



Department  
for Work &  
Pensions

**Government Response to the Consultation on**

# Strengthening The Pensions Regulator's Powers: Contribution Notices and Information Gathering Powers Regulations 2021

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June 2021

# Contents

Ministerial Forward ..... 3

1. Introduction ..... 4

2. The Pensions Regulator (Employer Resources Test) Regulations 2021 ..... 6

3. The Pensions Regulator (Information Gathering Powers and Modification) Regulations 2021 ..... 11

4. Conclusion ..... 18

# Ministerial Forward

The Defined Benefit pension sector is an integral part of the UK pensions system, with around 10.5 million members relying on a Defined Benefit scheme for their retirement income. The UK already has a robust system in place to protect Defined Benefit pensions, and the measures in the Pension Schemes Act 2021 (the Act) build on and strengthen these safeguards, aligning the overall policy with The Pensions Regulator's approach of being clearer, quicker and tougher.

Provisions in the Act give The Pensions Regulator stronger powers to deal with the small number of circumstances where employers decide to evade their obligations. This document provides our response to the consultation on draft regulations made under the powers in the Act, relating to Contribution Notices and information gathering powers. We will consult on planned changes to the notifiable events framework and the introduction of notices and statements later this year.

Once complete, this wider package of regulations accompanied by The Pensions Regulator's associated codes of practice represents the final step in this journey in meeting our manifesto commitments in providing The Pensions Regulator with new and improved powers so that it can intervene more effectively to protect members' hard earned retirement savings.

I am very grateful for the engagement of stakeholders in this consultation, which has provided the Government with a solid basis on which to support The Pensions Regulator in protecting pension scheme members.



HON GUY OPPERMAN MP  
MINISTER FOR PENSIONS AND FINANCIAL INCLUSION

# 1. Introduction

The Pension Schemes Act 2021 (“the Act”) gained Royal Assent on 11 February 2021. Part 3 of the Act relates to new powers for The Pensions Regulator and contains various provisions to make associated regulations.

A consultation was conducted seeking views on the proposed drafting of the two sets of draft regulations: The Pensions Regulator (Contribution Notices) (Amendment) Regulations 2021 (now referred to as The Pensions Regulator (Employer Resources Test) Regulations 2021) and The Pensions Regulator (Information Gathering Powers and Miscellaneous Amendments) Regulations 2021 (now referred to as The Pensions Regulator (Information Gathering Powers and Modification) Regulations 2021).

This document provides a high-level summary of the consultation responses along with the Government’s response.

## **Executive Summary of responses**

We received a total of 19 responses to the consultation all via email from law firms, consultants and advisers, covenant assessment organisations and from a range of pension related bodies including trustees, actuaries, accountants and lawyers.

Questions 1 to 4 relate to the draft Pensions Regulator (Employer Resources Test) Regulations 2021 where many respondents contributed. Responses were mixed with some in support, some against and a few respondents didn’t provide a view either way. Many respondents provided suggestions for improvements and some respondents indicated possible unintended consequences. About half suggested that EBITDA (Earnings Before Interest Tax Depreciation and Amortization) would be preferred over Profit Before Tax (PBT) as a measure for assessing the resources of an employer.

Questions 5 to 13 relate to the draft Pensions Regulator (Information Gathering Powers and Modification) Regulations 2021 which many respondents chose not to comment on. Of the few that did, most respondents were supportive of the proposals.

## **How we consulted and how people responded**

The Consultation document available on GOV.UK ran from 18 March until the 29 April 2021 and received 19 responses. We received responses from a variety of stakeholders from across the pensions industry.

Report title

## **Public sector equality duty**

The Department's policies, guidance and procedures aim to ensure that any decisions, new policies or policy changes do not discriminate unlawfully against anyone, and that in formulating them the Department has taken due regard to its obligations under the Equality Act 2010 and the Public Sector Equality Duty.

## **Quality assurance**

This Consultation was carried out in accordance with the [Government's Consultation Principles](#).<sup>1</sup>

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691383/Consultation\\_Principles\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf)

## 2. The Pensions Regulator (Employer Resources Test) Regulations 2021

**Consultation Question 1:** Do the regulations achieve the stated policy aim?

**Consultation Question 2:** Can you see anything that means that these regulations will not work?

**Consultation Question 3:** Do you foresee any unintended consequences in this approach, if so please provide details?

**Consultation Question 4:** If the approach is not workable, please provide your views on what would be an appropriate alternative approach?

### Consultation position

The tests in the existing Contribution Notice (CN) regime – the “main purpose” and “material detriment tests”, are scheme focused, whereby an assessment is made on the impact of the act or failure to act on the scheme. In a majority of The Pensions Regulator’s past CN cases, the act or failure to act on which the action is based is something which affects the employer, as opposed to something which damages the scheme directly.

As a result, The Pensions Regulator is required, in practice, to extrapolate from an employer related act, the impact on the scheme which is evidentially challenging. It was the policy intention therefore to introduce a jurisdictional test in the CN regime which is assessed by reference to the impact on the sponsoring employer.

An additional issue faced by The Pensions Regulator is the difficulty in forecasting the medium and long-term performance of a business for the purposes of the existing ‘material detriment test’. The “employer resources test” introduced in the Pension Schemes Act 2021 is therefore designed to assess this on a snapshot basis, removing the need to forecast how the employer might or might not have performed in the future absent the act or failure to act.

The option selected for measuring the resources of the employer is to use Profit Before Tax (PBT) which is a term widely understood by all involved; is less subjective than other options and would be indicative of the employer’s ability to support the scheme which is examined as part of assessing employer covenant.

The policy intent is to allow The Pensions Regulator to take swifter action and to be more efficient. It is also the policy intent that the regulations work alongside The Pensions Regulator's code of practice.

## **Summary of stakeholder responses**

Some respondents gave the view that the policy intent is met, that the regulations will help to ensure 'acts' more accurately reflect impacts on the scheme, will lead to more sponsoring employers engaging with pension scheme trustees earlier in a transaction and avoid the need to forecast the medium and long-term performance of the sponsoring employer, thus helping The Pensions Regulator to become "quicker". It was also noted that the employer resources test is not entirely objective, but is less subjective, and easier for stakeholders to understand/assess, than the alternative options referred to in the consultation document.

Some respondents gave the counter view and highlighted a number of areas where they felt that improvements were needed. The general thrust of the comments focused on the aspect that the option of a PBT measure as proposed in the consultation is too narrow a measure and that a more holistic approach would be preferable to take into account that an employer can call on other sources of funding to support scheme contributions. Comments were also made within this context about the significance of cash generation in terms of scheme funding. About half of the respondents suggested that the EBITDA (Earnings Before Interest Tax Depreciation and Amortisation) measure would be more suitable as it provides a better view of cash available to support the scheme. A few related comments were made about the PBT measure being too simplistic and possibly open to manipulation with concerns that employers and their corporate groups could influence statutory accounting disclosures.

Other areas that respondents commented on include how the PBT measure would work for charities and not trading for profit organisations and separately, how verification of The Pensions Regulator's determinations would be achieved for example in situations where financial accounts are not required to be prepared.

Some responses were concerned about the lack of visibility in how The Pensions Regulator will identify and exclude exceptional and/or non-recurring items from the employer's annual accounts as part of the calculation to determine a normalised position.

A few queried the fairness of The Pensions Regulator using historic data and indicated that any assessment of profit should be taken within the same period as the act occurring. On the other hand, a few suggested that a longer historic period of up to 3 years should be used to capture events just outside of the period in question as these could also have an impact.

Many respondents requested information on various aspects of the test, how it would be applied in practice including example scenarios and how all the tests of the CN regime would all work together. Some responses indicated that the volume of clearance cases is likely to increase if some of these elements are not explained in appropriate guidance and a few responses sought clarification on the position with regard to the lookback period and whether the new CN test would be applied retrospectively.

## **Government response**

The pros and cons of a 'holistic' test, for example considering 'covenant' more broadly, were set out in the consultation document accompanying the draft regulations. As previous analysis set out, there is no industry consensus on how to value covenant. The purpose of the employer resource test is to provide The Pensions Regulator with a tool to make a simple snapshot assessment of the impact of the act or failure to act on the employer.

The Pensions Regulator will be able to decide which of the jurisdiction test(s) i.e. a test which assesses whether an act or failure satisfies the "act" elements of the CN regime in a particular situation, and will assess each test in isolation. For example, the new employer insolvency test might be considered to be met, even if the employer resources test isn't. We believe this approach should address the points raised about the PBT measure not capturing certain acts. The Pensions Regulator has launched its consultation on its associated revised code of practice for CNs (Code 12) which includes illustrative examples covering scenarios of how the different tests would apply. This will provide further clarity to the industry on how The Pensions Regulator will interpret and use the new powers.

In the consultation document we concluded that a holistic measure creates too many uncertainties and a specific measure of PBT was selected as the most suitable baseline to determine whether an act has resulted in a material reduction in the value of resources of the employer. In respect of whether EBITDA should be used in preference to PBT, we think that both are possible measures although EBITDA is not a required accounting disclosure, is not covered by the financial reporting standards relating to accounting practices published by the Financial Reporting Council and is



therefore not audited. The key aspect of the test is capturing the impact of the act on the selected measure.

We think it is relevant to have the interest charge allowed for in the figure because this could be where the detriment is reflected if the company raises more debt. Also, anything that impacts EBITDA is likely to impact PBT so both measures will reflect the impact of the act(s). Most companies will have to pay interest and most will have to record a depreciation charge – these are not discretionary costs, and we remain of the view that PBT should be used which gives the most appropriate picture of net profits available to provide support for a Defined Benefit pension scheme.

The employer resources test, as with other jurisdiction tests within the wider CN regime, is one of the elements of the CN regime which must be met and is not sufficient on its own for a CN to be issued. The statutory test for reasonableness – which must be satisfied before a CN can be imposed, obliges The Pensions Regulator to take account of all relevant factors which may include a broader assessment of the employer's strength. We believe that the CN regime as a whole should provide comfort to those concerned that The Pensions Regulator will not be taking a holistic view.

Any case for use of the CN power would follow The Pensions Regulator's Case Team Procedure, which provides for the views of all directly affected parties, including the employer and trustees, to be considered. Any target can make representations to The Pensions Regulator on that basis. Any decision to impose a CN can also be referred to the Upper Tribunal.

In terms of charities and not trading for profit organisation, the draft regulations will be clarified to ensure that they can apply to these entities. The draft regulations will also be updated to reflect feedback raised regarding verification.

Non-recurring and exceptional items will be determined by The Pensions Regulator and the draft regulations have set out that when doing so, The Pensions Regulator will have to have regard to the financial reporting standards relating to accounting practices published by the Financial Reporting Council. The Pensions Regulator would not ordinarily exercise its discretion in relation to exceptional and non-recurring items in audited accounts which mirror the prescribed test period, because an audit process will already have examined these.

We have considered points raised about the different aspects of timing within the test and remain of the view that a separate accounting period to that of the period where the act or failure to act has occurred is required. This is because, as an example, if an act occurred in the FY 2020-2021 and the same period is used as the baseline measure, the accounts would have already accounted for the impact of the act. By using the accounts for FY2019-2020, this would provide The Pensions Regulator with a baseline measure by reference to which to assess the impact of the act.

A further challenge and one that also goes against the policy intent of having a quick and efficient test is that it is likely that if the same accounting period is used, there is a risk that The Pensions Regulator would be required to work on incomplete unaudited accounts and therefore exposed to unnecessary challenge. We are also not persuaded by the suggestion to have a longer prior period of up to 3 years on the grounds that we think the period should be as close to the act or failure to act as can be achieved using completed audited accounts. Separately, we have incorporated changes to clarify aspects regarding accounting reference periods.

A few responses sought clarification on the status of the lookback power and we remain of the view as set out by Ministerial statements that the new jurisdiction tests are not retrospective and that the new employer resources and insolvency tests will only apply to acts (or failures to act) from 1 October 2021. The planned commencement regulations will clarify this position.

The introduction of the employer resources and insolvency tests in the CN regime may generate an increase in requests for clearance, which could impact on the resources of The Pensions Regulator as some respondents have highlighted. However, The Pensions Regulator has successfully demonstrated flexibility in diverting resources to cover priority areas during the COVID pandemic, and is confident that it has sufficient flexibility to be able to deal with any additional requests for clearance.

The proposed staged approach outlined in the consultation document is how we envisage the test would work in practice. The Pensions Regulator is considering whether there is a need for it to produce guidance – both in relation to the new tests and its CN power more generally. Its existing approach is to provide guidance to the market through publications describing its interpretation of the law, its view of best practice, and its approach to use of its powers (e.g. Code 12, code-related guidance, clearance guidance and other related publications such as its statement on regulated apportionment arrangements), together with publication of regulatory intervention reports and determination notices on specific cases. Given that its CN power has been in place for more than 15 years, there may be a role for a single document to pull together The Pensions Regulator's experience of considering and using these powers, setting out its views and expectations. This is something that The Pensions Regulator is considering, and will continue to consider as it gains experience of these new tests.

# 3. The Pensions Regulator (Information Gathering Powers and Modification) Regulations 2021

**Consultation Question 5:** Do you agree that the requirements in regulation 3(1) cover all the essential information that the interviewee should be made aware of? If not, please indicate which additional items of information you consider should be included.

## Consultation position

Section 110 of the Pension Schemes Act 2021 inserts a new section 72A into the Pensions Act 2004. This will allow The Pensions Regulator to conduct interviews with anyone within the scope of existing section 72(2) of the Pensions Act 2004 who might have information or be asked to provide an explanation relevant to the exercise of its functions. It will replace The Pensions Regulator's previous power under section 72(1A) to interview a person concerning information provided in response to a section 72 notice in respect of Automatic Enrolment or Master Trust matters.

The primary legislation requires that The Pensions Regulator issues a written notice calling the person for an interview and that information which must be in the notice will be prescribed in regulations as per the list below:

- (a) the details of the person required to attend the interview with the Regulator ("the interviewee");
- (b) the relevant power under which the interview is being conducted;
- (c) a statement confirming the relevant functions of the Regulator engaged;
- (d) an explanation as to why the interview is being conducted;
- (e) the details of how the interview process will be conducted;
- (f) a statement setting out the interviewee's right to be represented at the interview;

(g) a statement confirming that any statements made by the interviewee during the interview will be subject to section 310 of the Act (admissibility of statements);

(h) a statement setting out the legal effect of the interview notice and the possible sanctions for non-compliance; and

(i) information relating to the process for rearranging the time or place of the interview.

Where an interview is being conducted virtually via an online communication platform, the interview notice must also contain the following:

(a) the details for accessing the online communication platform; and

(b) the details of how the virtual interview will be conducted.

## **Summary of stakeholder responses**

Of the small number of responses to this question, about half indicated that the draft regulations capture the essential information and the other half indicated other aspects that could be added.

A few responses commented on the need to make it clear on what basis the interview is being held, whether criminal or civil, whether as a witness and in the case of an adviser being required to attend interview, how their duty of confidentiality to their client will apply. A few respondents commented that further more explicit information could be provided on explaining the implications of section 310 of the Pensions Act 2004 (admissibility of evidence) and a few respondents also queried whether the interview would be recorded and whether the interviewee would get access to it.

## **Government response**

The intent behind a number of the requirements in the draft regulations is so that The Pensions Regulator will set out very clearly in the notice who is being required to attend an interview, the type of interview sought and the reasons why the person is being interviewed. In a case where the interview is in connection with a criminal investigation, why the person is being called for interview and whether as a witness or a suspect will be confirmed and, if a person is a suspect, that the interview will be conducted in accordance with the Police and Criminal Evidence Act 1984 Code of Practice. We do not therefore see the need to make additional provision on this point for the notice for a regulatory interview. The Pensions Regulator will also produce

policy guidance on how and when they will use their “information gathering” powers, including how they will use their powers to investigate criminal offences.

The specific reference in the primary power of requiring any person to attend an interview and answer questions and provide explanations along with the specific requirement in draft regulation 3(1) (d) and (h) provides clarity on the scope of the power and the legal effect of the notice and we see no need to add further requirements for the notice itself, such as explaining the implications for any duty of confidentiality. We are also not persuaded to include an additional requirement in draft regulation 3(1)(g) for the notice to explain the implications of section 310 (admissibility of evidence). Further information on how and when The Pensions Regulator will use their “information gathering” powers, including such explanations, will be made available by The Pensions Regulator in separate policy guidance.

Our expectation is that The Pensions Regulator’s policy guidance will have due regard to appropriate current guidance and procedures for vulnerable parties or witnesses and will cover reasonable adjustments that can be made to how The Pensions Regulator provides such vulnerable persons with information, how they communicate with The Pensions Regulator or any requirements that may affect their ability to attend an interview.

In terms of adding in a minimum notice period into the notice, as is the case now under the existing section 72 notice powers, there is no “minimum period” prescribed for compliance with the requirement to attend for interview. In common with how it approaches use of its section 72 notice powers, The Pensions Regulator will however, approach each interview on a case by case basis to ensure that any such period is reasonable. The Pensions Regulator would generally expect to give not less than 10 working days’ notice but there may be occasions, if there is particular urgency, where it is reasonable to seek an interview with a person within a shorter timeframe. The interview notice will also set out a process for a person to contact The Pensions Regulator, if they need to discuss or query the timing, location or format of the interview (i.e. such as a virtual interview, rather than conducting an interview at a specific location, in person).

There have been minor drafting amendments in the final regulations.

**Consultation Question 6:** Do you think that the regulations ensure that The Pensions Regulator has the same inspection powers under section 73(6)(d)-(f) regarding any employer of a multi-employer scheme as it has where there is only a single employer?

## Consultation position

Section 111(5) of the Pension Schemes Act 2021 extends the range of premises that an inspector may enter under section 73(6) of the Pensions Act 2004 (new section 73(6)(d) to (f)). This includes premises:

- where documents relating to the business of the employer in relation to the scheme are being kept;
- where the administration of the business of the employer in relation to the scheme is carried out; and
- in the case of non-money-purchase schemes, where documents relevant to a change in the ownership of the employer or a significant asset of the owner are being kept.

New section 73(6B) makes it clear that a reference to an employer also refers to previous employers in relation to the scheme. However, the primary legislation does not specifically reference schemes with more than one employer. This is because the Pensions Act 2004 already contains a power under section 307(1) to modify provisions in the Act with reference to multi-employer schemes.

## Summary of stakeholder responses

Of the small number of responses to this question, many were in agreement with the proposed approach and a few had “no comment”.

## Government response

Respondents agreed that the draft regulations met the intention of providing the Pensions Regulator with the same extended inspection powers under section 73(6)(d) to (f) for multi-employer schemes as for single employer schemes. The regulations will therefore remain as set out in the draft.

**Consultation Question 7:** Do you agree that £400 is an appropriate level for a fixed rate penalty under new section 77A of the Pensions Act 2004?

**Consultation Question 8:** Do you agree it appropriate that the fixed penalty under section 77A is aligned with the fixed penalty under section 40(1)(d) of the Pensions Act 2008 for failure to comply with similar information gathering requirements in connect with Automatic Enrolment?

**Consultation Question 9:** If not, please state the level you think would be appropriate and why.

## Consultation position

Draft regulation 6(1) (now regulation 5) provides that the level of the fixed penalty under new section 77A will be £400. This is the same level as the fixed penalty for

not complying with The Pensions Regulator's information requests in respect of Automatic Enrolment. The government felt this was a more appropriate comparison than the higher penalty which can be imposed in the case of Master Trusts.

## Summary of stakeholder responses

Of the small number of responses, views were mixed with a few agreeing with either the figure or the rationale as to how it was calculated, a few disagreeing with the level and a few having no view.

The dissenting position was that the level isn't high enough given that a breach of the provisions under sections 72 to 75 of the Pensions Act 2004 has more of a detrimental long-term impact on member outcomes than a breach of the Automatic Enrolment duties. A figure of around £500-£1,000 was suggested, in line with the level of penalty typically applied for failure to file a scheme return on time.

## Government response

We have considered the option of an increased level of fixed penalty and for the reasons already set out in the consultation in particular around ensuring consistency with Automatic Enrolment, we are not persuaded by the argument to increase the amount and the regulations will therefore remain as set out in the draft.

**Consultation Question 10:** Do you agree that £200 is an appropriate level for an escalating penalty to be imposed on an individual under section 77B?

**Consultation Question 11:** Do you agree it is appropriate that the escalating penalty for an individual under section 77B is aligned with the escalating penalty under section 41(1)(d) of the Pensions Act 2008 for failure to comply with similar information gathering requirements in connection with Automatic Enrolment?

**Consultation Question 12:** If not, please state the level you think would be appropriate and why.

## Consultation position

Draft regulation 6(2)(a) (now regulation 6(1)(a)) provides the level of the escalating penalty shall be £200 for each day that the non-compliance continues where the person is an individual. This is again the same rate as the penalty in Automatic Enrolment for an individual who is not an employer.

## Summary of stakeholder responses

Of the small number of responses, views were mixed with a few agreeing with either the figure or the rationale, a few disagreeing with the level and a few having no view.

Of the dissenting position, concern that the level isn't high enough given the seriousness of the breach and that non-compliance has already occurred. Furthermore, the likelihood of the individual being a trustee or adviser is high and is therefore a concern with a corresponding detrimental outcome for members by delaying The Pensions Regulator in exercising its functions. A figure of around £500 per day was suggested as being appropriate.

## **Government response**

For the reasons already set out in the consultation in particular around ensuring consistency with Automatic Enrolment, we are not persuaded by the argument to increase the amount and the level will therefore remain as set out in the draft regulations.

**Consultation Question 13:** Do you agree that the increasing penalty regime mentioned is appropriate for persons who are not individuals who continue to fail to comply with The Pensions Regulator's requests for information? If not, please indicate the level of penalty you think is appropriate and why. If you think a different approach for non-individuals is more appropriate, please give details along with your reasons.

## **Consultation position**

We propose a single, escalating scale of penalties in the format which already exists for Master Trusts, which will apply in all cases other than an individual. The rate for the first day on which the escalating penalty will apply will be £500, and will increase cumulatively on each subsequent day by that amount until, after 20 days, the daily rate is £10,000.

We accept that this will be a significant penalty for many that are not individuals. However, to have reached the stage where an escalating penalty is applicable means that the non-compliance has continued for some time. The aim of The Pensions Regulator's information gathering powers is to ensure it can collect the information needed to enforce pensions legislation and protect members' benefits. A delay in its investigation can mean members' benefits are at greater risk.

The Pensions Regulator will reflect these changes in their updated Monetary Penalties Policy which will be published in due course.

## **Summary of stakeholder responses**



Of the small number of responses received on this question, views were mixed, with a few agreeing with either the figure or the rationale, a few disagreeing with the approach and a few having no view.

Of the dissenting position, comments mentioned the unintended adverse impact of a rapid and substantial escalating penalty on funds available to support the scheme. A separate comment suggested that The Pensions Regulator should establish the escalating penalty amount based on a percentage of company turnover. A query was also raised on whether the escalating figure is determined on a cumulative basis or on a calculation of multiples i.e. on day 2, is it £1,500 (£500 + £1,000) or £2,000 (2 x £1,000).

## **Government response**

We do not expect many situations where the escalating penalty amount reaches the levels a few respondents mentioned and The Pensions Regulator has the power to specify when the penalty is no longer payable. The consultation document and the draft regulations are clear as to how the escalation amount should be determined i.e. on a cumulative basis of £500 on day 1, £1,000 on day 2 (the amount owed at the end of day 2 being £1,500 and not £2,000) and will increase cumulatively on each subsequent day by that amount (£500) until, after 20 days, the daily rate is £10,000. We do not see a need to make further provision on this point. For the reasons already set out in the consultation around being proportionate and taking into account ongoing non-compliance, we see no need to change the approach or the level, and the level will therefore remain as set out in the draft regulations.

One response made a separate more general point on an apparent lack of appeal rights against the fixed and escalating civil penalties. However, section 77A(5)(b) and (c) and section 77B (7)(b) and (c) of the Pension Schemes Act 2021 makes it clear that sections 43 and 44 of the Pensions Act 2008 (review of penalty notices and references to First-tier Tribunal or Upper Tribunal respectively) will apply as if the penalty notice was a notice issued under sections 40 or 41 of that Act.

Responses on this question and others inquired about the possibility of further guidance. The Pensions Regulator is looking at updating its policies in this area as part of a wider piece of work to refresh and align their broader suite of operational policies, including aligning to changes brought about by the Pension Schemes Act 2021.

## 4. Conclusion

We received technical responses to this consultation with contributions from a number of stakeholders which has helped to improve the drafting of the regulations. As with all policies, we will keep these under review and take account of relevant changes in business practices.

The draft 'The Pensions Regulator (Employer Resources Test) Regulations 2021' discussed in this response document provide greater security for members' Defined Benefit retirement savings by setting out the details of the employer resources test that The Pensions Regulator can use in combatting acts of those seeking to avoid their responsibilities to pension schemes. The essential building blocks of The Pensions Regulator's investigative capabilities have also been enhanced by the requirements set out in the draft 'The Pensions Regulator (Information Gathering Powers and Modification) Regulations 2021'.

Setting out the details of the new powers in these draft regulations should provide clarity to those potentially impacted by the introduction of these new powers. Furthermore, requirements on The Pensions Regulator to have regard to certain industry best practices should also provide clarity as to how The Pensions Regulator will use these new powers. The Pensions Regulator's code of practice (Revised Code 12) and code-related guidance should also provide helpful illustrative examples of actions that they consider to fall within the circumstances of the code.