Written evidence submitted by Association of Pension Lawyers (APL) to the Pension Schemes Public Bill Committee (PSB56)

I am writing on behalf of the Association of Pension Lawyers ("APL"). The APL is a body representing members of the legal profession in the UK who specialise in pensions, and pensions-related, law. It is a non-political, non-lobbying, not-for-profit organisation representing over one thousand members.

This is a response to the Call for Evidence relating to the Pension Schemes Bill 2025 (the "Bill") published on 8 July 2025. The contents of the Bill have been considered by various sub-groups of the APL as appropriate including its Legislative & Parliamentary Sub-committee, its Investment & DC Sub-committee and its Public Sector Sub-committee.

The views expressed below represent views from APL members from a range of firms, whose clients include trustees, employers, defined benefit master trusts, life insurance companies and superfunds. The views do not necessarily reflect those of the legal profession as a whole or indeed all APL members – there are likely to be a number of different views on the issues raised. The responses below are intended to assist the Public Bills Committee in understanding some of the legal issues arising from the Bill but do not constitute advice provided by either the authors, their firms or the APL, and should not be relied upon either by the government, regulatory bodies or any third party.

Where we have not commented on a specific provision, we may send a subsequent response to address those provisions. We note that the Bill does not contain any provision relating to "Virgin Media" issues although government has indicated a willingness to remedy these issues – we would be happy to supply further comment if such provisions are added to the Bill, or indeed other provisions in general.

1. Part 1, Chapter 1: Local government pension schemes

1.1 In the Government's response of 29 May 2025 to its consultation *Local Government Pension Scheme (England and Wales): Fit for the future* the Government committed to use the Bill:

- to put asset pooling on a statutory basis, mandating minimum standards for pooling and providing for the detail to be set out in regulations which will require Administering Authorities to participate in an asset pool;
- to require Administering Authorities to delegate the implementation of their investment strategy to the asset pool;
- to require Administering Authorities to work with relevant strategic authorities, local authorities, or corporate joint committees to identify suitable local investment opportunities;
- to give powers for regulations to make provision about triennial independent governance reviews of Administering Authorities.

1.1. Chapter 1 of Part 1 of the Bill takes this commitment forward. However, the Bill provisions largely consist of broad regulation making powers meaning the substance of how these policies will be implemented in practice cannot be assessed until a later date.

1.2 There is a statutory duty (in section 21 of the Public Service Pensions Act 2013) to consult which will apply to these regulations, but the Government's proposed timescale for Administering Authorities to have shareholder or client agreements in place with asset pools is March 2026. It is essential that draft regulations are published in sufficient time to enable full scrutiny of and discussion about the content; and to allow for detailed comments. This is particularly important as the regulations are likely to be made using the negative procedure so there will be limited opportunity for detailed Parliamentary scrutiny of the implementing regulations.

1.3 In terms of the detail of the regulation making powers:

- Clause 1 of the Bill contains wide regulation-making powers relating to asset pool companies and Administering Authorities' participation in these, including powers for the Secretary of State to direct Administering Authorities to participate in a particular asset pool company in prescribed circumstances. The Delegated Powers Memorandum published alongside the Bill says (paragraph 30) that this is to ensure there is a mechanism for resolving disputes. For context, in accordance with Secretary of State guidance since 2016 the c. 86 LGPS Administering Authorities have participated in one of 8 asset pooling companies. Each asset pooling company was established at local level by agreement among the Administering Authorities, each a large-scale exercise incurring considerable time and financial resource. Notwithstanding the considerable activity in 2016 and the considerable current resourcing constraints on Administering Authorities, in Spring 2025, and prior to issuing its response to the Fit for the Future consultation, Government decided that Administering Authorities should now participate in one of 6 pooling asset companies leading to the disbandment of two of the 8 asset pooling companies. We would therefore welcome clarity about the prescribed circumstances in which it is proposed this new power for the Secretary of State to direct Administering Authorities to participate in a particular asset pool company, and the potential further disbandment of any of the remaining 6 asset pooling companies, will be exercised.

- The detail of requirements for asset pool companies will be set out in guidance to be issued by the Secretary of State. As well as consultation on draft regulations, it is essential that there is full consultation on the draft of this guidance and that this is carried out in a manner which gives sufficient time for the draft guidance to be properly scrutinised and commented on.

- Clause 2 of the Bill contains regulation making powers relating to the management of funds and assets for which Administering Authorities are responsible including requiring that these are held on behalf of the

Administering Authority by an asset pool company. The regulations must provide for Administering Authorities to be required to put in place an investment strategy and for Administering Authorities to be required to co-operate with strategic authorities to identify and develop investment opportunities.

- We note that the investment strategy will include the Administering Authority's approach to local investments, which is defined to include (in addition to investments in the Administering Authority's own area) the areas of other Administering Authorities participating in the same asset pool company. We appreciate that this allows for the possibility of alignment of investment strategies across Administering Authorities participating in an asset pool. We would welcome clarification of the following:

  i. where the mechanism for resolving differences between the investment strategies of Administering Authorities participating in an asset pool and between the Administering Authorities and the asset pool itself will be located and how it is intended this will operate.

  ii. that nothing in the Bill or subsequent regulations concerning the matters that must be covered by a scheme manager's investment strategy shall conflict with any scheme manager's fiduciary duties towards the beneficiaries of the LGPS (a concern which has been raised by industry stakeholders in previous LGPS asset pooling consultations).

1.4 Clause 4 of the Bill contains regulation making powers to provide for periodic and ad hoc governance reviews of the performance and effectiveness of Administering Authorities and their governance of the LGPS insofar as it is administered by them. We note that although the Government's current intention is to set the periodic reviews at three years to align with the LGPS valuation cycle this is not stated on the face of the Bill.

1.5 In relation to the ad hoc government reviews, the definition of this refers (in clause 4(2)(c)(i) of the Bill) to a direction to carry out a governance review given to the scheme manager (i.e. the Administering Authority), where the power to give such a direction has been conferred by regulations. There appears to be an inconsistency here with the nature of the review which is stated (in clause 4(1) of the Bill) to be a review of individual scheme managers, carried out by persons. It is not clear whether it is intended that an ad hoc direction by the Secretary of State to carry out a governance review can be given to persons other than a scheme manager. If not, it is not clear how this process is intended to operate in view of the requirement (in clause 4(4) of the Bill) that the governance review is carried out independently of the scheme manager (albeit the arrangements are made by the scheme manager). Clause 4(1)(b) enables the making of regulations for the Secretary of State to issue guidance to persons carrying out governance reviews of individual Administering Authorities and the LGPS funds they administer. However, Clause 4 contains no description of the persons whom the Secretary of State anticipates will carry out governance reviews, or the appropriate qualifications those persons will need in order to carry out that function, or for the provision in regulations to describe those persons or their necessary appropriate qualifications.

2. Part 1, Chapter 2: Powers to pay surplus to employers

2.1 This Chapter introduces provisions intended to allow greater flexibility for surplus assets in a defined benefit pension scheme to be payable to the scheme's sponsoring employer. The APL has been involved in separate engagement with relevant DWP officials regarding a number of issues on these provisions including (1) the interaction between the new powers and scheme rules and (2) tax issues. That engagement will continue.

3. Part 2, Chapter 1: Value for Money

3.1 This Chapter introduces provisions intended to enable the implementation of the proposed “value for money” (“VFM”) regime for money purchase schemes. A new VFM regime was first proposed in 2021 by the Pensions Regulator (“TPR”) and the Financial Conduct Authority (“FCA”) and was the subject of a joint Department for Work and Pensions ("DWP"), FCA and TPR consultation on policy in January 2023 and a detailed FCA consultation paper on the proposed legal framework for the regime in August 2024. The stated purpose of the regime is to encourage transparency and competition amongst money purchase schemes in relation to the value they provide to members, with a shift in focus from short term costs to longer term net value, measured and demonstrated as the performance of the scheme against the three key criteria of investment performance, costs and charges, and quality of services to members.

3.2 The clauses of the Bill set out a framework for the regime expressed mainly as high-level principles. The Secretary of State will be empowered to make regulations setting out the detail of the regime. When enacted the Bill and the regulations will apply to occupational pension schemes (“OPSs”) providing money purchase benefits that are in scope (“relevant pension schemes”), whilst contract-based, FSMA-regulated pension products in scope will be subject to new rules made by the FCA for the Conduct of Business sourcebook.

3.3 The regulations will be able to prescribe the arrangements to which VFM will apply, and it has previously been confirmed in response to consultation that the regime will apply to a scheme’s default arrangement used for auto-enrolment purposes. The regimes that apply to OPSs and to FSMA-regulated pension products are expected to be broadly equivalent in effect.

3.4 The provisions of the Bill would enable the regulations to require trustees of a scheme to make and publish “VFM assessments” of the performance of the scheme. The VFM assessment is to be based on prescribed categories of information (“metric data”) which relate to the three key VFM criteria referred to above. A VFM assessment would be carried out in accordance with requirements set out in the regulations, which will be able to make provision for the method of evaluations, comparisons, and benchmarking. Trustees may also be required to issue VFM member satisfaction survey forms to members and make reports of the survey data.

Under the VFM assessment, trustees will be required to assign a VFM rating to the scheme in respect of a period. The rating is "fully delivering" if the trustees consider that the scheme is delivering value for money, and either "intermediate" or "not delivering" if they do not consider this. This framework for assessment corresponds to the provisions of the draft FCA rules, under which the independent governance committees ("IGCs") of contract-based arrangements must assign a "green", "amber" or "red" VFM rating to the arrangement.

3.5 The regulations will be able to specify various consequences for receiving either an "intermediate" or a "not delivering" rating. These include the trustees being required to prepare "improvement plans" and/or "action plans" which they may have to submit to TPR, to give notice to participating employers of the rating and to cease admitting new employers to the scheme while the rating persists. As part of the preparation of an action plan, trustees may be required to consider whether transferring the members to another scheme may reasonably be expected to result in long-term value for money. In the case of a scheme with an intermediate rating, if TPR considers that the trustees have not complied with an improvement plan or an action plan, the trustees consider that there is no realistic prospect of delivering value for money or the scheme has had an intermediate rating for a specified prior period (which, in the equivalent draft FCA rules for contract-based arrangements, is proposed to be 3 years), the trustees must assign a "not delivering" rating.

3.6 Following a "not delivering" rating, TPR may ultimately require the trustees to transfer the members to a scheme that meets prescribed conditions, and the regulations can impose requirements relating to the winding-up of the scheme. The Bill also enables the regulations to provide TPR with various new supervisory powers including powers to issue compliance notices and penalty notices for non-compliance.

3.7 As most of the details of the VFM regime will be set out in the regulations, and we can expect extensive consultation with the industry on their content in due course, substantive comments on this part of the Bill are relatively limited:

- The process of assessing the metric data and assigning a VFM rating will be complex, and the responsibility to do so will lie on trustees and IGCs. As it would entail balancing several distinct factors, in particular the provision of services to members as against returns net of costs, it cannot be wholly mechanistic in application. Therefore, it may necessarily involve judgments by trustees and IGCs. In any such scenario there is danger that there will be inconsistency between the assessments of different trustees and IGCs, and incentives may operate on such bodies to take a less rigorous approach. Given the potential severity of the consequences of "intermediate" or "not delivering" ratings, it is important that counter-incentives are in place to encourage the assessments to be carried out in a fair and objective manner. One such incentive will the general duties of trustees to act for proper purposes and, where relevant, to consider the best interests of scheme members. Another potential incentive, provided for in the Bill, is the mechanism for TPR to challenge a rating and impose a different rating. Specificity in the regulations as to the basis on which TPR may take this action, and clear supplementary guidance by TPR on how it would expect to use this power, would be helpful.

- It will be important to ensure that, as far as possible given the different regimes under which they operate, a level playing field applies in respect of VFM as between trust-based and contract-based arrangements. A potential difference, based on the current drafts, is whether the applicable regulator can order a transfer of members and benefits from a scheme not delivering VFM to another arrangement that is delivering VFM. It is proposed that TPR will have this power in respect of trust-based arrangements, but it is not clear that the FCA would have such a power for contract-based arrangements. The draft FCA VFM rules for contract-based arrangements referred to the provider of an arrangement with a "red" VFM rating from its IGC being required to "consider" a transfer to another arrangement that is delivering value for money, but do not include an outright obligation to do so or a power for the FCA to order such a transfer. However, it is proposed that the contractual override provisions in respect of FCA-regulated schemes in Chapter 4 of Part 2 of the Bill will include the ability for a provider (subject to the necessary process being followed, including the application of a "best interests" test and obtaining certification from an independent person) to introduce terms allowing for a transfer without consent. While it seems reasonable to expect that VFM ratings would be relevant to the provider's application of the best interests test and the judgement of the independent person, the override regime is expressed to be permissive rather than mandatory. This may mean that trustees of trust-based arrangements are more likely to be in a position where they are obliged to make a transfer than the providers of contract-based arrangements. It may be that when other obligations of FCA-regulated providers are taken into account (such as the consumer duty) there is less potential for disparity, but it would be helpful to have more clarity in this area and to reduce the scope for such disparity.

4. Part 2, Chapter 3: Scale and asset allocation

4.1 This Chapter introduces new requirements on DC schemes, essentially requiring the largest (or "main scale") default arrangement within multi-employer master trusts and GPPs to reach £25bn by 2030 (with an extended timeline for schemes that are able to reach £10bn by that point and have a credible plan to reach £25bn by 2030).

4.2 This Chapter also enables regulations to prescribe that a percentage (by value) of assets in a main scale default must be made up of "qualifying assets", which may be, by way of example, private equity, private debt, venture capital or interests in land, and could be geographically limited to economic activity in the United Kingdom. This is the "mandation power" that the government has said it will hold in reserve.

4.3 We are concerned that the mandation power is a widely drafted power and it is unusual for a power to be in legislation with an express intention from the minister not to use it. If it is to be used we think it would be important to make clear that trustee liability was limited for losses caused from acts in compliance with mandation.

4.4 In general, the definition of "main scale default arrangement" appears suitably widely defined to capture modern commercial DC default arrangements, including lifestyle or target-date fund structures. We would note that certain elements, such as the "common investment strategy" in the default arrangement, will need to be carefully defined in regulations and we anticipate a comprehensive industry consultation before such regulations are made.

4.5 However, there are several specific areas in this section that might require additional consideration in the Bill before it becomes law:

- Definition of "relevant master trust": The Bill could be read to mean that only one master trust can be put towards meeting the aggregate asset value test - see proposed section 28A(4) of the Pension Schemes Act 2008, as inserted by clause 38(12) of the Bill, which refers to "the relevant master trust", i.e. the scheme seeking approval for scale. This view is strengthened by the corresponding provisions in the scale test for GPPs in proposed section 28B(4)(c) Pensions Act 2008, which refers to the assets of "one (and only one) relevant master trust" with the same provider being allowed to be aggregated with GPP assets. We assume that this language was introduced to prevent double-counting of the same assets within the test across different providers. However, this drafting could have unintended consequences for providers who operate separate master trust schemes as part of their proposition (e.g. for relief at source and net pay arrangement plans).

- Interrelation of scale and asset allocation tests: The Bill could be read to mean that main scale default arrangements can only be approved by the relevant regulator (FCA or TPR) in relation to scale if the regulator also determines that the scheme holds at least the prescribed percentage of "qualifying assets". This implies that an asset allocation percentage must be set as part of the scale approvals, even if that percentage is zero. We do not think this is the intention, particularly as clause 38(16) envisages a scenario in which the power to approve in respect of asset allocation has not been exercised before the end of 2035 – anticipating it not being used at all.

- Ability to use main scale default arrangements across different GPP providers: The Bill as currently drafted could be read as allowing any other qualifying GPP to be taken into account (that is using the same default arrangement) for the scale test. In practice, this could mean that one main scale default fund may be used across multiple, separate, third party commercial GPP providers, which would be a different environment to the one created for master trust providers by the Bill's scale test. We are unsure whether this is the policy intention and suggest that this is clarified in the drafting.

5. Part 2, Chapter 4: FCA regulated pension schemes: Contractual Override

5.1 This Chapter seeks to amend FSMA and provides FCA regulated scheme providers with the ability to override scheme rules, their terms and conditions and contract law to make changes to members' pots. Whilst at first glance this seems draconian, it will serve to enable providers to move members to provisions (be they different schemes or different investments) that will better serve the interests of their customers. As such these changes will be welcomed by providers with old stakeholders' books or large numbers of small pots or large numbers of inactive deferred members. This will support the drive for providing better customer outcomes and, if done well, may put trust based and contract based occupational schemes on a more even footing.

5.2 However, the devil will be in the detail as the legislation is a broad brush of enabling powers, albeit ones that provide useful safeguards via the independent review process. Most of the detail will be in FCA Handbook changes and Treasury secondary legislation and this includes: whether the override will be extended beyond workplace schemes and those used for automatic enrolment; the requirements for an independent third party; and whether providers will be able to charge customers for the changes. As such it is not possible to see if the changes will deliver real and useful change.

5.3 Consumer choice will need to be considered as there may be good reasons a customer chooses a particular investment and accepts that following a particular ethical stance (for example) may not be in their financial best interest but chooses to do it anyway. Customers must be provided with choice (most will not exercise it, but it should be there).

5.4 Secondary legislation and FCA Handbook changes will also need to carefully consider the independent person and how they are to be supervised, appointed and paid for. It will also need to consider the best interests test and the extent to which non-financial factors may be taken into consideration. It would also be helpful if the best interest test was consistent with VFM principles.

6. Part 2, Chapter 5: Default pension benefit solutions

6.1 This Chapter of the Bill places major new duties on trustees of master trusts, i.e. the huge trusts which will hold most UK employees' retirement savings. These are in clauses 42, 44 and 45 in particular. Those clauses will also apply to the small number of other occupational pension schemes that offer drawdown for DC savers, and group personal pensions. From a legal perspective it will be critically important to get these new duties right. For context:

- For most retirement savers, how they use their money when they reach retirement will be the biggest financial decision they make in their lifetime of pension saving; and the one that carries the greatest risk.

- For master trusts in particular (but also for other occupational schemes) the duties in the Bill are entirely new. Even in the huge master trusts, most trust deeds say hardly anything about trustee duties to support members in making retirement decisions.

- Legislation and trust law interact in a complex and often uncertain ways.

- The expertise needed to comply with clauses 42, 44 and 45 will, we expect, be so niche and specific that it will only be held by a small number of regulated commercial pension providers. So, although trustees must oversee the operation of their trust, in practice we expect that trustees will be completely reliant on delegating to their service providers to fulfil these duties.

6.2 If some pension savers end up making retirement decisions that do not work well for them, and sue or claim compensation from the trustees of their master trust, we expect that the claims firms representing them will use any chink of uncertainty in the legal duties to push their claims; and they will do this with hindsight. So, to give certainty for everyone involved, including for pension savers, we would urge that the legislation defines trustees' duties under clauses 42 to 50 as precisely as possible.

6.3 To make this work we think the legal duties for master trusts should be exactly the same as the legal duties for regulated pension providers (including group personal pensions). Doing otherwise could cause several complications in the retirement system, including uncertainty about legal liability.

6.4 We suggest the clearest way to do this would be to add a line to the Bill stating that trustees can delegate their duties under clauses 44(1), (2), (7) and (8), clause 45 and possibly some parts of clause 42 to a regulated pension provider, and if they do so, will face no legal liability beyond their responsibility for overseeing the provider. This is similar to the way that pension trustees delegate investment management decisions under section 34 of the Pensions Act 1995. We are not suggesting this to protect trustees from liability: but to give certainty and clarity about how legal liability works, and to fit with the practical reality of the way the system will operate. Any other approach creates a constant danger of uncertainty about whether there are duties under trust law on top of complying with the detail of the legislation, and how far those duties will extend.

6.5 As well as this there are a series of other important points in the legislation to clarify, all of which will have an impact for pension savers and for pension providers and trustees:

(a) Clause 43 - this key clause covers pension schemes that will not offer drawdown but will give their members a route to transfer to a master trust or regulated pension at retirement. The wording is not quite clear about what happens if a member reaches retirement age and does not make a choice (i.e. whether their money is automatically transferred to the qualifying pension benefit solution, or only if they make a positive choice); it will be important to pin down a mechanism for this.

(b) Clause 43 states that a pension scheme can use the transfer route if the trust / provider they will transfer to gives a "better" outcome for members than their scheme. To protect the trustees of the employer run schemes who will make these transfers (most of whom are lay trustees), we think this should be clarified: (i) we suggest the test should read "as good as or better than" their own scheme; and (ii) the comparison should be against what they could reasonably offer within their own scheme, to save them needing to spend time and money analysing what different drawdown suppliers could possibly offer within their scheme.

(c) Clause 44(2) states that master trusts and other schemes offering drawdown must tell their members which default pension benefit seems most "appropriate" for the member. Clause 44(7) and (8) states that the scheme can ask members for information about themselves in order to do this. The legislation should allow for what happens if the member gives information that is incomplete or incorrect, e.g. the communication under clause 44(2) must be to the best of the trustees' or provider's ability based on the information received. We see this as an important practical point to capture in the legislation.

(d) These clauses all overlap with the new "targeted support" and "simplified advice" regimes that the FCA is introducing, allowing pension providers to make suggestions to pension savers based on relatively limited information about the saver. We suggest that care should be taken to make sure the details of the regimes match up, otherwise pension providers will need to spend money and time building systems that comply with two (or, if trust law is relevant, three) legal and regulatory regimes.

7. Part 3 – Superfunds

7.1 This Part introduces new requirements and a bespoke regulatory regime for Superfunds to replace the current temporary regulatory regime operated by TPR.

7.2 The proposed onboarding condition in clause 58(2)(c) that the capital adequacy threshold will be met in relation to the receiving superfund immediately *following* the superfund transfer is likely to have unintended consequences. In a typical superfund transfer there is necessarily a gap between the signing date, and the ultimate transfer date (generally due to clearance and member notices). It is likely to constrain the superfund market, rather than achieve the government objective of supporting it, and disincentivise transactions, if the requirement to meet this test *following* the transfer date is retained because it increases execution risk, and therefore uncertainty for all the parties, to this later point.

7.3 The proposed requirement in clause 58(1)(c) that the ceding scheme does not have any active members would prevent the transfer to a superfund of non-active members from a scheme which is open to accrual. While this is ultimately a policy matter, and noting the robust safeguards that will in any event apply to superfund transfers, we do wonder whether a prohibition on superfund transfers for a ceding scheme which is open to accrual will lead to the optimal superfund market in terms of positive pension outcomes for members and employers. We can see scenarios where there may be considerable benefit to transferring the overwhelming majority of scheme members who are non-actives to a superfund, leaving the employer to support the risks associated with a small population of actives, which they may be more capable of doing.

7.4 The current requirement in TPR guidance to obtain clearance for a superfund transfer is, in effect, being replaced by a requirement for TPR approval in the Bill; clause 57 will make it an offence to transfer liabilities to a superfund without TPR approval. TPR will therefore "bless" any superfund transfer. It should follow that the likelihood of TPR exercising its moral hazard powers against a ceding scheme employer (or, indeed, trustees) is remote. However, as a technical matter, TPR will not be bound to refrain from exercising its moral hazard powers by granting transfer approval. We expect employers in particular will be alive to this point and will want additional comfort. Applying for clearance would be an option, but that may put additional and unnecessary resource strain on TPR. It would be helpful if the DWP's and TPR's expectations on this point, and the process (if any) to be followed by ceding employers regarding clearance following enactment of the new legislation, could be clearly articulated in TPR's updated guidance. Without this, prospective transactions are likely to be held up and prospective users of superfunds may have less faith in the market.

8. Part 4 – Miscellaneous

Clause 93 (Alienation or forfeiture of occupational pension)

8.1 We note that clause 93 of the Pension Schemes Bill will amend section 91 of the Pensions Act 1995, including by inserting a new subsection (6A) which sets out certain conditions that need to be satisfied before forfeiture will be permitted. The principal intention of the drafting is to ensure that a determination by the Pensions Ombudsman, when determining a dispute about the appropriate amount of a charge, lien or set off, will be treated as an order of a competent court.

8.2 Having considered the proposed amendments, we think that the first such condition (i.e. the dispute as to the amount of the monetary obligation in question "has been resolved by the parties to it") and in particular the word "resolved" could be more open to interpretation than is helpful. This could potentially lead to the position whereby trustees have no other choice but to have to seek an order of a competent court (or obtain an award from an arbitrator in Scotland) to satisfy the third condition set out in subsection (6A), given that the second condition depends on the member referring their complaint to the Pensions Ombudsman.

8.3 In light of this, our view is that the current wording in section 91(6) of the Pensions Act 1995, and in particular the reference to "where there is a dispute as to its amount" is a more preferable formulation of wording. We therefore think that section 91(6), as currently drafted, remains appropriate, albeit we note that an amendment will be still needed to reference the obligation in question becoming enforceable "as a result of the Pensions Ombudsman having made a determination under Part 10 of the Pension Schemes Act 1993 or Part 10 of the Pension Schemes (Northern Ireland) Act 1993 (investigations)" (which could be added before the words "under an order of a competent court…"). This would ensure that the policy intention relating to the Pensions Ombudsman being recognised as a competent court is still reflected in the primary legislation, but without introducing a new provision that could be subject to interpretation and uncertainty.

8.4 Our comments above similarly apply in relation to the proposed amendments to section 93 (forfeiture by reference to obligation to employer), Article 89 of The Pensions (Northern Ireland) Order 1995 (inalienability of occupational pension), and

Article 91 of The Pensions (Northern Ireland) Order 1995 (forfeiture by reference to obligation to employer) – again, we think the current formulation of wording remains appropriate, albeit with the added reference to the Pensions Ombudsman having made a determination, as set out above.

August 2025.