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Surplus flexibilities for Defined Benefit schemes

The Pension Schemes Act 2026 opens the door to greater flexibility for well-funded Defined Benefit schemes by allowing surplus to be shared with sponsoring employers and members. And because the Act gives trustees the power to modify rules, schemes can act even where existing rules do not expressly permit it.

The Department for Work and Pensions is now consulting on regulations to set the conditions for surplus release, with a view to bringing them into force in April 2027. The consultation closes on 2 September 2026.

Funding threshold for surplus payments

The bar for surplus payments will be set at the low-dependency funding level, supported by a new forward-looking test.

The Scheme Actuary will be required to certify that the scheme is fully funded on low dependency, and that it *is at least as likely as not* that the scheme will remain fully funded throughout the following three years.

How the surplus release process works

The regulations introduce a structured, trustee-led process designed to balance opportunity with prudence.

While either the employer or trustees can initiate discussions, trustees remain firmly in control of whether, when, and how much surplus is released.

The key steps are:

- **Check scheme rules** (and modify where necessary)
- **Obtain actuarial advice** to assess affordability
- **Engage and consult with the employer** to agree a provisional amount and timing
- **Notify members** at least three months before payment
- **Obtain actuarial certification** before making the payment (within five days of the certificate date)
- **Notify The Pensions Regulator** once the payment has been made.

Trustees are also expected to consider investment and covenant advice, and to actively consider how surplus release can benefit members, not just employers.

Authorised surplus payments to members

A notable feature of the consultation is that surplus may be paid directly to members. Payments can be authorised for tax purposes where:

- The scheme is in surplus above the low-dependency threshold
- The member has reached normal minimum pension age (NMPA) – currently 55 but due to increase to 57 from 6 April 2028.

Payments may still be allocated to members below NMPA but must be deferred until they reach that age. HMRC will consult separately on related tax changes.

More guidance to come

The Pensions Regulator has issued a statement setting out some early views of principles trustees should consider, along with illustrative examples, and will consult on guidance for trustees later this year.

The Financial Reporting Council will develop technical actuarial guidance to help actuaries carrying out certifications.

First Actuarial's view

Although much of the framework was already set, this provides more pieces of the puzzle. The April 2027 date is also earlier than anticipated. Engagement and planning between trustees, employers and advisers will be key to successful implementation.

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