UNISON’s interest in the Pensions Bill

1. UNISON has over 1.3 million members employed in a broad range of sectors. Some 600,000 members are active members of the Local Government Pension Scheme, building towards a dignified retirement through service and contribution. Others among our members are deferred LGPS members, and we have many in our retired members section who are drawing the LGPS pension they built up in employment.

2. A substantial number of UNISON members are enrolled in DC schemes. Many are low paid workers in bare minimum auto-enrolment arrangements. Every penny of investment return counts for workers such as our 150,000 members in social care, delivering core public services but employed by private and third sector employers. We are therefore interested in those aspects of the Bill which would promote improved pensions for this group. The Bill’s provisions are useful but will not significantly improve their position. The key obstacle to their retiring with sufficient pension to live in dignity is that contribution rates are too low.

3. Our response focusses on key changes to pensions legislation that benefit pension scheme members. UNISON has no pecuniary interest in outcomes of the legislation. This member-perspective is especially important in DC pensions, where there is no recourse if returns after fees disappoint. We encourage the Committee to be conscious of provider interest in increasing their ability to extract rent from members’ money.

Local Government Pension Scheme (LGPS)

4. UNISON believes that the government should work towards consolidated investment arrangements for the LGPS, with single investment pools for England, Scotland, Wales and Northern Ireland. We have long supported collective investment arrangements, giving benefits of scale and transparency, minimising asset management costs, and removing inefficiencies and variability across funds.

5. The Government proposes significant changes to the management of LGPS monies, This Bill contains mainly enabling provisions in clauses 1-10. We agree with this approach on the whole, as it will enable regulations and guidance to respond dynamically to success and challenge in the Government’s preferred approach in future. In two

crucial areas in relation to the LGPS we think that this Bill needs to be more specific about what will be enabled later.

6. The previous Government introduced requirements to pool, but did not create a statutory or governance basis for Pools. The result has been Pools weakly controlled by their owners, the Funds, who have fiduciary responsibility, but have too often not used their oversight powers. The legislation provides for guidance to set out how Pools should organise. In our view, there is a clear lack of the **member voice** within the Bill. This does not match arrangements applying to Funds, which have the wholehearted support of all stakeholders. Under the existing legislation governing Funds, all have a Board with equal member and employer representation. This ensures member voice, engagement and a healthy widening of representative governance.

7. Pools, having existed in a governance twilight, have had no such requirement and generally have relegated members to observer status, with no ability to take part in substantive shaping of priorities. Practice varies considerably. Northern LGPS has three member representatives on its governing Board. Borders to Coast has two observers, with no voting rights. LPPI has no member involvement at all in its governance. In our view, amendment of Clause 1 of the Bill should require that any guidance issued by the secretary of State to Pool companies must direct that the member voice is secured within governance arrangements. This would be an important strengthening and build the confidence of scheme members that Pools invest in their interest.

8. More broadly, the Bill contains provision for the Secretary of State to make regulations enabling directions or guidance requiring Pools or Funds to do or not do a wide range of things. In our view this could enable the wrong balance between central and local decision-making. A future secretary of State might for example, through guidance, require divestment from a category of investments, a geographical region, or investments they do not like, based on political dogma that could worsen the returns necessary to pay members' pensions. We see risks in enabling a Secretary of State to proceed with limited Parliamentary oversight. Limitation in the Bill of the powers to matters that are clearly the interest of the Secretary of State, rather than the Fund or Pool, would be desirable. It is essential to ensure that the fiduciary decision-making of Funds cannot be overridden.

Chapter 2, Powers to pay surplus to employer

9. We support the use of surplus funds contained in Defined Benefit arrangements. However, the provisions as they stand would enable payment of the whole of a surplus to a sponsoring employer, without considering the fiduciary duty of Trustees to scheme members, not to an employer. We suggest that the Bill be amended so that scheme members would (at least) equally share any unlocked surplus.

Clause 20 et seq, Small Pots regulations

10. We welcome these provisions which could resolve real issues for workers employed by private sector firms without their own pension schemes. Those staff accumulate several pension pots as they move from one employer to another, in sectors where job churn is high. A particular example is social care where wages are low and working standards and hours very inconsistent. There are also many firms who do not last long. As a consequence of the design of AE, where employers choose pension provider, each new employment relationship means a new pension scheme. It is very difficult for workers to keep track of all they have accumulated, and this will in due course be mirrored in great difficulty for HMRC in effectively taxing this group.

11. We believe it would be wise to set the size limit for a "small pot" higher than £1000 (clause 20(2)). This would enable more small pots to be swept up and consolidated. A £1000 limit means a pension accumulated over about 9 months of employment by someone working full-time hours and paid at the national minimum wage would be too large to qualify. We proposed £4000 as the ceiling when the Government consulted in 2023; at which time £1000 represented nearly a year of pension accumulation for a full-timer paid the national minimum wage. We support the proposal in 32(1) to change the figure by regulation, after suitable consultation.

Chapter 3: Scale and asset allocation

12. Proposed new section 28(C) of the Pension Act (on page 41 of the Bill) would enable Ministers by regulation to set minimum levels of allocation to particular categories of non-listed assets, including potentially whether such assets are located in or of interest to the UK, with this then enforced by the regulatory authority in its authorisation regime for future master trusts and GPPs. We have significant concerns about these clauses. Fiduciaries are best placed to set the correct balance between asset classes, and equities have liquidity, governance, transparency of pricing, equality of treatment between investors, and other advantages for pension funds. In addition, the "correct" level of allocation between asset classes where fiduciaries decide to invest in "alternatives" will shift over time. At present, the correct level to place in private markets is probably adjacent to zero. The regulator is poorly placed to set this correctly or to be dynamic in this assessment, which will be different for different pension schemes.

Chapter 4: Contractual Override

13. We support the policy intention of enabling pension scheme members in poorly performing contract-based schemes to be placed into larger schemes with better expected returns. However, in section 41 new 117B (page 49) as currently worded there is a complete removal of member consent, which gives providers the ability to put members into whichever scheme they like. There appear to be no safeguards in the Bill. Will the

government commit to ensuring that such transfers must be in the interests of members rather than the providers?

14. As we noted in our initial response to the consultation that foreshadowed this bill – “The consultation suggests that ‘a transfer should only be approved if the benefits of the transfer and long term saver outcomes would outweigh any costs”. This formulation could allow for significant overcharging since it would not require that best outcomes are secured, only that an improvement of a pound is secured. There is also a suggestion that the providers will set the IGC’s resources – will the IGCs be in a position to do so?”

15. Rather than achieving best outcomes for savers, the provisions might achieve a slightly better outcome, as incumbent providers can satisfy the test by marginal improvements, shifting members into slightly less bad contract-based arrangements. There should be a requirement that providers should aim to place members into best-performing, lowest-fee schemes, such as moving members into Trust-based schemes, where trustees with fiduciary responsibility would be required to ensure best outcomes. That would be in the best interests of pension savers, rather than pension providers.

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