judgment.*
+ *As yet, no date has been set for the Report Stage of the Pension Schemes Bill.*

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