THE SOCIETY OF PENSION PROFESSIONALS
making pensions work

The Society of Pension Professionals (SPP) response to the Finance Bill 2026-27 — draft legislation and technical tax documents

1. Executive summary

1.1. **The SPP welcomes the proposed introduction of Authorised Member Surplus Payments (AMSPs), which should provide trustees with a useful mechanism for distributing surplus to members.**

1.2. **The requirement for members to have reached normal minimum pension age (NMPA) limits the usefulness of AMSPs and introduces some challenges.**
The SPP recommends removing this restriction, drawing on the existing precedent for Winding-up Lump Sums.

1.3. **If the NMPA requirement cannot be removed, the SPP recommends allowing immediate AMSPs for members below NMPA up to a cap, such as £18,000**, **with larger amounts deferred**.
The treatment of deferred AMSPs in insurance buy-outs, CETVs, pension sharing and death benefits would also need to be clarified.

1.4. **Greater clarity is needed on Condition 5 in proposed s168A(6) Finance Act 2004.**
The legislation should expressly identify which requirements governing Authorised Surplus Payments (ASPs) are intended to apply to AMSPs.

1.5. **HMRC should confirm that the award of AMSPs will not cause the loss of existing member protections.**
For example, Enhanced or Fixed Protection or breach the Deferred Member Carve-Out under the Annual Allowance.

1.6. **The scope of AMSPs under Condition 2 should be broadened to explicitly include hybrid arrangements.**
This will help to ensure schemes with money-purchase underpins are not unfairly excluded.

1.7. **The SPP seeks confirmation of which requirements under the new Occupational Pension Scheme (Payments to Employer) Regulations 2027 will apply to AMSPs**, **including member and Pensions Regulator notification requirements.**

1.8. **The requirement for sponsoring employer consent should be expressly stated in s168A, rather than arising indirectly through the cross-reference to the ASP legislation.**

2. Consultation response

2.1. The following relate to the draft legislation inserting a new s168A Finance Act 2004 to enable Authorised Member Surplus Payments (AMSP) to be paid.

2.2. Normal Minimum Pension Age restrictions

2.3. The SPP welcomes this proposed change to the law to enable AMSPs to be paid and believe it will assist trustees who are able to distribute surplus to members. It will be particularly helpful for schemes with small amounts of surplus, close to winding-up since it can be difficult to find a way to uplift members' benefits when surplus is not material. We also believe it will be a benefit that members will value significantly more than a small increase in annual pension, and could also be preferable for sponsors as any payment is a one-off rather than an ongoing commitment.

2.4. However, we believe the requirement for members to have attained normal minimum pension age (NMPA) (or to have met the ill-health condition) before they can receive such a payment makes this new AMSP much less useful. While we welcome the fact that the draft legislation sets out to address the inequity that would be inherent in restricting such entitlement only to members aged above NMPA at the time the surplus is distributed, we feel that the approach taken may create challenges.

2.5. The issues we have identified so far are:

- **Trustee decision-making**
  Trustees would need to be satisfied that this differential treatment is fair and can be clearly justified. This may be particularly challenging where surplus-sharing is intended to benefit a broad membership rather than only those above a specified age.
- **Payment disconnected from retirement**
  A lump sum may become payable at a different time from the member's retirement or pension commencement date. This risks creating confusion and makes the benefit feel less intuitive than a payment made alongside retirement benefits.
- **Additional administration**
  Schemes would need to track members until they reach NMPA, maintain up-to-date contact and bank details, apply separate revaluation, operate PAYE and make ad hoc payments outside normal retirement processes.
- **Complexity under regular surplus sharing**
  If surplus is allocated periodically, younger members could build up several separate deferred lump-sum entitlements, each with different award dates and revaluation. This could be burdensome to administer (including e.g. calculation of transfer values) and difficult for members to understand.
- **Communications risk**
  Members will need to understand why they have been allocated a surplus share but cannot yet receive it, why it may be paid separately from their pension, and that it will be taxable when paid.
- **Tax outcomes may differ**
  The tax payable could depend on the member's circumstances when they reach NMPA, rather than when the surplus was originally allocated. This may produce inconsistent net outcomes for members with identical awards.
- **Insurance uncertainty**
  It is not clear how insurers will charge for this benefit and if it could create a barrier to an efficient and cost-effective process in some cases.
- **Dashboard Invisibility**
  Current pensions dashboard specifications contain no functionality to display deferred lump sums. These entitlements will be invisible to members on their dashboards, undermining dashboard transparency, causing member confusion, and directly undermining the purpose of providing a consolidated view of pension savings.

- **Deferred payment**
  Under draft section 168A, an AMSP can be paid to a dependant following a member's death. However, the legislation leaves a crucial operational ambiguity: if a member under NMPA is allocated a deferred AMSP and dies prior to reaching NMPA, can that deferred payment be released to their surviving spouse or dependant immediately upon death? Clear statutory guidance is needed to clarify whether these deferred entitlements are immediately payable on death or subject to ongoing NMPA restrictions.

2.6. There is already a precedent where HMRC allows schemes to pay lump sums of up to £18,000 to all members irrespective of their age. These lump sums are payable on scheme winding-up (Winding-up Lump Sums). We again request for HMRC to revisit the requirement that members have reached NMPA (or have satisfied the ill-health condition) before they can be paid an AMSP. If it is not possible to remove this requirement, it would be better to allow the option to pay AMSP immediately to members under NMPA subject to a cap (such as £18,000) than to only allow deferred payments for such members. Payments more than the cap could be deferred as envisaged at the moment but the issues above would need to be resolved. For the avoidance of doubt we are not advocating such a cap for members already over NMPA.

2.7. <u>Clause 168A(6)</u>

2.8. Clause 168A(6) sets out condition 5 for the payment of AMSPs. Condition 5 is met if the payment would have been an authorised surplus payment (ASP) if the right to receive the payment had been granted to the sponsoring employer of the pension scheme. It is not clear what elements of the legislation governing ASP is captured by this condition 5. We think the requirements should be expressly stated or the cross reference to the legislation more specifically set out.

2.9. An ASP is defined in s177 Finance Act 2004.

2.10. The Regulations dealing with ASPs are the Registered Pension Schemes (Authorised Surplus Payments) Regulations 2006. These Regulations state that a payment will be an ASP if it satisfies the requirements in s37 Pensions Act 1995.

2.11. S37 Pensions Act 1995 applies where power is conferred on the employer or other persons to make payments to the employer and the scheme is not being wound-up and where the power is not conferred on the trustee, it must be exercised by the trustee. We assume this part of 37 Pensions Act 1995 is not intended to be captured by Condition 5 for AMSPs but we are not sure. S37 Pensions Act 1995 also requires compliance with Regulations.

2.12. From 6 April 2027 the Occupational Pension Scheme (Payments to Employer) Regulations 2027 will apply. The restrictions on payments to employers are contained in Part 2 of the Regulations (that is Regulations 4 to12).

2.13. It is unclear if the intention is for all these restrictions to apply to AMSPs. Clarity is needed to understand if the member notification requirements should apply here as well as the requirement to notify the Pensions Regulator.

2.14. We note that Regulation 9(4)(c) includes a requirement for the employer to consent to the ASP. We think the requirement for employer consent should be expressly stated in s168A Finance Act 2004 rather than being included in legislation very indirectly referred to in Condition 5 of S168A(6).

2.15. The SPP would also be grateful for greater clarity relating to the interaction with tax protections and allowances. HMRC should explicitly confirm that the award or allocation of an AMSP will not compromise existing member tax protections (including Enhanced Protection and Fixed Protection) or result in a loss of the Deferred Member Carve-Out (DMCO) for the Annual Allowance. Without clear statutory protection, Trustees may be unable to award AMSPs to protected members without risking severe, unintended tax penalties for those individuals.

2.16. We also recommend clarifying the policy intention regarding hybrid arrangements (as defined under section 152(8) of the Finance Act 2004). As drafted, Condition 2 appears to limit AMSPs strictly to defined benefit arrangements, thereby excluding hybrid arrangements. In practice, many predominantly DB promises feature money-purchase underpins that may never bite, but legally render the arrangement hybrid. Excluding hybrid arrangements would force trustees to treat different sections of a scheme's membership unequally, making trustees reluctant to agree to AMSPs if only part of the membership can participate.

3. About The Society of Pension Professionals

3.1. The SPP is the representative body for a wide range of providers of advice and services to pension schemes, trustees and employers. Our work harnesses the expertise of our membership, striving for a positive impact on pension scheme members, the pensions industry and its stakeholders.

3.2. The breadth of our members is a unique strength for the SPP. Our membership of 90 corporate organisations employs over 20,000 pension professionals including actuaries, lawyers, professional trustees, DC consultants, investment managers, providers, administrators, covenant assessors, and other pension specialists.

4. Further information

4.1. For more information about this consultation response please contact SPP Director of Policy & PR at: phil.hall@the-spp.co.uk or telephone the SPP on 0207 353 1688.

4.2. To find out more about the SPP please visit the SPP web site: https://the-spp.co.uk/

4.3. Connect with us on LinkedIn at: https://www.linkedin.com/company/the-society-of-pension-professionals/

4.4. Follow us on X (Twitter) at: https://twitter.com/thespp1

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SPP, Pensions Organisation of the Year 2026