



Department
for Work &
Pensions

Security and Sustainability in Defined Benefit Pension Schemes

Summary of consultation responses

Cm 9592



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for Work &
Pensions

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Presented to Parliament
by the Secretary of State for Work and Pensions
by Command of Her Majesty

March 2018

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This publication is available at <https://www.gov.uk/government/consultations/defined-benefit-pension-schemes-security-and-sustainability>

Any enquiries regarding this publication should be sent to us at DEFINED.BENEFIT@DWP.GSI.GOV.UK

ISBN 978-1-5286-0249-5

CCS0318180518 03/18

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office.

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Introduction

Background to the consultation

1. On 20 February 2017, we launched our Green Paper: 'Security and Sustainability in Defined Benefit Pension Schemes'.¹ This consultation ran for 12 weeks and closed on 15 May 2017.
2. We have now published our White Paper, *Protecting Defined Benefit Pensions Schemes*, where we have set out in full which measures we propose to take forward. This paper summarises responses we received to the consultation and is structured around the questions asked in the Green Paper. It also provides a brief summary of measures contained in the White Paper.
3. The Green Paper assessed the nature of the challenges facing Defined Benefit pensions in the private sector. Overall, it concluded that the Defined Benefit system is broadly working as intended; pension liabilities are, in the main, affordable for sponsoring employers and the vast majority of scheme members are likely to receive their benefits in full.
4. The Green Paper drew together a number of suggestions from key stakeholders and commentators on how the Defined Benefit system could be reformed to potentially deliver better outcomes. It sought to identify where there may be particular issues within the Defined Benefit sector and discussed a number of ways these could be overcome. The paper explained how the system currently operates, including how it is regulated, and how Defined Benefit pension schemes are funded. It also looked critically at a range of issues that have been raised by high-profile cases and by key stakeholders and the wider pensions industry lobbying for change.
5. The consultation related to private sector Defined Benefit schemes only. The paper did not relate to other types of pension provision, such as public sector schemes, state pension or Defined Contribution schemes. It focussed on four main themes: funding and investment, employer contributions and affordability, member protection and consolidation. This paper will go through each question in the four sections and summarise the responses we received.

How we consulted

6. We sought the views of everyone who had a stake in the efficient operation of Defined Benefit pension schemes. We were particularly keen to hear directly from members of Defined Benefit pension schemes, along with sponsoring employers, trustees and pension professionals.
7. To hear from as many people as possible, we developed several avenues through which people could share their views: printed and web-accessible copies, an online consultation platform and a copy of the Executive Summary was translated in Welsh.
8. To complement the consultation, we also held a number of roundtable events to hear the views of a range of organisations and engaged at ministerial and official level with stakeholders.

How people responded

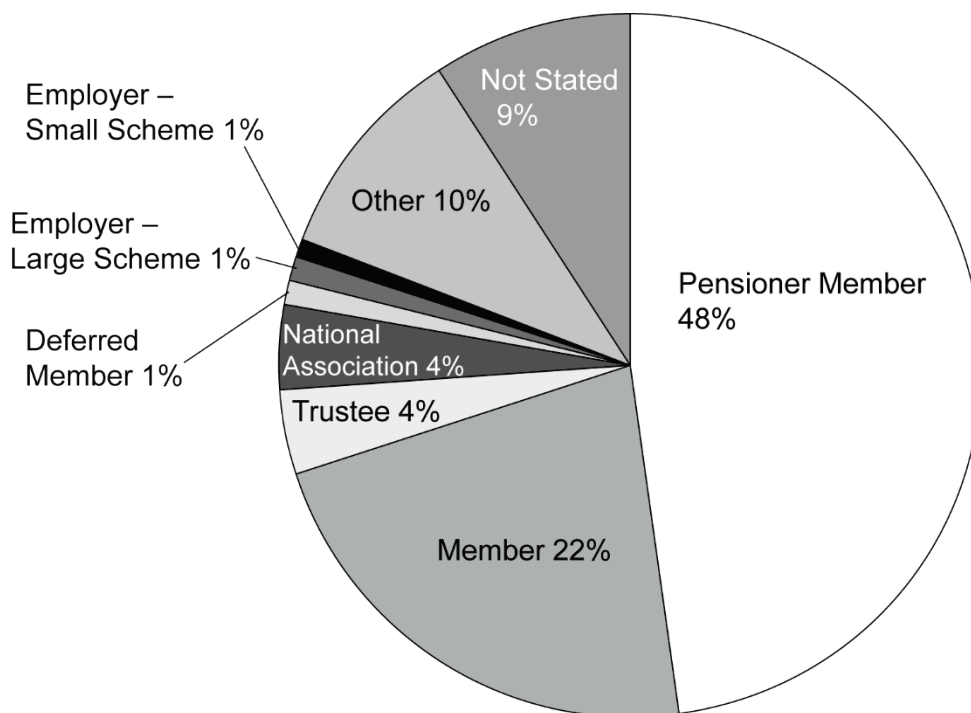
9. We received 835 responses to this consultation in total.

¹ Department for Work and Pensions, Security and Sustainability in Defined Benefit Pension Schemes, February 2017. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/595103/security-and-sustainability-in-defined-benefit-pension-schemes.pdf

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10. A significant number of responses received from individuals were part of ongoing campaigns around two specific schemes. Around 439 responses came from members of Hewlett Packard Pensioners Association and British Airways pension scheme.
11. Members of Hewlett Packard Pensioners Association called for statutory inflation-linked increases to be extended to pensions accrued before 1997. This change would add considerably to many schemes' liabilities and, as such, is outside the scope of this consultation which is looking at benefits due under existing legislation and scheme rules.
12. Most responses from members of the British Airways pension schemes expressed opposition to the schemes' switch from using retail price index (RPI) to consumer price index (CPI) for annual increases to pensions and were part of a long running campaign for the inflation measure to revert to RPI. A few responses specifically objected to proposals to close a particular scheme to future accruals. Both types of respondent felt that the exact benefits promised by a pension scheme and, for current employees, ongoing membership of the scheme, were things that it should not be possible to change. The views of all members were considered but only the formal response from the British Airways Pensioners' Association has been used in the analysis below.
13. The remaining 396 responses were in scope. They came from a range of stakeholder types as set out in the chart below.

Figure 1. Responses by respondent group



14. We received 56 responses via the online consultation platform, Citizen Space. The majority of these were from pension scheme members. The rest of the responses came through email or post and represented a wider range of stakeholders, such as the pensions industry, sponsoring employers and consultants.
15. In addition, during the consultation period we hosted six roundtable events and attended over 20 additional meetings, engaging with around 100 people in total. A range of organisations were present at each, representing the key respondent categories. These were primarily official-led meetings, but ministers also engaged with stakeholders and attended industry seminars.



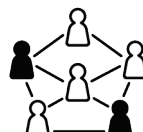
835

responses
received



6

roundtables
held



150

responses from
organisations



141

responses from
the public

16. We are grateful for all the responses received and time taken to meet with us – we have given all feedback careful thought. In evaluating the responses to this consultation, we have taken into consideration the arguments put forward for particular proposals, rather than reaching a view based on the absolute number of respondents for or against.

Public sector equality duty

17. The Department for Work and Pensions' 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.
18. In the Green Paper, we sought views on whether proposals impact on protected groups to ensure that we take all relevant evidence into account. We will consider the evidence we have received in developing Equality Impact Assessments as part of policy proposals set out in the White Paper. And when we bring forward legislation, a fuller evidence and analysis will include the equality impacts of any final policy proposals.

Responses to the consultation

19. There was a clear lack of consensus on certain topics amongst stakeholders. Views varied mainly depending on the respondent group, for instance (as might be expected), there were clear differences in opinions between pension members and employers on a number of subjects.
20. The next section of this paper summarises the key areas of discussion within the four main themes, specific questions asked and a summary of responses received.

Section one – funding and investment

Background

21. The Defined Benefit funding system requires employers and trustees to be 100% funded on the basis of its technical provisions.² But, the legislative framework allows for flexibility in how trustees and employers meet these requirements. It does not require schemes to be fully funded on a buy-out basis which means that should an employer become insolvent, deferred members are at risk of experiencing some reduction in future pensions.
22. The system seeks to strike a reasonable balance between the security of member benefits and demands on the employer, recognising that a strong, sustainable sponsoring employer is the best protection for a Defined Benefit scheme. Our Green Paper concluded that the framework is broadly working as intended but asked a number of questions about how it could be improved further.
23. In addition to the questions posed in the Green Paper, we collaborated with the Pensions Regulator to include questions about investment decisions and discount rates in their 2017 Defined Benefit trust-based pension schemes research. The Regulator interviewed 250 trustees and 117 representatives of sponsoring employers. The research suggested that there are no fundamental or systematic problems with the existing framework, but there may be some scope for improvement to raise standards of decision-making across the Defined Benefit landscape. The results of the research were published in September 2017, and are available on the Regulator's website.³

Questions and responses

Question 1

Are the current valuation measures the right ones for the purposes for which they are used?

24. **We received 165 responses to this question.**
25. The majority of respondents were generally supportive of the current valuation measures. There was very little call for changes to be made. This was true of respondents from all sectors, including trustees and representatives of industry.
26. Many respondents suggested that changes to the valuation measures would cause confusion and could potentially drive up costs for schemes.

Question 1a)

Are the flexibilities in setting the statutory funding objective discount rate being used appropriately?

- If not, why, and in which way are they not being used appropriately?
- What evidence is there to support this view?
- How could sponsors and trustees be better encouraged to use them?

² Reference to "technical provisions" means the amount required, on an actuarial calculation, to make provision for the scheme's liabilities

³ IFF on behalf of the Pensions Regulator. 'Defined benefit trust-based pension schemes research.', September 2017. Available at: www.thepensionsregulator.gov.uk/docs/db-research-summary-report-2017.PDF

27. We received 130 responses to this question.

28. There was a split between responses which agreed and disagreed that the flexibilities in setting the statutory funding objective discount rate are being used appropriately.
29. Despite this split, the majority of responses were opposed to mandating a particular valuation measure such as the statutory funding objective or the solvency measure. It was argued that schemes have differing objectives and need to tailor funding measures accordingly. For example, a new pension scheme with very few retired members will have a different set of funding objectives to a more mature scheme.
30. Respondents were generally of the view that there is a tendency for trustees to focus on a 'Gilts+' approach to setting discount rates.⁴ It was argued that the actuarial community can be overly cautious in the way it looks at funding, and/or that trustees can have concerns that the Regulator will 'come down' on them for adopting a different approach.

Question 1b)

Should we consider shorter valuation cycles for high-risk schemes, and longer cycles for those that present a lower risk?

- What should constitute a high or low-risk?
- Or should a risk-based reporting and monitoring regime be considered?

31. We received 87 responses to this question.

32. The majority of responses received from scheme members via Citizen Space agreed that we should consider shorter valuation cycles for high-risk schemes and longer cycles for lower risk schemes, whereas the vast majority of responses from other sectors were unsupportive of this approach.
33. Views on reducing the time between valuations and the time to complete valuations were mixed. There were concerns that mandating shorter valuation cycles for schemes considered to be financially 'stressed' could be counter-productive, as this would place additional costs on already struggling employers. Some respondents noted that the Regulator already has powers to request funding updates between valuations where there is concern.
34. Similarly, some respondents had concerns about extending the time between valuations. It was argued that this would lead to a reduced focus on the pension scheme by the employer. There were also concerns that a longer period between valuations would be more difficult to identify funding problems early on.
35. More widely, respondents were unconvinced that suitable definitions of 'high' and 'low' risk schemes could be identified. It was argued that monitoring scheme risk level for this purpose would be problematic, as scheme circumstances can change quite quickly. For instance, an extended valuation cycle for a scheme judged low risk could mask deterioration in scheme funding position.

Question 1c)

Should the time available to complete valuations be reduced from 15 months?

- What would be an appropriate length of time to allow?

36. We received 104 responses to this question.

37. Views were mixed; a slight majority of respondents were generally supportive of reducing the time available to complete valuations from 15 months to one year.

⁴ Discount rates are used to estimate the present value of future liabilities and hence deficits; a 'Gilts+' sets the discount rate by taking gilt yields and adding a margin on top to account for factors such as expected returns from other types of assets held, risks and uncertainties.

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38. Respondents expressed concern that shortening the time to complete valuations could potentially have a negative impact on negotiations between the employer and the trustees.
39. Equally, however, some respondents suggested that new technologies should make it possible for schemes to complete valuations more quickly, although it was recognised that the cost may be prohibitive for smaller schemes.

Question 1d)

Should other measures or valuation approaches, for example stochastic modelling, be mandated or encouraged?

- If so, which ones and for what purpose?
- How would the information provided to the Regulator explain how the agreed recovery plan differs from that at present?
- What would the cost be, and would they outweigh the benefits?

40. We received 86 responses to this question.

41. The majority of responses were unsupportive of encouraging or mandating other means of valuation.
42. Respondents did see the benefits of encouraging stochastic modelling to gain a more accurate understanding of scheme funding outcomes. However, there was disagreement as to whether such modelling should be made mandatory. A number of respondents also suggested that adopting stochastic modelling would be expensive for smaller schemes.

Question 2

Do members need to understand the funding position of their scheme, and if so what information would be helpful?

43. We received 165 responses to this question.

44. The majority of responses were supportive of members understanding the funding position of their scheme.
45. Respondents suggested that schemes could do more to communicate more simply with their members. It was felt that clear communication would help members understand their scheme's funding position and the potential risks, and also what the impacts would be if the scheme were to enter the Pension Protection Fund.

Question 2a)

Should schemes do more to keep their members informed about the funding position of their schemes?

46. We received 95 responses to this question.

47. Respondents were divided on the issue. A large majority of pension scheme members agreed that schemes should do more to keep their members informed about the funding position of their scheme.
48. However, many respondents, including representatives of industry, were predominantly unsupportive of this idea. They argued that more information on scheme funding could in fact cause unnecessary panic for individual members. It was suggested that, in a worst-case scenario, poorly communicated information could potentially lead to rush reactions such as mass transfers out of the

scheme as a result of concern about scheme deficits, which could in the long-term be more detrimental for the member. A number of respondents agreed that more could be done to keep members informed, but that there would need to be a clear way of sharing this information and what it means.

Question 2b)

Do we need government communications to provide information to the wider public and media about the degree of certainty and risk in the regime?

- What difference could this make?

49. We received 94 responses to this question.

50. The vast majority of responses agreed that government communications are needed to provide information to the wider public and the media about the degree of certainty and risk in the regime.
51. It was suggested this was particularly necessary following some of high-profile cases involving Defined Benefit pension schemes in 2016. It was felt that government communication would reassure members but that it would also be helpful to remind members that the Pension Protection Fund exists to help members in the event of difficulties for their scheme.

Question 3

Is there any evidence to support the view that current investment choices may be sub-optimal? If yes, what are the main drivers of these behaviours and how could they be changed?

52. We received 152 responses to this question.

53. Only a minority of respondents suggested current investment choices may be sub-optimal. Of these, respondents understood that many schemes invested in low-risk and low-return assets (gilts and bonds), and that this may be the right investment strategy for the schemes because of the age profile of their membership and the scheme's liquidity requirements.
54. Most respondents appreciated that schemes needed a broader and more balanced view regarding investment approaches.

Question 3a)

Do trustees/funds have adequate and sufficient investment options on offer in the market?

- Is there anything the Government could do to address any issues?

55. We received 57 responses to this question.

56. The majority of respondents felt that trustees/funds do have adequate and sufficient investment options available at the moment.
57. Where issues were raised, a range of additional options were suggested. For example, it was proposed that trustees should be made more aware of the options available to them. It was also suggested that small and medium sized schemes may benefit from some kind of pooled common investment vehicle.
58. It was also argued by a few that smaller schemes struggle to access illiquid assets such as infrastructure, and that the Government could encourage investment platforms to give smaller schemes access to such illiquid assets.

Question 3b)

Do members need to understand the investment decisions that are being made?

- If yes, are there any specific decisions that need articulating?

59. **We received 69 responses to this question.**

60. The majority of responses received from pension scheme members agreed that members do need to understand the investment decisions being made and should be kept informed about significant switches in the investment policy. However, the majority of responses from representatives of industry and national associations felt there was no need for members to understand the investment decisions being made.
61. A small number of respondents argued that a Defined Benefit Chair's Statement might provide sufficient assurance to members that the right investment decisions are being made.

Question 3c)

Would it be appropriate for the Regulator to take a lead in influencing or determining an acceptable overall level of risk for a scheme in a more open and transparent way?

62. **We received 94 responses to this question.**

63. Views on this topic were mixed. The majority of pension scheme members believed that the Regulator should take the lead in influencing or determining the acceptable level of overall risk for a scheme. However, the majority of other respondents disagreed, arguing that this should not be within the Regulator's remit.
64. A small number of respondents, including from representatives of industry, suggested that increased guidance from the Regulator around acceptable levels of risk would be beneficial. It was also suggested that the Regulator could be more proactive in communicating the range of flexibilities available to schemes and sharing case studies.

Question 3d)

Would asset pooling or scheme consolidation help schemes to access better investment opportunities?

65. **We received 89 responses to this question.**

66. The vast majority of responses agreed that asset pooling or scheme consolidation would help schemes to access better investment opportunities.
67. It was generally agreed that schemes do have adequate and sufficient investment options, although it was recognised that smaller schemes may have more difficulty in accessing some investment options as a result of the cost of advice. A number of respondents therefore saw a case for asset pooling and scheme consolidation.

Question 3e)

Is regulation (including liability measurement requirements) incentivising overly risk-averse behaviours/decisions that result in sub-optimal investment strategies?

- If yes, which regulations and how do they impact on these decisions?

68. **We received 87 responses to this question.**

- 69. Most respondents argued that regulation is incentivising overly risk-averse behaviours and decisions and this is resulting in sub-optimal investment strategies.
- 70. A small number of respondents pointed to specific regulations which they argue impact on trustees' investment strategies, for example, the section 75 employer debt regulations.
- 71. More widely, respondents suggested that improved accountability and governance could lead to better investment outcomes.

Question 3f)

Are you aware of evidence of herding or poor advice from the intermediaries and advisors?

- 72. **We received 83 responses to this question.**
- 73. The majority of pension scheme members were not aware of any evidence of herding or poor advice from the intermediaries and advisors. However, the majority of responses from industry argued that there is evidence of herding.
- 74. Several respondents questioned the ability of trustees to properly discuss investment strategy with advisors due to lack of expertise. It was also suggested that herding can be the result of attempts to anticipate what might be viewed as an acceptable investment strategy by the Pensions Regulator.
- 75. Some respondents noted that advice given may reflect the needs of schemes based on their maturity and liquidity requirements. This was also suggested by respondents to the Regulator's Defined Benefit trust based pension schemes research report.⁵

Question 3g)

Are measures needed to improve trustee decision-making: skills such as enhanced training, more Regulator guidance, or the professionalisation of trustees?

- 76. **We received 96 responses to this question.**
- 77. The majority of responses felt that there was a need for measures to improve decision-making such as enhanced training and more guidance from the Regulator.
- 78. Respondents were generally opposed to the idea of professionalising trustees as they felt it would break an important link between the scheme member and trustees. Trade unions in particular were keen to maintain the current framework for member-nominated trustees.
- 79. Some respondents also suggested that appointing professional trustees could create practical issues for employers and schemes. For example, it was argued that a professional trustee could be perceived as representing the employer's interests rather than the scheme members.

Government response

- 80. Chapter two of the White Paper sets out the details of our proposals on scheme funding issues raised in the Green Paper.
- 81. In order to improve trustee decision-making on scheme funding across the sector, and to ensure the Regulator has the right tools to deal effectively and efficiently where poor decisions are made.

We will:

⁵ IFF on behalf of the Pensions Regulator. 'Defined benefit trust-based pension schemes research.:', September 2017. Available at: www.thepensionsregulator.gov.uk/docs/db-research-summary-report-2017.PDF

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- Strengthen the Regulator’s ability to enforce Defined Benefit scheme funding standards, through a revised Code, focussing on:
 - how prudence is demonstrated when assessing scheme liabilities
 - what factors are appropriate when considering recovery plans
 - ensuring a long-term view is considered when setting the objectives
 - Require the trustees of Defined Benefit pension schemes to appoint a Chair and for that Chair to report to the Regulator in the form of a Chair’s Statement, submitted with the scheme’s triennial valuation.
82. Our proposals will support trustees to make the best possible long-term decisions for schemes, taking into account, for example, how their investment choices ensure the scheme’s liabilities can be paid as they fall due over the lifetime of the scheme, by encouraging greater accountability and clarity over their decisions, investment strategies and giving them clearer guidance to improve decision-making.
83. We will also work with the Regulator to consider how best to support trustees engage with their members on scheme funding (for example through the Summary Funding Statement) and we intend to publish fact sheets to explain the purpose of different scheme funding measures often reported in the media.
84. We do not propose to take any action as a result of the responses to Green Paper on investment choices. We believe trustees are best placed to make investment decisions in light of the scheme’s technical provisions and their duty to act in members’ best interests. However, following the Law Commission’s 2017 report and recommendations on pension funds and social investment,⁶ the Government has indicated it will consult, later this year, on clarifying trustees’ fiduciary duty, including the requirement to take into account financially material issues – for example, those resulting from Environmental, Social and Governance (ESG) factors. The Regulator will continue to provide support to trustees on investment matters and raise their awareness about the choices open to them, including the benefits of a diverse portfolio, through their ongoing communication and engagement activities and through its guidance. In particular, the Regulator will review and clarify its investment guidance in light of the proposed changes to the investment regulations outlined above, other recommendations made by the Law Commission, and the proposed clarification of funding standards in the Defined Benefit funding code.

⁶ Law Commission. ‘Pension Funds and Social Investment Report’ June 2017. Available at: <https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2017/06/Final-report-Pension-funds-and-socia....pdf>

Section two – employer contributions and affordability

Background

85. The Green Paper explored the idea of an ‘affordability crisis’ for employers sponsoring Defined Benefit pension schemes, something which has been raised as a potential concern by some commentators. We concluded that there is little evidence to support the claim that for the majority of sponsoring employers meeting their Defined Benefit pension commitments was unaffordable.
86. However, the Green Paper recognised that there are some companies paying very substantial deficit repair contributions (DRCs) which may not be sustainable in the long-term. We therefore considered what could be done to support these schemes and their sponsoring employers, and the potential implications of particular options.
87. A number of respondents including representatives of industry argued that we should provide easements for employers struggling with the cost of their Defined Benefit liabilities. It was suggested that we could allow struggling businesses to separate from their pension scheme more easily, reduce employer costs by reducing benefits, or provide more intensive support from the Pensions Regulator.

Questions and responses

Question 4

Is there a case for making special arrangements for schemes and sponsors in certain circumstances such as a different regime for employers who can afford to pay more, and/or new or enhanced flexibilities for stressed sponsors and schemes?

88. **We received 242 responses to this question.**
89. Most respondents agreed that there is no evidence of an affordability crisis but as per the conclusions in the Green Paper, it was generally recognised that some schemes are struggling in the margins.
90. Over half of respondents stated they were ‘unsure’ as to whether there was a case for making special arrangements in certain circumstances.
91. Respondents were generally opposed to large-scale reform of the Defined Benefit sector, favouring instead the use of existing flexibilities and earlier engagement on the part of the Regulator on a case-by-case basis.
92. However, a small number of respondents thought the Green Paper understated the affordability problem and felt that more needed to be done, but there was no consensus on what should be done to better support stressed employers and schemes.

Question 4a)

Do you have any evidence that deficit repair contributions (DRCs) are currently unaffordable?

93. **We received 103 responses to this question.**

94. The vast majority of respondents did not have any evidence to suggest that current deficit repair contributions are unaffordable.
95. However, a small number of respondents, including representatives from the pensions industry, consultancies, and employers did argue that the Green Paper was too optimistic in its conclusions, and that current deficit repair contributions were unaffordable and unsustainable for most sponsoring employers.
96. Several respondents felt that while deficit repair contributions were not unaffordable for most sponsors, they might be a problem for some employers and schemes.

Question 4b)

Should we consider measures to encourage employers who have significant resources as well as significant Defined Benefit deficits to repair those deficits more quickly?

- If so, in what circumstances, and what might those measures be?

97. **We received 110 responses to this question.**

98. The majority of responses from pension scheme members believed that we should consider measures to encourage employers who have significant resources as well as large deficits to repair those deficits as quickly as possible. A number of respondents argued that changes to the current tax rules on surplus payments could be used to incentivise sponsoring employers to make additional payments into the pension scheme.
99. In contrast, the vast majority of responses from the pensions industry and businesses were opposed to these sorts of measures. The most common reason was that in the long-term, having a profitable employer sponsoring the scheme is better than forcing quick deficit repairs on a company potentially causing financial stress.

Question 4c)

If measures are needed for stressed sponsors and schemes, how could 'stressed' be defined?

- Should a general metric be used, or should this be decided on a case by case basis?

100. **We received 74 responses to this question.**

101. The majority of respondents believed that more needs to be done to help 'stressed' sponsors and schemes. However, views were divided as to how 'stressed schemes' should be defined. A number of respondents suggested that 'stressed schemes' shouldn't be defined using any one metric, and that individual schemes should be looked at on a case-by-case basis.
102. Most respondents also recognised that it would be difficult to define a 'stressed scheme' in legislation and attempts to do so could result in significant moral hazard issues. One viewpoint was that if an employer were labelled as 'stressed', this could put off investors and hinder attempts to strengthen the employer's business.
103. Some responses from the industry suggested that a solution could be to develop a set of 'warning characteristics' to assist the Regulator in identifying when a scheme may be experiencing difficulties, so that they can intervene earlier.

Question 4d)

Are there any circumstances where stressed employers should be able to separate from their schemes without having to demonstrate that they are likely to become insolvent in the near future?

104. **We received 111 responses to this question.**

105. The majority of responses did not support the idea of stressed employers being able to separate from their schemes without demonstrating that they are likely to become insolvent in the near future on the basis that there would be a potential for companies to manipulate and abuse the system.

106. However, some responses, mainly from industry, argued that the requirement for an organisation to demonstrate that insolvency is imminent within 12 months in order to be granted a Regulated Apportionment Arrangement (RAA)⁷ is too prescriptive and should be removed.

Question 4e)

How would it be possible to avoid the moral hazard of employers manipulating such a system in order to off load their Defined Benefit liabilities?

- Would some sort of 'quid pro quo' be appropriate to ensure the scheme is not disadvantaged relative to other creditors of the employer/stakeholders?
- What could this look like?

107. **We received 82 responses to this question.**

108. Most respondents were clear that they did not think there was a way that the Government could completely mitigate the moral hazard.

109. Solutions put forward included the enforcement of caps on executives' pay and/or bonuses if schemes are defined as 'stressed', and/or agreement by the Pension Protection Fund and the Regulator that the employer is really stressed.

110. Some responses from the industry suggested that the existing section 75 and RAA measures already provide sufficient protections against moral hazard.

Question 4f)

Are there any circumstances where employers should be able to renegotiate Defined Benefit pensions and reduce accrued benefits?

- If so, in what circumstances?

111. **We received 124 responses to this question.**

112. The majority of pension scheme members who responded to this question did not agree with the idea, and were unsupportive of employers being able to renegotiate pensions and reduce accrued benefits.

113. A very small number of pension scheme members, however, agreed that renegotiation of Defined Benefit pensions should be permitted in some circumstances – although most believed that this would have to be accompanied by a strong set of safeguards for members.

114. It was noted that benefits can already be reduced with member consent and some respondents, including some trade unions, were open to the idea of 'collective consent', suggesting that changes could be approved if 75% of scheme members voted in favour of the proposed changes.

⁷ Regulated Apportionment Arrangement (RAA) is a statutory mechanism which allows a company to free itself from its financial obligations to the pension scheme in order to avoid insolvency, provided that certain conditions are met and the RAA is approved by both TPR and PPF.

115. Some employers supported the idea of reducing benefits but this should be limited to specific circumstances (e.g. employers who would otherwise become insolvent and whose schemes would enter the Pension Protection Fund).

Question 4g)

Is there any evidence to suggest that there is an affordability crisis that would warrant permitting schemes to reduce indexation to the statutory minimum?

116. We received 108 responses to this question.

117. The vast majority of respondents did not believe, or did not have any evidence to suggest, that there is an affordability crisis that would warrant permitting schemes to reduce indexation to the statutory minimum.

118. On the topic of reduced indexation, the majority of pension scheme members who responded to this question were firmly against the idea of letting all schemes reduce the level of promised increases, although there was some support for permitting indexation reductions in cases where the sponsoring employer of an underfunded scheme was facing serious financial problems.

Question 4h)

Should the Government consider a statutory override to allow schemes to move to a different index, provided that protection against inflation is maintained?

- Should this also be for revaluation as well as indexation?

119. We received 138 responses to this question.

120. The majority of respondents, especially from pension scheme members, did not support the idea of the Government considering a statutory override to allow schemes to move to a different index for both revaluation as well as indexation purposes.

121. However, some industry respondents argued that a statutory override would create a 'level playing field' and tackle the 'scheme rule lottery' which they believe has developed, where some schemes are able to use CPI as a level of indexation while others are tied to RPI if it has been written in their scheme rules.

Question 4i)

Should the Government consider allowing schemes to suspend indexation in some circumstances?

- If so, in what circumstances?

122. We received 117 responses to this question.

123. The vast majority of respondents were opposed to the idea of the Government allowing schemes to suspend indexation in certain circumstances.

124. However, active pension scheme members were more in favour of allowing the suspension of indexation if it meant the difference between their employer going insolvent or remaining trading. Conversely, current pensioners were wholly against this option.

125. Views on who should have the power to make changes to scheme rules around indexation were mixed. Some respondents argued it should be the employer, whereas others suggested that trustees should have the power. Alternatively, some believed that both should have a role in the decision-making on this matter to ensure the right balance was struck. There was some nervousness from pension members about trustees being given the power as there may be a potential conflict with their fiduciary duty, and some respondents representing the industry

suggested that trustees would need significant guidance from the Regulator if they were given such a power.

Question 4j)

How would you prevent a sponsoring employer from only funding a scheme to a lower level in order to take advantage of such an easement?

126. We received 71 responses to this question.

127. The majority of responses expressed concern that any easements would create a moral hazard for employers. Suggested safeguards included: unpaid increases due to suspension being treated as an employer's debt rather than being written off; assessments being made on a case-by-case basis; and requiring an independent professional to certify the need for an intervention.

Question 4k)

Should the Government consider allowing or requiring longer, deferred or back loaded recovery plans?

- If so, in what circumstances?
- Should other changes be considered, such as the valuation method of technical provisions?

128. We received 90 responses to this question.

129. The majority of respondents did not support the idea of longer, deferred or back-loaded recovery plans.

130. Respondents held mixed views on whether any other changes should be considered, such as the valuation method of technical provisions.

131. Some responses favoured a more nuanced and more flexible approach in setting recovery periods. A minority of respondents suggested encouraging the adoption of lower risk technical provisions with much longer recovery periods for 'stressed' schemes or sponsors.

Question 4l)

Should it be easier to take small pots as a lump sum through trivial commutation?

132. We received 86 responses to this question.

The vast majority of respondents were in favour of making it easier for scheme members to access small pension pots. Some individual members expressed an unspecific, general preference for being able to receive benefits as a lump sum rather than an ongoing pension. However, others, along with trustees and pension scheme administrators/advisors, argued that the regulations governing trivial commutation and small pots are confusing, overly prescriptive and complex and called for them to be simplified.

133. Those that were not in favour rarely gave reasons why, although concerns were raised around people being able to access pension savings before the age of 55, or the effect on scheme funding if large numbers of members took lump sums.

Government response

134. In the Green Paper we said we were unpersuaded that Defined Benefit pensions were unaffordable and that there was no compelling case for re-evaluating the pension promise as it relates to accrued benefits. The evidence gathered along with the responses to the Green Paper confirmed this view.
135. We recognise that individual employers may in some cases find their Defined Benefit liabilities difficult to manage, and that this may affect investment and restructuring, but have not found evidence to suggest that the Defined Benefit system as a whole is unaffordable. While views have been presented that relieving some of the pressure from the sponsors of Defined Benefit schemes would have benefits for the wider economy and would help shift resources towards younger workers, the hard evidence for this movement in resources and the benefits that may follow is not forthcoming.
136. Any easements to employer liability would inevitably mean some impact on member outcomes. Without firm evidence demonstrating that any losses suffered by members are a price worth paying, we do not think that it is right to take action in this area. We are very clear that Defined Benefit pensions are a promise made by an employer to its employees as part of the terms of employment, and that employers must, as far as possible, ensure that these promises are met.
137. Green Paper responses across all sectors strongly supported the view that it was undesirable to identify and provide easements for employers who were struggling. Instead, responses leaned heavily towards use of the current flexibilities in the funding regime alongside a proactive regulator as a more appropriate approach to ensuring the right balance between the sustainability of the sponsor and the funding of the scheme. Our proposed changes to the scheme funding system will help the employer and the trustees work together to manage the scheme's funding risks to help achieve this.
138. However, there are rare situations where severing the relationship between the employer and the scheme, through a Regulated Apportionment Arrangement, is the best outcome; the avoidance of employer insolvency will benefit both the employer and the pension scheme. We are persuaded by respondents' arguments that the RAA process needs to be reviewed so we can be sure that it can be accessed by the right employers at the right time. We will therefore engage further on how the RAA process can work best in achieving a better outcome for pension schemes than insolvency.

Section three – member protection

Background

139. The Pensions Regulator was established to regulate workplace pensions. The Work and Pensions Select Committee have recently argued that the Regulator's powers are insufficient and should be extended to ensure it has the right tools for the job.
140. The Green Paper considered whether the Regulator should take a more proactive role in carrying out its core functions to ensure trustees and employers adhere to scheme funding rules and carry out investigations using its anti-avoidance powers. On the issue of corporate restructuring, it was suggested that the Regulator would be more effective if it had powers to act proactively in order to scrutinise certain corporate activities.
141. The Green Paper stated that effective regulation was dependent on parties complying with requests for information and asked if the current system was working as intended. It described potential options for improving the current rules.
142. Following the publication of the Green Paper, the Government set out in its manifesto a commitment to protect scheme members and take action to prevent and punish those whose deliberate actions put pension schemes at risk.

Questions and responses

Question 5

Do members need further protection, and should this be delivered by a stronger and more proactive regulator, and/or trustees with enhanced powers?

143. **We received 180 responses to this question.**
144. The majority of responses from pension scheme members agreed that pension benefits did need further protection from actions of unscrupulous employers and that this should come from a stronger regulator and/or trustees. However, respondents representing the pensions industry and employers argued that changes to strengthen member protection were not necessary.
145. Many respondents argued that the Regulator already has broad powers and suggested that more consideration should first be given to the way in which the Regulator makes use of these existing powers – any additional powers would have to be carefully considered and proportionate.
146. The majority of respondents, particularly employers and those who represent businesses, were opposed to the idea of giving the Regulator the power to intervene in corporate transactions. There was concern that this would stifle legitimate business activity such as corporate restructuring. A small number of respondents also suggested that the regulatory system for Defined Benefit pensions could make the UK less attractive to potential foreign investors, and cautioned that any additional requirements would only compound this.

Question 5a)

Would greater clarity over the requirements for scheme funding be helpful to members and to sponsors?

- If so, would this be better set out in detail in legislation or through increased guidance and standards from the Regulator?

147. We received 102 responses to this question.

148. Pension scheme members were overwhelmingly in favour of having greater clarity on scheme funding requirements. Other respondents had a mix of views, with a slight majority opposed to the proposal, claiming that sponsors already have clarity about scheme funding requirements and most now employ their own advisers to assist funding negotiations with trustees. There were also some doubts if greater clarity would benefit members.

Question 5b)

Is it possible to design a system of compulsory proactive clearance by the Regulator of certain corporate transactions, without significant detriment to legitimate business activity?

- If so, how?
- What are the risks of giving the Regulator the power to do this?

149. We received 106 responses to this question.

150. The majority of responses from pension scheme members were unsure as to whether it would be possible to design a system of compulsory proactive clearance by the Regulator without causing significant detriment to legitimate business activity.

151. A few respondents suggested that designing such a system would not work and proactive clearance should be handled through more specific regulation for business owners.

152. A number of responses from the industry felt that it would not be feasible to design a system of compulsory proactive clearance since the variety of possible deals would make it impossible.

Question 5c)

Should the Regulator be able to impose punitive fines for corporate transactions that are detrimental to schemes?

- If so, in what circumstances?

153. We received 105 responses to this question.

154. Overall the majority of respondents, including pension scheme members, representatives of the industry and some employers, were supportive of the Regulator being able to impose punitive fines for corporate transactions that were detrimental to the pension scheme, but that fines would have to be proportionate.

155. Some respondents thought existing anti-avoidance powers (contribution notices and financial support directions) were sufficient.

Question 5d)

What safeguards could ensure that any additional powers given to the Regulator do not impact on the competitiveness of the UK business or the attractiveness of the UK market?

156. We received 50 responses to this question.

157. Many respondents, especially representatives of the industry, argued that it would not be possible to safeguard this and that increased regulator powers would impact the competitiveness and attractiveness of the UK market.

158. Respondents did however suggest that impact could be limited with clear, consistent and timely engagement from the Regulator.

Question 5e)

Should the Regulator have new information-gathering powers?

159. We received 100 responses to this question.

160. The majority of responses from representatives of industry and some employers felt that the Regulator did not need new powers for information gathering. However, some of the respondents suggested that alternative options should be considered, such as increasing the notifiable events regime and penalties for non-compliance.

161. Many respondents felt that before the Regulator was given new powers it should make better and more frequent use of its existing information-gathering powers. Some respondents suggested that giving the Regulator new information-gathering powers would bring unwanted additional administrative costs to employers and pension schemes.

Question 5f)

Should civil penalties be available for non-compliance?

162. We received 60 responses to this question.

163. The majority of respondents agreed and supported the use of civil penalties for non-compliance by the Regulator. However, some responses from pension scheme members pointed out that without some disciplinary sanctions, the Regulator would not be able to ensure co-operation from uncooperative employers or trustees.

Question 5g)

Should levy payers be asked to fund additional resources for the Regulator?

164. We received 93 responses to this question.

165. The majority of the responses were from the industry and were evenly split with around one-third agreeing, one-third disagreeing and the other one-third unsure. However, the general feeling was that if additional resources for the Regulator were necessary, then this should come from levy payers.

166. Respondents who were opposed to this proposal argued that it would significantly increase the burdens on levy payers at the time, who they argued were already paying a significant amount towards the Pension Protection Fund and to comply with other legal requirements.

Question 5h)

Should trustees be given extra powers such as powers to demand timely information from sponsors, to strengthen their position?

- If so, what extra powers might be helpful?

167. We received 99 responses to this question.

168. The majority of respondents agreed that trustees should be given extra powers, although views on whether trustees should have the power to demand information from employers were mixed. Some argued that trustees already have this power; others thought that it could be useful. Concerns were raised over what information trustees should be able to have access to and what they would do with any, potentially commercially sensitive, information. Some consultants raised questions over the trustee's ability to understand any information provided.
169. The majority of respondents felt that, on the whole, the current relationship between employers and trustees works well.

Question 5i)

Should trustees be consulted when the employer plans to pay dividends if the scheme is underfunded, and if so, at what level of funding?

170. We received 96 responses to this question.

171. The majority of respondents felt that trustees should be consulted when an employer plans to pay dividends where a scheme is underfunded.
172. Respondents who were opposed to the proposal stated that it wouldn't be feasible and may be damaging in the long-term to the relationship between the trustees and the sponsoring employer.
173. However, respondents were more open to a requirement for trustees to be consulted where an uncharacteristically large dividend payment was being paid.

Question 5j)

Is action needed to ensure that members are aware of the value of and risks to their Defined Benefit pensions?

174. We received 72 responses to this question.

175. The majority of respondents felt that it would be beneficial for members to be more aware of the risks in Defined Benefit pensions. Respondents also suggested that it would be beneficial for members to understand that, while there was a certain level of risk with their Defined Benefit pension, the Pension Protection Fund is there to support scheme members if their employer becomes insolvent and the pension scheme is underfunded.
176. On balance, some responses from the industry were not in favour of introducing further statutory communication with scheme members, and felt that scheme members did not need to understand the investment decisions of the scheme. A common argument was that the information would be too technical and therefore inaccessible to the majority of scheme members, and respondents were unclear about what the purpose of providing such information would be.
177. There was wide concern among respondents representing the industry that providing scheme members with further information about the funding position of their schemes would cause undue worry leading to negative outcomes (e.g. scheme members leaving the scheme out of concern that their pension will not be paid). Some people suggested that scheme members need to know what their likely level of pension will be, the likelihood of this being paid and a risk statement with information on how their pension is protected.
178. A number of respondents were of the view that the Summary Funding Statement is by and large sufficient; however, some people encouraged the Government to review the information that is required.

Government response

179. Chapter one of the White Paper sets out our proposals for strengthening the protection regime of Defined Benefit pensions.
180. Following a number of high-profile cases, the Government's manifesto set out its ambition to protect private pensions and punish the small minority of employers who may conduct detrimental activity and put their pension scheme at risk. The Government proposes to strengthen the regulatory framework and the Regulator's powers (including its anti-avoidance powers) to ensure that those who have diligently saved through their life have the secure retirement they deserve.
181. The package of measures compliments the Regulator's aim of becoming clearer, quicker and tougher. The measures address concerns and recommendations from Parliamentary committees that the Regulator's current anti-avoidance powers are reactive and retrospective. The enhanced information-gathering powers will improve the Regulator's investigations and will be supported by a punitive regime which will strengthen the deterrent against those who seek to avoid co-operating with the Regulator. The Government will also build on existing anti-avoidance powers and strengthen review of both the notifiable events framework and the voluntary clearance regime to ensure they continue to be effective and capture appropriate events and transactions. As part of this, we will continue to work with stakeholders to understand how processes could be strengthened without inhibiting legitimate business activities.
182. The Government is also building on the existing process between the Pensions Regulator and the Insolvency Service to support the disqualification of company directors. We will also legislate to bring in a criminal offence to punish reckless behaviour in relation to a pension scheme.
183. This new package of proposals will ensure that pension considerations are better reflected in board room decisions and represents a significant strengthening of the current rules and protection for pension members. Proper consideration will need to be given to avoid any damage to legitimate business interests or harm to the economy and also those employers who are already fulfilling their pensions' obligations do not face unnecessary burdens and costs.
184. The Government is clear that businesses must be allowed to make the right decisions to allow them to develop and grow. However, the Government is also clear that employers, where they can afford to, must also meet their pension responsibilities.

Section four – consolidation of schemes

Background

185. The final section of the Green Paper considered the issue of scheme consolidation. Most Defined Benefit schemes are small, and data suggests that small schemes have higher administrative costs, are unable to benefit from the economies of scale available to larger schemes, and tend to have less effective governance. The Green Paper considered the arguments for and against the aggregation of smaller schemes into one or more consolidation vehicles in order to reduce costs and improve both investment options and governance. The pros and cons of a number of consolidation models were considered, together with the question of whether a move to greater consolidation should be voluntary or compulsory, and, if a compulsory approach were taken, how this might work.
186. After considering the Green Paper responses, we concluded that there appears to be a strong case supporting greater voluntary consolidation. Some commentators have argued that, in certain circumstances, schemes might be required to consolidate, but we were not convinced that compulsory consolidation would be a proportionate response.
187. One of the options raised in the Green Paper was for the Government to itself design and run a so-called ‘superfund’ through an arm’s length body such as the Pension Protection Fund. We considered the potential risks and benefits of this proposal, and concluded that it would not be appropriate for the Government to itself run such a fund. Rather, the Government should explore the structures needed to encourage the pensions industry to innovate by providing new consolidation vehicles such as ‘superfunds’, as well as promote consolidation among sponsors and trustees.

Questions and responses

Question 6

Should government act to encourage, incentivise, or in some circumstances mandate the consolidation of smaller schemes into vehicles with greater scale and better governance in order to reduce the risk to members in future from the running down of closed, especially smaller Defined Benefit schemes?

188. **We received 155 responses to this overarching question on consolidation.**
189. The majority of responses from representatives of industry were supportive and saw the merits consolidation can bring. However, there was a range of views on what consolidation actually meant ranging from shared administrative services to pooling of assets and liabilities. A number of respondents thought mandating schemes to consolidate would not be appropriate however, they were generally open to the idea of further voluntary consolidation within the Defined Benefit sector, but highlighted that there would be significant challenges to overcome in order to make consolidation a success.
190. In particular, respondents argued that consolidation would lead to improved economies of scale for smaller schemes. Difficulties highlighted were: regulatory constraints, the lack of existing

consolidation vehicles within the market, lack of trustee awareness around the benefits of consolidation, and negative connotations associated with Defined Contribution Master Trusts.

Question 6a)

Is there anything in the existing legislative or regulatory system preventing schemes from consolidating?

- How might such barriers be overcome?

191. **We received 85 responses to this question.**

192. The majority of representatives of the industry and employer respondents felt that the current regulatory system might prevent schemes from consolidating. In particular, they called for government action to make the benefit simplification process easier and highlighted that the fiduciary duty placed on trustees may make it less likely that they would opt to enter a consolidation vehicle. In addition, some responses highlighted changes would be needed to enable schemes to move into a consolidation vehicle where a commercial sponsor takes the place of a traditional employer.

Question 6b)

What other barriers are there which are preventing schemes from consolidating?

- How might they be overcome?

193. **We received 53 responses to this question.**

194. Respondents from the industry highlighted a number of different barriers to consolidation, such as:

- scheme maturity between consolidating schemes
- funding levels
- the strength of individual the employer covenants
- an established practice of trusteeship and sponsorship wanting to retain full control of a scheme

Question 6c)

Should government define a simplified benefit model to encourage consolidation?

195. **We received 94 responses to this question.**

196. Responses to this question were mixed, with some respondents supportive of the proposal and others opposed.

197. Benefit simplification was identified by some respondents as a potential barrier to consolidation and suggested it could be one way to reduce the cost of running schemes. The majority of respondents agreed that benefit simplification would be particularly important for full consolidation into unsegregated models such as the Pension and Lifetime Savings Association (PLSA) proposed 'superfund'.

198. However, concerns were raised around the creation of 'winners' and 'losers' through benefit simplification (on an actuarial equivalent basis). Some respondents suggested that it would be beneficial for the Regulator to provide guidance on benefit simplification, specifically focussing on reshaping pensions in payment and survivor benefits. Others argued that trustees pursuing benefit simplification would need to be provided with a 'statutory discharge' to protect them from future legal challenge.

199. Through our roundtables, it was also suggested that the need for benefit simplification would be reduced as and when schemes begin to code benefit structure (i.e. programming benefit calculations within an IT system, rather than manual benefit calculations). Large IT systems could run multiple benefit structures in a more cost-efficient manner than going through the simplification process (where upfront costs could be significant).

Question 6d)

Should rules be changed to allow the reshaping of benefits without member consent?

- In what circumstances?
- Should there be prescribed restrictions to the types or limits of such reshaping?

200. **We received 85 responses to this question.**

201. The overwhelming majority of respondents did not support the idea of rules being changed to allow the reshaping of benefits without scheme members consent.

202. However, some respondents from industry argued that simplification would be necessary for consolidation, and that the current legislation which allows schemes to simplify benefits is prohibitively complicated and precarious for trustees who might be cautious of legal challenges from members who may lose out.

Question 6e)

Are costs and charges too high in Defined Benefit schemes?

203. **We received 83 responses to this question.**

204. Opinion was divided regarding the issue of costs and charges. Most respondents were broadly in favour of greater transparency.

205. Some responses from pension scheme members and trade union representatives took the general view that costs and charges in Defined Benefit schemes were too high. However, respondents from representatives of the industry said it was a matter for the employer to judge whether costs and charges were excessive and that the concept of value for money should not be lost. Many respondents highlighted the work that Financial Conduct Authority (FCA) and the Transparency Taskforce were already doing in this area.

Question 6f)

Should schemes be required to be more transparent about their costs or justify why they do not consolidate?

- In what circumstances?

206. **We received 86 responses to this question.**

207. The majority of respondents agreed that schemes should be required to be more transparent about their costs and charges. Many felt a Chair's Statement, greater transparency and more guidance on the existing forms of consolidation would be helpful tools in encouraging consolidation. Some called for a new requirement for trustees to 'consolidate, improve or justify'. However, most respondents felt this type of mandatory approach wasn't necessary.

Question 6g)

Is there a case for mandatory consolidation?

- In what circumstances?

208. We received 95 responses to this question.

209. The majority of responses, from a range of respondent groups, opposed to mandatory consolidation. The general consensus was that the Government should take steps which encourage rather than mandate consolidation.
210. Respondents were positive about the potential benefits that consolidation could bring in reducing administrative costs, improving scheme efficiency and driving better governance, and gave examples of existing ways that schemes can already consolidate. However, some respondents also suggested that a successful voluntary consolidation system would be complex to oversee.
211. While a significant number of respondents felt that government should act to remove the barriers which currently prevent greater consolidation from taking place, they also realised the complexity in this.

Question 6h)

Should the Government encourage the use of consolidation vehicles, including Defined Benefit Master Trusts?

- If so how might it do so?

212. We received 81 responses to this question.

213. The majority of respondents from the pensions industry argued that the Government should encourage the use of consolidation vehicles including Defined Benefit Master Trusts. Responses from members of the public were less certain. Some respondents saw a role for the Government in encouraging schemes to consolidate, but the vast majority of respondents thought that it should not be mandatory to do so.
214. Some suggested the Regulator's Trustee Toolkit could be a useful impartial way to educate trustees and sponsors about the benefits of consolidation. By raising awareness this could then prompt them to consider whether consolidation or buy-out might be a viable option.

Question 6i)

Are further changes needed to the employer debt regime in multi-employer scheme to encourage further consolidation?

215. We received 70 responses to this question.

216. The majority of respondents, including trustees, were unsure as to whether further changes were needed to the employer debt regime in multi-employer schemes to encourage further consolidation.
217. Many respondents argued that it would be difficult to find a solution to address concerns around the employer debt regulations for multi-employer schemes that doesn't create a risk of these schemes becoming underfunded and ultimately unable to meet their liabilities. This was despite sympathy among respondents for individuals who may be personally liable for the employer debt because of their un-incorporated status.
218. Some respondents suggested that employer debts in multi-employer schemes could be passed onto the Pension Protection Fund in exceptional circumstances.

Question 6j)

Is there a case for consolidation as a cheaper, but more efficient form of buy-out, with the employer and trustees discharged?

- If so, (a) what should be the requirements for a scheme to enter such a consolidator, especially the level of funding; and
- (b), should the residual risk be borne by the member, or by the Pension Protection Fund?

219. We received 75 responses to this question.

220. Opinion was divided on whether there is a case for consolidation which involves an employer discharge. The majority of responses from pension scheme members were unsure about this type of consolidation model, while those responses received from employers and the pension industry were more supportive of the idea in certain circumstances.

221. Respondents who opposed commercial consolidation models, such as the PLSA's 'superfund' model were concerned this approach posed a potential risk to members' benefits. Some suggested these models could become a 'pensions dumping ground' and generally favoured maintaining the sponsoring employer connection to pension schemes. It was also argued that a 'superfund' type model would essentially be a form of regulatory arbitrage⁸ or 'insurance lite'.⁹

Question 6k)

Should the Government encourage the creation of consolidation vehicles for stressed schemes?

222. We received 75 responses to this question.

223. Respondents, including from the industry, were mainly against the need to create a new 'stressed' scheme consolidator vehicle. They argued that it would require substantial investment and ongoing operation costs that may not be recovered if the arrangement is not properly modelled. Some also argued that the Pension Protection Fund was in effect already a stressed scheme consolidator.

Question 6l)

Should employer debt legislation for multi-employer schemes require full buy-out and for the actuary to assess liabilities for an employer debt by estimating the cost of purchasing annuities?

224. We received 74 responses to this question.

225. Responses were fairly evenly distributed between those who agreed, disagreed or were unsure whether the employer debt legislation for multi-employer schemes should require full buy-out and whether the actuary should be required to assess liabilities for an employer debt by estimating the cost of purchasing annuities.

Question 6m)

How else could historic orphan liabilities be met if they were not shared between employers?

226. We received 26 responses to this question.

⁸ Regulatory arbitrage is a practice whereby firms/organisations can capitalize on loopholes in regulatory systems in order to avoid unfavourable regulations.

⁹ 'Insurance lite' means employers are able to discharge themselves from responsibility for the scheme on a cheaper basis than securing members benefits on a full buy out basis with an insurance company.

227. Responses received highlighted the complexity of this issue. On the specific issue of employer debt legislation, there was no consensus amongst respondents on how orphan liabilities¹⁰ should be handled in future, and what an alternative calculation for section 75 debts should be for non-associated multi-employer schemes.
228. Some respondents called for government action to assist the plumbers' pension scheme, with the PLSA suggesting one solution where the orphan liabilities in this scheme are sectioned-off from the scheme and run on as a zombie scheme with PPF backing, but did not provide details of how this would work in practice.

Question 6n)

Are new measures needed to help those trustees of an association or employers who could be held individually liable for an employer debt?

229. **We received 65 responses to this question.**

230. The majority of respondents agreed that new measures were needed to help trustees of an association or employers who could be held individually liable for an employer debt, although there was no consensus on how this could be achieved in practice.

Government response

231. Chapter three of the White Paper sets out broad proposals which would establish the right conditions to help enable and encourage further consolidation to take place. This includes proposals for a legislative framework and authorisation regime for new forms of consolidation and an accreditation regime for existing consolidation providers.
232. Consolidation provides an opportunity to reduce scheme administration costs and enable more effective investment performance, while also improving the overall levels of scheme governance. Consolidation could also reduce the risk to scheme members, and improve the business opportunities for the sponsoring employer and the wider economy. Evidence and feedback to the Green Paper suggests that consolidation could be an attractive alternative for those businesses held back by pension liabilities, unable to secure members' benefits through insurance buy-out, or simply lacking scale for efficient operation.
233. The White Paper sets out more details on how Government plans to take this work forward.
234. We carefully considered the option of a 'stressed scheme' consolidator and agreed with respondents that this would incur significant costs. However, with the measures we are taking forward to encourage further consolidation, the market may wish to innovate in this area in future. We will keep this area under review as the consolidation market develops.
235. Having reviewed all the responses to the Green Paper on the way employer debts are calculated, we have found that there is insufficient evidence to warrant amending the measure of calculation of these debts. Further information on employer debts can be found in chapter four of the White Paper.

¹⁰ Orphan liabilities are those attributable to members whose original employer is no longer available to support the scheme.

