Mercer's response to the Public Bill Committee's call for evidence on the Pension Schemes Bill

Summary

Mercer has extensive expertise in the areas covered by the Bill. We advise employers and trustees of occupational pension schemes in the UK across a broad range of industry sector and size of organisation. We also operate two master trusts.

We welcome many aspects of the Pension Schemes Bill and do not provide comments on all of these. This submission instead focusses on areas where we believe that there are risks, the possibility of unintended consequences and opportunities for the Bill to be improved through amendment. This section provides a high-level picture of our views of the Bill. It is followed by a main body of evidence which examines the Bill chapter-by-chapter. A technical appendix is also included.

We are happy for this response to be published. For more information about this submission contact Tess Page at tessa.page@mercer.com or on 0161 837 6533, George Lawley at George.Lawley@mmc.com or Lizzy Holliday at Lizzy.Holliday@nowpensions.com.

Local Government Pension Schemes

The Bill delegates significant powers to the Secretary of State which could enable political motivations to interfere with the efficient running of the LGPS. We have concerns about this and have suggested areas where the Committee should seek more information.

Private sector Defined Benefit schemes

The Pension Schemes Bill has the potential for significant impact on private sector DB pension schemes, employers who provide such schemes and their members. It could also have a significant impact on insurers and superfunds whose business models rely on them being an "endgame" solution for DB schemes. As such, some respondents to this call for evidence may have a particularly strong view in favour of or against the Bill as drafted, depending on their interests. In particular, the Bill potentially creates a more supportive environment for sponsors and trustees who wish to run their DB pension schemes on for longer, as opposed to transferring their assets and liabilities to an insurer (or superfund) sooner. Mercer serves its pension scheme clients both by helping schemes to run on and with buyout and superfund transactions, depending on individual client circumstances and objectives, and so is well-placed to provide a balanced view. In the main Mercer supports the measures which impact private sector DB schemes; our evidence submission highlights some areas where we believe improvements can be made or where the Committee should seek information from the Government.

Defined Contribution schemes

Mercer as an organisation has interests across the DC landscape – including two master trusts (Mercer Master Trust and now:pensions), GPP funds and a DC consulting body. This means we are well-placed to feedback on the DC Bill content from a range of different business points of view, and with joined-up positions across these

perspectives. The Bill will have a significant impact on DC members, schemes and providers, however, in places there is still a lot of detail that is yet to be confirmed, and a significant extent of delegated powers are included. Some of the policy areas have moved beyond the most recent formal consultation content. Additionally, some of the DC measures are very interventionist, which we believe poses risks to members, schemes and the government, particularly in relation to mandation of pension scheme assets. Further clarity regarding government policy and regulatory intent is needed to fully understand these issues and the implications. Our evidence submission highlights some of these areas.

Mercer Ltd

29 August 2025

Mercer's client base in the UK includes employers and trustees providing occupational pension schemes to employees in all sectors of industry. Mercer provides pensions advice and services to companies in the FTSE100, as well as a large proportion of employers classed as "Small to Medium-sized Enterprises", or trustees of pension schemes with sponsoring employers in this class.

PART 1 – DEFINED BENEFIT PENSIONS

Chapter 1 – Local Government Pension Schemes

1. At a high level, the Bill gives the Secretary of State the powers to direct a Fund to join a particular pool under "prescribed circumstances" as well as being able to impose requirements or prohibitions on asset pool companies – without suitable definition these could be far-reaching powers which could enable political motivations to interfere with the efficient running of LGPS assets and potentially compromise the fiduciary duty of administering authorities.

2. Similarly, the proposed powers to bring about compulsory merger of two or more LGPS funds is a material extension of the Secretary of State's existing powers. Whilst the motivation for the new power may be primarily driven by Local Government Reorganisation, in the absence of any appropriate caveats this is a significant power which potentially, could be used for very different purposes than originally intended.

3. As per the consultation, local investments has been defined as being within an administering authority, or the wider pool. Our consultation response cautioned against local being defined as within the geography of the Pool, and we reiterate that there are potential risks associated with this approach.

4. From a fund (not pool) governance perspective, given the requirements for Funds to undertake governance reviews, the Bill also sets out commentary on:

    - when such reviews will be undertaken,
    - what the requirements will be for reporting outcomes to the Secretary of State, and
    - what powers the Secretary of State will have to require an ad-hoc review to take place albeit it doesn't set out the "prescribed circumstances" such ad-hoc reviews would be requested.

    Government has stated that compulsory mergers could take place "in the event local decision making is not effective in bringing about satisfactory arrangements." The Committee should seek information on details of the circumstances when such powers would be enacted if a fund's governance standards were not deemed to be high enough.

Chapter 2 – Powers to pay surplus to employers

We are concerned that the Bill misses two opportunities to maximise its impact:

1. The Bill preserves the requirement to notify members before a payment of surplus is made to the employer. This is potentially a barrier to surplus release if the intention is that every surplus payment must be preceded by a separate notification**. It should be amended in a way which still provides transparency to scheme members but also more flexibility for trustees and sponsors.**

2. The Bill seems to envisage DWP making regulations which are separate from existing legislation governing how DB schemes are funded and invested and how trustees communicate with members and the Pensions Regulator (TPR) about this. In circumstances where payments of surplus from scheme to sponsor are deemed appropriate, they can be thought of as a mirror image of contributions from sponsor to scheme (in effect, negative contributions). **It would be a mistake not to harness the framework of the existing funding regime**, which governs the payment of contributions to maintain adequate security for members' benefits in the

context of a scheme's individual circumstances. This framework is already well suited to manage surplus outgo alongside contribution and investment income.

We provide more detail and make suggestions for amendments in the appendix.

PART 2 – DEFINED CONTRIBUTION PENSIONS

Chapter 1 - Value for money (VFM)

Value for money is at the heart of all that we do and we are keen that this new framework delivers real value for members at appropriate cost. We believe four core matters need further consideration to ensure the Bill, and the wider policy and secondary regulations that it will enable, achieves this outcome.

1. **A one-off private data collection to better target the framework and assess its value is needed before implementation of the framework (**akin to a thematic review). This would enable an assessment of the extent of value that can be driven out of the market; test the efficacy of the data points; support a more targeted system of appropriate weight and sense check interpretation of requirements.

2. **Metric refinement is needed to allow for more robust assessment of real 'value' add** by schemes and providers, rather than measures that more likely indicate value of the book, particularly in relation to quality of services, and the costs and charges calculation methodology. This is because there are a range of different schemes providing for different segments of the members in the market. In particular Master Trusts such as now:pensions provide for the previously underpensioned, lower earners and those with non-traditional working patterns -factors which impact engagement and business models. We propose:
   - Removing or weighting the customer survey and the communications metrics under quality-of-service category where that relates to engagement.
   - For combination charge metrics applying the DWP methodology (re the charge cap) to the calculation required for translating a combination charge into an AMC or allowing the combination charge to be featured as primary comparison metric – otherwise the comparison is significantly distorted.
   - Only the charges borne by the member or employer should be in scope for the VFM framework.
   - Inclusion of a forward-looking metric, or some other method of calibrating the metrics to ensure the value of private market investment is incorporated into the framework. Without it the proposed framework **risks disadvantaging high quality schemes who are making forward-looking, long-term decisions**, and conflicts with Government priorities.

3. **Regulatory consequences and process development to ensure equitable impacts across the market.** We propose:
   - The RAG/overall rating score should provide for five ratings with the top two ratings being 'green' (a gold and silver score) and the top three not incorporating a regulatory response prohibiting the scheme from taking on new clients.
   - Schemes should be enabled to compare to more schemes serving similar segments than the stated policy position allows for - as well as a broader comparison to check value with others.
   - The data gather should be conducted via a regulator private data portal, with access by schemes only, and treated as confidential. Full data should not be published ahead of the reports, and the scope of the data publication should be subject to consultation before it is implemented.

4. **A review requirement to assess the efficacy and impacts of the new regime, and to require future regulations that add or change the regime to be subject to consultation.**

Chapter 2 – Consolidation of small dormant pension pots

We are supportive of the introduction of the Multiple Default Consolidator model to resolve the problem of small, deferred pots; however, the Bill does not include a number of key policies and processes which materially affect member outcomes, commercial dynamics, and economic feasibility of the solution.

Our proposals below address these feasibility issues and enable the policy and Bill to deliver the intended outcomes for members:

1. **Central architecture / small pots data platform remit should be kept tight and focussed – it does not need to be a centralised database or clearing house. However, a central governance structure is an essential requirement** and data exchange directly between schemes should be kept to a minimum.. Key learnings and elements of the eco-system, infrastructure and governance structures developed for the Pensions Dashboard should be deployed. In the Bill this important matter is currently entirely delegated to an unspecified entity

2. **Allocation** – **a member who is actively saving in an 'authorised consolidator' should have their small pots allocated to that scheme**. This is intuitive to the saver, builds on an existing member relationship and trust in the system, and supports stability of the new regime.

3. **Phased implementation** – **four key steps, including an A-day for the new consolidator community – then rolling out more broadly to wider industry**. This would address the issue most immediately where it is most prevalent, and would best support planning, stability and clarity for members and for schemes. It also enables a test and learn process.

4. **£10K limit to the future extension** to the eligible pot size should be set as this has consistently been the upper end of the consultation content. **Stronger safeguards** (public consultation and published reports on the impact) are also needed to inform future decisions for any and every extension beyond current starting point of £1k. Lack of an upper limit significantly alters the commercial impact and consequences of this policy and has not been formally tested.

5. **Authorisation - greater consultation and transparency is required on the measures which constrain charges and fees** beyond current requirements. These measures have potential to undermine the economic feasibility for delivery of the policy and specific proposals have not yet been explored with industry.

6. **The powers to make regulations in the Bill** are currently extensive and the extent of the necessary standards or rules-based system, including who will create those and who will be accountable is not clear. **We believe greater specificity in the Bill regarding government intent is required on these matters**. **These details and full costings are also needed to assess economic feasibility of the policy**

7. **Liability model needs further refinements, including:**
   - **The system should be broadly rules-based**, and on a statutory footing and **exemptions and discretion for schemes should be kept to a minimum** including for example regarding the auto-transfer and allocation process. This is to ensure clarity for members and schemes. It also supports the policy objectives and a robust liability model.
   - **Trustee liability following transfer needs clarification.**
   - **Redress scenarios and mechanism need consideration**.

Chapter 3: Scale and asset allocation

We support the concept that scale, up to a point, can be important for efficiencies and member outcomes. Mercer and now:pensions together are on track to achieve the scale the Government has set out. However, the Bill requires further detail to enable schemes to plan and to deliver the intended outcome. Our key concerns and proposals include:

1. **Common investment strategy** – **this must be defined in relation to how efficiencies and pricing are achieved.** This is often not at the small 'default fund or arrangement' level in practice but across products and platforms within a provider at the level of pooled / underlying investment strategy.
2. **Transition pathway**
   - The relevant clauses suggest a **business case type approach which is focused on specific outcomes which could usefully be applied in the place of an AUM requirement**.
   - However, the **extent of discretion and judgement on the part of the regulators needs to be explored**, especially where TPR does not have a competition objective.
   - **Clarity regarding this pathway is required immediately**, given the 2030 timing of the requirement.
   - **Approval of schemes to operate on the transition pathway is required urgently.** Market distortion is already occurring whereby schemes are losing business and pipelines with consequent impacts on members due to the government policy even though they may be able to meet the transition pathway requirements.
3. **Investment capability** – there is a **significant risk** in prescribing requirements for specific in-house capabilities. This would disregard appropriate specialist skills that are more efficiently provided externally, or which are provided within a group structure within which the scheme sits. The VFM framework will pick up any issues on charges and performance on investment matters. Schemes, providers and trustees must have the flexibility to access expertise in the most optimal way. Recruiting specialist in-house teams will slow progress, add costs, and potentially limit accessible talent and expertise. This prevents providers investing in other aspects of their propositions that may add value, and may impact their ability to lower member charges
4. **Competition must exist in all market segments** – The automatic enrolment market remains relatively immature, requiring a very specific AUM whilst the market is growing may push out valuable players from specific segments. **A competition clause or caveat, or an exemption, based on segment is needed.**
5. **New entrant exemption must be fair to existing players** some of whom are relatively new entrants, and extent of regulator's discretion needs to be managed, especially where TPR does not have a competition objective.
6. **The deferred consideration of a differential pricing ban** would materially alter planning for the AUM requirement and use of the transition pathway, particularly where schemes cover a range of saver segments including lower earners who were previously underserved. A Government **commitment to include consideration of appropriate differential pricing within the scope of the review is required alongside debates on the Bill measures.**
7. **A business case approach alternative to AUM requirement** has not been fully explored. We would welcome Committee exploration of and testing of the Bill comparative to other options. The Bill measures mean that the timing and specific AUM figure are the factors driving which schemes fail or survive at a particular moment in time – i.e. rather than the ultimate objectives that government expects 'scale' to achieve.

Mandation of Asset Allocation

Parliament should be aware that voluntary support for the Mansion House Accord does not equate to support for mandation, which we continue to believe poses a conflict with fiduciary duty. The outcomes we are most concerned about are:

1. Schemes will willingly allocate to private markets, including in the UK, if attractive investments are available at a price that offers good value for members. By definition, the mandation power would only need to be exercised if such investments have not been made i.e. if the opportunities are not there. Forcing schemes to invest in less attractive assets that are either expensive to manage or do not offer good risk-adjusted returns will harm member outcomes and is in conflict with Value for Money measures.
2. Triggering a global "tit-for-tat" approach to mandating domestic investment.
3. Distorting the free market and bidding up prices due to an imbalance of demand (from MH signatories) and supply of suitable investments.
4. We do not believe there is sufficient evidence the Government needs this power, given the current trend in the industry and existing voluntary agreements that are in place.

If the measures remain in the Bill, we believe some key changes are necessary:

1. **The power to direct fractions of the percentage** to different descriptions of assets moves far beyond the Mansion House agreement, and should be removed.[1]
2. **The sunsetting clause should be curtailed to 2030 or 2031** – allowing time for the relevant reviews and reports following the Mansion House Accord, but not extending too far into a second parliamentary session.
3. **Commencement clauses must be amended to allow for only certain sections of chapter 2 to be switched on –** otherwise:
    - asset allocation mandation is not a reserved power, and
    - relating to scale requirements may not be able to be settled ahead of the full requirement being switched on leading to disorderly unintended exists from the market. Matters which must be dealt with well in advance of the full requirement being switched on include, for example, definitions, transition pathways, exemptions.

Chapter 4: FCA-regulated pension schemes: contractual override

Our comments on this chapter are included in the relevant technical appendix.

Chapter 5 – Default pension benefit solutions

We support the intention for savers to have more support at retirement. However, we strongly **advocate for defaulting members into a 'journey'** with the use of nudges rather than a hard default into a retirement **product**.

There are also a number of matters in the Bill that we would welcome debate on, to ensure the intended policy outcome is explored and appropriately delivered.

1. **We strongly advocate for defaulting members into a 'journey' with the use of nudges, rather than defaulting them into a product.** A robust interactive member journey and presentation of scenario-based

[1] Part 2, Chapter 3, Clause 28C, Subsection (8)

nudges can support the member to a decision and provide reassurance about their decision. **Amendments to the Bill could deliver this solution while still shifting the dial on provision for members.**

2. **We are concerned about defaulting people into a product at retirement**. Defaults work best where the default is appropriate for the majority of those subject to them. This is not as simple at retirement as it is at the point of being automatically enrolled.
    - The UK's diverse population with a wide range of working patterns means that "retirement" will mean different things to different people, in particular where phased retirement is common.
    - Key factors are not visible for designing the default - for example - the extent of entitlement to State Pension, the presence of other assets held by members and their household situation. Together, these factors mean that a default retirement solution is rarely likely to be a suitable solution for an individual member.
    - Paying out money and switching investment strategy without member consent introduces significant member risk, scheme liability issues, and practical implementation barriers – by contrast, defaulting members into a 'journey' addresses these risks.
    - The system must work for all types of schemes. There are distinct segments of the market serving different types of members. Some schemes (those which serve the previously under pensioned and lower earners) have significantly different population to the general market.
3. **Ambitions for an income for life and longevity protection** is premature for the UK DC mass market and should only mandated where this provides value for members**. Government expectations in relation to this clause and how it intends to use the regulation making power to exempt small pots needs clarification.** There will always need to be solution for low earners, there are a small number of schemes that cater to this segment of the market, solutions must work for those savers.
4. **Requirements for trust-based schemes must recognise this is not an individual based solution and is not an advisory service based on individual needs that is informed by extensive personal data. Clarifications are needed throughout to ensure the Bill is clear and consistent on this point.**
5. **Flexibility** is **crucial to avoid locking people into a product and also so that propositions can change over time to reflect growth of the market and respond accordingly.**
6. **Innovation – the extensive power for Secretary of State to determine certain conditions** may restrict innovation by schemes in developing retirement products for members, and steps into the shoes of the trustee**. We believe this clause should be removed.**
7. **Partnering – the process for partnering seems to be at odds with providing a default** retirement product as it does require a member decision **– either this approach should be used for all benefit solutions, or this clause should also work with an 'opt out' mechanism.**
8. **The liability model is unclear** – the Bil introduces a requirement for Trustees to default people into a product in a non-advised environment, therefore **there should be a liability model assessment, with solutions including appropriate safe harbours and statutory discharge of trustee liability clauses.**
9. **Implementation expectations –** the DWP roadmap indicates commencement in 2027 – given the extent of requirements in the Bill and regulation making powers, and potential for partnering, such timing is likely to reduce innovation in initial offerings and may introduce imbalance in competition dynamics**. A commencement date should be consulted on once the regulations have been consulted on and have been finalised so industry can assess the task in hand.**

PART 3 – SUPERFUNDS

It is hugely positive that the Bill so clearly draws on the framework that has already been established by TPR through the various iterations of its guidance on superfunds. This consistency helps to give confidence in the superfund market both in the period before the Bill comes into effect and in the longer term. However, there is a tension to how much of the framework is specified in legislation and how much is delegated to Regulations or regulatory guidance. We would be comfortable in a future scenario with well-regulated superfunds where **the gateway tests are left to regulatory guidance rather than needing to be enshrined in legislation**. This would provide more flexibility for Government to meet its policy objectives in future.

A concern relates to the definition of a "superfund", on two counts:

1. The definition leaves potential for providers to develop competing solutions that deliver similar objectives to superfunds but fall outside the definition and are not bound by the requirements of the Bill's legal and regulatory framework. Some such solutions already exist (e.g. capital backed funding arrangements) that are covered within TPR's existing superfund guidance; however, it is not clear if or how these solutions would be addressed under the Bill. Solutions designed to obviate the Bill's requirements **could weaken the competitive position of superfunds and lead to lower outcomes for members**. The Bill goes some way to address these risks through the power to deem "similar structures" to be superfunds through Regulations; however, it is likely to take constant vigilance on the part of both TPR and the Secretary of State to police the boundaries of the definition to avoid adverse outcomes.

2. Conversely, particularly when one takes account of the powers given to the Secretary of State around "similar structures", there is a risk that the definition of a superfund is or becomes sufficiently wide as to apply to any DB arrangements without substantive covenant. Such a scenario **could mean that some sponsors and trustees have already unintentionally entered into arrangements which could now be defined as superfunds**, with potential adverse consequences in relation to ability to accept transfers-in (even where that were in members' interests) and / or need to comply with the onerous requirements of chapters 4 and 5. The Committee should consider asking the Government if they are aware of this, if this is the intention, and if any transitional easements are planned. The Committee should also consider asking the Government more about how it envisages the powers delegated to the Secretary of State being used and consider whether they should be narrowed.

The criminal sanctions set out in the Bill give confidence in the robustness of the system and the resilience of authorised providers; however, there is a risk that superfund providers are held to a higher standard than competing solutions (insurance, capital backed funding arrangements and any new "superfund-adjacent" solutions). The **Committee should consider how these sanctions compare to existing and competing solutions.**

Combining the surplus and superfund sections means that, where schemes can buy out, trustees and employers may choose, subject to legal advice, to extract all surplus above the low dependency level, which would allow a scheme to satisfy the "onboarding conditions" and then transfer members into a superfund. **The Committee should consider the circumstances in which such an approach might be acceptable and how Regulations and TPR might protect members without unduly constraining employers and trustees.**

PART 4 – MISCELLANEOUS

Section 94 - PPF and FAS compensation

Other than an extension to the terminal illness definition, the Government did not include any changes to PPF or FAS compensation, despite a recommendation from the Work and Pensions Select Committee that it should bring forward the consultation on matters such as indexation of pre-97 pensions promised by the previous government[2]. There have also been suggestions that PPF compensation should be improved to bolster the safety net offered to members and support more schemes to run-on, which the Government does not appear to intend to pursue.

We can see that there are many members of the PPF whose compensation is not well protected against inflation (although we also note the same is true of many members of ongoing DB schemes), and that there is a case for making improvements where original scheme benefits included inflation protection. It is worth also noting that PPF compensation was designed when inflation had been at historically low levels. Recent inflation experience has materially eroded the purchasing power of PPF members' benefits. However, any improvements to PPF compensation use up the PPF's surplus to which past and current levy payers have contributed, and so there is a balance to be struck. **We would support surplus assets within the PPF being returned to levy payers in the future, or some other use of surplus which benefits levy payers, alongside the level of compensation paid to PPF members being considered.**

The Committee should consider asking the Government about its plans for the PPF's surplus assets, especially if it is asked to consider any amendments to the Bill which could use up a material portion of these.

Section 95 - The PPF Levy

We are concerned with the amount of flexibility afforded to the PPF by the Bill.

For example, the total levy estimate for any particular year might be £100m[3]. Under the current rules, the maximum for the following year would be a 25% increase, £125m. Over 4 years the amount could be increased to c. £240m and the maximum amount collected in those 5 years would be c.£820m. This rule was designed to protect levy payers from excessively high increases over a short period. The Bill as drafted increases the flexibility afforded to the PPF significantly, to the prior year's estimate plus 25% of the levy ceiling. The current levy ceiling is just over £1.4bn[4]. This means that, in the above example, £450m (a 3.5x increase) could be charged in the first subsequent year, the full £1.4bn could be charged by the fourth subsequent year, and the maximum amount collected over the 5-year period would be £3.9bn.

In other words, the levy could be increased roughly 5 times more rapidly than under the current rules. We appreciate that the PPF requires the flexibility to raise levies over a relatively short period of time, but our view is that this flexibility should not be increased without justification. The committee should consider asking the Government and the PPF for any analysis or rationale for the significantly increased level of flexibility in the levy amount from year to year offered by the Bill.

An alternative would be to adapt the existing rules only slightly and we set out in the technical appendix a proposal.

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[2] See the Government's response to recommendation 20 here.

[3] This round amount is chosen for simplicity, but was the actual estimate for the 2024/25 levy year and so is realistic.

[4] The Pension Protection Fund and Occupational Pension Schemes (Levy Ceiling) Order 2025

The Administration Levy

The Bill should include an amendment to the Pensions Act 2004 to permit the administration levy to cease. The PPF's finances are healthy enough not to require a PPF levy to be raised. In addition, these surplus funds could cover administration costs currently funded by the administration levy. However, the Bill does not include any amendments which would permit the PPF to use its surplus to cover its ongoing administration costs.

Technical Appendix – Powers to pay surplus to employer

The requirement to notify members

Subsection 2B(d) to be inserted into Section 37 of Pensions Act 1995 states that regulations must be made requiring members to be notified of a payment "before it is made". We agree that members should be kept informed; however, DWP should be left with more flexibility to specify how this will be achieved. The current requirement to notify members results in a cumbersome process which could become a barrier to more gradual approaches to "drip-feeding" surplus payments when it is safe to do so, which should better protect member security; to be effective, greater flexibility is needed here.

We envisage scenarios in which trustees and sponsors will want to agree an overall principle or strategy for the sharing of surplus which may include future streams of multiple smaller payments, with exact amounts unknown or contingent on events. A requirement to notify members prior to each individual payment could be a barrier to reaching such agreements and therefore the Government's policy objectives. It may also incentivise a smaller number of larger payments, which could be detrimental to the security of members' benefits and potentially more difficult for trustees to agree.

Trustees might instead be given the flexibility to communicate with members at regular intervals. For example, the Summary Funding Statement[5] is a communication already regularly sent to members of DB schemes. It covers how well a scheme is funded, the plan for future contributions and whether any payments have been made under Section 37. These requirements could be altered so that trustees are required to communicate with their members about their plans for surplus sharing.

The regulatory framework governing surplus release

The regulations to be made under subsection (2B) to be inserted into Section 37 of Pensions Act 1995 specifically reference the value of the scheme's assets and the amount of its liabilities. These are important factors, but we do not believe that they deserve prominence relative to, for example, the level of investment risk in a scheme or the ability of the sponsoring employer to support the scheme.

We suggest that the Bill should require that surplus release is included as a feature of a funding and investment strategy[6]. This is the strategy for reaching and maintaining "low dependency" on sponsors that trustees must set and agree with sponsors. We know that the Government is minded to set the funding threshold for surplus release at the low dependency measure. Requiring the incorporation of surplus release into funding and investment strategies is in our view the best way to achieve this. This regime already integrates the value of assets, amount of liabilities, investment risk, strength of the employer and other important factors which need to be considered to best protect the security of members' benefits.

Where a surplus is present, there is already a requirement for actuaries to certify that the statutory funding objective will continue to be met for the period covered. It should be straightforward to expand this for actuaries to certify that the planned surplus release will not be expected to compromise a scheme's ability to maintain low dependency on its sponsor. Such an approach – where the scheme actuary certifies the scheme's schedule of future contributions and future surplus outgo prior to a surplus payment or stream of payments – could naturally be

[5] The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, regulation 15

[6] The Pensions Act 2004 Section 221A and the Occupational Pension Schemes (Funding and Investment Strategy and Amendment) Regulations 2024

incorporated into the existing statutory funding valuation process, both at valuations, and potentially between them via an amended schedule – exactly as happens at the moment, but with a *low dependency* funding threshold where surplus outgo is included.

Additionally, compliance with the current funding regime offers very little value to stakeholders of schemes with low dependency surpluses, currently about three quarters of schemes[7]. Integrating surplus sharing into the regime would give it new purpose and avoid "layering" competing regimes, with the potential for unintended consequences.

We see the use of the existing funding framework as a much slicker way to implement the Government's policy objective.

[7] Based on TPR's 2025 Annual Funding Statement.

Technical Appendix – Defined Contribution Pensions

Chapter 1 - Value for Money (VFM)

Summary

Value for money is at the heart of all that we do and we are keen that this new framework delivers real value for members at appropriate cost. We believe four core matters need further consideration to ensure the Bill, and the wider policy and secondary regulations that it will enable, achieves this outcome.

1. **A one-off private data collection to better target the framework and assess its value is needed before implementation of the framework (**akin to a thematic review). This would enable an assessment of the extent of value that can be driven out of the market; test the efficacy of the data points; support a more targeted system of appropriate weight and sense check interpretation of requirements.

2. **Metric refinement is needed to allow for more robust assessment of real 'value' add** by schemes and providers, rather than measures that more likely indicate value of the book, particularly in relation to quality of services, and the costs and charges calculation methodology. This is because there are a range of different schemes providing for different segments of the members in the market. In particular Master Trusts such as now:pensions provide for the previously underpensioned, lower earners and those with non-traditional working patterns - factors which impact engagement and business models. We propose:
   - Removing or weighting the customer survey and the communications metrics under quality-of-service category where that relates to engagement.
   - For combination charge metrics applying the DWP methodology (re the charge cap) to the calculation required for translating a combination charge into an AMC or allowing the combination charge to be featured as primary comparison metric – otherwise the comparison is significantly distorted.
   - Only the charges borne by the member or employer should be in scope for the VFM framework.
   - Inclusion of a forward-looking metric, or some other method of calibrating the metrics to ensure the value of private market investment is incorporated into the framework. Without it the proposed framework **risks disadvantaging high quality schemes who are making forward-looking, long-term decisions**, and conflicts with Government priorities.

3. **Regulatory consequences and process development to ensure equitable impacts across the market.** We propose:
   - The RAG/overall rating score should provide for five ratings with the top two ratings being 'green' (a gold and silver score), and the top three not incorporating a regulatory response prohibiting the scheme from taking on new clients.
   - Schemes should be enabled to compare to more schemes serving similar segments than the stated policy position allows for - as well as a broader comparison to check value with others.
   - The data gather should be conducted via a regulator private data portal, with access by schemes only, and treated as confidential. While we do not advise on legal matters, we expect that, when designing the process, careful consideration will be given to existing data protection law and regulations. Full data should not be published ahead of the reports, and the scope of the data publication should be subject to consultation before it is implemented.

4. **A review requirement to assess the efficacy and impacts of the new regime, and to require future regulations that add or change the regime to be subject to consultation.**

Background

Delivering VFM for members is at the core of our mission. We welcome approaches that seek to rebalance the focus from costs and charges to a greater consideration of value – an issue we experience particularly from the buy side (employers, advisers) and regulatory frameworks (e.g. charge cap).

However, we do have some concerns with elements of the Framework as put forward in the Bill and the wider policy and regulation making powers the Bill contains. It is key that the new framework provides fair and

appropriate metrics, and that the additional cost of the framework to the pension system (which will ultimately impact members) is proportionate to the additional value it provides to members.

The framework has been subject to ongoing consultation over more than three years – and with the change of government some of these matters have been re-opened and are under review. We do welcome such further consideration, however, some of these core matters have not yet reached the stage of formal policy consultation. This brings consequent challenges regarding certainty and clarity about how the powers provided in the Bill may be used, which in turn impacts assessment about the outcome the Bill will achieve, as well as the necessary business planning.

Key points

1. **A one-off private data collection to better target the framework and assess its value is needed before implementation of the framework** (akin to a thematic review). This would enable an assessment of the extent of value that can be driven out of the market; test the efficacy of the data points; support a more targeted system of appropriate weight and sense check interpretation of requirements.

We believe a one-off private testing phase ahead of final legal requirements and full roll out of the framework is essential and beneficial to members, regulators, government and schemes.

The level of additional value the framework will drive out of the market and what costs it will add are still unclear. This one-off data gather and assessment would provide evidence to regulators of the type and extent of performance variance, and therefore potential value, risk and detriment in the market. The potential drag of additional cost and investment herding could then be applied to the findings to check the likelihood and range of potential overall outcomes. This would help to inform the proposals and the cost-benefit/ and impact assessments.

This is particularly the case in the workplace pensions and AE part of the market where there are already various protections in place. Examples include the charge cap which has driven prices to a global low and focused the system on charges/cost; the value for member and value for money requirements that already apply; the comparisons large schemes already conduct; master trust authorisation framework and other professionalisation requirements.

The extent of value-add of the VFM framework also needs to be considered in conjunction with other policies which are aiming at the same objectives and were developed subsequent to the initial VFM proposals. This is essential now that the policy is being translated into legal requirements. Initially the VFM policy was to enable comparisons to drive performance improvement, it then developed into a way of driving consolidation in the market, and then also pressing for schemes to investment in private markets. However, the policy development and now also Bill content, contains other measures aiming to achieve the same ends which were not in view when the VFM proposals were developed – scale, and asset allocation, along with the Mansion House Accord.

The requirements to gather and report raw data, conduct an assessment mindful of all the regulatory requirements about how to do that, and publish the report for each arrangement, do add regulatory burdens and costs, as well as an unequal form of commercial risk. It is not clear whether the amount of additional value for members will exceed these additional costs, or to what extent.

We therefore believe that a one-off private data gather would support delivery of the objectives of the policy, ensure proportionality, enhance the evidence and risk-based nature of the system, and thereby also support the FCA competition objective. It could also test the system ahead of implementation and avoid any unintentional risk the system and address any snagging issues. Core elements of such a one-off private data gather could include:

- Testing the extent of variance of performance to consider extent of potential value add.
- Identifying areas of greatest and least risk - in terms of areas of performance, and areas of the market – consider underlying issues/causes, consider targeting certain metrics or areas of the market with more or less frequency (i.e. are all metrics needed every year by all).
- Examining whether patterns of performance identified by raw data are located in certain parts of the market or relate to certain metrics and whether contextualisation explains some of those outcomes.

- Testing the metrics work as planned, identifying any issues of interpretation or reasons for unexpected results, comparability and optics of reporting metrics and addressing any unequal or unintended impacts.
- Evaluating whether the performance variances and potential performance improvements that could be achieved exceeds the cost and any detrimental unintended consequences such as herding of investment strategies.
- Considering whether the data and results are likely to deliver sufficiently distinct assessments, and whether there is sufficient delineation in the RAG outcomes to cater for distribution of data results.
- Explore whether exemptions are masking poor performance.
- Assessing the potential impact on provision in relation to all and specific segments of the market and extent of consequences is proportionate to the value added.

2. **Metric refinement is needed to allow for more robust assessment of real 'value' add** by schemes and providers, rather than measures that more likely indicate value of the book, particularly in relation to quality of services, and the costs and charges calculation methodology. This is because there are a range of different schemes providing for different segments of the members in the market. In particular Master Trusts such as now:pensions provide for the previously underpensioned, lower earners and those with non-traditional working patterns -factors which impact engagement and business models

The Bill does not go into detail on the specific metrics, it does however contain a number of regulation making powers, and sets out the categories of metrics that may be required under the new regime.[8] Our concerns about specific metrics being suggested by DWP, FCA and TPR are detailed below – and relate both to the Bill drafting and also from the policies articulated in previous consultations where we have some concerns:

Quality of services metrics[9] –

Removing the customer survey and the communications metrics under quality of service category where that relates to engagement – and/or measure the facts of what the scheme offers as services to members for communications.

A number of the quality of service metrics that have been discussed in public consultations to date are explained as relating to communications. However, these measures appear to be measuring engagement by the scheme's membership. It is widely acknowledged, including in FCA led research[10], that there is a markedly higher propensity to engage by wealthier individuals. Whilst we acknowledge that the quality of scheme communications including channels used, timeliness and clarity of messaging, may 'support' or 'enable' engagement, all relevant research to date indicates that it does not drive engagement with pensions. This means that many of the proposed metrics which rely on member engagement activity measures will reflect the demographic of the scheme rather than the quality of communications. This will mean that in schemes where the wealth of the individual is lower, the scores will be lower, regardless of the quality of service offered by the scheme.

It is also at odds with the policy relating to Automatic Enrolment, which was established following attempts via other initiatives, such as Informed Choice, were unable to drive engagement with pension saving. We also note the Guided Retirement requirements in Chapter 5 of the Bill also sees a shift to reduce the requirement for members to actively engage with options at retirement.

Similarly, we believe that caution is needed regarding the inclusion and weight placed on member surveys[11], particularly in AE schemes with large memberships. There are costs incurred to undertake such surveys and thought would need to be given to response rates and whether low response rates portray an accurate representation of how members feel about the scheme. Those who have had a negative experience are more likely to respond to such surveys and this may disproportionately impact scores.

Costs and charges

[8] Part 2, Chapter 2, Clause 11, Subsection (1)

[9] Part 2, Chapter 2, Clause 11, Subsection (1) (a)

[10] https://www.fca.org.uk/publication/financial-lives/fls-2024-pensions.pdf

[11] Part 2, Chapter 1, Clause 13

Only the charges borne by the member or employer should be in scope for the VFM framework.

The proposed calculation methodology set out by DWP/FCA/TPR in the CP24/16 consultation paper is not suitable for comparing combination charges with AMC charges. The proposed calculation turns a combination charge which, includes a flat fee, into a single percentage figure. This will have a distortive effect, offering an inaccurate figure for comparison, and does not reflect the members' experience. The proposed calculation as set out in the DWP/FCA/TPR consultation does not reflect that those with potentially lower %AMC on higher pots will likely be charging greater £&p from their members.

This is highly inappropriate, it would skew market comparison and has competition implications. This is because a flat rate charge results in a varying percentage charge over time. This is why DWP guidance provides a specific and tailored calculation for assessment of the charge cap, which could be used for the VFM framework.

We propose applying the methodology as featured in DWP's guidance (re the charge cap) to the calculation required for translating a combination charge into an AMC – or allow the combination charge to be featured as primary comparison metric.

We also have concerns with the inclusion of 'costs' (as in costs incurred by the business)'[12] as well as 'charges (to members)'[13] in the drafting of the Bill. We believe the focus of the framework is on charges to members and employers and have had this confirmed verbally i.e. rather than the costs paid by the scheme to third party providers such as administration, investment or other providers.

This category would suggest to us that regulators want to understand the costs incurred by the business, rather than only the charges levied to the member of client. We suggest this is not consistent with the stated intent of the policy as consulted on. We therefore think it is unhelpful to split out costs in this way in the Bill and are keen for clarity and debate on this point.

Investment

Inclusion of a forward-looking metric, or some other method of calibrating the measures to ensure the value of private market investment is incorporated into the framework.

We believe that reporting on and basing assessments with a significant focus on historic performance of default investment strategies could work against the objectives that underpin the Pension Schemes Bill. In particular, the historic performance of strategies that have had more of a focus on UK equities and gilts and strategies that have tried to access other drivers of investment returns have not performed particularly strongly in the investment market conditions that have prevailed for much of the last 10 years. This could lead to a flight to strategies that focus on low cost, passively managed strategies that mainly focus on equities to drive returns.

We would like to use the inclusion of a forward-looking performance metric in order to ensure that the impact of private market investments are fully accounted for. This is because additional investment costs are normally borne up front, with returns gained over a longer time-period.

Investment metrics that only consider current and past performance will not take into account the potential future gains from private markets. But the costs and charges measures mean that the additional costs of these investments will be reflected immediately. This would lead to schemes with private market investment scoring lower than those who do not invest in these markets in the annual snap shots of performance, even where the value is greater over time. Government has a very clear ambition to increase DC scheme investment into UK private markets, and we have an aligned ambition to secure private market investment where that is in the best interests of the members - however, not including a forward-looking metric would run counter to these aims.

3. Regulatory consequences and process development to ensure equitable impacts across the market.

[12] Part 2, Chapter 2, Clause 11, Subsection (1) (d)

[13] Part 2 Chapter 2, Clause 11, Subsection (1) (e)

Some elements of the Bill will not apply equally across all schemes. We do not believe this is the policy intent and would welcome further exploration of this issue.

Intermediate ratings

Provide for five 'RAG' ratings with the top two being 'green' (a gold and silver score) and ensure the top three levels do not incorporate a regulatory response prohibiting the scheme from taking on new clients.[14]

The regulatory consequences of an intermediate rating specified in the formal consultations and government/regulator response documents will create a significantly different impact for different types of schemes – we do not believe this is the policy intent.

For a scheme scored as intermediate level, the stated policy (in government & regulator response documents) is that schemes will not be able to take on new business /employers. This could easily lead to scheme failure for multi-employer schemes, especially those which are the larger commercial schemes with simpler single default arrangement structures. In contrast, the impact is significantly less detrimental for other more complex multi-employer schemes with multiple defaults or products, or for single employer schemes.

This is because multi-employer commercial schemes will often have a pipeline of business several years in the making and covering inflow for a number of years. Receiving a 'no new business' regulatory direction means that the pipeline will be lost instantly as employers are unlikely to continue their journey to join a scheme which has been assigned this consequence, even if the situation can be quickly rectified. This will not be the case for single employer schemes who do not rely on new business to remain sustainable. It will also not be the case for providers offering a more complex or fragmented pensions provision including where they hold more than one default arrangement as they can switch the potential provision to another of their default fund offerings.

A key regulatory action will therefore be borne unequally across the market segments and saver segments with the larger by member number AE schemes, with more streamlined structures, being most effected. We do not believe this is the intention of the policy and should be reconsidered.

In our responses to the 2023 & 2024 consultations, we explained that we think further delineation is needed than the three-rating approach. Having five tiers, where at least the top three ratings do not carry the consequence of not being able to take on new business, would go some way to address the issue outlined in the paragraph above. But more generally, we believe the assessment process needs greater gradation to achieve the intended outcome to drive better value and enable competition. In a five tier system, the schemes would be better enabled to show where key improvements are benefitting members improvements over time, beyond seeking only to avoid the regulatory consequences described.

We would also suggest that rather than a number of intermediate ratings, as featured in the Bill, a range of good ratings (such as gold and silver for example) would be of greater value, and more easily understood and would also help to give a positive incentive to providers to secure the highest rating.

The Bill does allow for a number of intermediate ratings[15] – but is not clear on how these will work and is yet to be consulted upon, with the position left open for future policy development and regulation making powers. The Bill is therefore – unusually - contrary to the formal consultations and consequent government and regulator response documents which had stated the policy was for a three-tier rating system. We do welcome government reconsidering the consultation position – but we are concerned that measures in the Bill remain unclear and policy unsettled.

Comparator process[16]

Schemes should be enabled to compare to more schemes serving similar segments than the stated policy position allows for - as well as a broader comparison to check value with others.

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[14] Part 2, Chapter 1, Clause 14, Subsection (1) (c), (3) & (4)

[15] Part 2, Chapter 1, Clause 14, Subsection (3)

[16] Part 2, Chapter 1, Clause 12, Subsection (1)

The policy documents from government and regulators reflect a comparator framework that does not take into account the highly segmented structure of market provision. This means that mass market AE provision for lower earners can potentially only compare to one other in that part of the market, along with comparing to other providers who do not serve that segment.

All providers do not serve all segment of the market – especially the segment which provides for previously under pensioned savers and those with lower earning and with smaller pots. This means that not all providers would offer an alternative destination for clients and may not offer it at the same charge level as the current provider. Charges are driven by the cost of the service to the client – this varies by size and type of client, the workforce demographics and likely period of saving.

Therefore, the current framing of comparison process which the Bill enables potentially creates practical issues for employers and schemes and undermines competition in that part of the market that serves lower earners in particular.

Data gather & reporting cycle

The data gather should be conducted via a regulator private data portal, with access by schemes only, and treated as confidential. Full data should not be published ahead of the reports, and the scope of the data publication should be subject to consultation before it is implemented.

The Bill sets out that regulators will decide on how data will be published and shared.[17] These decisions will have a significant impact on commercial schemes – especially those with streamlined single default structures.

For example – the approach in the consultation documents set out that publication of raw data is required ahead of the schemes report, which contains the necessary contextualisation, assessments and RAG score. This could lead to misunderstanding and speculation by the press, advisers, and third-party evaluators - with significant unintended consequences and commercial impacts that are not appropriate to the scheme's true value and position. This risk would persist for a considerable number of months each year before the full report, with the contextualisation and RAG rating, is available. This would have harsher consequences for streamlined commercial schemes compared to non-commercial single-employer trust-based schemes and compared to schemes/providers with multiple default arrangements.

We would therefore be supportive of a more developed process which takes appropriate account of competition and market issues. For example, a private portal - set up by the regulators and accessible by regulators and relevant scheme/ provider responsible officers. This portal could offer a secure environment for schemes and providers to share raw data to enable the comparisons ahead of full publication of the assessment report. The Bill could provide that the data on the portal is for the sole purpose of conducting the regulatory requirements on comparisons for VFM framework, and not disclosable for any other purpose.

4. A review requirement to assess the efficacy and impacts of the new regime, and to require future regulations that add or change the regime to be subject to consultation.

Given the potential, and unknown, impact that the framework will have on value for savers and on the industry, we believe a Review Clause should be added.

This would allow the Government and regulators to evaluate the changes in the market, the impact on member outcomes vs cost of implementing it, how press activity has impacted the market, and whether changes are needed as the market evolves. It could also help identify where herding is occurring – something which has been noted as an impact in the Australian system. Herding could ultimately result in lower overall performance.

The review content and objectives could be linked to the proposals set out above in this paper – regarding the one-off private data gather that we suggest should be conducted ahead of final legislation/regulations and implementation of the framework.

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[17] Part 2, Chapter 1, Clause 11, Subsection (2) & (3)

Chapter 2 – Consolidation of small dormant pots

Summary

We are supportive of the introduction of the Multiple Default Consolidator model to resolve the problem of small, deferred pots; however, the Bill does not include a number of key policies and processes which materially affect member outcomes, commercial dynamics, and economic feasibility of the solution.

Our proposals below address these feasibility issues and enable the policy and Bill to deliver the intended outcomes for members:

1. **Central architecture / small pots data platform remit should be kept tight and focussed – it does not need to be a central database of clearing house. However, a central governance structure is an essential requirement** and data exchange directly between schemes should be kept to a minimum.. Key learnings and elements of the eco-system, infrastructure and governance structures developed for the Pensions Dashboard should be deployed. In the Bill this important matter is currently entirely delegated to an unspecified entity

2. **Allocation** – **a member who is actively saving in an 'authorised consolidator' should have their small pots allocated to that scheme**. This is intuitive to the saver, builds on an existing member relationship and trust in the system, and supports stability of the new regime.

3. **Phased implementation** – **four key steps, including an A-day for the new consolidator community – then rolling out more broadly to wider industry**. This would address the issue most immediately where it is most prevalent, and would best support planning, stability and clarity for members and for schemes. It also enables a test and learn process.

4. **£10K limit to the future extension** to the eligible pot size should be set as this has consistently been the upper end of the consultation content. **Stronger safeguards** (public consultation and published reports on the impact) are also needed to inform future decisions for any and every extension beyond current starting point of £1k. Lack of an upper limit significantly alters the commercial impact and consequences of this policy and has not been formally tested.

5. **Authorisation - greater consultation and transparency is required on the measures which constrain charges and fees** beyond current requirements. These measures have potential to undermine the economic feasibility for delivery of the policy and specific proposals have not yet been explored with industry.

6. **The powers to make regulations in the Bill** are currently extensive and the extent of the necessary standards or rules-based system, including who will create those and who will be accountable is not clear. **We believe greater specificity in the Bill regarding government intent is required on these matters**. **These details and full costings are also needed to assess economic feasibility of the policy**

7. **Liability model needs further refinements, including:**
   - **The system should be broadly rules-based**, and on a statutory footing and **exemptions and discretion for schemes should be kept to a minimum** including for example regarding the auto-transfer and allocation process. This is to ensure clarity for members and schemes. It also supports the policy objectives and a robust liability model.
   - **Trustee liability following transfer needs clarification.**
   - **Redress scenarios and mechanism need consideration**.

Background

We are supportive of the introduction of the Multiple Default Consolidator model to resolve the problem of small, deferred pots. This is a far better solution for members than the alternative pot follows member or lifetime provider approach. This is particularly the case for those members with lower earnings, with the smallest pots, and those who are likely to move jobs frequently. The alternative solutions also introduce new and additional risk to the AE system.

Campaigning by now:pensions bought this matter back to the fore in 2019 – we chaired the initial DWP/industry working groups that led on to the later Small Pots Coordination Work Group and its subsequent papers – resulting in the DWP consolidation in 2023. Now:pensions have been proactive members of the Member Exchange group, the IWG, and various work groups including at PLSA/PUK and the DWP Provider Panel Expert group (part of the Delivery Group). We have also co-funded the Feasibility Review regarding the role of the small pots data platform and sit on the Review Panel.

We are therefore pleased to see this policy bought to life in the Pension Schemes Bill 2025. However, we do have concerns with some of the Bill drafting and policy details. A number of policy decisions and key processes are not included in the Bill. For example: the allocation of pots; how schemes interact with the central infrastructure (and what and who this is); trustee liability following transfer; and how implementation would best support planning, stability and clarity for members.

All of these issues do unfortunately materially impact the practical delivery and feasibility of the solution. But we believe they can all be addressed to deliver a successful multiple default consolidator solution and we have therefore set out seven proposals which would tweak the Bill and underlying policy to provide a deliverable solution.

Key Points

1. **Central architecture / small pots data platform[18] remit should be kept tight and focussed – it does not need to be a central database or clearing house. However, a central governance structure is an essential required, and data exchange directly between schemes should be kept to a minimum.** Key learnings and elements of the eco-system, infrastructure and governance structures developed for the Pensions Dashboard should be deployed. In the Bill, this important matter is currently entirely delegated to an unspecified entity.

There are still a lot of unknowns concerning what the central infrastructure will look like and how it will work. We believe that the remit of what the Bill calls the Small Pots Data Platform should be kept reasonably tight and focused, however, some form of central government oversight/governance will be needed to make the model work. We therefore consider this central function relates more to the governance of the system and not to the storing of data.

The powers in the Bill are currently extensive and the extent of the necessary standards or rules-based system is not clear. We have sponsored the feasibility review – but note that the technical feasibility has needed to run ahead of the policy decisions. This means that there are a number of significant policy assumptions and implications which have not been yet been fully worked through by public policy makers.

We do think the central function could usefully act as a point of impartial enacting of rules relating to the allocation of a member to an authorised consolidator – and reduce the extent of personal data being shared between private sector providers (given this is not at the member instigation) which may also be of a commercially sensitive nature. It may therefore be most useful in early days of implementation, where the extent of allocation and data exchange is likely to be at the greatest while the stock of small pots are addressed. However, the extent of risk and required

[18] Part 2, Chapter 2, Clause 21

mitigation is also impacted by the process, which is not yet available in sufficient detail to support a risk assessment.

2. **Allocation – a member who is actively saving in an 'authorised consolidator' should have their small pots allocated to that scheme. This is intuitive to the saver, and builds on an existing member relationship and trust in the system.**[19]

The DWP stated policy intent is to allocate a small pot to the consolidator scheme holding the largest pot rather than an active pot. We recognise this is a very focused policy-based decision – the intent understandably is to maximise the pot size held by a consolidator from the earliest possible point. However, we believe that approach does not take sufficient account of wider important elements such as the member experience, the practical impacts for schemes, and builds in a commercial or competition bias into the policy.

The DWP approach to allocate to largest pot held by a consolidator introduces a potential and significant adverse impact on the member relationship with the scheme into which they are actively saving. It also creates additional complexity from a member point of view, and makes consolidator engagement more challenging.

From a business and scheme point of view it also radically removes any future planning capacity from the potential consolidating scheme, and from schemes with large quantities of small pots that may be ceded under the auto transfer process. For some schemes, including some of the most obvious consolidator candidates, both factors apply. This creates significant instability and flux in the system at the point members need most reassurance, and when schemes are seeking to maintain the minimum AUM requirement.

Schemes with a longer legacy and back book are likely to benefit from the DWP largest pot allocation policy, compared to newer schemes which have acted to ensure that the previously under-pensioned segment of AE savers have been provided for. Such newer/ younger schemes are also likely to be most heavily detrimentally impacted as they carry a higher proportion of the lower levels of pot sizes. This concept has been introduced exceedingly late in the policy, and has not formally been consulted upon, nor have the impacts been tested.

Under our 'active' pot allocation proposal the member will end up in the same position over time, given the power in the Bill to increase the eligible pot size. Also – as there is a notably higher concentration of small pots at £1K and below[20], we strongly suggest that a focus on that scope must be paramount, and that the benefits in the early years under a DWP 'allocation to largest pot' are minimal. Although the DWP approach may arrive at consolidating the larger pots more immediately for a limited and small number of people, we do not believe this is sufficient counterbalance to the significant downsides of this approach, including the hugely disruptive effects to the member experience, relationships, and scheme stability.

We also believe the model would benefit from an A-day allocation approach (see 3 below), where active members in multiple default consolidators (MDCs) are assigned to their existing provider on A-day i.e. rather than waiting for a small pot to be created before allocation occurs. This provides clarity to the member ahead of time, and also supports business planning to ensure the success of the policy intent, and may encourage voluntary transfers to maximize achievement of the policy intent and impact on efficiencies for members and the market.

Allocation must be based on rules-based requirements with a statutory footing (see point 6 and 7).

3. **Phased implementation – A-day (potentially staged) for the new consolidator community – then rolling out more broadly to wider industry.** This would address the issue most immediately where it is most prevalent, and would best support planning, stability and clarity for members and for schemes. It also enables a test and learn process.

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[19] – NB – Allocation of a member to a default consolidator occurs once - this determines where any future small pots should be consolidated for those members (with an opt out facility).

[20] DWP 2024 data gather found that were roughly 23 million deferred pots worth less than £10,000. The majority, 13 million were worth less than £1,000. DWP, Small pots delivery group report, April 2025: https://www.gov.uk/government/publications/small-pots-delivery-group-report/small-pots-delivery-group-report#chapter-12-analysis

Implementation is not addressed in the Bill. Our proposals include:

- Step 1 - As described in the previous point – this process would start with an 'A-day' implementation whereby members who are actively saving in an authorised MDC would be allocated to that MDC as their consolidator for their small pots.
- Step 2 - Next in the process would be to allocate members who have deferred pots in an MDC. Where there is one deferred membership, the member would be allocated to that consolidator. Where the member has more than one deferred membership that would likely need some secondary sifting process Given this process relates to allocation to a small number of authorised consolidators which is being envisioned as a small population - this could be managed on an approximate parity system to ensure the policy does not introduce market bias i.e. where in aggregate the schemes transfer out transfers in are similar in value. The member relationship and experience is not adversely impacted as they find themselves allocated to a scheme in which they are a deferred member, with the same protections under authorisation.
- Step 3 - When a new saver enters the system by becoming a member of a MDC, they would be allocated to that MDC as their consolidator at the point of joining.
- Step 4 - For all others – allocation would occur at the point a small pot arises and allocation to an MDC could be decided upon on a carousel basis, with approximate parity of allocation being managed via an appropriate algorithm. This carousel process is consistent with DWP proposals for allocation.

This approach would help resolve the majority of current small pots problem - where it resides, and most immediately. It would also be intuitive for members; and would help to create stability in the system for members and providers. It would also provide a test and learn process amongst MDCs before impacting the wider industry.

4. A £10K limit to the future extension to the eligible pot size should be set & stronger safeguards for future increases.

The Bill states that the Secretary of State can amend the current definition of small pots (£1,000) through regulations. Before making regulations the Secretary of State must consult such persons that they consider appropriate and publish details of the proposed amendment and reasons for making proposals, and consider any representations made. [21]

Increasing the pot size eligibility has a number of consequences, none of which have been appropriately tested. These include member engagement and appetite for automation; economic feasibility of the model; financial sustainability of the scheme; and wider commercial considerations for providers.

The risks and therefore the mitigations and dynamics of the model would be materially different if the eligible pot size is increased – the pace and extent of increase will further heighten the risks and potential negative impacts.

The policy intent and legislation which will enact it needs appropriately parameters to ensure the system which is built is not over-stretched or distorted. The focus of the system has generally been at the lower end of the spectrum.[22]

We therefore believe the current safeguards should be strengthened including refined provisions in the Bill to require the following:

- *the figure at which a small pot can be defined should be capped at £10,000* so that it cannot rise above this amount. £10K has consistently been the upper end of the consultation content, the Industry Small Pots Industry Coordination Group had agreed the pot size of £500, but DWP in its 2023 consultation reopened the debate and decided upon a £1,000 level with potential for future escalation, after exploring various levels up to £10,000.
- *the Secretary of State must undertake a formal published public consultation and full impact assessment in order to amend the definition*. This must include an assessment of the various impacts - including in each of the

[21] Part 2; Chapter 2; Clause 32 Subsection (2)

[22] '…these smaller pots are concentrated in master trusts.' DWP, Ending the proliferation of deferred small pots, November 2023: https://www.gov.uk/government/consultations/ending-the-proliferation-of-deferred-small-pension-pots/ending-the-proliferation-of-deferred-small-pots

member segments in the market – and including any consolidators as well as ceding schemes. This must apply for each and every extension beyond current starting point of £1,000.

5. **Authorisation - greater consultation and transparency is required on the measures which constrain charges and fees beyond current requirements. These measures have potential to undermine the economic feasibility for delivery of the policy, and specific proposals have not yet been explored with industry.**

The Bill highlights some areas that will be considered as part of the authorisation criteria for Multiple Default Consolidators (MDCs), including on the fees charged by the scheme.[23] We have some concerns in particular regarding the direction DWP will be enabled to take on flat fees and how any restrictions may work in practice.

Flat fees are key to ensuring a sustainable market for schemes that operate in the lower end of the market. The development of flat fees and combination charges was spear-headed in the commercial market by now:pensions and later embraced by others serving the lower earning part of the AE. It means savers pay a fair price for the services they receive. Providers who offer AMC structures only are unable to make the charging work for smaller pots. Removing the ability for consolidators to charge flat fees may make the policy unfeasible from a financial sustainability point of view. The impact of any additional restrictions, in addition to the de minimis and the charge cap, need to be appropriately considered. We need to ensure appropriate member protections are in place and stand ready to provide data to government to support the development of policy thinking on this topic.

6. **The powers to make regulations in the Bill[24] are currently extensive and the extent of the necessary standards or rules-based system, including who will create those and who will be accountable is not clear**. We believe greater specificity in the Bill and regarding government intent is required on these matters. These details and full costings are also needed to assess economic feasibility of the policy.

And

7. Liability model needs refinement – for example: **The system should be broadly rules-based, and on a statutory footing - and exemptions and discretion for schemes should be kept to a minimum and closely defined, for example regarding the auto-transfer and allocation process. This is to ensure clarity for members and schemes. It also supports the policy objectives and a robust liability model.**

The auto-transfer of small pots is a significant government intervention in people's private savings, in schemes' operating and business models and in trustee fiduciary duty. Therefore, a clear and statutory rules-based process is paramount. It is essential for enabling trust, ensuring transparency, supporting competition, and removing bias from the system – and to support a robust liability model. This includes, for example, a rules-based approach regarding eligible pots/which pots are subject to it, allocation to determine where members should be transferred to and how the carousel works.

In particular, we note the Bill requires the ceding scheme to identify where the pot would be transferred to and to offer alternatives.[25] We think the allocation should be subject to rules – with the ceding scheme following those rules to communicate the allocation (rather than deciding the allocation). This address issues for competition and fairness, and also avoids liability issues and decisions that may create complexities and barriers to the 'automatic' intent of the policy.

Exemptions

Keeping exemptions to a minimum and ensuring they are closely defined is key to supporting the above outcomes and achieving the overarching policy intent.

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[23] Part 2, Chapter 2, Clause 27, Subsection (4)

[24] Part 2, Chapter 2, Clause 20 & Part 2, Chapter 2, Clause 29

[25] Part 2, Chapter 2, Clause 22, Subsection (1) & (3)

The Bill includes an exemption where trustees' can determine whether a transfer is in the best interest of the individual.[26] On the face of the Bill, the exemptions look relatively broad – however the Explanatory Note further defines this. We believe that the majority of pots should be included in order to make the model as effective as possible. Limiting the amount of exemptions will provide clarity for members as well as the trustee, and support an appropriate liability model. The system should be as automatic as possible and the number of pots exempted minimised.

Exemptions due to arrangements with investment guarantees or protected pension ages feel sensible - although likely not to be material until the threshold for small pots is significantly increased. We believe that the presence of any underpins and protections, such as protected tax-free cash entitlements should also be sufficient grounds for exemptions.

The Bill mentions exemptions based on class of individuals[27] and from discussion with industry we understand that religious grounds could be a potential basis for exemption. We interpret this as broadly meaning that where a member is currently invested in a Shariah compliant investment strategy they could be excluded from consolidation. In practice, most schemes, and particularly those which we expect would be considered suitable for consolidation, would offer a Shariah compliant investment approach that could receive transferring funds. It may also be difficult to identify whether a member is invested in the Shariah fund due to their religious beliefs, or as an investment choice driven by the nature of underlying investments. This has been increasingly common in recent years as the fund that is predominantly used by pension schemes in the UK has a bias toward technology companies that have performed well. As such, they have been attractive to self-select investors.

Therefore, we do not believe that being invested in a Shariah fund or strategy should be a barrier to consolidation. Indeed, this would potentially prevent members with Islamic belief from benefitting from the value to be delivered by automatic consolidation. While we cannot comment on legal matters, we recommend that careful consideration is given as to whether this could also be considered discriminatory. We believe that further consultation should be undertaken with representatives of any affected religious groups to help shape the approach to this.

Trustee liability following transfer needs clarification

Trustee liability is not directly addressed in the Bill. There are various legislative precedents for how different types of transfer scenarios provide varying approaches to statutory discharge of trustee liability. Greater clarity on which model is being used here is required.

The absence of a statutory discharge feels unreasonable where the transfer is being driven by legal requirements (provided the transfer is completed in line with the requirements of the process set out in law, and any supporting statutory guidance). The absence of this protection may lead to processes where reasons for not transferring are sought which feels unnecessary and costly.

A rules-based system - as indicated in our suggestions above - would provide additional clarity too. Amending the Bill to confirm that the ceding scheme will communicate the allocation to the member, but that the allocation system is independent and separate from any ceding scheme, and a 'decision' or recommendation is not being made as such by the ceding scheme would help. As would clarification that the alternative solutions simply relates to a list of other authorised consolidators held by TPR. The lack of detail and significant extent of delegated authority on key process matters, roles and responsibilities, as well as intent on these points is currently a cause for concern.

Redress scenarios and mechanisms need consideration

As part of the consideration of liability models, we believe further thought is needed concerning redress. Further details on process and extent of rules-based prescription, and whether this has a statutory footing will all help to build this policy area.

In the absence of that detail a scenario type assessment would be very helpful to indicate what type of redress may be required. For example, mapping out errors that may occur in the system, and where parts of prescribed process

[26] Part 2, Chapter 2, Clause 23, Subsection (1) (b)

[27] Part 2, Chapter 2, Clause 23, Subsection (2)

will minimise or eliminate those risks, and where roles and responsibilities would indicate a natural home for the lability. A few starters for ten include:

- If the eligible pot is misidentified – and wrongly included or excluded– ceding schemes.
- If the consolidator is misallocated – rules / central body making allocation / matching error by MDC / discretionary process (owner of decision).
- If errors occur in the transfer process.
- Delays in investment allocation /units allocation by an MDC.
- Allocated MDC underperforming relative to ceding scheme or other MDC.

Clear record keeping requirements are also needed in the event of member enquiries more generally, but also to establish liability or redress responsibility if errors have occurred. A starting point would be for consolidator schemes to hold a data field to indicate if the member has been allocated to them as their MDC.

In the DWP Delivery Group Report, it was suggested that compensation to individuals could be taken from the General Levy. We do not believe that would be appropriate source of funding for compensation of error other than perhaps if a central body were liable for an error. Consideration needs to be given for a fund should the relevant ceding or consolidator scheme not be in existence at the point liability for redress were identified and proven.

The funding for the introduction of the Consolidator model also needs consideration.

Chapter 3: DC Scale and Asset Allocation

Summary

We support the concept that scale, up to a point, can be important for efficiencies and member outcomes. Mercer and now:pensions together are on track to achieve the scale the Government has set out. However, the Bill requires further detail to enable schemes to plan and to deliver the intended outcome. Our key concerns and proposals include:

1. **Common investment strategy** – **this must be defined in relation to how efficiencies and pricing are achieved.** This is often not at the small 'default fund or arrangement' level in practice but across products and platforms within a provider at the level of pooled / underlying investment strategy.
2. **Transition pathway**
    - The relevant clauses suggest a **business case type approach which is focused on specific outcomes which could usefully be applied in the place of an AUM requirement**.
    - However, the **extent of discretion and judgement on the part of the regulators needs to be explored**, especially where TPR does not have a competition objective.
    - **Clarity regarding this pathway is required immediately**, given the 2030 timing of the requirement.
    - **Approval of schemes to operate on the transition pathway is required urgently.** Market distortion is already occurring whereby schemes are losing business and pipelines with consequent impacts on members due to the government policy even though they may be able to meet the transition pathway requirements.
3. **Investment capability** – there is a **significant risk** in prescribing requirements for specific in-house capabilities. This would disregard appropriate specialist skills that are more efficiently provided externally, or which are provided within a group structure within which the scheme sits. The VFM framework will pick up any issues on charges and performance on investment matters. Scheme providers and trustees must have the flexibility to access expertise in the most optimal way. Recruiting specialist in-house teams will slow progress, add costs, and potentially limit accessible talent and expertise. This prevents providers investing in other aspects of their propositions that may add value, and may impact their ability to lower member charges.
4. **The deferred consideration of a differential pricing ban** would materially alter planning for the AUM requirement and use of the transition pathway, particularly where schemes cover a range of saver segments including lower earners who were previously underserved. A Government **commitment to include consideration of appropriate differential pricing within the scope of the review is required alongside debates on the Bill measures.**
5. **Competition must exist in all market segments** – The automatic enrolment market remains relatively immature, requiring a very specific AUM whilst the market is growing may push out valuable players from specific segments. **A competition clause or caveat, or an exemption, based on segment is needed.**
6. **New entrant exemption must be fair to existing players** some of whom are relatively new entrants, and extent of regulator's discretion needs to be managed, especially where TPR does not have a competition objective.
7. **A business case approach alternative to AUM requirement** has not been fully explored. We would welcome Committee exploration of and testing of the Bill comparative to other options. The Bill measures mean that the timing and specific AUM figure are the factors driving which schemes fail or survive at a particular moment in time i.e. rather than the ultimate objectives that government expects 'scale' to achieve.

Mandation of Asset Allocation

Parliament should be aware that voluntary support for the Mansion House Accord does not equate to support for mandation, which we continue to believe poses a conflict with fiduciary duty. The outcomes we are most concerned about are:

1. Schemes will willingly allocate to private markets, including in the UK, if attractive investments are available at a price that offers good value for members. By definition, the mandation power would only need to be exercised if such investments have not been made – i.e. if the opportunities are not there. Forcing schemes to

invest in less attractive assets that are either expensive to manage or do not offer good risk-adjusted returns will harm member outcomes, and is in conflict with Value for Money measures.

2. Triggering a global "tit-for-tat" approach to mandating domestic investment.

3. Distorting the free market and bidding up prices due to an imbalance of demand (from MH signatories) and supply of suitable investments.

4. We do not believe there is sufficient evidence the Government needs this power, given the current trend in the industry and existing voluntary agreements that are in place.

If the measures remain in the Bill, we believe some key changes are necessary:

5. **The power to direct fractions of the percentage** to different descriptions of assets moves far beyond the Mansion House agreement, and should be removed.[28]

6. **The sunsetting clause should be curtailed to 2030 or 2031** – allowing time for the relevant reviews and reports following the Mansion House Accord, but not extending too far into a second parliamentary session.

7. **Commencement clauses must be amended to allow for only certain sections of chapter 2 to be switched on –** otherwise:

   - asset allocation mandation is not a reserved power, and
   - relating to scale requirements may not be able to be settled ahead of the full requirement being switched on leading to disorderly unintended exists from the market. Matters which must be dealt with well in advance of the full requirement being switched on include, for example, definitions, transition pathways, exemptions.

Background

There are potential advantages from scale – such as enabling access to wider investments, including private markets, and price efficiencies. However, scale and consolidation are not the only drivers or indicators of value for members, or of investment in the UK. There are a number of key aspects of the Bill that still give rise to uncertainty as to how the scale test measures will be implemented and which will not be addressed until the secondary legislation. The way these details work will fundamentally impact whether the Bill delivers the policy intent regarding improved member outcomes, or simply creates a market shift which doesn't serve members or competition well. An assets under management measure is a fairly blunt but heavily interventionist approach – we have proposed alternatives that speak more directly to the outcomes government is seeking to achieve, and we have also set out how we think the application of the requirement would best apply.

The reserve power to mandate pension scheme investment is a similarly significant government intervention. It also brings wider risks of undermining fiduciary duty which is well aligned to members' interests especially for a long-term savings product dealing with complex investment decisions. It also risks a number of unintended consequences, such as distortion of pricing. We do not believe there is sufficient evidence to suggest that government needs to be take such a power, given the current trend in the industry and existing voluntary agreements that are in place, such as the recent Mansion House Accord.

Key points

Scale measures

There are a number of elements in the Bill that require further consultation which means there is still uncertainty as to the impact of these measures.

[28] Part 2, Chapter 3, Clause 28C, Subsection (8)

1. **Common investment strategy – this must be defined in relation how efficiencies and pricing are achieved - this is often not at the small 'default fund or arrangement' level in practice – but across products and platforms within a provider.**

The Bill provides that scale will be set at the level of 'common investment strategy'.[29] This definition is crucial to understand the impact. We believe this should sit where funds are invested together/ or collectively under the same investment strategy rather than where they sit in specific schemes. As at this level assets can support and enable capabilities and efficiencies. Please see diagram on Indicative Provider Investment Structure on following page.

2. **Investment capability – there is a significant risk if this were to prescribe requirements for specific in-house capabilities.** This would disregard appropriate specialist skills that are more efficiently provided externally, or which are provided within a group structure within which the scheme sits. The VFM framework will pick up any issues on charges and performance on investment matters.

Scheme, providers and trustees must have the flexibility to access expertise in the most optimal way (recognising that to deliver the best outcomes for members, specialist capabilities will be required), including through third parties. Recruiting specialist in-house teams will slow progress, add costs, and potentially limit the talent and expertise that can be tapped into. This prevents providers investing in other aspects of their propositions that may add value or permit them to lower member charges.

The Bill seems to suggest that in-house investment capability will be necessary to operate at scale.[30] We do not believe that this fully recognises group structure benefits or the maturity of the market. It is currently unclear what type of in-house capability is being envisaged, and there are many forms of capabilities and efficiencies that do not all involve specialisms within the scheme. Schemes should be able to leverage different kinds of investment strategies to achieve efficiencies.

If government is concerned about the extent of costs or charges, or the performance achieved, this will be trackable in the VFM framework – it does not require this additional prescription.

3. **Transition pathway – this suggests a business case type approach which is focused on specific outcomes, which could be usefully applied in the place of an AUM requirement. However, the extent of discretion and judgement on the part of the regulators needs to be explored, especially where TPR does not have a competition objective. Clarity on this pathway is required immediately, given the 2030 timing of the requirement.**

The Bill provides for a transition pathway for schemes that will be £10bn at 2030 to be given until 2035 to reach £25bn, if they meet certain criteria.[31] It is not clear what the extent of requirements will be scheme's to be on the transition pathway and the extent of discretion.

We would like to see more information on how this will operate in practice, as a matter of urgency, in order to inform planning and ensure the market as a whole is clear on how this will apply. Market distortion is already occurring where schemes are losing business and pipelines – with consequent impacts on members – due to the government policy even though they may be able to meet with transition pathway requirements.

We also need to understand how judgment and discretion will be exercised by TPR in particular on this matter, given it constitutes a significant intervention in the market requiring specialist expertise, resource, and will have competition and commercial impacts.

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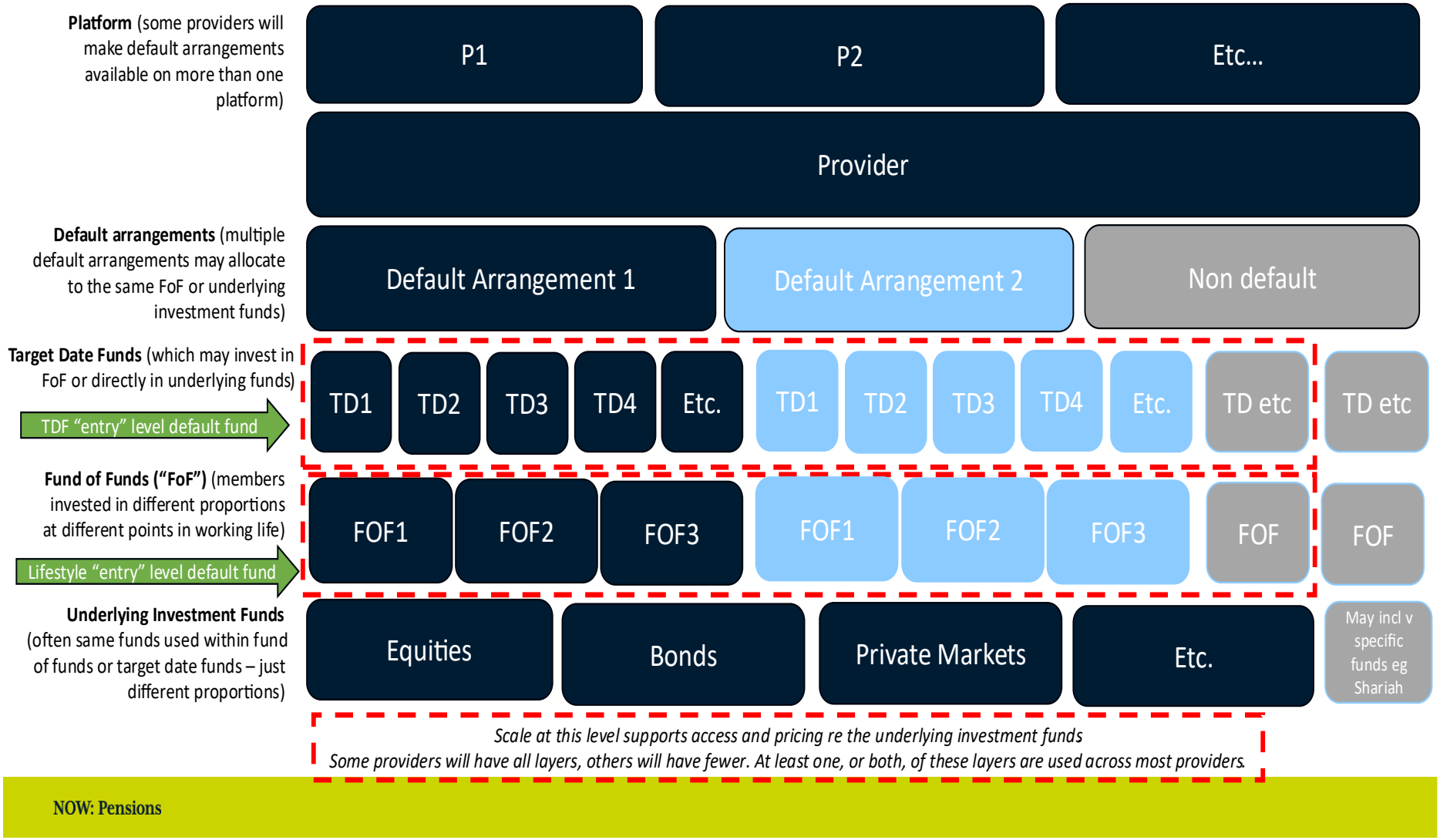
[29] Part 2, Chapter 3, Clause 38, Subsection (12) 28A (4) (a) (ii)

[30] Part 2, Chapter 3, Clause 39, Subsection (10) & (11)

[31] Part 2, Chapter 3, Clause 38 Subsection (12) 28D

Indicative Provider Investment Structure



4. **The deferred consideration of a differential pricing ban would materially alter planning for the AUM requirement, and use of the transition pathway. The Bill is silent on this aspect, but DWP plan a review on market fragmentation in 2029. This timing is impracticable for schemes in certain segments.**

For example, a small number of providers and schemes which currently serve all member segments may find it uneconomical to have a single charging point. This is because different parts of the market currently have different charging structures. These have been developed to create fair pricing for members who have different levels and patterns of saving and employment. Enforcing a single charging point and/or structure would potentially create risk to members and schemes in certain segments of the market and discourage some consolidation opportunities. Scheme providers and trustees will need to consider the potential for this future change as they plan for the scale requirements in the Bill. Much greater clarity is needed urgently on government's core intent and plans on this topic.

5. **Competition must exist in all market segments.** The AE market remains relatively immature. Requiring a very specific AUM whilst the market is growing may push out valuable players from specific segments – a competition clause or caveat or an exemption based on segment is needed.

All providers do not serve all member segments. The policy and Bill measures do not take sufficient account of how the impact of the scale requirement will impact provision, capacity and competition in relation to each segment. In particular, lower earning members with smaller pots are served by a very small number of providers – the largest of which continues to be part funded by government in the form of a loan. The scale measures, in combination with the current proposals under VFM, and potential for a ban on differential pricing (which DWP have said they will review in 2029), risks further reducing the provision and competition in this market. A competition clause or caveat, or an exemption, based on segment is needed.

6. **New entrant exemption must be fair to existing players, some of whom are relatively new entrants, and the extent of regulator's discretion needs to be managed, especially where TPR does not have a competition objective.**

The Bill provides for exemptions for CDC, schemes providing for protected characteristics and hybrid schemes with closed employer groups.[32] There is also a new entrant exemption in the Bill which we believe needs further clarification.[33] It is not clear whether this bar will be too high so that new entrants will not enter the market, or potentially too low and subject to too much discretion, which could introduce risk and unfairness (if similar models could be introduced in the future without needed to meet scale requirements).

The use of exemptions could be extended to apply to competition issues i.e. to ensure that there is sufficient competition in each and all segments of the market - as a counterbalance to the AUM requirement which may see certain segments dwindle more than others.

7. **A business case approach alternative to AUM requirement** - In a few years time, £25bn may not be material for current schemes – the timing and figures are driving which schemes fail or survive, rather than the ultimate objective. A business case approach would address this issue, as well as the avoid the need for exemptions, transition pathways, new entrant and composition issues

Reserve power to mandate investment[34]

8. **We do not believe there is sufficient evidence to suggest that government needs this power, given the current trend in the industry and existing voluntary agreements that are in place.**

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[32] Part 2, Chapter 3, Clause 38, Subsection (4) 1(B)

[33] Part 2, Chapter 3, Clause 38, Subsection (12) 28E

[34] Part 2, Chapter 3, Clause 38, Subsection (12) 28C

As stated above, we do not support the reserve power to mandate pension scheme investment. We believe this runs counter to the trustee's fiduciary duty. We believe it also comes with risks to government should trustees have to undertake sub-optimal investments in order to reach targets.

We suggest it would be more appropriate and lead to better outcomes if government were to remove these measures from the Bill and instead focus on creating an appropriate pipeline of investible opportunities for schemes.

If the measures remain in the Bill some key changes would manage some of the risks outlined above:

9. **The power to direct fractions of the percentage to different descriptions of assets moves beyond the Mansion House agreement, and should be removed.**[35]

Our understanding of the measure was that government intended it as backstop to enable it to take action should the ambitions committed to in the Mansion House Accord not be achieved. However, the ability to allocate a specific percentage to specific asset classes moves far beyond the Mansion House Accord and heightens the risks relating to price inflation and government culpability for member outcomes.

10. **The sunsetting clause should be curtailed to 2031 or 2032**[36] **– allowing time for the relevant reviews and reports following the Mansion House Accord, but not extending too far into a second parliamentary session.**

Scale and mandation clauses:

There are also a number of elements in the Bill which we believe could benefit from additional amendments to ensure they are implemented as intended:

11. **Commencement clauses must be amended to allow for only certain sections of chapter 3 to be switched on – otherwise**.

- asset allocation mandation is not a reserved power, and
- matters relating to scale requirements may not be able to be settled ahead of the full requirement being switched on leading to disorderly unintended exists from the market. Matters which must be dealt with well in advance of the full requirement being switched on include, for example, definitions, transition pathways, exemptions etc.

Scale and asset allocation conditions as drafted[37] mean that master trusts would need to satisfy both scale and asset allocation conditions from commencement. This is inconsistent for the intention for the asset allocation conditions to be switched on at a later date, and only if government believes the market is not already voluntary hitting these allocations. The drafting should be updated to reflect the later commencement of the asset allocation condition.

[35] Part 2, Chapter 3, Clause 28C, Subsection (8)
[36] Part 2, Chapter 3, Clause 28C, Subsection (3)
[37] Part 2, Chapter 3, Clause 38, Subsection (4)

Chapter 4 FCA-Regulated pension schemes: contractual override

Transfers without consent from/within contract-based arrangements

To support providers in reaching scale we have a positive view of the amendments to allow the bulk transfer of contract-based pension arrangements without consent from members. However, we note that on the face of the Bill, the threshold appears to be higher than that placed on similar types of transfers form trust-based schemes as it requires an expectation that members would be better off because of the transfer. This contrasts with transfers from trust-based arrangements where a transfer can proceed if, for example, this is to an authorised Master Trust. We believe a similar provision should be in place for contract-based arrangements.

Furthermore, it is unclear who would obtain advice on the suitability of any transfer without consent in a contract-based transfer. As many of these arrangements may have no associated or engaged employer, due to being legacy schemes, we can see no alternative than the Independent Governance Committee (“IGC”) being the party to receive advice on suitability if this is going to be required to support a transfer within or to a different contract-based arrangement. However, we also expect that the IGCs working with each provider would not want to hold responsibility for this, particularly in the absence of any provision or guidance that would not require advice to be sought.

The potential barrier that this presents to achieving scale should not be underestimated. The value of assets held in workplace contract-based schemes is around 30% higher than that held in workplace trust-based arrangements (Source: Pensions Policy Institute, Pension scheme assets – how they are invested and how and why they change over time, September 2024). As such, for many legacy providers, the consolidation of workplace contract-based arrangements into a common investment strategy will be a key step in delivering scale.

Chapter 5 - Decumulation / Guided Retirement

Summary

We support the intention for savers to have more support at retirement. However, we strongly **advocate for defaulting members into a 'journey'** with the use of nudges rather than a hard default into a retirement **product**.

There are also a number of matters in the Bill that we would welcome debate on, to ensure the intended policy outcome is explored and appropriately delivered.

1. **We strongly advocate for defaulting members into a 'journey' with the use of nudges, rather than defaulting them into a product.** A robust interactive member journey and presentation of scenario-based nudges can support the member to a decision and provide reassurance about their decision. **Amendments to the Bill could deliver this solution while still shifting the dial on provision for members.**

2. **We are concerned about defaulting people into a product at retirement**. Defaults work best where the default is appropriate for the majority of those subject to them. This is not as simple at retirement as it is at the point of being automatically enrolled.
    - The UK's diverse population with a wide range of working patterns means that "retirement" will mean different things to different people, in particular where phased retirement is common.
    - Key factors are not visible for designing the default - for example - the extent of entitlement to State Pension, the presence of other assets held by members and their household situation. Together, these factors mean that a default retirement solution is rarely likely to be a suitable solution for an individual member.
    - Paying out money and switching investment strategy without member consent introduces significant member risk, scheme liability issues, and practical implementation barriers – by contrast, defaulting members into a 'journey' addresses these risks.
    - The system must work for all types of schemes. There are distinct segments of the market serving different types of members. Some schemes (those which serve the previously under pensioned and lower earners) have a significantly different population to the general market.

3. **Ambitions for an income for life and longevity protection** is premature for the UK DC mass market and should only mandated where this provides value for members**. Government expectations in relation to this clause and how it intends to use the regulation making power to exempt small pots needs clarification.** There will always need to be solution for low earners, there are a small number of schemes that cater to this segment of the market, solutions must work for those savers.

4. **Requirements for trust-based schemes must recognise this is not an individual based solution and is not an advisory service based on individual needs that is informed by extensive personal data. Clarifications are needed throughout to ensure the Bill is clear and consistent on this point.**

5. **Flexibility** is **crucial to avoid locking people into a product and also so that propositions can change over time to reflect growth of the market and respond accordingly.**

6. **Innovation – the extensive power for Secretary of State to determine certain conditions** may restrict innovation by schemes in developing retirement products for members, and steps into the shoes of the trustee**. We believe this clause should be removed.**

7. **Partnering – the process for partnering seems to be at odds with providing a default** retirement product as it does require a member decision **– either this approach should be used for all benefit solutions, or this clause should also work with an 'opt out' mechanism.**
8. **The liability model is unclear** – the Bill introduces a requirement for Trustees to default people into a product in a non-advised environment, therefore **there should be a liability model assessment, with solutions including appropriate safe harbours and statutory discharge of trustee liability clauses.**
9. **Implementation expectations –** the DWP roadmap indicates commencement in 2027 – given the extent of requirements in the Bill and regulation making powers, and potential for partnering, such timing is likely to reduce innovation in initial offerings and may introduce imbalance in competition dynamics**. A commencement date should be consulted on once the regulations have been consulted on and have been finalised so industry can assess the task in hand.**

Background

Decisions that members need to make at decumulation can be complex and daunting – and some are unaware of the options and choices that need to be made until they seek to access their savings. This has been an issue for certain cohorts of savers in DC schemes even before the Pensions Freedoms – where many did not know they had (at that time) to use their pensions to purchase an annuity.

Following the Freedoms, member choice has been broader, but the challenge about how best to support members in the current regulatory framework has not yet been resolved. Given the nature of the Freedoms policy announcement, industry had little time to prepare. It is also the case that people's savings levels (in the mass market) have remined relatively low, given many do not yet have a full lifetime of DC saving behind them when they reach retirement.

We welcome and support a sense that we need to do more for savers, and that the legislation needs to be supportive in providing clarity on governments expectations. This policy and legislation indicates a significant shift from the Pensions and Choice agenda in some senses. But we are concerned that a policy that defaults people into a product at retirement, and which has evolved significantly since the most recent formal consultations, has not been fully tested or developed ahead of a plan for rapid implementation.

Legislation has the potential to create clarity of expectations and a standardisation of the member experience. Providing for greater clarity about what schemes are able to do can have an enabling effect for schemes and support innovation. However, there are a number of elements in the Bill which we think would benefit from debate and exploration, to ensure these elements, and the consequent key objective to support members is achieved.

Key points

1. **We strongly advocate for defaulting members into a 'journey' with the use of nudges, rather than defaulting them into a product. A robust interactive member journey and presentation of scenario-based nudges can support the member to a decision and provide reassurance about their decision. Amendments to the Bill could deliver this solution while still shifting the dial on provision for members.**

And

2. **We are concerned about defaulting people into a product at retirement.**

We are supportive of the intention for savers to receive more support at retirement. However, we have concerns around defaulting members into a solution.

Defaults are powerful – but are relevant where the default is to something which has a high likelihood of being the right outcome for the vast majority who are subject to it, and where opt-outs or cessation of that activity does not leave the saver in an immediate and significantly different financial position. This is the case in terms of Automatic Enrolment and putting members into a scheme. This is not the case for the current decumulation context. Defaulting members into a retirement product in the absence of their decision or consent introduces significant member risk, scheme liability issues, and practical implementation barriers e.g. payment details.

Elements that vary highly between individuals and effect the appropriateness of a default solution include the following:

- The UK's diverse population with a wide range of working patterns means that "retirement" will mean different things to different people, in particular where phased retirement is common.
- The extent of entitlement to State Pension.
- The presence of other assets held by members.
- The members wider financial and household situation.

We propose the following alternative approach (instead of defaulting members into a product):

- **A robust interactive member journey can support the member to a decision and reassure them** – for example by the scheme posing key questions, presenting scenarios, and providing illustrative examples of how options translate into figures for their pot. These types of communications approaches could go a long way to supporting members, and we believe would reduce the need for automatically placing someone into a product in the absence of their decision. These alternative approaches do not necessarily require additional detailed government prescription.
- **Amending the provisions in the Bill would enable this approach and shift the dial from the current situation in the direction government is seeking.** The Bill clauses to achieve this would be to require schemes to support members at retirement, and for a benefit solution to be offered, potentially including options to include a retirement income. It could also set out the considerations that trustees should take into account when designing the solution, including product design, communications, and governance.
- **This approach would be effective in enabling change** because it would still require provision of retirement benefit solutions, go some way to address current concerns about contravening the Pensions Freedoms policy, and provide greater clarity on how trustee activity in this space sits with other regulatory matters (such as direct marketing, PECR, and advice/guidance boundary) although further clarity on these points would also be welcome.
- **This approach would also avoid risks of a hard default** – including risks of saver misunderstanding about the type of support they are receiving, risks of a one size fits all/cohort approach by retaining appropriate space for supported decisions by savers which is important given the multifarious factors that impact appropriate retirement choices. Where a default is offered, this is likely to deter engagement with an important decision.
- **This approach offers a practical solution to providing a bridge between an AE type default and assuming full understanding and proactive engagement by the member at decumulation.**

We understand that DWP communications proposals will follow the introduction of the Bill[38] – we are keen to understand the scope and nature of these measures, and also need to understand as a matter of some urgency how these elements are intended to sit together in law, and manage the impact on business plans and product design. Some of this work has been paused awaiting government decisions.

[38] Part 2, Chapter 5, Clause 44 including subsection (5); Clause 45

The system must work for all types of schemes. There are distinct segments of the market serving different types of members. Some schemes (those which serve the previously under pensioned and lower earners) have significantly different population to the general market.

In addition to our general position on the question of 'defaulting' someone into a retirement product, we also have a number of points to raise about how the Bill as drafted will work - which we believe warrant further attention.

3. **Ambitions for an income for life and longevity protection is premature for the UK DC mass market, and should only mandated where this provides value for members - government expectations in relation to this clause and use of the power to exempt small pots needs clarification.** There will always need to be solution for low earners, there are a small number of schemes that cater to this segment of the market, solutions must work for those savers.

The Bill, explanatory notes, and policy discussions, have suggested that Guided Retirement products should provide for a whole of life income and longevity protection.[39] However, this may not be the moment for this requirement – as the AE market is still immature. Currently members are arriving at retirement with small pots, and may rely more heavily on other pension provision, including DB pensions (which will not be "visible" to the scheme provider).

In this context, providing longevity protection in the form of a guarantee is extremely expensive and therefore may be unwarranted and not a good use of savings. Translating a small pot into a very small income may create a disincentive to save and appear to savers to run counter to the pensions freedoms policy.

The Bill and policy proposals need to ensure flexibility so that propositions can change over time to reflect the growth of the market and respond accordingly. But it should also ensure that there should always be solutions available for those who only have a small level of savings, either due to low paid work, or those without a full work history.

Understanding the future role of the State Pension in provision of longevity protection at a minimum level of income, and the extent of requirements on workplace pension schemes for guarantees of the nature of what a whole of life income means, is material to the design of retirement benefit solutions by the market.

The Bill provides the power to exempt small pots from needing to provide an income for life.[40] However, the intended aim, parameters and considerations are currently unclear. For example, whether the threshold would be a figure which would provide for a 'meaningful' income, or just any level of income, and whether it will prescribe a requirement for guarantees, how it will take account of economic feasibility considerations, and the extent of trustee decision making, member views. The intent and use of this power is material to member outcomes and underlying policy as well as draft regulations must be consulted on.

We would welcome additional clarity from government during the passage of the Bill - about its plans and expectations on the use of this power, and its consideration of the factors above.

4. **Requirements for trust-based schemes must recognise this is not an individual based solution, and is not an advisory service based on individual needs that is informed by extensive personal data. Parts of**

[39] Part 2, Chapter 5, Clause 42, Subsection (3)(b); Subsection (6)(i) – Explanatory Note para 276 'regular income for the whole of retirement'
[40] Part 2, Chapter 5, Clause 42, Subsection (6) – Explanatory Note para 279

the drafting appear to recognise this, but other parts do not. Clarifications are needed throughout to ensure the Bill is clear and consistent on this point.

The Bill outlines factors that the trustees must take into account when designing the default, including the needs and interests of the scheme's membership as a whole and any subsets that are considered appropriate. However, in places it suggests that personal circumstances may need to be considered i.e. Clause *45 (2) Regulations may require that information given by virtue of subsection (1)* ***must, as far as possible, be based on information about the member's circumstances*** *obtained under powers conferred by Clause 44.*

In several places the Bill refers to information about member's circumstances[41] and taking those into account when designing defaults. We do not believe trustees should be required to provide solutions based on individual member circumstances and believe the Bill could be made clearer that this is not the policy intent.

The Bill also outlines the need for the trustee to understand the needs of the membership when designing the default option,[42] for example, through member surveys. Regulation making powers may both permit but also oblige schemes to undertake information gathering activities for this purpose. Conversations with officials have indicated this could include member surveys. However, further consideration is needed concerning different types of schemes and the plurality of membership. Schemes with millions of members may be likely to have more cohorts than those with a few hundred or thousands. Additionally, reaching out to members can be difficult where there is low member engagement, and consideration will need to be given to what an acceptable response rate would be to surveys used in defining a default and reasonable mitigations for low response rates for schemes with large membership bases. For example, schemes may want to undertake surveys of the public that 'look' like their membership base to support development of the default solution.

It is crucial that the policy and measures work for the trust-based sector, rather than assuming a retail type approach to requirements and regulation.

However, we also think there are opportunities to support a common member experience across trust-based and contract-based schemes by taking a 'people like this' approach to cohort-based defaults (as opposed to the FCA Targeted Support regime which is a 'people like you' approach). This would involve schemes describing relevant scenarios for their scheme demographic, along with pensions benefit solutions related to that scenario, as well as identifying other factors they may wish to consider (NB. This differs to the FCA new Targeted Support regulated activity - which requires the schemes/providers to place savers into a specific cohort based on personal data –with the cohort being linked to specific product recommendation). A 'people like this' solution could be provided across trust based and contract-based arrangements without constituting advice, and create a common saver experience. We have provided a response to the FCA consultation setting this out in more detail.

5. Flexibility is crucial to avoid locking people into a product and so that propositions can change over time to reflect growth of the market and respond accordingly.

Where a default is required, it will be challenging for this to offer a product which cannot be reversed, given the member will not have actively opted for this, and as the default in this system is not based on extensive personal data that would have been required in an 'advice' situation. This may make it challenging to default into products such as annuities, or other guaranteed income products.

It should also be noted that the default retirement solution will also have knock on consequences for default investment design – if there is a requirement to secure a guaranteed regular income for life, this would have a

[41] Part 2, Chapter 5, Clause 45, Subsection (2); Clause 42, Subsection (4)(b)(c); Clause 44, Subsection (7)

[42] Part2, Chapter 5, clause 44, Subsection (7) & (8)

significant impact on the de-risking approach adopted by schemes and may conflict with some of the Government's other objectives with regard to asset allocation. This would result in a less flexible approach to the provision of a default solution.

In the past, before the Pension Freedom policy was introduced, a saver was in effect required under tax law to purchase an annuity (other than in specified circumstances related to pot size or other income provision) this option was easily deliverable by providers. Combining choice with guarantees and a default requirement creates considerable delivery challenges which the Bill has not addressed.

As the market matures resulting in larger pots coming through the system, we would expect to see greater innovation in what may be possible. It is important that the Bill does not stymie this innovation.

6. **Innovation – the extensive power for Secretary of State to determine certain conditions[43] may restrict innovation by schemes in developing retirement products for members - we believe this clause should be removed.**

The power to make regulations to specify a 'default pension benefit solution' 'to meet any other conditions that may be prescribed'[44] adds significant uncertainty to schemes. It appears that it could be used, for example, for government to require different conditions for products in the future such as all schemes must provide CDC solutions.

It takes years to develop and put in place retirement solutions – this power introduces the risk of a significant and swift shift in the direction of travel regarding what schemes are required to deliver. This effect runs counter to enabling or driving market innovation just at a time when other factors, such as the growing market and the new clarity about decumulation policy providing an income, would be likely to otherwise see the development of new ideas and products.

The role of the trustee in determining what is in the best interests of the members is also somewhat undermined, and this power sits at odds with other requirements on the trustee in this chapter of the Bill. It may also create confusion or member trust issues if the shape of a retirement product described to members earlier in their journey suddenly shifts in a way that the scheme has not been able to manage or position, or at a time that cuts across other scheme changes.

7. **Partnering – the process for partnering seems to be at odds with providing a default retirement product as it does require a member decision.[45] Either this approach should be used for all benefit solutions, or this clause should also work as an 'opt-out' mechanism.**

The Bill suggests that members would be defaulted into in-scheme products. But it also requires that if schemes decide to partner with outside organisations to provide a default solution, these members would need to give their consent i.e. actively opt-in. Further clarification is needed concerning how this opt-in would operate in practice.

In addition, we have been hearing that some people consider this provision could operate more as an 'opt-out' i.e. members would be told about what was going to happen and if they did not confirm they did not want to progress the transfer would go ahead. However, this is not clear from the provisions in the Bill, which appears to require member consent. This also has a knock-on impact to the point below re the liability model.

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[43] Part 2; Chapter 5; Clause 42, Subsection (3)(d)
[44] Part 2; Chapter 5; Clause 42, Subsection (3) (d)
[45] Part 2; Chapter 5; Clause 43, Subsection (7)

8. **The liability model is unclear – the Bill introduces a requirement for trustees to default people into a product in a non-advised environment, therefore there should be a liability model assessment, with solutions, including appropriate safe harbours and statutory discharge of trustee liability clauses.**

As indicated under point 1 and 2 above, an individual recommendation about how to take their retirement savings are affected by a range of personal circumstances and preferences. Trustees will be able to assess what is in the best interests of the members as a collective and at a cohort level based on data held by the scheme. But trustees cannot, and are not regulated to, advise on an individual basis or make recommendations on the basis of other personal data. Although we expect to put in place clear communications explaining this, the existence of a default is likely to discourage savers from engaging – and some may not recognise the distinction until later.

A full assessment of risk and liability needs to be conducted, and appropriate mitigations put in place.

The Bill is silent on trustee liability. In the absence of some of the detail that will follow in regulations, we believe a safe harbour is necessary. This would mean that where trustees have followed the requirements in providing a default that suits the generality of its membership, and this is appropriately evidenced, that they are protected in cases where this might not be the optimal solution for an individual member.

9. **Implementation expectations**: – the DWP roadmap indicates commencement in 2027 – given the extent of requirements in the Bill and regulation making powers, and potential for partnering, such timing is likely to reduce innovation in initial offerings and may introduce imbalance in competition dynamics. **A commencement date should be consulted on once the regulations have been consulted on and have been finalised, so industry can assess the task at hand.**

We note the DWP Roadmap suggests that these measures will go live by 2027.[46] However, this is an extremely short notice period given the regulatory detail will not be available until well into 2026. Although concepts are well advanced, the delivery of the requirements will involve a change programme involving IT amendments, investment strategy and delivery, administration platform changes, member communications, compliance checks etc. - which will all need to be in place alongside other significant policy reform changes.

For scheme's wishing to partner – they will need to consider the solutions once they have been put in place, and review the market offerings, negotiate and set up contracts, and finalise communications once those partnering decisions and contracts have been finalised. This may potentially be well in advance of a clear or immediate through flow of members.

The lead in time is therefore crucial to ensure that savers receive the support that government is aiming for – and to ensure this is done in an orderly fashion. If the lead in time is insufficient, there is likely to be a knock-on detrimental impact to the solutions that will be offered, and the prices that can be obtained from those wishing to partner.

Although some providers and schemes that already have offerings are pushing for an early commencement date to secure a commercial advantage, those solutions will need to be reviewed and assessed as compliant with what seems to be a significant amount of secondary regulation requirements. But it is also likely that if government choses to go ahead without a reasonable lead in time, the policy may inadvertently create a number of competition

[46] Workplace pensions: a roadmap - GOV.UK

issues which will be to the detriment of member outcomes. Schemes, providers and businesses need clarity and time to prepare and deliver.

Technical Appendix – Miscellaneous

Section 95 - PPF levy flexibility

In the main body of this document we note that the Bill increases the maximum rate at which the PPF would be able to increase its levy materially. The PPF is currently in good financial health and may never need to raise a levy again; the level of flexibility it has to raise a levy would only be called on should it need to react to negative experience. In theory, the more flexibility the PPF has to increase its levy, the more it can bide its time keeping levies low or nil before reacting. The PPF might therefore be able to take a less cautious approach which may benefit eligible schemes and their sponsors if this means that the PPF doesn't need to 'over-react' to negative experience and so collects a lower amount overall. The diminishing pool of levy payers also poses less of a problem if the PPF can raise money more quickly. On the other hand, the more volatile the levy, the more difficult it is for payers to budget for, and so there is a trade-off.

The committee should consider asking the Government (and perhaps the PPF) for any analysis or rationale for the level of flexibility in the levy amount from year to year offered by the Bill. The PPF has previously considered its capability to revert to charging a material levy over a reasonable period under the current rules. It concluded that it would need to be able to raise £4bn over a ten-year period[47]. Below we make a suggestion for an approach which would permit this, at the same time providing the flexibility the PPF requires to pause its levy now.

The Bill might place a maximum on any levy year's estimate of the higher of:

A. the amount permitted under the current rules (the prior year's estimate plus 25%, and no higher than the levy ceiling), and
B. a proportion of the levy ceiling.

If B were set at 9%, based on the current the levy ceiling, the PPF would be able to levy about £125m in a year following one in which it raised no levy. Over a decade it would be able to collect a total of c. £4.2bn.

[47] The PPF's consultation on its 2024/25 levy rules, paragraph 3.1.9