NEWS FROM THE PENSIONS TEAM AT
ENSORS CHARTERED ACCOUNTANTS

SPRING/SUMMER 2025

PENSION PROFILE

THE VIRGIN MEDIA CASE

The Virgin Media case is a legal dispute over the validity of amendments made to contracted-out pension schemes between 1997 and 2016 and has potential implications for other defined benefit schemes that were also contracted out in that period. The case involved Virgin Media and NTL Pension Trustees II Ltd.

Continued overleaf

Ensors

In June 2023, the High Court ruled that amendments to contracted-out pension schemes were invalid if they lacked actuarial confirmation.

In summary, any amendments to contracted-out pension schemes are void, unless the scheme actuary had not confirmed at the time of the rule change that the scheme would continue to satisfy the applicable statutory standard. This conclusion is known as a section 37 certificate.

This ruling was taken to the Court of Appeal, but Virgin Media's case against the High Court's decision was dismissed in July 2024.

The case has the possibility to lead to increased liabilities for schemes and an additional workload for scheme administrators and trustees.

What are we expecting to happen next?

Trustees are under no legal duty to review the validity of previous deeds, unless they have a specific reason for thinking this may be in doubt.

For schemes that believe they may be affected, the process could be a highly resourced, intensive exercise. However, there is a risk that this ruling could be appealed in the Supreme Court, or the DWP could intervene by making changes to legislation that would remove this uncertainty. This could include retrospectively validating any amendment that is classified to be void, solely because either a written actuarial confirmation cannot be located, or it is known that it was not received before the amendment was made.

Understandably, trustees aren't rushing to spend money on calculating the likely impact of this case, unless there is a specific reason to accurately quantify liabilities immediately, such as the scheme about to enter a buy-out position. Even then, there may be difficulties factoring the effect into actuarial valuations due to lack of information.

This wait and see approach is not helpful for the scheme accounts. Trustees need to consider the likely impact on their accounts including retrospective and future liabilities.

Under the FRS102 Pensions SORP, a contingent liability is defined as: **either a possible but uncertain obligation, or a present obligation that is not probable and/or cannot be reliably determined.**

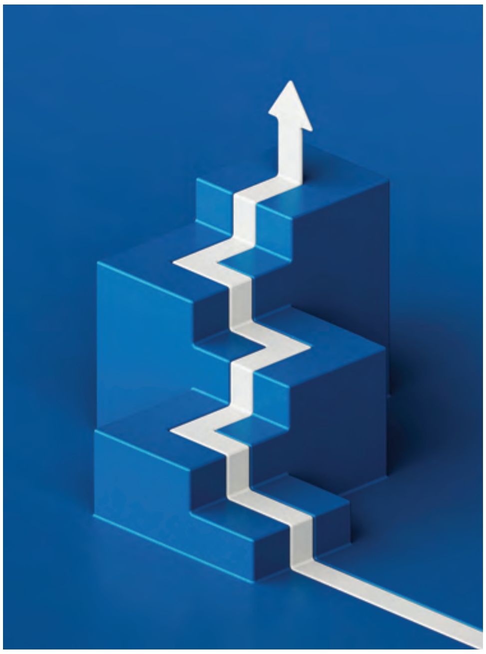
It then goes on to say: **Unless the possibility of settling the contingent liability is remote, or it is not material, disclosure should be made in the notes to the financial statements of the estimated financial effect and an indication of the uncertainties relating to the amount or timing and any possible reimbursement.**

Many trustees have simply acknowledged the case in disclosures but have stated that it is not possible to estimate the potential impact, if any, on the scheme at present. Whilst trustees of non-contracted out schemes or those who are confident that there were no rule amendments that would be affected, have chosen not to disclose.

We are expecting PRAG (Pensions Research Accountants Group) to issue guidance in this area.

As auditors, we will need to review the trustee's response to this case and update as it unfolds.

DB surplus rule changes



Many factors, including rising bond yields, have improved DB funding of late, and now a significant portion of the UK DB schemes are in surplus.

Unlocking these surpluses back to the sponsoring employer, supports the government's growth agenda. Current legislation makes it difficult for trustees to do this. A proposal to unlock billions to drive growth and boost people's pension pots under a series of reforms is being consulted.

The Government press release suggested that: 'Pension trustees and the sponsoring employers could then use this money to increase the productivity of their businesses – to boost wages and drive growth or unlock more money for pension scheme members.' Pension associations such as the PLSA are reported to be in support of these with the right protections in place, to ensure member benefits are secure.

This could certainly be an incentive for schemes to run on, the consultation entitled: 'Options for DB Pension Schemes' began on 23 February 2024 and runs until 19 April, after which the government is expected to set out the details of the surplus policy.

Budget **changes**

There was much speculation around last year's budget, and what the Chancellor was going to do to fill the black hole. For pensions, rumours included:

Changes to the Annual Allowance (AA)
Reintroduction of Lifetime Allowance (LTA)
Changes to tax relief
Abolishment of Salary Exchange/Sacrifice
Restrictions on Pension Commencement Lump Sums (PCLS)

So, what did happen and how does it impact my pension scheme? The headliners for pension schemes are the impact of the NI increases on employers and the change in IHT rules.

NI increases

The government is increasing the rate of employer Class 1 National Insurance contribution rates from 13.8% to 15.0%. It is also reducing the per-employee threshold at which employers become liable to pay National Insurance (the Secondary Threshold) from 6 April 2025 from £9,100 to £5,000 a year.

Whilst this does not impact a pension scheme directly, it does add an extra layer of costs for employers – especially service industry-driven sectors where staff costs might be its biggest outlay. Schemes need to consider the impact on the sponsoring employer and whether this impacts the employer covenant. Schemes that pay their own administration costs may also see rising prices as companies look to pass on these costs.

Inheritance Tax

The Chancellor also announced several changes to the Inheritance Tax (IHT) regime. This included plans to bring most unused pension funds and death benefits payable under registered pension schemes and qualifying non-UK pension schemes, within the value of a person's estate for IHT purposes from 6 April 2027.

Income tax may also be payable by the recipient of these benefits.

For pension trustees this causes technical challenges to implement. The existing payment deadline for IHT is six months after the end of the month in which the death occurs and late payment accrues interest.

The pension scheme administrators (trustees or pension providers) will be responsible for liaising with the member's legal personal representative (which could be a grieving family member), before calculating and paying any IHT due to HMRC. Many administrators are concerned that this timeline is unrealistic.

The Government issued a consultation to seek views on the processes required to implement these changes. It ran for 12 weeks between 30 October 2024 and 22 January 2025, with the results expected to be published later this year.

New Pension Minister

Torsten Bell MP was appointed Parliamentary Secretary in HM Treasury and Parliamentary Under Secretary of State in the Department for Work and Pensions on 14 January 2025.

One of the Minister's first tasks was to report on the annual statutory review of the thresholds for automatic enrolment (AE).

The review concluded that all AE thresholds for 2025/26 should remain unchanged from their 2024/25 levels, which are as follows:

- **AE earnings trigger – £10,000**
- **Lower limit of the qualifying earnings band – £6,240**
- **Upper limit of the qualifying earnings band – £50,270**

This creates a real term decrease as wages continue to grow, not a positive step for member outcomes, however, perhaps not surprising on the back of the NI changes to employers and the need to balance these costs.

TEAM NEWS

PMI - Membership by Experience

The Pensions Management Institute recognises that there are senior professionals with considerable experience working successfully within the pensions industry, but they may not hold a formal PMI qualification.

EPMI status is open to applicants who can evidence at least 10 years of overall experience of regular, or continuous influence and contributions to the pensions sector, with 3-5 years at a senior level.

We are pleased to say that **Lee Jennings**, one of our well respected Pension Managers was awarded this status in recognition of his contribution to the sector. Well, done Lee!

Meet the team

Pension specialists

Our pensions team have considerable experience in providing a wide range of services to pension schemes, including audit, preparation of statutory financial statements, pensioner payroll services and employer covenant reviews. Unlike many other companies which provide accounting services to pension schemes, we are also registered auditors.

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Geoff Ashton – Capital Cranfield Pension Trustees

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