

# Pensions accounting focus areas 2024/25

## Pensions Centre of Excellence

KPMG Audit, UK

As we approach the financial year ends of many companies across the market, our Pensions Centre of Excellence team have produced the following guide to help companies and their advisors in considering the pensions accounting and disclosure impacts of recent events when preparing upcoming financial statements in relation to defined benefit (DB) plans.

Now in its third year of publication, this year's edition takes a slightly different format, exploring one specific area that is expected to be a key issue for companies with defined benefit pension plans – the implications of the Virgin Media case.

Much has been written about the potential legal implications of the Virgin Media case. Here we consider the implications specifically from a financial reporting perspective, the possible requirements of corporate auditors and the audit evidence they may seek.

Virgin Media pensions case	Key considerations
<p><b>Background</b></p> <p>In June 2023, the High Court handed down a decision in the case of <i>Virgin Media Limited v NTL Pension Trustees II Limited</i> and others relating to the validity of certain historical pension changes. This case may have implications for other defined benefit schemes in the UK. In July 2024, the appeal against the original decision was dismissed. Therefore, the original decision stands.</p> <p>The case focused on the consequences of failing to obtain actuarial confirmation, when making an amendment affecting Section 9(2B) rights, that a scheme would continue to satisfy the requirements for those rights. Actuarial confirmation is required by Section 37 of the Pension Schemes Act 1993 and Regulation 42 of the Occupational Pension Schemes (Contracting-out) Regulations 1996. Section 9(2B) rights refer to scheme benefits accrued between 6 April 1997 and 6 April 2016 that must be at a level to meet the reference scheme test for all schemes contracted-out on a salary-related basis.</p>	<ul style="list-style-type: none"> <li>Expect auditors to request copies of any legal advice received by the corporate sponsor / pension trustees relating to the implications of this case</li> <li>Management should document their position on the implications, if any, of the Virgin Media case and the steps proposed to clarify the position where there is uncertainty</li> <li>See the following page for the anticipated steps to carry out an initial assessment</li> </ul>
<p><b>Audit requirements</b></p> <p>Following the June 2023 judgment, many trustees and sponsors were adopting a “wait and see” approach, due to the expectation of an appeal. However, following the July 2024 appeal dismissal, the legal commentary is now focussing on the potentially significant ramifications of the case, with <a href="#">some industry groups</a> looking to the DWP to override the impact of the case through legislation.</p> <p>In general, we do not believe that an approach of waiting for possible future government legislative intervention is a tenable option from a financial reporting perspective, due to the need to reflect prevailing legislation at the balance sheet date. Therefore, our expectation is that Trustees and sponsors will obtain legal advice into the potential impact of the case on their scheme(s) and potentially carry out investigations.</p>	<ul style="list-style-type: none"> <li>IAS19 requires entities to account for their legal obligation under the formal terms of a defined benefit plan</li> </ul>
<p><b>Disclosure</b></p> <p>It may be expected, where material, for sponsors to include proportionate narrative disclosures in the notes to the accounts, particularly if the position remains uncertain at the time of the approval of the accounts.</p> <p>Narrative disclosures, depending on facts and circumstances, may include:</p> <ul style="list-style-type: none"> <li>Disclosure on the status of investigations into the impact of the case</li> <li>Disclosure on the impact of the case on the scheme</li> <li>Enhanced risk disclosures to include legal risk on historic scheme changes and / or changes in legislation and case law</li> <li>Confirmation that the defined benefit obligation does not include any adjustments, pending legal clarification</li> </ul>	<p><i>“The disclosures required by IAS 19 are based on the following three objectives:</i></p> <ul style="list-style-type: none"> <li><i>to explain the characteristics of, and risks associated with, defined benefit plans;</i></li> <li><i>to identify and explain the amounts in the financial statements arising from defined benefit plans; and</i></li> <li><i>to describe how defined benefit plans may affect the amount, timing and uncertainty of future cash flows.”</i> IAS 19.135</li> </ul>
<p><b>Accounting treatment</b></p> <p>An adjustment to the DBO would require a confirmed change in legal obligation for a scheme. In practice, based on our experience with other legacy benefit issues such as Barber equalisation, it can take time for these investigations to conclude as parties involved track down historical documentation.</p> <p>As the case relates to compliance with the law at the time of a historical pension change, to the extent that a historical change proves to be invalid, depending on the facts and circumstances in each case, retrospective adjustments might be required under both IFRS and UK GAAP. This is consistent with the treatment of other cases relating to invalid pension deeds, e.g. Barber equalisation issues.</p>	<ul style="list-style-type: none"> <li>Where trustees have confirmed non-compliance the entity will need to consider if the conditions for retrospective adjustment are met.</li> <li>Consideration of materiality in the context of the financial statements</li> </ul>

## What are the considerations for pension scheme report and accounts?

Trustees of impacted schemes may see auditors undertaking additional enquiries of trustees and review of legal and other documentation. Whilst there is a requirement to record benefits due as part of current liabilities in the statement of net assets, until the implications of the Virgin Media judgment are known with reasonable certainty Trustees should consider the requirements for appropriate disclosure in relation to the Virgin Media case.

## What might an initial assessment look like?

The below are the initial high level questions that trustees and sponsors of defined benefit schemes could consider in relation to the Virgin Media case. The questions below are not meant as a comprehensive list, nor do they consider the legal nuances of different schemes and circumstances. Management should discuss their own circumstances with their, or their Trustee's, legal and actuarial advisors and consider any responses with their auditor in light of materiality in the context of the financial statements.

Initial assessment of the implications of the Virgin Media judgment		
<b>1. Contracted-out on a Salary Related basis</b>	<p>Was the scheme contracted-out on a salary related basis for some or all of the period between April 1997 – April 2016 (the relevant period)?</p> <p>Some schemes may have been contracted-out on a different basis for some of the period, for example on a Money Purchase (COMP) basis, in which case the period in scope of potential impact would exclude such periods. The COMP basis was abolished in April 2012, therefore some schemes may only have been contracted-out on a salary related (COSR) basis from April 2012 until April 2016.</p> <p>Some schemes may not have been contracted-out at all.</p>	<ul style="list-style-type: none"><li>• No – No impact</li><li>• Yes – move to next step</li></ul>
<b>2. Changes to Section 9(2B) rights made during the relevant period</b>	<p>Were there changes to scheme benefits in the relevant period which affected Section 9(2B) rights?</p> <p>Certain deeds of amendment which did not affect Section 9(2B) rights would not require Section 37 certification. Legal advice may be required to determine which deeds gave rise to a Section 37 requirement.</p>	<ul style="list-style-type: none"><li>• No – No impact</li><li>• Yes – move to next step</li></ul>
<b>3. Evidence of actuarial confirmation</b>	<p>Is there sufficient evidence of Section 37 certification for all changes made to Section 9(2B) rights in the relevant period?</p> <p>What constitutes sufficient evidence was not addressed in the judgment. Evidence rather than proof may be sufficient and written confirmation need not be a formal certificate.</p>	<ul style="list-style-type: none"><li>• Yes – No impact.</li><li>• No – move to next step</li></ul>
<b>4. Further investigation</b>	<p>What further analysis or investigation is underway, or planned, in order to be able to conclude on the validity of historical scheme changes?</p>	<ul style="list-style-type: none"><li>• Provide details of the further investigation</li></ul>
<b>5. Document assessment</b>	<p>Whether the assessment has been carried out by legal advisers or in-house, it will be important to document it appropriately. This will be important record-keeping for all stakeholders. Auditors are likely to request a documented summary of the position.</p>	<ul style="list-style-type: none"><li>• Document findings</li></ul>

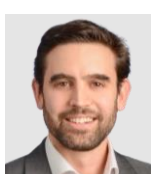
## Contact us



**Naz Peralta**  
Partner, Pensions CoE

T: +44 7825 845492

E: [narayan.peralta@kpmg.co.uk](mailto:narayan.peralta@kpmg.co.uk)



**Oliver Gilmore**  
Director, Pensions CoE

T: +44 7775 410042

E: [oliver.gilmore@kpmg.co.uk](mailto:oliver.gilmore@kpmg.co.uk)



**Chris Putman**  
Director, Pensions CoE

T: +44 7268 750626

E: [christopher.putman@kpmg.co.uk](mailto:christopher.putman@kpmg.co.uk)

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