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PRESS RELEASE

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Sackers survey shows strong support for Trustee flexibility on DB surplus

Sacker & Partners LLP (Sackers), the UK's leading specialist law firm for pensions and retirement savings, today announced the results of their most recent webinar survey*. The results reveal that 54% of respondents support giving trustees the flexibility to determine whether - and on what terms - surplus funds can be paid to employers under any future surplus regime.

In February 2024, the Department for Work and Pensions (DWP) launched a consultation to gather views on proposals to simplify payments from DB scheme surpluses to both sponsors and members. Against the backdrop of an intervening General Election, things then went somewhat quiet. Finally, in January this year, the Chancellor announced plans to amend legislation to allow greater flexibility in how surplus from defined benefit (DB) pension schemes can be used, as part of broader efforts to stimulate UK economic growth. The government's response to last year's consultation is therefore expected imminently ('spring 2025') and is anticipated to bring greater clarity.

Partner Lucy Dunbar commented: "Our survey asked attendees for their views on the government's proposed flexibilities - and it's important not to underestimate the financial scale of what's being discussed. According to The Pensions Regulator (TPR) estimates as at the end of 2024, 76% of DB schemes are currently in surplus on a low-dependency basis (no reliance on the employer), with over 50% in surplus on a buy-out basis. Furthermore, the government's January announcement suggested that surplus is worth around £160 billion. That's a significant sum.

"Our survey revealed surplus is largely being used to improve scheme security – around 29% being allocated to risk mitigation, with 23% covering scheme expenses. Only 2% is currently being paid to employers, with the remainder used for a mixture of purposes, including contribution holidays. The survey also found that 33% of respondents believe a more permissive surplus regime would influence their scheme's endgame strategy - a potentially powerful lever for supporting the government's growth agenda."

Dunbar continued; "Allowing more flexibility could unlock significant capital for the UK economy. But this is a nuanced issue - on one hand, there's the potential to return funds to employers; on the other, to enhance member benefits. Both options are under consideration, and it will be interesting to see how the final legislation balances these priorities.

“We also understand that stringent funding safeguards will be introduced, though the details remain unclear. Trustees have been promised a ‘suite of options’, but critical questions remain unanswered: What new options will be introduced? Will they be mandatory? Or will discretion remain, as now, subject to individual scheme rules? The industry is eagerly awaiting confirmation – and, this year, ‘spring’ has never felt so long.”

- ENDS -

* Based on 61 respondents representing trustees and employers of both DC and DB schemes.

Notes to Editors:

Sacker & Partners LLP (Sackers) is a top tier commercial law firm specialising in advising pension scheme trustees, employers, providers and corporate investors on all aspects of their pension arrangements.

Widely viewed as leaders in the field, Sackers advises more of the UK's top 200 pension funds than any other law firm. Sackers is consistently ranked in the top tier for pensions by both leading UK legal directories (Chambers UK and the Legal 500) and has been for over twenty years.

Based in London, Sackers provides support to trustee boards, sponsoring employers, providers and Government bodies across a range of areas, including day to day scheme management, funding and investment, projects, risk and litigation.

Sackers is an active member of the Pensions and Lifetime Savings Association, The Association of Pensions Lawyers and the Society of Pension Professionals and is technical legal expert partner to the Pensions Management Institute.

In 2024 Sackers won Best Pensions Law Firm at the Corporate Adviser Awards and was shortlisted as Pensions Law Firm of the year at both the UK Professional Pensions Awards and the Pensions Age Awards.

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