Regulatory Policy Committee

The Pension Schemes Act 2021

Department for Work and Pensions

RPC rating: fit for purpose

Summary

This opinion provides an update to the 17 October 2019 RPC opinion issued on the final stage impact assessment (IA) for the Pension Schemes Bill .[1] The present opinion is on an enactment stage IA, which includes an assessment of government amendments made to the Bill during its parliamentary passage. These amendments are relatively minor and two-fold:

i) A new provision on climate change risk. This section is drawn from the already-published IA, now included as annex K in the enactment stage IA.

ii) An additional requirement in the existing provision on members' protection in relation to transfers and scams (annex I in the enactment stage IA).

The 17 October 2019 RPC opinion on the final stage IA took the form of a table presenting, for each of the main provisions within the Bill: a brief description of the change; a short summary of the assessed impact; and the RPC's assessment of the quality of submission. This table (below) has been amended to take account of the two changes referred to above. As noted in that opinion, the RPC opined separately and specifically on the *Pensions Dashboards* IA and *Requirements for Defined Benefit pension scheme trustee boards to appoint a Chair & submit a funding strategy statement* IA in March 2019.[2] As with the Pension Schemes Bill final stage IA, the enactment stage IA brings together these measures and additional measures to provide a complete, over-arching assessment of the impact of the legislation.

[1]https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/870036/RPC-4364_1_-DWP-Pensions_Bill_2019-IA_f_-Opinion-10172019_.pdf
[2] Pension Dashboard RPC opinion & for Defined Benefit pension scheme trustee boards to appoint a Chair & submit funding strategy statement RPC opinion: https://www.gov.uk/government/collections/rpc-opinions-department-for-work-pensions

As described in the table below, the additional requirement on members' protection in relation to transfers and scams has only a marginal impact on business, increasing the EANDCB figure for this measure by £0.2 million. The new requirement in relation to climate change risks is more significant, with an EANDCB figure of £4.7 million. The Department's assessment of this measure is sufficient at this stage. The Department has since produced a consultation stage IA for the secondary legislation for this measure. This shows an increase in the EANDCB figure to £6.2 million, reflecting feedback on assumptions and further policy detail. The Department will need to submit the final stage IA on the secondary legislation to the RPC for EANDCB validation.

Overall, the RPC commends the Department on providing a comprehensive and very well-presented update to the final stage IA. The RPC expects to see the Department's IA submissions at the secondary legislation stage, with a view to validating an EANDCB figure covering the whole policy.

Description of proposal

The Pension Schemes Act aims to ensure that the occupational pension schemes system is fit for the future by:

- strengthening security further and increasing transparency so that savers can be confident that their pensions are protected and that The Pensions Regulator (TPR) will take action if pensions are put at risk;

- providing more options for employers to ensure that scheme members can save adequately for retirement and to protect their income in later life better; and

- improving information and guidance for savers to help them prepare for retirement.

A more detailed description of the measures, covering their main provisions, is included in the table below.

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Measure	Description	Impact	Quality of Submission
Extending and enhancing The Pensions Regulator's information-gathering powers *(Annex A)*	The measure will extend TPR's information-gathering powers so that: - it can interview a person it believes has relevant information in connection with any of its functions - without the need for written request for information to have already been issued under section 72 of the Pensions Act 2004; - it can enter a wider range of premises where relevant records or information are held, for the purposes of inspection; and - it can issue a civil penalty for non-compliance with section 72 notices, interview or inspections, where more appropriate than a criminal prosecution.	The IA explains there will be no changes to what information businesses need to be able to provide to TPR and that the proposed changes relate to how information is gathered by TPR. Therefore, information-gathering powers already exist in the counterfactual. Only businesses that are under TPR investigation are likely to incur one-off familiarisation costs from this measure. The Department estimates differing levels of familiarisation for different types of schemes and employers. Total one-off costs to businesses are estimated to be £8.9 million in year one, giving an EANDCB of £0.9 million. The IA estimates an increase in the number of interviews and inspections, but this is instead of issuing multiple section 72 notices. The IA anticipates a cost-neutral impact on TPR with costs netted off against the efficiency savings resulting from the measure. There will be no impacts on scheme members.	The IA is clear and concise; and provides a thorough description of the estimated impacts of the measure, including the underlying assumptions. The assessment of familiarisation costs also helpfully includes sensitivity analysis, which provides an EANDCB estimate of £1.3 million in a 'high cost' scenario. The IA states that familiarisation is expected to be straightforward and the Department does not expect a disproportionate impact on small and micro businesses. The Department has assessed sufficiently the impacts of this measure. The IA could be improved in section 5.3 by explaining why the assumption, that the number of cases where the extension of powers used in defined contribution (DC) schemes will be similar to defined benefits (DB) schemes, is reasonable.

Measure	Description	Impact	Quality of Submission
Amendments to The Pension Regulator's Contribution Notice/Financial Support Directives regimes *(Annex B)*	The measure will amend TPR's Contribution Notice (CN) and Financial Support Directives (FSD) regimes, to ensure the powers are up to date and fit for the future. Evidence provided in the IA suggests that the existing CN and FSD regimes are, at times, unclear, leading to situations in which the application of the CN and FSD powers do not deter wrongdoing sufficiently, which is putting DB scheme members' savings at risk. The measure will make four amendments to the CN regime. The amendments to TPR's CN powers aim to clarify and strengthen the existing legislation to ensure that they are up to date and fit for the future.	The amendments could be applicable to all DB schemes and sponsoring employers; however, the IA explains that they will have an impact on only a small subset of DB schemes where it is reasonable for TPR to take regulatory action. The Department assumes that all DB schemes and sponsoring employers will need to familiarise themselves with changes to the legislation. The Department estimates total familiarisation costs incurred by businesses to be £3.4 million. Section 5.2 of the IA assesses potential ongoing costs for both regimes, and explains that any change in value or volume of CNs or FSDs would result in an offsetting future impact to business. The IA also explains that any amounts requested under both regimes would be deemed as a transfer.	The IA provides a thorough description of the estimated impacts of the measure. The IA has provided sufficient evidence to support the assumption about the small number of expected changes to the number and value of cases following the amendment. The IA estimates an EANDCB of approximately £0.4 million, which is largely attributed to familiarisation costs. The Department does not expect a disproportionate impact on small and micro businesses. The Department has assessed sufficiently the impact of this measure.

Measure	Description	Impact	Quality of Submission
Enhancing the occupational pension schemes' sanctions regime *(Annex C)*	The measure will: - introduce additional deterrents in order to motivate sponsoring employers to comply with legislative and regulatory requirements; - enable TPR to react in a more efficient and proactive way when wrongdoing occurs; and - punish unscrupulous sponsoring employers appropriately. The measure is intended to strengthen existing sanctions regimes by widening their scope and increasing the maximum penalties available for not engaging appropriately with TPR, or not complying with relevant legislation. Full details of the proposed changes are outlined in table 1 of the IA.	The amendments are applicable to all private sector DB schemes. In some cases, the changes will also have an impact on occupational DC schemes. For example, 'non-compliance with information requests'. The IA estimates that only a small sub-set of schemes will be affected as the majority comply with the requirements in the baseline. The number of civil sanctions issued is estimated to be between five and fifty per annum. Familiarisation costs are estimated to be zero, on the basis that schemes already have to be familiar with requirements in the baseline. Ongoing costs to businesses are also expected to be zero, on the basis that monetary impacts associated with deterring wrongdoing, and fines issued, are not treated as costs.	The IA provides a clear description of the estimated impacts of the measure. The IA also evaluates some possible costs to business arising in the scenario where a sanction or fine is applied by TPR but later appealed successfully. The Department anticipates that any net costs associated with sanctions being incorrectly applied will be negligible, on the basis that the legal system allows for compensation. HM Prison Service is estimated to incur some costs of £26,274 in year one and £52,548 per annum thereafter from the new criminal sanctions. The Department has assessed sufficiently the impact of this measure.

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Measure	Description	Impact	Quality of Submission
The Pensions Regulator (TPR) Declarations of Intent *(Annex D)*	The measure will introduce a requirement for sponsoring employers or parent companies of DB pension schemes to make a Declaration of Intent, which would be issued to the trustees and shared with TPR. The declaration will set out information about transactions and how any detriment to the pension scheme is to be mitigated. The measure intends to reduce risks to DB pension schemes and enable trustees and TPR to take action, where necessary, to protect pension schemes. The IA points out that the measure is not intended to stop corporate transactions, but to ensure decision makers also consider the impact of transactions on the pension scheme. The requirement for a Declaration of Intent is made through this primary legislation. The content of the declaration is to be set out in subsequent secondary legislation.	The IA highlights that there are several uncertainties at this stage and provides indicative estimates on the impacts of the proposal. All DB pension sponsoring businesses (14,000) will have to familiarise themselves with the changes. Familiarisation costs to businesses are estimated to be £0.71 million. TPR will also incur familiarisation costs, which will be assessed at the secondary legislation stage. The Department anticipates ongoing costs to business, which will depend on the content of the Declaration of Intent. The IA provides illustrative figures of these costs and their underlying assumptions in Section 4. For example, in a scenario where there are 285 declarations of intent per annum, the annual cost could be about £1 million. Section 8 of the IA conducts sensitivity analysis on the illustrative figures.	The Department has not been able to monetise an EANDCB at this stage, but the measure is assessed as a qualifying regulatory provision on the basis that, after secondary legislation is introduced, the business impacts could exceed £5 million per annum. The IA outlines ongoing costs to business that are 'likely' to occur where a declaration is triggered. Costs of: preparing the declaration; assessing the effect of transaction; and of putting mitigations in place. The scale of these impacts depends on details of requirements to be set out in secondary legislation (e.g. specific requirements for the declaration). The IA sets out the potential business impacts in full and the Department has committed to providing an EANDCB figure at the secondary legislation stage. The RPC expects to see the Department's submission at that stage, with a view to validating an EANDCB figure for business impact target (BIT) purposes.

Measure	Description	Impact	Quality of Submission
Requirements for defined benefit pension scheme trustee boards to appoint a chair & submit funding strategy statement *(Annex E)*	The measure will require all DB trustee boards to appoint a chair, prepare and review an annual funding strategy statement, and to submit the scheme valuation to TPR in accordance with requirements to be set out in secondary legislation. The measure intends to: - support good governance; improve trustee decision making in relation to scheme funding by requiring trustees to explain their approach and how they are complying with legislative requirements; - support collaboration between the trustee board and the sponsor employer; and - enable TPR to enforce a stronger "comply or explain" regime for all DB schemes in relation to scheme funding.	The IA states that all DB scheme businesses will have to familiarise themselves with the new requirements for the funding statement, even if they already have an appointed chair. The total familiarisation cost for the funding statement requirements is estimated at £1 million; this is based upon an assumed three trustees per DB scheme. Ongoing costs incurred by businesses are estimated to be £19.5 million per year. Section 5 of the IA and the RPC's opinion (pages 2-4) discuss in greater detail, the anticipated costs and benefits to businesses.	The RPC provided a separate, green-rated opinion on this measure, which outlined areas that will need to be addressed for the IA at the secondary legislation stage. The Department has monetised the impacts of the proposal where possible and estimated an EANDCB figure of £17.3 million at this stage. The Department states that it will determine the EANDCB more fully when details of the proposal are set out in secondary legislation. The RPC expects to see the Department's submission, with a view to validating an EANDCB figure for BIT accounting purposes.

Measure	Description	Impact	Quality of Submission
Clearer funding standards for defined benefit occupational pension schemes – long term destination *(Annex F)*	The measure aims to support clearer funding standards for DB pension schemes. The primary legislation requires trustee boards to: - set a long-term destination (LSD) for the scheme; and - incorporate this into the Statutory Funding Objective. The measure provides a new power to enable key terms ('appropriateness' and 'prudence') underpinning the strategy to be defined more clearly in secondary legislation. The measure also includes provisions to ensure TPR can enforce the new requirements to set an LSD.	The IA explains that impacts of the measure will be determined by factors set in secondary legislation and the LSD set by the trustee board. The IA provides a high-level assessment of possible impacts and the assumptions underpinning the estimates are outlined in Section 2 of the IA. It estimates familiarisation costs (£1.5 million) and implementation cost to business, which are predicted to be offset by efficiency savings associated with improved clarity of the requirements. Savings are also expected as a result of an improved funding position. The IA explains that a new requirement for trustees to set an LSD is not expected to have a significant impact on schemes and their sponsors which already have an existing obligation to meet their pension liabilities.	The IA provides indicative estimates of the impacts of the measure and estimates an EANDCB of £0.2 million at this stage. The Department has explained that a fuller assessment will be provided at the secondary legislation stage in TPR's business impact assessment, which will set out the impacts of the measure with more certainty after factors to consider in establishing an LTD are determined. The Department has assessed sufficiently the impact of this measure. The IA would be improved by providing a clearer narrative as to how this measure relates to the requirements for DB pension scheme trustee boards to appoint a Chair and submit funding strategy statement (which is discussed on page 7 of this opinion).

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Measure	Description	Impact	Quality of Submission
Introduction of legislative framework for collective defined contribution (CDC) occupational pension schemes *(Annex G)*	The measure introduces a framework in occupational pension provision so that the pensions industry may offer a new type of occupational pension scheme (CDC schemes). In these schemes, longevity and investment risks are pooled and shared among scheme members. The legislation creates a new sub-set of money purchase benefits that will allow pooled pension arrangements, provide powers to expound technical aspects of the new regime and to apply existing pensions legislation. The measure intends to establish a secure regulatory framework within which the pensions industry can create CDC-type pension schemes with adequate governance and safeguards in place for members and employers.	The measure will have an impact on businesses that choose to set up a CDC scheme and they will incur familiarisation, implementation, and scheme running costs. The IA explains that the costs and benefits to businesses are not possible to quantify because they depend on the counterfactual of whether employees of a business would, in future, be enrolled in a DB scheme, a DC scheme or a hybrid scheme. However, the IA presents the case of *Royal Mail*, which has clear plans to deliver CDC schemes. The counterfactual is assumed to be a DC scheme in this case – where business costs could be higher due to more-regular scheme revaluation compared to a DC scheme. The Department expects that the measure could provide a substantial wider benefit through improved industrial relations.	The RPC provided informal advice to the Department on assessing the impact of this measure; the IA has been updated to reflect this. The IA explains sufficiently the difficulties in estimating a counterfactual, and level of industry demand for CDC schemes, to produce a robust EANDCB estimate. The IA estimates that the potential benefit to *Royal Mail* of offering CDC schemes, through preventing strike action, could exceed £5 million. The Department has correctly assessed the impact of this measure as a qualifying regulatory provision for BIT purposes but explains that it has not been possible to quantify the impacts on businesses at this stage. The Department will estimate an EANDCB at the secondary legislation stage. The RPC expects to see the Department's submission. The Department expects larger employers to take up the option of offering CDC schemes on the basis that they are more likely to benefit from the economies of scale of pooling the risk of a larger group of employees. The IA also explains that TPR will collect and monitor data on the uptake of CDC schemes, which will enable the Department to monitor the first CDC schemes' performance and effectiveness.

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Measure	Description	Impact	Quality of Submission
Pensions Dashboards *(Annex H)*	The measure provides powers to enable citizens to access all of their pension information online securely, to support better planning and preparation for retirement by: - bringing together stakeholders to co-ordinate an industry-led delivery of dashboard(s); and - introducing legislation to compel pension providers to make certain data available to members via dashboards. Subsequent secondary legislation will specify the design and implementation decisions; and establish a regulatory framework to implement appropriate and robust controls to protect users.	The measure will require pension schemes and providers to provide data to the dashboard ecosystem, which will involve new regulatory action for the pensions industry. The IA provides illustrative business impacts compared against a counterfactual where the market would not deliver an industry-wide pensions dashboard solution. In the Department's central scenario, implementation costs will vary between pension scheme sizes (for private sector schemes: £12 million for large schemes, £345 million for medium schemes and £30 million for small schemes, over ten years). Overall, ongoing costs are estimated to be around £475 million over the ten-year appraisal period. However, the IA notes that despite industry engagement, this estimate remains highly uncertain and should be treated as being purely indicative.	The RPC provided a separate, green-rated formal opinion on the impact assessment for this measure, which outlined areas which need to be addressed at the secondary legislation stage. Meanwhile, the Department has provided a mainly-qualitative indication of the likely scale of impacts and is unable to provide a robust assessment in order for an EANDCB figure to be validated by the RPC at present. This is because the level of detail currently available on the expected content of related secondary legislation is insufficient. The RPC expects to see the Department's submission at that stage, with a view to validating an EANDCB figure for BIT accounting purposes.

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Measure	Description	Impact	Quality of Submission
Legislating to help trustees ensure that transfers of pension savings are made to safe and not fraudulent schemes *(Annex I)*	The measure will enable changes to be made to the existing statutory right to transfer of pension benefits by scheme members, so that the right to transfer applies only if one of the following conditions regarding the transfer destination is satisfied: - Schemes operated by a firm that is authorised and regulated by FCA. - Authorised Master Trusts; or schemes where a genuine employment relationship between the member and the scheme employer can be established. - Qualifying recognised overseas pension schemes in certain circumstances. The measure aims to protect pension benefits by preventing them from being transferred to fraudulent destinations.	The IA estimates that approximately 160,000 transfers take place each year that could be in scope of the regulation. 55,616 of these transfers are estimated to be subject to checks on earnings and employer link under the new rules of the amendment. Pages 6-10 of the IA estimate the impacts of the amendment on pension providers/schemes, sponsoring employers and members. The estimated cost for this measure in the first year is around £1 million, which is comprised of £463,000 in familiarisation costs, £674,000 in administration costs (£435,000 to providers, £239,000 to employers) and savings to scheme providers of £132,000 in the form of pension charges by members. The subsequent net costs after year one are estimated to be around £543,000 per annum across the ten-year appraisal period.	The IA provides a thorough description of the estimated impacts of the measure. The IA presents useful sensitivity analysis on the underlying assumptions used to estimate the impacts of the amendment. The Department estimates an EANDCB of approximately £0.6 million over the ten-year appraisal period. The Department has assessed sufficiently the impact of this measure. The IA also provides sufficient evidence to support the assessment that the Department does not expect a disproportionate impact on small and micro businesses. **Enactment stage update**: there is an additional requirement for trustees and scheme managers to refer members to guidance where the risk of a pension scam is identified, and check that the member has done so before the transfer can proceed. The Department has updated its assessment to take account of this change. The additional administrative cost to pension providers is estimated as £773,000 (one-off) and £223,000 (annual). This increases the EANDCB from £0.6 million to £0.8 million.

Measure	Description	Impact	Quality of Submission
Clarification of the coverage of the administration charge definition *(Annex J)*	The Government made a series of regulatory changes in 2015 to protect members of occupational pension schemes against high and unfair charges, which relied on a definition of ‘administration charges’ contained in Schedule 18 to the Pensions Act 2014. This measure provides a power to require regulations to clarify the intended scope of ‘administration charges’ to address industry uncertainty. The measure is intended to help trustees avoid inadvertent breaches of these measures, by reassuring them, and their advisers, about the intended scope of the definition.	The Department expects that there will be negligible impact on businesses, on the basis that the existing policy has been costed and business impacts are in the counterfactual. The amendment is expected to benefit some pensions schemes and their sponsoring business by reducing uncertainty.	The Department has assessed sufficiently the impact of this measure.

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Measure	Description	Impact	Quality of Submission
Enactment stage update Climate Change Risk – Governance and Disclosure *(Annex K)*	This measure provides for regulations to be made to require trustees of all occupational pension schemes (OPS) with £5bn or more in assets, and TPR-authorised schemes, to disclose information in accordance with the recommendations of the Task Force on Climate-related Financial Disclosure (TCFD) by the end of 2022. OPS with £1bn or more in assets will be required to do so by the end of 2022. A phased introduction is estimated by TPR to capture approximately 103 pension schemes, and approximately 42 per cent of all UK pension assets in phase one. The second phase increases the number of schemes in scope of the requirements to an estimated 367 schemes, covering approximately 74 per cent of all UK pensions assets and 81 per cent of all UK members. The regulations may include requiring trustees and managers to publish information relating to the effects of climate change on their scheme.	On 'strategy', trustees will be required to describe and disclose the climate-related risks and opportunities identified by trustees or management and to describe the impact of these risks and opportunities on the scheme's investment strategy and financial planning. Regulations will require trustees to produce a scenario analysis, which considers at least two scenarios, one of which must include a transition to a world with a temperature rise of '2°C or lower' than pre-industrial levels. This is the main estimated cost, at around £4 million each year. This is based upon 363 pension schemes being in scope from year 3 at an average annual cost of £10,800, informed by feedback received from industry engagement, including those already completing TCFD-compliant reports voluntarily. On 'metrics & targets', organisations will be required to calculate their carbon footprint and use metrics	The Department has provided a detailed IA of this new measure. The Department's estimates are based upon industry engagement and this appears to include information provided by businesses that are already undertaking some of this activity voluntarily. There is evidence that this voluntary activity is significant but the Department has been unable to identify robustly the extent of this. The Department, therefore, considers that there is potential for the estimated costs to business to be lower than those presently estimated. Given the uncertainty and range of cost estimates provided by industry, the Department has sensibly provided a range of costs and undertaken sensitivity analysis. On this basis, the RPC accepts that the Department has assessed this measure sufficiently at this stage. The Department has since produced a consultation stage IA on the secondary legislation for this measure. This shows an increase in the EANDCB figure to £6.2 million, reflecting feedback on assumptions and further policy detail. The Department will need to submit the final stage

	There are four core elements of TCFD: governance; strategy & scenario analysis; risk management; and metrics & targets. The Department expects little impact in relation to governance and risk management given the existing fiduciary duty and other requirements in these areas. The most significant additional requirements relate to producing and disclosing the results of scenario analysis and information about metrics and targets adopted in line with the TCFD recommendations.	to track their management of climate change risks and opportunities, including through the setting of targets. Trustees will be required, as far as they are able, to obtain data required to calculate their chosen metrics and disclose their calculations. It is also proposed that they must set at least one target relating to their chosen metrics, measure performance against the target(s) as far as they are able and disclose this information. This is estimated to cost around £0.8 million each year. This is based upon a cost of £2,250 per scheme per year, informed by engagement with industry stakeholders. These two impacts account for nearly all of the estimated EANDCB of £4.7 million. The Department states that it will produce a revised assessment of the EANDCB and other impacts at the secondary legislation stage, which will be subject to another consultation, if it envisages any changes to the assessment presented in the IA.	IA on the secondary legislation to the RPC for EANDCB validation. Other than costs to TPR (who would be responsible for monitoring and enforcing compliance), the IA refers only to non-monetised *benefits* and *positive* wider impacts. The IA would be improved by discussion of potential risks to pension schemes (around fulfilling their fiduciary duty of providing an appropriate financial return) and pension scheme members (around the value of their pension), should the measure contribute indirectly to pension schemes' divestment from assets of potentially high return. Conversely, given evidence around compliance with existing requirements in this area being 'tick box' and with little material change in investor behaviour, the IA would also benefit from discussing similar risks to the effectiveness of the measure in achieving its policy objectives.

RPC assessment

Classification	Qualifying regulatory provision (IN)
EANDCB – RPC validated	Further (update to the present) IA(s) to be submitted at the secondary legislation stage for validation of an EANDCB figure covering the whole policy[3].
Small and micro business assessment	Sufficient

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[3] As noted above, the Department will provide EANDCB figures at the secondary legislation stage for five measures (Annexes D, E, G, H and K).