PENSION SCHEMES BILL 225 59/1

Pensions UK submission of written evidence to the Pension Schemes Bill Public Bill Committee

ABOUT PENSIONS UK

Pensions UK is the voice of pensions in the UK, trusted and heard by government and the pensions industry. For more than 100 years, we've delivered influential thought leadership, practical guidance and research for our members; pro-actively solving the sector's biggest issues and setting the future direction.

As a not-for-profit organisation, we exist for the benefit of our members, and to deliver the best possible outcome for savers in the UK, so they can retire in confidence and with dignity.

We're the voice of pension schemes that together provide a retirement income to more than 30 million savers in the UK and invest more than £2 trillion in the UK and abroad. Our members also include asset managers, consultants, law firms, fintechs, and others who play an influential role in people's financial futures.

KEY POINTS

The Pension Schemes Bill seeks to legislate on a wide array of measures covering Defined Contribution (DC) pensions, Defined Benefit (DB) pensions and the Local Government Pension Scheme (LGPS).

Pensions UK welcomes the introduction of this Bill which will enact important reforms that should help ensure schemes are maximising the value they provide to members, remove complexity for savers and reduce the cost of administering pensions.

We particularly welcome measures to introduce Guided Retirement Products, to put Superfunds on a statutory footing, to address the Small Pots problem, to introduce the Value for Money regime and to ensure all trustees can make choices about the use of DB surpluses. These are changes that Pensions UK has called for and helped to develop, and we are pleased that the Government is making them now.

We do, however, wish to raise some concerns. The broad new power to direct DC investment sets a precedent that we believe introduces risk to savers now, and over the longer term. Even if this specific power is not ultimately used, its inclusion in the Bill will, we believe, ease the path for future Governments to enact similar powers. We believe that the best way of ensuring good returns for members is for investments to be undertaken on a voluntary, not a mandatory basis. Any Government intervention to direct how savers' money is invested is risky. If Government does not manage to create the right environment with a suitable pipeline of investment opportunities, mandating investment would involve considerable downside risk for scheme members. Trust in the system could also be impacted.

More broadly, there are places in the Bill where we believe Government is taking powers to make decisions that trustees or funds are well equipped to take, acting in line with their fiduciary duty. Powers to intervene in the investment activities of Local Government Pension Scheme Pools, and in decisions about fund mergers and funds' choice of investment pool imply that Government may feel it is better equipped to take these decisions than those in charge of the Scheme. The reason for these powers being taken needs clarifying.

The new legislation for Superfunds, which we broadly support, requires defined benefit schemes to prove that a buy-out cannot be arranged before choosing to use a Superfund. We believe this is a decision best left to the Trustee of the scheme in question.

In relation to scale: whilst we acknowledge the benefits of scale and support the overall direction of the reforms, we are already seeing market effects of the scale test which are detrimental to member outcomes. Employee Benefit Consultants (EBCs) are taking smaller schemes off their lists of recommendations to employers where they think the provider may not reach the £25bn AUM threshold (or the transition pathway), making it harder for them to reach scale. In some cases, these smaller schemes offer exceptional, market-leading value for money. We would value clarification from Government on whether they will take action to manage this impact, for instance by expediting regulations to get schemes on the transition pathway, or by considering whether schemes providing exceptional value to members and contributing to UK growth should in the end be exempt from the scale test. This would both facilitate a greater focus on value, rather than cost, in provider selection, and improve market stability.

This submission raises further important points and potential amendments that are not covered in this introduction and reflect the views of Pensions UK and our membership on how the Bill can be improved to deliver the best possible outcomes for savers. We have included an annex where we have suggested wording for a number of the amendments we are proposing. We hope the committee finds it useful and can provide further detail on any aspect of the submission on request.

COMMENTS ON THE BILL:

PART 1: DEFINED BENEFIT SCHEMES

Chapter 1: Local Government Pension Scheme (LGPS)

Aspects Pensions UK supports: The measures in the Bill which clarify the division of responsibility between Administering Authorities and Pools in relation to investment strategies are welcome. Local authority Funds will be responsible for setting the strategy, whilst implementing the strategy will be a responsibility of the

Pool. Funds will also be required to co-operate with local strategic authorities to identify and develop appropriate investment opportunities. Pensions UK has also been a long-time supporter of implementing governance reforms and supports changes to the Procurement Act 2023 which will remove the barriers to asset Pools investing through other Pools. Specific governance reforms which we welcome include conducting governance reviews every three years, aligned to the Scheme's valuation cycle.

Aspects requiring scrutiny: The Bill introduces several new powers that enable the Secretary of State to:

1) direct funds to participate in a particular asset pool or to cease their participation in a pool.
2) force the compulsory merger of funds.
3) direct the 'manner' in which specified investment management activities are carried out by asset Pools.

Pensions UK questions the need for these new powers and believes that they are too far-reaching. LGPS reform is already progressing at pace and Pools and funds are collaborating with the direction set by Government. We would like to understand which specific risks Government is seeking to manage through the introduction of these powers and are seeking amendments to ensure that, should they remain in the Bill, they are only exercised after other avenues have been exhausted and to guard against adverse outcomes for the Pools, funds and scheme members.

Directing an authority to a specific Pool as well as merging Funds requires highly specialised and localised knowledge of the Funds' specific circumstances. Should these powers be taken, they should only be used as a last resort and after the Government has undertaken dialogue with the affected Funds. This should be reflected in primary legislation.

With regard to investment, the broad framing of the powers contained in Chapter 1 Clause 1 could allow for mandation of certain investments by Government onto FCA regulated asset Pools. Pools should be investing in line with the investment approach set out by their underlying asset owners, in order to deliver against LGPS Funds fiduciary duties. Government should not take powers that would erode fiduciary duty and to direct investment within Pools. The use of this power could also create contradictory obligations between Government direction and regulatory requirements. We would like the Bill to be amended to clarify that Investment decisions should only be made in line with fiduciary duty and so that Pools are not put at risk of regulatory non-compliance as a result of Government direction in this way.

Finally, the Bill makes clear that cooperation with strategic authorities, such as regional combined authorities, on 'appropriate' investments will be required. However, there is a risk of investment decisions being influenced on the grounds of political/local interests. We would like for it to be made clear that fiduciary duty should always prevail when considering local investments.

Pensions UK would also support a definition for local investments, which took into account first, that Funds should look at their local area and region for these opportunities; second, if the local projects do not fit the Fund's profile and investment strategy, Funds should be allowed to look at other regions in the UK. This would align with the aims of the Devolution Bill.

Suggested amendments:

1) *To add safeguards to ensure that the power to direct funds to a specific asset pool can only be used once the Secretary of State has evidenced that such a direction is in the best interests of scheme members and is used only once a fund has exhausted all voluntary measures (i.e. that that no suitable asset pool was available to them). Also, this would require the Secretary of State to consult affected funds before acting on this power.*

2) *To add safeguards to the Bill which would ensure that the compulsory merger of funds only takes place as a last resort, to ensure that the merger is in the best interests of both funds and scheme members, and that the Secretary of State publishes a report detailing the rationale for introducing a compulsory fund merger.*

3) *To limit the circumstances in which the Government may direct investment of Pools so that it aligns with fiduciary duty, to ensure it is used as a last resort and to ensure any directions are made in line with existing FCA rules.*

4) *To ensure that any co-operation with strategic authorities to identify appropriate local investment opportunities is in all cases subject to a fund's existing fiduciary duties.*

<u>Chapter 2: Powers to pay surplus to an employer</u>

Aspects Pensions UK supports: Pensions UK favours giving trustees more flexibility in accessing surplus funds, from well-funded schemes, subject to appropriate safeguards. As currently drafted; to release surplus, the scheme actuary must be satisfied with the value of the scheme's assets and the amount of its liabilities. We expect further criteria for surplus access will be detailed in ensuing regulations and guidance from the Pensions Regulator (TPR). The Bill also specifies that where a scheme is subject to a freezing order by TPR a surplus cannot be returned to the employer.

Aspects requiring scrutiny: Pensions UK supports the statutory override with a permissive regime, and it is important that restrictions on accessing surplus, prior to wind up, are lifted to ensure consistency across schemes rules. It is important that any decisions to release surplus will ultimately fall to trustees. We believe surplus repayments to employers should only occur when members' benefits are protected and strong safeguards are in place to maintain scheme security. The specific criteria will be detailed in regulations, and this will require close scrutiny to ensure that member benefits are well protected, before any funds are released.

Although the Bill does not specify in what circumstances surplus may be used, where schemes choose to establish a Collective Defined Contribution (CDC) arrangement (as described above) or where trustees and employers put surplus funds to productive use, for example enhancing DB member benefits or boosting DC contributions, the 25% tax penalty that applies should be waived because the assets are being retained within the pension system.

We would also like to see the legislation allow for surplus transfers from one Trust to another Trust for the purpose of establishing a CDC scheme, where the beneficiaries of the two trusts are, or will be, sufficiently similar.

Suggested amendments:

5) *As drafted, the power for trustees to modify their scheme rules to enable surplus to be paid to an employer while the scheme is ongoing would be unavailable where a scheme's rules allow trustees to make a payment to an employer during wind-up. As such, we recommend section 36B(2) is amended to ensure the modification power is available in these circumstances*

6) *As drafted, the power for trustees to modify their scheme rules to remove or relax restrictions on an existing power to repay surplus to an employer would not be available where the rules currently contain such a power but, that power is exercisable by someone other than the trustees.*

7) *To include a provision to allow for the transfer of surplus to a Collective Defined Contribution scheme and to ensure that such transfers are not subject to a tax charge. The removal of the tax charge should also apply where surplus is used to fund contributions to a DC scheme (in the same trust). These funds will be subject to the 25% tax charge. The Bill should remove the 25% tax charge on surplus when used for the purposes of establishing a CDC scheme or making payments towards a DC scheme.*

PART 2: DEFINED CONTRIBUTION SCHEMES

Chapter 1: Value for Money

Aspects Pensions UK supports: Pensions UK supports the introduction of a Value for Money (VFM) framework, which if implemented in a proportionate manner, and provided both regulators remain aligned in their approach, will help to improve the value delivered to members of workplace DC schemes.

Aspects requiring scrutiny: The overall value ratings appear to have changed from the previously consulted upon Red/Amber/Green format, to 'fully delivering/intermediate/not delivering', with a possibility of more gradations to be introduced through regulations within the intermediate level. This is at odds with current FCA/TPR plans which have two green levels, but only one amber, so the intent needs clarifying. We also have concerns around the potential impacts on schemes of having all possible graduations of the intermediate rating resulting in closure to new business – this power is drawn broadly and could result in the premature closure of schemes which are on track to deliver excellent value to their members. We would like to understand whether government intend for all intermediate ratings to result in closure to new business, and if this is the case, would highlight the likely terminal consequences of such an outcome. As such, it is important that schemes towards the upper end of an intermediate ranking should be enabled to continue to take on new business, within agreed parameters/timescales.

One of the critical components to shifting the focus from costs to value is the role of Employee Benefit Consultants (EBCs) who advise employers on which scheme should be selected. The Government may wish to revisit the prospect of regulating this advice to help to facilitate a shift in focus from cost to overall value of schemes.

Finally, where schemes choose to exercise the powers under chapter 4 to automatically consolidate largely small legacy products into better value, newer products without member consent, it will be important that schemes are not required to perform a VFM assessment on these products as they will already be in the midst of being moved to better value products and this would create an unnecessary additional burden on schemes. To ensure that schemes need not perform a VFM assessment on legacy contract-based products which will be in the process of being consolidated, we believe that the timeframe for implementing the contractual override should be bought forward from 2028 to allow schemes to consolidate these products before the first year of value for money disclosures (also in 2028).

Suggested amendments:

8) *To confer a new duty on EBCs that recommendations to employers must include the scheme that they consider is likely to lead to the best saver outcomes.*

9) *To place a duty on employers that when selecting an AE provider, those employers must ask their advisor to include, within their shortlist of recommendations, the provider that the advisor considers is likely to lead to the best saver outcome. This would also require employers to formally review the performance of their Master Trust provider every 3 years.*

Chapter 2: Small Pots Consolidation

Aspects Pensions UK supports: Pensions UK has long supported finding solutions to the issue of small pots and are supportive of the multiple default consolidator model that the Government has chosen. Pensions UK is currently supporting the Department for Work and Pensions in conducting a feasibility study which will help in developing the digital infrastructure needed for the success of the policy.

As expected, pension pots that are valued at £1,000 or less (but not nil) will be in scope for automatic consolidation. The Bill sets out conditions that have to be met for pension pots to be considered as dormant, noting that pots with no contributions for 12 months will be in scope. The Bill also allows trustees the ability to determine whether it would be in member's best interests not to transfer their pot.

Aspects requiring scrutiny: The Bill gives the Secretary of State the power to change the value of a "small pot" at a later date. Whilst this is a logical measure and will need to be exercised as the small pots regime becomes established, there is a risk that drastic changes to the minimum pot size could significantly alter the shape of the DC market in ways that may not have been intended. The possible market impacts of automatically consolidating larger pot sizes on schemes serving members with lower account balances on average also need to be carefully considered. We would suggest that any increases to the size of a small pot be subject to both consultation with industry, and an independent market impact assessment.

We would also like to see safeguards brought forward that will discharge trustees and Independent Governance Committees (IGCs) from their duties upon completion of a small pot transfer into an authorised consolidator. We know from discussions with Trustees and IGCs that this is critical to making the policy deliverable in practice.

Suggested amendments:

10) *To ensure that any increases to the small pot value made by regulations are preceded by consultation with the industry and that any future regulations which increase the pot value are accompanied by an independent market impact assessment which should include levels and numbers of small pots and providers, and the impacts on market competition of any proposed change.*

11) *To include a discharge for transferring trustees who are making automatic transfers in line with the small pots legislation.*

<u>Chapter 3: Scale and Asset Allocation</u>

Aspects Pensions UK supports: Section 28F affords the regulator the power to determine that a scheme should be exempted from the asset allocation requirements under subsection 28D if, in the opinion of the regulator, meeting the asset allocation requirement would cause material financial detriment to scheme members. Regulations will follow that will outline the conditions under which the regulator may make such an assessment. This is a vital safeguard to ensure that members outcomes are protected.

Aspects requiring scrutiny: Pensions UK does not support the introduction of a reserve power to allow Government to direct how DC schemes invest. We understand the Government has said it does not intend to use the power so long as the Mansion House Accord targets are met. The Mansion House Accord saw seventeen of the largest workplace pension providers voluntarily commit to investing at least 10% of their defined contribution (DC) default funds in private markets by 2030, with 5% of the total allocated to the UK. However crucially, this ambition is subject to fiduciary duties and is dependent on supporting actions by Government, namely that there will need to be a strong pipeline of investable UK assets. Without this, schemes will be competing against each other for the same assets, which risks asset bubbles and poor value for money.

Turning to the power itself, we are particularly concerned that the sunset clause extends beyond the current Parliament and contains very broad discretions for the Secretary of State to direct investments or set targets.

We would therefore like to see the power in the Bill amended so that the sunset clause does not extend beyond 2032, to limit the political risk to schemes and bring this timeline in line with the Accord. We also believe it is right to limit the Government's power to direct pension fund investment to no more than the specific 10% commitment which was agreed to in the Accord.

This chapter also sets scale targets, whereby DC schemes will need to reach £25 billion in assets under management in at least one main scale default arrangement by 2030.

The scale and asset allocations are due to come into force simultaneously in 2029. We believe that Government is aware of this issue, and is planning amendments in this area, which we would support.

The Bill sets out a "*transition relief pathway*" which will allow smaller schemes additional time to reach this goal. At present, the criteria schemes will need to meet to enter the pathway is unclear, other than to have reached £10bn in scale by 2030. We expect regulations to provide further detail; however, there is uncertainty as to whether schemes currently below this level will be permitted to accept new business in the future. We are already seeing advisers opting only to advise employers to join schemes which are above the threshold. This is already creating market disruption and preventing schemes currently below the scale threshold from growing due to a lack of new business. This risks prematurely closing schemes which currently offer good or even market leading value to members and who would otherwise be on track to enter the transition pathway. We would like the Government to provide further reassurances and detail for schemes during the Committee stages about the criteria surrounding the transition relief pathway. It will also be critical that TPR's supporting regulations are expedited to allow schemes onto the pathway as soon as possible.

We would also like the Committee to consider whether remedies to this issue can be found in the interaction of the scale test with the value for money regime. Government may decide that schemes delivering exceptional ('green +' or 'dark green') value for money should not be closed down on the grounds of scale alone, for instance. Similarly, government needs to consider issues of DC scale not in isolation, but in terms of their links with other initiatives. This includes where the running of a master trust may actively contribute to a provider's ability to pursue other government objectives (e.g. launching a CDC scheme).

Finally, we would like to see government consider allowing providers with multiple master trusts investing in a common investment strategy to be captured by scale test requirements, in the same way that the legislation allows for providers with one or more GPPs to qualify. This will prevent certain types of providers being favoured over others.

Suggested Amendments:

12) *To reduce the duration of the mandation power's sunset clause from 2035 to 2032.*

13) *To incorporate safeguards to the mandation power which bring it in line with the allocations agreed to as part of the Mansion House Accord, given that this power will only be exercised if the Mansion House Accord commitments are not met. Specifically, this would require the Secretary of State to demonstrate a suitable pipeline is available and that prescribed percentages do not exceed 10% in private assets of which 5% in the UK. This is also to ensure that any future administration does not use the power beyond what it is intended to do.*

14) *To enable schemes that intend to apply for the transition pathway to do so at the earliest opportunity. As drafted, the transition pathway would only be available <u>after</u> the £25bn MSDA requirement is in force. This could result in some schemes losing their authorisation in the interim until the scale regulations are in force. In any event, it is essential the transition pathway is open as soon as possible to enable schemes that plan to enter it to do so, so they can provide certainty to market about this.*

15) *To ensure that schemes do not lose their authorisation in the period between royal assent and the scale regulations coming into force, and to ascertain interim guidance on the criteria schemes would need to meet to enter the transition pathway.*

<u>Chapter 4: Contractual Override</u>

Chapter 4 introduces the legislative measures necessary for contract-based pension providers to enable transfers of pension pots without member consent. Such transfers may be to another default arrangement with the same provider, or to an external provider.

Aspects Pensions UK support: This measure is widely supported by the pensions industry, as it will provide the means by which schemes can move members from legacy arrangements to better value products. It is positive that schemes will require an independent expert opinion on the value to members of the transfer. Introducing a contractual override will support the consolidation of the market, reduce inefficiencies in the system and allow members to benefit from newer better value products.

We believe that delaying the implementation of the contractual override until 2028 is too long. We would encourage the Government and Regulators to accelerate this and bring forward its implementation, to allow schemes to make progress on consolidation sooner, and so that the override is in place well in advance of the VFM framework.

Furthermore, it is worth noting that one of the current barriers to transferring GPP members to a new scheme is that members have to re-apply to HMRC for tax relief if they move to a new scheme. This will continue to be a barrier to using contractual override unless it is removed.

It would also be beneficial for clarity to be provided over the treatment of accrued pots where an employer takes independent advice recommending switching provider. We believe that the main intention of the contractual override is primarily to facilitate internal transfers within the same provider but, there remains uncertainty as to whether transfers occurring between different providers would also include accrued pots and future accruals or whether this is just the latter.

Suggested amendments:

16) *To remove unintended tax barriers to schemes using the contractual override. One of the current barriers to transferring GPP members to a new scheme is that members have to re-apply to HMRC for tax relief if they move to a new scheme. This will continue to be a barrier to using contractual override unless it is removed.*

<u>Chapter 5: Default Pension Benefit Solutions</u>

Aspects Pensions UK support: We support these measures, which will bring more uniformity and value to the at-retirement options available to members and mean that those unable or unwilling to make complex retirement decisions are supported by their scheme.

Aspects requiring scrutiny: It will be important that trustees have the latitude to implement solutions that are right for their membership, which might, in some cases, not mean a lifelong income e.g. in the case of severe ill-health. Clarification is needed on whether savers will be opted in to a “hard” or “soft” “default”. We would also suggest that the trigger mechanism should be for members asking for an income rather than simply taking cash, as cash could be taken at an earlier age at a time where savers might not yet wish for a steady income. It will be crucial to establish a suitable and workable triggering mechanism for the default, and for both regulators to work together to clarify what information trustees and providers might use to tailor these solutions.

We believe that the definition of ‘better outcomes’ would be improved with phrasing in the legislation such as ‘reasonably likely’ as it’s the membership as a whole that is being considered. Where schemes cannot offer, either internally or with a partner, a good value solution then the Government should clarify whether there will be a ‘scheme of last resort’ to offer a solution to those members. There is currently no mention of this in the Bill so further clarity on the design of this approach would be welcome.

As drafted, the definition of “money purchase benefits” in this section would include Additional Voluntary Contribution (AVC) providers. AVC providers allow savers to build up a pot of money which is used to provide benefits on top of DB benefits. As these savers will have a form of DB income, they are much less likely to need an income from their DC pot and should be excluded.

Finally, the provisions contained within the Privacy and Electronic Communications Regulations currently serve as a barrier to schemes effectively communicating with their membership on their retirement options. As savers are automatically enrolled by their employers into a workplace pension scheme, the scheme never has an opportunity to receive direct member consent. As auto enrolment is built on inertia, it is not practicable to rely on members to provide proactive data consent. Therefore, as part of the Pension Schemes Bill, provision should be made to relax the PECR Regulations in a limited manner to ensure that savers can be better supported when making complex retirement choices.

With respect to the PECR issue above, Pensions UK are supportive of an amendment which has been prepared by the Investing and Savings Alliance (TISA).

Suggested amendments:

17) *To ensure the second condition is workable and that trustees can opt for a partnership arrangement where it is reasonably likely to deliver better outcomes for members. The second condition is currently unworkable because it requires trustees to be certain an external solution would lead to better outcomes and this needs to be assessed on a member-by-member basis.*

18) *To exempt AVCs and AVC providers from the guided retirement requirements.*

PART 3: SUPERFUNDS

Aspects Pensions UK supports: Pensions UK strongly supports the introduction of Superfunds and have argued for their introduction since 2017. Providing greater choice to trustees and introducing new consolidation vehicles could increase the likelihood that members can be guaranteed their pension benefits. Superfunds are capital-backed consolidators which allow defined benefit pension schemes to transfer their liabilities away from the sponsoring employer while enhancing the security of members' benefits. By allowing employers to transfer pension obligations to a Superfund, companies can reduce future liabilities and focus on core business operations while still protecting retirees’ entitlements. Superfunds present a new ‘endgame’ option for DB schemes which allows member benefits to be protected for schemes which may not be well enough funded to achieve an insurance buy-out.

Pensions UK

Aspects requiring scrutiny: We do not agree that, as part of the onboarding criteria for a transfer into a superfund, the trustee of a ceding scheme should need to demonstrate that an insurance buyout cannot be arranged. Ultimately it should remain at the discretion of the trustees and employers which endgame option they choose to pursue. A statutory requirement to force schemes and employers to follow a specific route interferes with their fiduciary duty, as well as being anti-competitive. There are also practical issues involved with demonstrating that an insurer buyout was not achievable. If this requirement necessitated that the trustee approach an insurer to secure a quote, this in and of itself requires a significant amount of work (and cost) to get the requisite data ready for a quote to take place – a burden placed on schemes who might ultimately wish to simply secure a Superfund in the first place. Furthermore, this raises issues where for example an employer is willing to finance the cost of a Superfund transaction but not the (greater) cost of an insurance buyout. We would like to see this specific criterion removed from the approval process.

We would like to see amendments to the capital adequacy and capital buffer requirements so that they match the current supervisory regime at TPR and don't go beyond existing regulatory requirements.

We would also like to see the Bill amended so that it allows schemes with active members to transfer to a Superfund. This would allow a transfer of a population of non-active members to a superfund, where some active members are being retained by the ceding scheme, and/or it might operate to prevent the approval of a transaction under which members (who are then active) may be transferred to a Superfund at a later point, after their active membership has ceased. There is currently no such restriction under the current TPR interim regime.

As drafted, under clause 58 TPR may only approve a Superfund transaction if the ceding scheme does not have any active members. Whilst true that Superfunds will not take on any active members, the condition is too restrictive and could prevent transfers from taking place even where members are due to become deferred immediately after the transaction has taken place. Incorporating flexibility into this provision would avoid unnecessary obstacles to the functioning of the Superfund market.

Suggested Amendments:

19) *To remove from the onboarding conditions criteria the requirement for a ceding scheme to demonstrate that at the date of application the financial position of the scheme is not strong enough to enable trustees to arrange an insurer buyout.*

20) *To clarify whether the requirement to ensure the capital adequacy requirement is met is intended to be an ongoing requirement and remove*

capital adequacy test from the ongoing monitoring requirements and "events of concern".

21) *To ensure that the Superfund can remedy an event of concern within a reasonable time period without having to immediately release the capital buffer if an event of concern arises.*

22) *To remove the restriction that would disallow a scheme from transferring to a Superfund if they should still have active members immediately following the transfer.*

PART 4: MISCELLANEOUS PROVISIONS

<u>Pension Protection Levies</u>

Aspects Pensions UK supports: With respect to the PPF levy, the Bill removes the existing restriction that prevents the PPF Board from reducing the levy to zero and subsequently increasing it again within a specified timeframe. It introduces a new safeguard to cap annual levy increases, replacing the previous 25% limit with a more flexible mechanism that enables controlled annual rises based on the Board's assessment of the PPF's funding needs, while still protecting levy payers from sudden and significant increases. Given the strong funding position of a majority of DB schemes of late and the PPF's strong reserves which stand at over £14 billion, Pensions UK and our members welcome legislative changes to allow for a zero levy which we have been engaging heavily on with DWP and PPF to achieve.

<u>Virgin/NTL</u>

The Court of Appeal judgment in Virgin Media Limited v NTL Pension Trustees Limited, has raised significant legal and operational concerns for defined benefit (DB) pension schemes that were formerly contracted out. The scale of the impact is potentially vast, with thousands of schemes facing the risk that historic rule changes could be declared void – triggering costly rectification exercises, increased liabilities, and prolonged uncertainty.

The Government has committed to introduce legislation to give affected pension schemes the ability to retrospectively obtain written actuarial confirmation that historic benefit changes met the necessary standards. This will give schemes and sponsoring employers much needed clarity around scheme liabilities and member benefit levels in order to plan for the future. We hope that the Government will bring this forward in the Bill.

* * * * *

Pensions UK

Annex

Issue Number	Suggested amendment text
	Local Government Pension Scheme
3)	Clause 1, page 2, line 4, at end insert – *"(ea) an order made under subsection (e) is subject to the firms own obligations under the FCA authorisation process and in all instances aligns with scheme members best interests.*
4)	Clause 2, page 3, line 24, at end insert – *"subject to existing obligations under The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016".*
	Surplus Release
5)	Clause 8(1), page 7, line 33, after the *words "Where no power is conferred on any person to make payments to the employer out of funds held for the purposes of the scheme" insert "prior to the wind-up of the scheme (or a section of it) being triggered".*
6)	Clause 8(1), page 7, line 9, replace the words "the trustees" with "any person".
	Small Pots
10)	Clause 32, Page 30, line 12, at end insert – *"(4) Before making regulations under this section which would substitute a larger amount in section 20(2) the Secretary of State must -* *(a) Consult with DC pensions providers and other appropriate representatives.* *(b) Conduct an independent market impact assessment"*
11)	In Clause 24, after paragraph 7, insert – *"(8) Where the trustees or managers of a scheme are required to transfer a pot in accordance with this Chapter, the trustees or managers shall be discharged from any obligation to provide benefits to which the transfer related."*
	Scale and Asset Allocation
12)	Clause 38, page 46, line 21, leave out "2035" and insert "2032"

Pensions UK

13)	Chapter 3, Clause 38, new section 28(C) In Clause 38, page 43, after line 7, insert – *"(14A) Before making regulations under this section, the Secretary of State must consider and evidence that a sufficient supply of qualifying assets are available to enable relevant Master Trusts and group personal pension schemes to meet any prescribed requirements."* In Clause 38, page 41, after line 19, insert – *"(4A) Regulations made under this section may not set the prescribed percentage for the purposes of subsection (1) and (2) above ten percent."* *"6A Where a description prescribed under subsection (4) relates to whether an asset is located in the United Kingdom or linked to economic activity in the United Kingdom, the prescribed percentage may not exceed five percent of the total assets held in a default fund of a relevant Master Trust or a group personal pension scheme."*
	Default Pension Benefit Solutions
17)	In clause 43(3), page 56, line 37, delete the word “will” and replace it with the words “is reasonably likely to”. In clause 43(3), page 56, line 38, delete the words “the member” and replace it with the words “the members or a subset of members”.
	Superfunds
19)	Clause 58, page 67, line 34 leave out paragraph (a)
22)	Clause 58(1)(b) could instead read “the transfer will not result in the receiving superfund accepting any active members”