Which?

Which? Written Evidence - Committee Stage (House of Commons)

Pension Schemes Bill

Introduction

1. As the UK's consumer champion, we are committed to ensuring that savers' pensions work for them. We provide direct guidance to consumers through our publications, conduct research to understand their attitudes towards their pensions, and identify evidence-led policy solutions to make sure consumers' pensions deliver them a good retirement.

2. We welcome the Pension Schemes Bill, which lays the foundations for a number of reforms which will improve the pension system for consumers.

3. In particular, we welcome the introduction of:

   - **A consolidation scheme for small pots (Clauses 21-37)**
     This should reduce administration costs for pension firms, which will deliver better pension returns for consumers through lower costs and charges.

   - **A Value for Money framework for pension schemes (Clauses 10-19)**
     This will make it clearer how pension schemes are performing and will help to ensure savers aren't stuck in schemes that deliver poor returns.

   - **A duty for trust-based schemes to offer default retirement income solutions (Clauses 42-50)**
     This will make it simpler for savers to make good decisions about how to use their pension pots when they reach retirement.

4. However, we believe the Bill should be strengthened by amending:

   - **Bulk transfers without consent for contract-based schemes (Clause 41)**
     We welcome the power to move someone's contract-based pension to a new scheme without their consent, as the intention is to move them out of old, underperforming schemes and into better ones. However, we are concerned a lack of consumer safeguards built into these provisions may make savers worse off.

   - **The reserve power to set asset allocation levels (Clause 38)**
     We are concerned that mandating how much pension schemes should invest into different assets, and whether these should be in the UK, may result in schemes making worse or riskier investment decisions that may not be in the best long-term financial interests of savers.

Background

5. Current projections for pension outcomes show that the rate that many are saving at will not be enough to deliver them adequate savings in retirement. According to current figures, 73% of people will not have enough savings for a moderate standard of retirement, with around 4.5 million people projected to have a pension income that falls below the Pensions UK minimum retirement living standard (£14,857 a year) and 25.4 million people not reaching the moderate standard (£35,982 a year).

6. Our August 2025 consumer tracker found almost six in ten consumers are concerned about the value of their pension (57%). This level of worry has remained consistently high - between 49% and 63% - over the last ten years since we started tracking this sentiment. Perhaps unsurprisingly, the group most worried are 45-54 year olds who are starting to think more about their retirement (around 60-70%).

7. Considering the huge challenges, Which? welcomes the fundamental improvements to the pensions system currently taking place through this Bill, the Pensions Dashboard Programme and the ambition of the newly announced Pensions Commission. The Bill primarily focuses on 'value for money' through improving how the market works to lower fees and drive better returns, the introduction of Pension Dashboards will improve consumer engagement with their pension, while the Pensions Commission will focus on longer-term ways to boost savings rates. Working together these changes can significantly improve pension outcomes for consumers.

Where we are supportive

Consolidation of Small Pots (Clauses 21-37)

8. Automatic enrolment has been a great success, but it has also resulted in people holding numerous dormant pension pots of £1000 or less ('small pots'), with the number of these pots in the system currently sitting at 13 million. These pots reduce value for money for savers because they needlessly create costs for pension schemes which are often passed on to the savers themselves.

9. We have been working with the government and a wide range of stakeholders for almost a decade on how to address the proliferation of small pots. We therefore support the introduction of these measures, where an individual's small pots will be automatically consolidated into one of a small number of regulator-approved consolidator schemes.

10. The new scheme also sets out sufficient safeguards to ensure automatic transfers do not lead to poor or unwanted outcomes for consumers. This includes an exemption where a transfer may not be in the best interest of the saver and the ability for savers to opt-out of the proposed consolidation.

11. The combination of the safeguards and the small limit on the sizes of pots to be consolidated means the scale of harm that could occur through an unsuitable transfer is relatively low. In contrast, the bulk transfer without consent in contract-based schemes in Clause 41 of the Bill represents a significantly higher risk of consumer harm if an unsuitable transfer is made. See the section below on bulk transfers without consent in contract-based schemes for more detail.

12. Pots will be consolidated under a 'multiple default consolidator approach'. By limiting the number of authorised consolidator schemes, there will be better oversight of transfers by the regulators.

13. With the number of inactive pots (including those greater than £1000) currently forecast to grow to 27 million by 2035, we also welcome the power to review, and potentially increase, the £1000 limit on a small pot. The £1000 limit is appropriate initially, but this will ensure that further consolidation could be undertaken in the future, if it is in the best interests of savers.

Value for Money Framework (Clauses 10-19)

14. Historically, employer decision-making in the pension market has seen a focus on the set-up and maintenance costs to the employer themself, rather than prioritising the value that their employees will receive from their pension. This means that there has been less incentive on schemes to ensure these arrangements offer value for money for consumers.

15. We therefore welcome the government's introduction of their Value for Money Framework. The framework will enable the regulator, as well as employers and trustees, to more easily identify which schemes are delivering value for money for their members. This will in turn support more targeted and effective enforcement action against low value for money schemes by requiring them to either improve or exit the market. This new framework will ensure consumers can be confident that, regardless of who is providing their pension arrangement, they will be receiving value for money.

16. The Value for Money Framework is a critical element of other reforms in the Pension Schemes Bill. In particular, the Value for Money framework is crucial to ensuring bulk transfers without consent (as set up by Section 41) are conducted in the best interests of savers. This is because the Value for Money assessments will be used as one decision making tool to help ensure savers are moved to well performing schemes. It is therefore important that the Value for Money framework is implemented before these transfers can take place.

Default Retirement Income Solutions (Clauses 42-50)

17. When a consumer reaches retirement they are currently burdened with making complex and often irreversible decisions about how they will use their retirement savings. These decisions, especially when made without the support of expert advice, may have severe consequences for an individual's financial future and in some cases can even mean that an individual outlives their savings. The lack of support a consumer receives when they start to take from their private pension is markedly different to when they are putting money into it, where they are well supported, through auto-enrolment and default investment pathways, to build their pension pots in ways that are appropriate to them.

18. We therefore support the introduction of duties on trust-based pension schemes to provide default retirement income solutions, such as a drawdown, annuity, cash or combination product, that are relevant to the needs and interests of their members. We are considering the details of these proposed duties closely. If implemented successfully, many consumers will, as a result of this measure, be well-supported to receive an income in retirement that will last across their lifetime, and meet their personal needs.

19. In delivery, it will be important that the regulator monitors the value for money of available default retirement income solutions, including any fees and charges being passed on to members.. If the value for money of a solution is poor, the regulator must intervene so that the relevant savers have the best chance of receiving a sustainable, adequate income that supports them throughout retirement.

Where the Bill can be strengthened

Bulk Transfers without Consent for Contract-based Schemes (Clause 41)

20. In Clause 41, the Bill includes a mechanism that enables the bulk transfer of members and their pension pots from their existing contract-based arrangement to a different arrangement, without requiring the scheme to receive individual consent from each member. We welcome the ambition, which is to more easily facilitate the transfer of members out of closed, legacy contract-based schemes to better-performing schemes. This is an important and necessary change that will enable the implementation of other valuable reforms like the Small Pots Consolidation Scheme and the Value for Money (VfM) Framework.

21. However, without effective safeguards, there is a significant risk that savers may be moved to arrangements that are not in their best interests. As the Bill is currently written, it does not give enough certainty that the intended safeguards will sufficiently protect savers against this risk.

22. Firstly, for an override to take place, the provider will have to determine that the move will be in the best interests of the affected members, taken as a whole ('best interests test'), and have this assessment certified by an independent third party ('certification by independent person'). However, as the detail of the best interests test will be developed in FCA rules, and is also subject to Treasury regulation-making powers, we cannot be sure it will be done in a way that supports the best interests of all sub-groups of affected savers. It's therefore important that the Bill itself is strengthened, to ensure the interests of all affected savers are placed at the heart of the process.

23. In addition, to conduct the best interests test for internal transfers, the provider will have to compare the proposed change against all other potential internal changes. In contrast, for external transfers, the provider will only be required to compare one proposed change to the current situation, even when there may be other options available that should be included in any comparison. This will mean that in practice it is not possible to assess whether an external transfer is genuinely in savers' best interests.

24. The Government's workplace pensions roadmap currently sets out that bulk transfers without consent will be introduced from early 2028, with the VfM framework implemented from late 2028. This means that, beyond the issues identified above, there will also be an extended period of time when providers cannot use VfM data to conduct the best interests test. Given that the FCA found that many Independent Governance Committees (IGCs) are unable to gather the information needed to assess value, not being able to use VfM data may contribute to inaccurate assessments of the best interests test, and therefore an increase in bulk transfers that aren't truly in the best interests of members, particularly in this time period.

25. Clause 41 also gives the Treasury the wide authority to amend the best interests test or disapply any legislation or FCA rule that may be seen as an obstacle to firms undertaking bulk transfers without consent. This raises a concern that a future use of these powers could alter the existing necessary level of consumer protection. It is therefore critical that any such changes are subject to robust oversight and consultation to ensure that transfers continue to be in the best interests of savers and poor outcomes are avoided.

Consumer protections on the bulk transfer of contract-based schemes without consent must be strengthened in this Bill.

This should include:

- **Introducing a requirement to 'act impartially between different classes of members' in determining a better outcome for the directly affected members.** This would make sure that where a sub-group of directly affected members (e.g.

those close to retirement) is likely to experience a different outcome to the majority (e.g. those in the middle of their saving journey), this is is distinctly accounted for and addressed so that all classes of member get a better outcome.

- **Introducing a requirement to consider a reasonable number of appropriate alternative external arrangements for external transfers.** This would help to make sure that external transfers are going to high quality schemes, and would also help prevent a member from being transferred into a poorly performing scheme because it is a marginally 'better' option compared to the current.
- **Not permitting transfers without consent prior to the implementation of the Value for Money framework.** This will offer stronger consumer protections, recognising the increased risk of transfers, **especially external transfers**, not truly being in the best interests of savers in this time period.
- Strengthening the 'best interests test', by making sure that this cannot be changed by the Government without scrutiny from Parliament.

We therefore recommend proposed amendments 1.0, 2.0, 2.1, and 3.0 below.

Reserve Power for Asset Allocation Levels (Clause 38)

26. The government is including a reserve power in the Bill that will allow it to set asset allocation levels for some defined contribution providers' arrangements to encourage economic growth. This means that the government could prescribe the percentage level of investment in private assets (such as infrastructure projects) as well as, for example, whether an asset is located in the UK. Alongside views from the pension industry itself, we are concerned that by mandating asset allocation levels there is a risk that providers will be required to make certain investments even where they reasonably know it will lead to poorer outcomes for their members.

27. The reserve power is only intended to be exercised if voluntary agreements do not succeed (such as the recent Mansion House Accord, where some providers voluntarily agreed to invest, by 2030, a minimum of 10% of their defined contribution default funds to private markets, with at least half of that going to UK-based assets). While the Government doesn't anticipate exercising this power, it is still critical that if it is used it is set up in such a way that it maintains existing protections for the best interests of savers.

28. **As it is written, it is not clear that the reserve power sufficiently ensures the best interests of affected savers will be prioritised**. The reserve power explicitly overrides the duty on trustees to act in the best interests of members and although the Bill provides

an avenue for firms to apply for an exemption on best interest grounds, approvals will be at the discretion of the regulator. There will also be no requirement to investigate and mitigate any unintended negative consequences to mandating asset allocation levels (such as an increase in asset prices leading to poor returns for consumers).

Recommendation
Improving how the reserve power is set up to ensure that if it is exercised, it will be in savers' best interests. This may include things like:

- Ensuring that the government demonstrates that there is sufficiently robust evidence to determine that the proposed investment levels will be in savers' best interests and that potential unintended consequences can be mitigated.
- Ensuring providers have clear avenues to seek an exemption where they can demonstrate a specific allocation level will likely not be in some, or all, of their members' best interests.
- Limiting the current power to set asset allocation levels to help ensure its intended purpose is maintained, even in future governments. For example, by tightening the time frame within which the Secretary of State can increase percentage levels under this power (currently set to 31 December 2035) and/or preventing changes to the definition of a 'qualifying asset' once initial regulations have been made.

Conclusion

29. The Pension Schemes Bill is a crucial step towards building a stronger pension system that supports good outcomes for consumers. It comprises a number of significant reforms that will provide strong value to savers. However, it must be strengthened through the addition of key consumer safeguards to ensure savers are not shortchanged by these reforms.

About Us

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

For more information, please contact publicaffairs@which.co.uk

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Annex - Proposed Amendments

Proposed Amendment 1.0 - Implementing Value for Money Framework first
Clause 41, page 49, line 23, at end insert— "(4A)A transfer under subsection (1)(c) or (d) may not be effected unless Value for Money assessments in accordance with Chapter 1 of this Part have been made available and properly considered as part of the decision-making process." ***Member's explanatory statement*** *This amendment ensures that the value for money framework will be introduced before bulk transfers without consent are used for internal and external transfers, to ensure that these are done in the best interests of members.*

Proposed Amendment 2.0 - Strengthen the 'best interests test' provisions
Clause 41, page 50, line 25, leave out paragraph (a) and insert— "(a) a better outcome for the directly affected members of the scheme both taken as a whole and acting impartially between different classes or groups of directly affected members, and" ***Member's explanatory statement*** *This amendment ensures that where a group of members (e.g. those close to retirement) is likely to experience a different outcome to the majority (e.g. those in the middle of their saving journey), this is accounted for so that all classes of members get a better outcome.*

Proposed Amendments 2.1 - Strengthen the 'best interests test' provisions
Clause 41, page 50, line 39, at end insert— "(ba) where the unilateral change is an external change, at least two other changes, whether internal or external that could be made in accordance with this Part in relation to pension pots of the description in question." Clause 41, page 51, line 3, at end insert— "(5A) In subsection (4) "external change" means a unilateral change that results in a description of a pension pot held by the scheme being held subject to a particular arrangement under a different pension scheme held by a different provider." ***Member's explanatory statement*** *These amendments introduce a requirement to consider at least two additional changes, whether internal or external, for external transfers. This would help to make sure that external transfers are going to high quality schemes.*

Proposed Amendments 3.0 - HMT powers to amend the best interests test
Clause 41, page 53, leave out line 12 Clause 41, page 53, in line 22, leave out, "disapply any legislation, or" Clause 41, page 53, line 26, leave out sub-section (2) ***Member's explanatory statement*** *These amendments limit HMT powers to make regulations, in order to provide greater certainty for consumers and other stakeholders on the face of the legislation as to the potential scope of the best interests test and other key aspects of the contractual override provisions.*