

In our Autumn Hot Topics in Pensions, we take a look at some of the myths and legends celebrated in the folklore of the British Isles. The folklore contains elements of fiction, but we assure you that our top 10 pensions issues are entirely factual.



### Virgin Media v NTL Pension Trustees – Where Were the Fortune Tellers?

If cave-dwelling Mother Shipton had turned her prophesying skills to pensions, she might have warned trustees in 1997 of the importance of section 37 confirmations. In a [High Court decision](#) and subsequent [Court of Appeal decision](#) it was confirmed that amendments to the rules of a scheme that related to section 9(2B) rights were rendered void if a rule change was introduced without written actuarial confirmation that the reference scheme test would continue to be met. Consequences of the court decisions are not yet “petrified” into stone – e.g. it is still to be tested whether a subsequent triennial certification could be capable of retrospectively validating an otherwise void rule amendment.



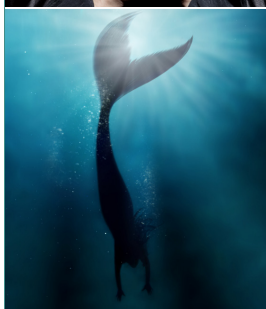
### Scheme Funding Morphs Into a New Regime

The Hedley Kow was a kind of Northumbrian elf, noted for its mischievous and tricky habits of shapeshifting. While The Pensions Regulator (TPR) is anything but mischievous, its [defined benefit \(DB\) funding code](#) has definitely changed shape. The new code includes guidance on a requirement, detailed in the Pension Schemes Act 2021 (PSA21) and related [regulations](#), that trustees must have a funding and investment strategy. The requirement came into force on 6 April 2024 and applies in respect of actuarial valuations with effective dates on and from 22 September 2024. Tricky though, the code itself will not be in force until early November.



### Value for Money – How Deep Will It Bite?

Bram Stoker’s novel, Dracula, was inspired by a holiday to Whitby and he chose this port as the destination for the legendary vampire to arrive on our shores. The Financial Conduct Authority (FCA) has no time for holidays – it is inviting the pensions industry to sink its fangs into a lengthy [consultation](#) on the new defined contribution (DC) value for money framework. The FCA is clear that no amount of garlic will ward off its progress, and it is working closely with the DWP and TPR to establish a common approach to value for money assessments across the DC market. New metrics are proposed for measuring value, and there will be greater transparency to drive competition.



### There Is Nothing Fishy About Pensions Dashboards

According to legend, a merciful fisherman caught and released a mermaid at Cemaes Head in Pembrokeshire. She later repaid him with timely advice that he head for home to avoid a lethal storm. To help steer administering authorities safely through choppy waters, the Local Government Pension Scheme (LGPS) has published the first version of its [dashboards connection guide](#), which also links to an [additional voluntary contribution \(AVC\) guide](#). We remind all schemes that dashboards plans should include communications with AVC providers, as there are different approaches to preparing and presenting AVC view data. See our [dashboards handout](#).



### Pensions Review – The Government Is Not Holding Its Horses

The mythical horse-like Kelpies inhabiting Scottish and Irish lochs were reputed to drown their victims. Although the pensions industry might currently feel that it is drowning under the weight of developments, the chancellor is galloping ahead with a [landmark pensions review](#) to “boost growth and make every part of Britain better off”. The [first stage](#) of the review will examine actions to support greater productive investment and better retirement outcomes. The next phase will consider further steps to improve pension outcomes and increase investment in UK markets. The review will also “look at how to unlock the investment potential of the £360 billion Local Government Pension Scheme”.



## Ahoy There, Pension Schemes Bill

Jingling Geordie, a reputed 17th century pirate, used to hide in a Tynemouth cave to get advance notice of arriving ships. With no cave available, the pensions industry still received advance notice about a pension schemes bill through the [background papers to the King's Speech](#). The bill will be a treasure chest full of measures relating to automatic DC small pot consolidation, the new value for money framework, a requirement for occupational schemes to provide retirement/decumulation products, DB consolidation and measures to reaffirm The Pensions Ombudsman (TPO) as a competent court in relation to recovery of overpayments. Jingling Geordie would have been pleased with the regulatory riches, promised to be delivered in early 2025.



## DB Superfunds – A Giant Project

The story of the Giant's Causeway involves an Irish giant building a rather large path across the sea, to enable him to fight his Scottish counterpart. TPR has battled through a myriad of industry views before paving the way for a DB superfund framework that should allow new models to emerge. TPR's updated [guidance](#) sets out its position on capital release and additional detail on capital-backed arrangements and insolvency circumstances. A transfer to a superfund is a potential option for trustees of DB schemes that are not on a path to achieve buyout in the "foreseeable future" (which TPR suggests is around 5 years).



## TPR's Newest Powers to Redistribute Wealth

The PSA21 provided extra bows and arrows for TPR, the Robin Hood of the pensions industry. These include new contribution notice tests to make it easier for TPR to use its anti-avoidance powers, new financial penalty powers of up to £1 million and two new criminal offences that could capture anyone (employers, employees and the Sheriff of Nottingham alike). To date, TPR has not had cause to use these powers, although arguably their very existence has changed behaviours. We consider this further in a [blog](#). Meanwhile, TPR's band of merry helpers are no further forward in updating the notifiable events regime to include advance notification of certain types of transactions.



## TPO Signposts Are No Fairytale

It is rumoured there are gates to a secret world on Elva Hill in the Lake District, although the gates' opening times and exact location are rather unclear, so they attract few (non-fairy) visitors. The importance of clear directions has been recognised by TPO in an [updated factsheet](#), which provides generic wording that pension scheme trustees can use to signpost members to the gateway of its complaints service. Different forms of standard wording are listed, including wording for websites and referral wording that can be used in complaint and resolution processes.



## A Pot of Gold on the Horizon?

If you see a rainbow, you may be lucky and find that a leprechaun has hidden a pot of gold at the end. In the meantime, here are some final golden nuggets of pensions news. TPR is expected to publish draft employer covenant guidance for consultation soon, along with the outcome of consultation on its approach to the statement of strategy (which is required to be submitted to TPR by trustees of DB schemes once they have set a funding and investment strategy). On the horizon (but hopefully closer than the end of the rainbow) is draft legislation to extend collective defined contribution plans to multi-employer schemes and amending legislation to address problems with the abolition of the lifetime allowance.

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