| Department for Work & Pensions | Impact Assessment (Final) | |
|---|---|---|
| **Title of measure** | | The Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2022 |
| **Lead Department/Agency** | | DWP |
| **Planned to come into force/implementation date** | | 01 October 2022 |
| **Origin** (Domestic/EU/Regulator) | | Domestic |
| **Policy lead** | | Vicky Bird |
| **Lead analyst** | | Patrick Roseveare-Turner |
| **Departmental Assessment** | | Self-certified |
| **Total Net Present Social Value (over 10-year period): -£4.3m** | **Equivalent Annual Net Direct Cost to Business (EANDCB) (over 10-year period): £0.4m** | **Business Impact Status:** Non-Qualifying Regulatory Provision |

Summary - Intervention and impacts

## Policy Background and Rationale for Intervention

A Competition and Markets Authority (CMA) investigation[1] into the 'Investment Consultants Market' identified weak competition within both the investment consultancy[2] (IC) and fiduciary management[3] (FM) markets. These services influence or control decisions affecting pension scheme assets worth at least £1.6 trillion[4], and the retirement incomes of millions of people, so market weakness has extensive adverse impact. The CMA have introduced an Order with remedies to address the above market failure, which came into force on 10 December 2019[5].

Two of the remedies will require pension scheme trustees to:
- carry out a qualifying tender process[6] when entering into or continuing an agreement with a fiduciary management provider under certain circumstances (Remedy One); and
- set objectives for the investment consultancy provider[7] when entering into an agreement for the provision of investment consultancy (Remedy Seven).

DWP need to integrate these remedies into pensions legislation to enable the Pensions Regulator (TPR) to oversee them. This change should improve IC and FM market engagement which will improve value for money for members and enable TPR to monitor and enforce compliance.
We intend to replicate these parts of the CMA Order so the duties on trustees will continue broadly as they were, although they will report compliance to TPR as the regulator, rather than the CMA.

## Brief description of viable policy options considered (including alternatives to regulation)

1. **Do nothing**
   By doing nothing, in the 10 years that the CMA Order would be in place (10 December 2019 – 09 December 2029) there would be dual regulatory bodies (CMA and TPR) working with occupational pension schemes. This would cause potential disruption and confusion to the industry along with criticism of an already perceived complex regulatory regime. Therefore, this option is not recommended.

[1] CMA Investment Consultants Market Investigation Link
[2] Investment consultancy is the provision of advice to pension scheme governance bodies.
[3] Fiduciary management is the provision of advice combined with delegation of investment decisions.
[4] CMA, Investment Consultants Market Investigation, Final Report, Page 6 Link
[5] The Investment Consultancy and Fiduciary Management Market Investigation Order 2019. Link
[6] Remedy One: Mandatory competitive tendering for pension schemes first buying fiduciary management services or if they have not tendered previously.
[7] Remedy Seven: Duty on trustees to set their investment consultants strategic objectives.

2. **Introduce regulations to replace the CMA Order as of 01 October 2022**
   **<u>Preferred Option</u>**
   This will ensure more effective supervision of the industry and would allow Government to meet its commitment to introduce regulations.
3. **Alternative to legislation**
   Following the CMA report in 2019, the DWP produced a joint response with TPR to accept CMA recommendations. In the joint response, the government committed to take forward the recommendations put to DWP to pass legislation which brings the CMA Order into pensions law[8] . Given the public commitment, and to ensure there are not dual regulatory bodies (CMA and TPR) working with occupational pension schemes, alternative to legislation is not appropriate.

**Preferred option: Summary of assessment of impact on business and other main affected groups**

The counterfactual is based on the CMA Order which will be in force from 10 December 2019 – 09 December 2029. Our regulations will replicate part three (Remedy One) and part seven (Remedy Seven) of the CMA Order to bring compliance and enforcement under the remit of TPR. Therefore, the impacts assessed are those in addition to the CMA Order.

**Impact on Business**

We expect trustees will have to familiarise themselves with the new requirements to report compliance to TPR through the scheme return rather than through a compliance statement to the CMA. We assume schemes will already have been complying with the CMA Order for two years and therefore, the familiarisation process will be simple. We estimate a total familiarisation cost of £1,220,000 in the first year only (2022/23).

The CMA Order requires trustees to submit a compliance statement to confirm they have complied with the Order. This requirement will remain when TPR take over compliance and enforcement. The ongoing cost to schemes will be determined by differences between the questions in the CMA statement and the questions in the TPR scheme return. These differences are because of the regulator having to ask specific questions to determine the IC and FM information that is not necessarily included in the CMA compliance statement. We estimate an ongoing total cost to all eligible schemes of £39,000 in each year.

The CMA Order excluded certain schemes[9] which we will instead bring into scope. These schemes will be required to set objectives[10] for the investment consultancy provider. The impact on the 8 schemes in scope is a total one-off cost in the first year of £278,000[11] and an ongoing cost per year of £286,000[12].

We will require schemes which delegated 20% (or more) of scheme assets without a competitive tender process in the period from 11 June 2019 to 09 December 2019 to tender for the FM

[8] Consultation on delivering the Competition and Markets Authority recommendation for trustee oversight of investment consultants and fiduciary managers (Chapter 1, Paragraph 8 and 9). Link
[9] We estimate that 8 pension schemes are affected by this measure including 4 authorised master trusts sponsored by IC-FM firms and 4 IC/FM sponsored single employer schemes.
[10] The trustees must set objectives for each IC provider and, in doing so, must have regard to the statement of investment principles, in so far as it is relevant to services provided by that provider.
[11] Calculation: £34,000*8=£272,000. Figures have been uprated in line with the CPI figure for September each year. £272,000 * 1.017 (2019) * 1.005 (2020) = £278,000 rounded to the nearest 1000.
[12] Calculation: £35,000*8=£280,000. Figures have been uprated in line with the CPI figure for September each year. £280,000 * 1.017 (2019) * 1.005 (2020) = £286,000 rounded to the nearest 1000.

services provided by the relevant providers within a 5-year period of the earliest delegation (unless the scheme falls below the 20% threshold and does not come back up to or above it within that period). These schemes will bear the cost of tendering for those FM services on one occasion within that grace period. For the estimated 19 tenders in scope, the one-off cost is £97,000[13] split evenly from 01 October 2022 to 09 December 2024.

**Impact on Regulatory Bodies**

TPR

As a result of the regulations bringing compliance and enforcement under the remit of TPR, TPR will be required to:

- amend the scheme return;
- monitor compliance with the regulations and identify non-compliance;
- take enforcement activity where necessary.

TPR is funded by the General Levy paid by all registered pension schemes with more than one member. This levy and its impact are excluded from the definition of a regulatory provision in the Small Business, Enterprise and Employment Act 2015. Therefore, it does not need to be reported on or verified under the Business Impact Target reporting requirements. Any increases in the levy therefore do not count towards the Equivalent Annual Net Direct Costs to Business (EANDCB)[14]. TPR will be incorporating this work into business as usual and do not anticipate that this will have an impact on the Levy. TPR estimates the total costs in year 1 (2022/23) to be £69,000 (including one-off set up costs) and the ongoing costs to be £59,000 per year using 2014 powers[15]. These cost estimates are based on several assumptions set out in the additional detail section and are rounded up to the nearest £1,000.

CMA

CMA will no longer incur the costs associated with enforcing compliance against the CMA Order. This will result in an annual saving of £4,000, totalling £27,000 by the time the Order has concluded on 09 December 2029[16].

| | |
|---|---|
| Departmental Policy signoff (SCS): Joanne Gibson | Date: 29/03/22 |
| Economist signoff (senior analyst): Joy Thompson | Date: 23/03/22 |
| Better Regulation Unit signoff: Prabhavati Mistry | Date: 06/04/22 |

Additional detail – policy, analysis, and impacts

[13] Calculation: 1015 (2020 delegations) - 946 (2019 delegations) = 69 delegations (12 months). 69/2= 35 delegations (6 months). 35 * 0.85 (proportion of schemes who delegate more than 20% of assets) * 0.66 (proportion of schemes not tendered) = 19 delegations. 19 * £5,000=£95,000. Figures have been uprated in line with the CPI figure for September each year. £95,000 * 1.017 (2019) * 1.005 (2020) = £97,000 rounded to the nearest 1000.
[14] The Equivalent Annual Net Direct Costs to Business (EANDCB) is an estimate of an intervention's annual net direct costs to business in each year that the measure is in force.
[15] Paragraph 2 of schedule 18 to the 2014 Pensions Act. Link
[16] Annual cost of compliance = £4,000 (6 weeks required to enforce compliance on HEO Salary). (£33,000/52) * 6 = £4,000, Total years elapsed from DWP regulations to end of CMA Order = 7.17. Total cost to enforce compliance (£4,000 * 7.17) = £27,000 all figures rounded to nearest £1,000. This has been presented in 2021 prices and has not been uprated.

## Preferred Option

### Evidence behind the rationale for intervention

On 14 September 2017, the Financial Conduct Authority (FCA) published its decision to refer the supply and acquisition of IC[17] and FM[18] services to institutional investors and employers in the UK to the CMA for a market investigation. The CMA carried out an investigation into the IC and FM market in 2017 and 2018. Having concluded this investigation and decided what action needs to be taken, the CMA has introduced an Order[19] which came into force on December 2019.

The Order implements the CMA remedies to address weak competition found within the IC and FM markets. Low engagement by some pension trustees, and difficulties accessing information, reduce the competitive pressure on investment consultants and fiduciary managers. As a result, pension scheme members may expect to pay higher prices for these services and receive a lower quality service than in more competitive markets. This lack of competition currently causes financial detriment for employer sponsors of Defined Benefit (DB) schemes and members of Defined Contribution (DC) schemes. Both IC and FM services are used extensively by both DB and DC pension schemes. Any negative impact on scheme outcomes will be significant, accumulating and compounding over the long time horizon over which pension assets are invested[20], typically spanning several decades[21]. According to the CMA, these services have a major influence on pension scheme outcomes, affecting up to half of all UK households[22]. This change should improve trustee engagement with their IC and FM appointments which will improve value for money for members and enable TPR to monitor and enforce compliance.

### Proposed Intervention

The counterfactual is based on the CMA Order which came into force on 10 December 2019 and is set to end on 09 December 2029. The counterfactual covers the vast majority of the appraisal period.

The regulations will come into force on 01 October 2022, 34 months after the CMA Order was first introduced on 10 December 2019. Once regulations are in place, schemes will not be required to do anything differently to the requirements in the CMA Order except for the slight differences outlined below which we have quantified where possible.

The CMA Order expires on 09 December 2029 meaning there will a period at the end of the appraisal period where the CMA Order will no longer be in force.

We propose the impacts incurred from the expiration of the CMA Order to the end of the appraisal period are not material and follow business as usual. Any cost incurred takes place 10 years or more after the original CIF (coming into force) date of the CMA Order.

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[17] Investment consultancy is the provision of advice to pension scheme governance bodies.
[18] Fiduciary management is the provision of advice combined with delegation of investment decisions.
[19] CMA, Final step taken in CMA reform of investment consultants Link
[20] CMA, Investment Consultants Market Investigation, Final Report, Page 7 Link
[21] CMA, Investment Consultants Market Investigation, Final Report Section 13.104 Link
[22] CMA, Investment Consultants Market Investigation, Final Report Link

By the end of the CMA Order, mandates would have already been tendered for FM services and objectives set for IC providers. Therefore, the only costs incurred during this period would be ongoing reporting costs. Schemes would have already completed the existing TPR scheme return 8 times, hence reporting does not require any additional familiarisation.

The CMA intervened to address the adverse effect on competition it had identified (primarily in relation to the conduct of providers and trustees). If, in year 9, providers or schemes were to engage in conduct that may result in the same or similar adverse effect on competition, there is a risk of further investigation[23].

For four aspects there will be slight differences in policy between the CMA Order and these regulations. These are detailed below.

1. The CMA Order excludes certain schemes[24] from remedies one and seven. IC-FM employer-sponsored master trusts and corporate schemes will now bear the cost of setting and monitoring investment objectives, we estimate there are 8 pension schemes affected by this measure.
2. CMA have used interconnected body corporate[25] of the provider, or a partnership or 'joint venture' with the provider to determine whether organisations are connected and therefore whether a scheme is sponsored by an IC/FM or connected body. We are proposing to use group undertaking[26] to capture the full range of relationships. We do not know precisely how many organisations will be impacted by this policy change.
3. The CMA have regulated for the Local Government Pension Scheme (LGPS) to be in scope of remedy 7. We do not intend to replicate this measure. We have made no provision for applying remedy 7 to the LGPS, as regulations and guidance in relation to the LGPS are a matter for the Department for Levelling Up, Housing and Communities.
4. We will require schemes which delegated 20% (or more) of scheme assets without a competitive tender process in the period from 11 June 2019 to 09 December 2019 to tender for the FM services provided by the relevant providers within a 5-year period of the earliest delegation (unless the schemes fall below the 20% threshold and do not come back up to or above it in that period). This means these schemes will bear the cost of tendering for FM services provided by those existing providers on one occasion within that period.

[23] Whether the CMA would take such action is a matter for prioritisation having regard to all the relevant circumstances.
[24] Schemes where the principal or controlling employer of a scheme is themselves a provider of IC/FM services and Master Trusts for which an IC-FM firm is the scheme strategist or scheme funder.
[25] Interconnected body corporate (used by the CMA, in line with their standard practice) captures corporate bodies which are subsidiaries of the other, or subsidiaries of subsidiaries, and those with a common parent company. For further information see Link
[26] Group undertaking has the meaning of s1161 in the Companies Act 2006. "Group undertaking", in relation to an undertaking, means an undertaking which is—
(a) a parent undertaking or subsidiary undertaking of that undertaking, or
(b) a subsidiary undertaking of any parent undertaking of that undertaking.

The penalty process that will be adopted under DWP regulations will follow the same process as is already in place and enforced by TPR for the automatic enrolment charges measures.

**Costs and Benefits to Businesses**[27]

Trustees - Familiarisation

We assume that it will take trustees 114 minutes to familiarise themselves with the new requirements which would involve reading and understanding the regulations and checking TPR guidance where necessary. This is an assumption based on the length of regulations (19 pages) and an assumed time of 6 minutes to read a page[28]. We do not have a definitive figure for the total number of trustees that will be impacted so we estimated this using the number of schemes impacted multiplied by the average number of trustees per scheme. There are 5,220 DB schemes with 2+ members[29] and there are 2,335 DC Schemes with 2+ members[30]. For DB schemes with 2+ members, we estimate an average of 3.0 trustees per scheme and for DC schemes with 2+ members, we estimate an average of 2.7 trustees per scheme[31]. We assume that trustees will be able to read and understand the regulations based on the requirement for trustees to have knowledge and understanding of the law relating to pensions and trusts[32]. We assume the average hourly wage of a trustee is estimated to be around £29 per hour.[33] This gives a total familiarisation cost of £1,220,000[34] in the first year only (2022/23). We believe this is a cautious approach because not all trustees may need to familiarise themselves with the new requirements. Assuming only one trustee per scheme needs to familiarise themselves, this would give an estimate of £416,000[35] in the first year only (2022/23).

Trustees – Ongoing cost

Trustees will be required to check their compliance, complete details on the statement, sign and send to the CMA. As a result of bringing compliance and enforcement under the remit of TPR, trustees will be required to report compliance through additional questions in their existing scheme return. Table 1 sets out the CMA and DWP/TPR reporting requirements. The questions for inclusion in the TPR scheme return ask for additional information to what

[27] All costs and benefits have been uprated, and are presented, in 2021 prices.
[28] Assuming 1 minute to read 100 words and 600 words to a page, gives 6 minutes to read a page.
[29] Pension Protection Fund, The Purple Book, December 2021 Link. Figure 2.1: Estimated 2021 universe (number of schemes)
[30] 1,370 DC and Hybrid Schemes with 12+ members: The Pensions Regulator, DC trust: presentation of scheme return data 2021 – 2022 (Table 1.2) Link. 965 DC Micro Schemes with 2-11 members: The Pensions Regulator estimate. Small self administered schemes (SSASs – also known as Relevant Small Schemes or RSSs) and executive pension schemes (EPSs) are excluded from the CMA order and from these regulations.
[31] The Pensions Regulator, Trustee Landscape Quantitative Research, October 2015 Link (Estimate based on figure 3.2.2)
[32] Specified in Sections 247 and 248 of the Pensions Act 2004 Link
[33] The median hourly gross pay for corporate managers and directors is £22.82 in the Annual Survey of Hours and Earnings 2021 provisional, Table 2.5a. Link This is uplifted by 27% for overheads from the previous version of the Green Book, no updated estimate is available. Figure rounded to the nearest whole number.
[34] Calculation: (5,220*3.0)*(1.9*29) + (2,335*2.7)*(1.9*29) = £1,220,000 to nearest 1000
[35] Calculation: (5,220*1.9*29) + (2,335*1.9*29) = £416,000 to nearest 1000.

is required for the CMA compliance statement such as names and addresses of ICs and FM providers and the dates they were appointed.

Table 1: CMA and DWP/TPR Reporting requirements

| CMA Reporting Requirements | DWP Reporting Requirements to be used by TPR |
|---|---|
| Trustees must submit a compliance statement in the following format and signed certificate to the CMA annually, confirming to what extent they have been compliant with the requirements of remedy one and remedy seven, during the reporting period.<br><br>**Investment Consultancy and Fiduciary Management Market Investigation Remedy Compliance Statement for [insert name]**<br>[I/We], [insert name(s)], confirm on behalf of [insert name] that during the period commencing on [insert date] and ending on [insert date], [insert name] [has] [have] complied with Part [insert Part number] of the Investment Consultancy and Fiduciary Management Market Investigation Order 2019.<br>FOR AND ON BEHALF OF [insert name]<br>Signature: .......................................................<br>Name: .............................................................<br>Title: ...............................................................<br><br>If the trustees are aware of any failure to comply with the requirements, they must report such compliance to the CMA within 14 days of becoming aware of it, and provide a brief description of the steps taken to address the failure. | For Remedies one and seven the current scheme return process will be followed[36] and trustees will have the following additional questions:<br><br>For IC Services<br>(a) the name and address of the IC provider;<br>(b) the most recent date on which the IC provider was appointed;<br>(c) whether the trustees have set objectives for the IC provider, and if not, why not;<br>(d) whether the trustees have reviewed the objectives set for the IC provider and if not, why not;<br>(e) whether the trustees have reviewed the services provided by the IC provider and if not, why not.<br>For FM Services<br>(a) the name and address of the FM provider;<br>(b) the most recent date on which the FM provider was appointed;<br>(c) whether the trustees carried out a qualifying tender process[37] in connection with the appointment or most recent change in the provider's mandate, and<br>(d) if no such tender was carried out, why not. |

Trustees will need to know this information to report compliance to the CMA, but it may take additional resource to compile the information and complete the questions in the scheme return. We assume it would take one administrator per scheme an additional 20 minutes to source and compile the required names, addresses and dates, as we would expect a scheme to maintain records on their suppliers and recent tender processes. There are 5,220 DB schemes with 2+ members[38] and there are 2,335 DC Schemes with 2+

[36] The scheme return is annual except DC micro schemes (schemes with fewer than 12 members) submit a return every 3 years
[37] 'Qualifying tender process', means the process of inviting, and using reasonable endeavours to obtain, bids for the provision of the relevant FM services from at least three unconnected persons, and evaluating the bids which are obtained.
[38] Pension Protection Fund, The Purple Book, December 2021 (Figure 2.1) Link

members[39]. We assume the average hourly wage of an administrator is around £16 per hour.[40] This gives an ongoing cost of £39,000[41] in each year.

<u>Costs to business from extension of scope to include schemes where the principal or controlling employer of a scheme is themselves a provider of FM services and Master Trusts for which an IC-FM firm is the scheme strategist or scheme funder</u>

The CMA order has excluded certain schemes from both remedies one and seven. These include schemes where the principal or controlling employer of a scheme is themselves a provider of FM and/or IC services, and Master Trusts for which an IC-FM firm (or a group undertaking of the IC-FM firm) is the scheme strategist or scheme funder. It would be impractical in these circumstances to expect the scheme trustees to carry out a qualifying tender. However, we believe it is reasonable for the trustee of employer-sponsored master trusts or corporate schemes to set their IC objectives, regardless of whether the IC is related to the sponsoring employer of the scheme. This means these schemes will now bear the cost of setting and monitoring investment objectives.

We estimate that there are 8 pension schemes affected by this measure.

- We are aware of 4 master trusts sponsored by IC-FM firms, all of which have now received authorisation.
- There are 10 to 15 other IC/FM providers but some of these will use another organisation's master trust or a personal pension scheme as a qualifying scheme for automatic enrolment. All firms will need to use a pension scheme for automatic enrolment, and they have 3 options – own trust, personal pension or someone else's master trust. In the absence of any more knowledge, we assume the remaining 10 to 15 firms are split between these 3 options. This means 3 to 5 firms also have their own trust giving a central estimate of 4. We therefore estimate 4 more IC-FM sponsored single employer schemes.

The CMA provided a sample[42] of data on costs for remedy 7, gathered over the course of their investigation. Table 2 summarises the minimum, maximum and average costs to trustees to set strategic objectives and report against them, based on this sample of data. This includes both one-off costs in the first year and ongoing costs per year.

Table 2: Estimate of costs to trustees to set and report against strategic objectives

| | **One-off costs in first year** | **Ongoing costs per year** |
|---|---:|---:|
| Minimum | £0 | £0 |

[39] 1,370 DC and Hybrid Schemes with 12+ members: The Pensions Regulator, DC trust: presentation of scheme return data 2021 – 2022 (Table 1.2) Link. 965 DC Micro Schemes with 2-11 members: The Pensions Regulator estimate. Small self administered schemes (SSASs – also known as Relevant Small Schemes or RSSs) and executive pension schemes (EPSs) are excluded from the CMA order and from these regulations.
[40] The median hourly gross pay for administrative occupations is £12.30 in the Annual Survey of Hours and Earnings 2021 provisional, Table 2.5a Link This is uplifted by 27% for overheads from the previous version of the Green Book, no updated estimate is available. Figure rounded to the nearest whole number.
[41] Calculation: (5,220*0.33*16) + (2,335*0.33*16) = £39,000 to nearest 1000
[42] Sample size is 8.

| | | |
|---|---|---|
| Maximum | In excess of £100,000 | In excess of £100,000 |
| **Average** | **£34,000** | **£35,000** |
| Average excluding zeros | £54,400 | £56,000 |

Source: Responses to Competition and Markets Authority information requests

Some respondents in the sample reported that they already set objectives for all clients, therefore the cost to trustees to set strategic objectives and report against them was zero in these cases.

We assume the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample which means our best estimate of the cost to schemes would be an average including these zero responses.

Across the 8 schemes in scope, this therefore gives a one-off cost in the first year of £278,000[43] and an ongoing cost per year of £286,000[44].

<u>Costs to business from change in scope because of the difference between interconnected body corporate and group undertaking</u>

We propose to use group undertaking rather than interconnected body corporate to define interconnected firms. This is because ownership relationships involving partnerships can still signify influence and control.

This change extends the range of schemes that are considered part of a group. A very small number of schemes who were not previously treated as connected to an IC/FM provider and were therefore previously required both to tender and to set objectives in accordance with the CMA Order will now only be required to set objectives (we are excluding these schemes from remedy 1, but not remedy 7). We might reasonably anticipate that the majority of ICs and FMs will already be interconnected bodies corporate, because they are corporate bodies rather than partnerships or other unincorporated organisations. In the absence of any other evidence, we have assumed that fewer than 5 schemes will be excluded from remedy 1 because of this.

The effect of changing references in the **definition of FM services** means that the services of firms who are not an interconnected body corporate but are a group undertaking will fall into scope of an FM service so the trustees who use them will now be required to run a qualifying tender. Given that there are fewer than ten FM services, we assume that the CMA captured all such schemes, and our amendment is to future-proof the regulations. Therefore, we could assume that no additional firms are in scope and assume no additional costs to business.

The effect of changing references to **qualifying tender** means that in certain instances where trustees were previously planning to run a qualifying tender with two firms who were

[43] Calculation: £34,000*8=£272,000. Figures have been uprated in line with the CPI figure for September each year. £272,000 * 1.017 (2019) * 1.005 (2020) = £278,000 rounded to the nearest 1000.

[44] Calculation: £35,000*8=£280,000. Figures have been uprated in line with the CPI figure for September each year. £280,000 * 1.017 (2019) * 1.005 (2020) = £286,000 rounded to the nearest 1000.

not an interconnected body corporate but were a group undertaking, these would under our regulations count as only one firm, requiring the trustees to make endeavours to obtain an additional bid from a fiduciary management provider. We assume trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender. They would not need to use reasonable endeavours to secure a tender from a fourth firm. This change would simply require them to use different criteria in identifying firms to approach before they make reasonable endeavours to encourage them to do so and to evaluate the tender received. Therefore, we could assume no additional costs to business of a change to the scope of this measure.

We are not replicating the use of ‘joint venture’ to determine whether organisations are connected (and therefore outside of remedies 1 and 7). We do not believe that any schemes will be affected by this change because the draft order on which the CMA consulted did not mention joint ventures and it was not raised in any of the responses made by stakeholders.

<u>One-off cost to tender fiduciary management (FM) services commissioned between 11 June and 09 December 2019</u>

The FM services tendering requirements in Part 3 of the CMA’s Order came into force on 10 December 2019. The CMA Order requires that, from 10 December 2019, trustees should carry out a competitive tender before awarding a fiduciary management mandate, or making changes to such a mandate, which will mean that 20% (or more) of the schemes relevant assets are delegated to persons providing FM services (other than excepted persons). ‘Relevant assets’ are any of the schemes assets which are not being managed by an excepted person. In some cases, the trustees will also have to carry out a competitive tender process in respect of arrangements entered into before the threshold is met or exceeded.

In respect of delegations made before 11 June 2019 (to persons other than excepted persons), without a competitive tender, and which cover 20% (or more) of the relevant assets of the scheme, the CMA Order requires trustees to have completed a competitive tender process within 5 years from the earliest of those delegations. Where the 5-year period expired on 10 June 2019 (or will expire by 10 June 2021), the CMA Order requires trustees to have completed a competitive tender process by 10 June 2021. Our Regulations place an obligation on trustees to have completed an equivalent tender by the end of 1st October 2022. Trustees who complied with the requirement in the CMA Order before our Regulations came into force are not required to re-tender the relevant arrangements.

We will require schemes which delegated 20% (or more) of the scheme’s relevant assets without a competitive tender process in the period from 11 June 2019 to 09 December 2019 to tender for the FM services provided by the relevant providers within a 5-year period of the earliest delegation (unless the schemes fall below the 20% threshold and do not come back up to or above it in that period). This means these schemes will bear the cost of tendering for FM services provided by those existing providers on one occasion within that period.

We estimate 19 tenders have been carried out between 11 June and 09 December which are now in scope of these regulations.

- According to ISIO, there were 946 delegations in 2019 and 1015 delegations in 2020[45] indicating a flow of 69 delegations per 12 months or 35 delegations per 6 months.
- In 2018, 85% of schemes delegated more than 29% of assets.[46] In the absence of any other data, we have used the proportion of schemes delegating more than 29% of assets as a proxy for the proportion of schemes delegating 20% of assets.[47]
- Trustees who have already tendered are not affected by this change. In 2016, 34% of customers buying FM services carried out a formal tender so 66% were not tendered.[48]
- Therefore, we estimate this will result in 19 tenders.[49]

The CMA provided a sample[50] of data on costs for remedy one, gathered over the course of their investigation. Table 3 summarises the range of minimum, maximum and average one-off costs to trustees to tender for FM services, based on this sample of data. Firms provided a range for the cost of tendering for FM services, so this has been presented using the lower and upper bounds.

Table 3: Estimate of cost to trustees to tender for FM services

| **Range per firm** | **Lower bound** | **Upper bound** |
|---|---|---|
| Minimum across firms | **£5,000** | £50,000 |
| Maximum across firms | £40,000 | £65,000 |
| Average across firms | £21,667 | £55,000 |

Source: Responses to Competition and Markets Authority information requests

These cost estimates include the cost of a Third Party Evaluator (TPE), which schemes are not required to use so we assume costs will be lower than the estimates provided and have therefore taken the minimum cost provided of £5,000 per scheme to tender for FM services. The cost of tendering FM services should be lower than the estimates in table 3 because the use of TPE is optional. According to a KPMG Report, 61% of schemes reported using independent advice when selecting a fiduciary manager in 2019 and there is a ‘clear benefit of independent advice for schemes. However, the use of TPE is not a legislative

45 2020 ISIO UK Fiduciary Management Survey (pg. 3) Link
46 CMA, Investment Consultants Market Investigation, Final Report, Figure 27 Link
47 Analysis conducted in the CMA Final Report did not exclude ‘assets held by excepted persons’. Therefore, 85% of schemes delegate more than 29% of total assets. In the absence of additional evidence, we have used the above assumption as a proxy for the proportion of schemes who delegate more than 20% (or more) of assets (excluding excepted persons). Given the above, the estimated number of delegations that took place between 11 June and 09 December could be an over-estimate.
48 CMA, Investment Consultants Market Investigation, Final Report, Page 14 Link
49 35 * 85% * 66% = 19
50 Sample size is 3.

requirement and therefore the cost of using a TPE has not been assessed as a business burden. The sensitivities around this have been considered later in the impact assessment.

For the 19 tenders in scope the one-off cost is £97,000 split evenly from 01 October 2022 to 09 December 2024. Based on these regulations coming into force on 01 October 2022, the cost to schemes are £44,000 in year 1 (2022/23), £44,000 in year 2 (2023/24) and £8,000 in year 3 (2024)[51].

**Costs and Benefits to Other Affected Parties**

Benefits to schemes (in counterfactual)

On the benefits resulting from competitive tendering, evidence in the CMA report[52] indicates schemes that ran a formal tender paid significantly lower fees (on average) than those who did not. The baseline results indicate that the average scheme could save almost £600,000 over a ten-year period because of running a formal tender. The CMA's indication of the cumulative impact of such savings across pensions schemes, assuming there are 40 additional tenders a year as a result of remedy one, would be an annual saving in the range of £540,000 to £3.24m. They also state that the benefits are far wider than a potential reduction in fees and overall benefits for schemes will be much larger as this does not consider the wider benefits resulting from higher quality of service.

On the benefits resulting from setting objectives, according to the CMA this will drive greater engagement by trustees, helping them to monitor the quality of their investment consultant and increasing competitive pressure to ensure the investment consultant is offering a high quality of service[53]. It was not possible for the CMA to quantify all the potential benefits with precision[54].

These benefits will arise as a result of the CMA Order and are therefore already realised in the counterfactual of the preferred option.

Benefits to scheme members (in counterfactual)

According to the CMA, millions of pension scheme members and their dependents are affected by advice and decisions from investment consultants and fiduciary managers. The PPF (Pension Protection Fund) estimate there are just under 10 million people in private sector DB schemes and TPR estimate there are around 23 million members in DC schemes[55].

[51] Based on DWP regulations coming into force 01 October 2022. Total time elapsed from 01 October 2022 to 09 December 2024 = 26.3 Months. 01 October 2022 to 30 September 2023 (12 Months): (£97,000/26.3) * 12 = £44,000. 01 October 2023 to 30 September 2024 (12 Months): (£97,000/26.3) * 12 = £44,000. 01 October 2024 to 09 December 2024 (2.3 Months): (£97,000/26.3) * 2.3 = £8,000. Figures have been uprated in line with the CPI figure for September each year. £95,000 * 1.017 (2019) * 1.005 (2020) = £97,000 rounded to the nearest 1000. Timeframes have been considered in 'appraisal years' (e.g., 01 October 2022 to 30 September 2023) to be consistent with EANDCB guidance. Link
[52] CMA, Investment Consultants Market Investigation, Final Report Section 13.105-13.116 and Table 11 Link
[53] CMA, Investment Consultants Market Investigation, Final Report Section 13.101 Link
[54] CMA, Investment Consultants Market Investigation, Final Report Section 13.104 Link
[55] Pension Protection Fund, The Purple Book, December 2021 Link Figure 2.2.
The Pensions Regulator, DC trust: scheme return data 2021 to 2022 annex. Link Figure 2.1

These benefits will arise as a result of the CMA Order and are therefore already realised in the counterfactual of the preferred option.

Benefits to schemes (additional to counterfactual)

As a result of increased scope of our regulations compared to the CMA Order, an additional 8 pension schemes will now be required to set and monitor investment objectives. We expect the benefits to schemes to be in line with the CMA's expectations that this will help trustees to monitor the quality of service provided by their investment consultant. As it was not possible for the CMA to quantify the direct benefits resulting from setting strategic objectives, we have not quantified this benefit.

Costs to TPR

Table 4 sets out the estimated set up costs provided by TPR. Table 5 sets out the estimated costs provided by TPR for monitoring and enforcing compliance with remedies 1 and 7 using 2014 powers. TPR will be incorporating this work into business as usual and do not anticipate that this will have an impact on the Levy. These cost estimates are rounded up to the nearest £1,000.

Table 4: Estimated one-off costs to TPR in Year 1

| **One-off costs in year 1 (2022/23)** | **Estimated cost to TPR** |
|---|---:|
| Set up costs | £10,000 |

Source: The Pensions Regulator estimate, unpublished data

Table 5: Estimated ongoing costs to TPR

| **Ongoing Costs** | **Estimated cost to TPR (per year)** |
|---|---:|
| Monitoring and enforcement for remedies 1 and 7 using 2014 powers | £59,000 |

Source: The Pensions Regulator estimate, unpublished data

These cost estimates are based on the following assumptions:

- The costings are estimated on existing processes and do not include the potential costs of more complex cases that might arise.
- There is insufficient data to make robust assumptions on the number of schemes in scope for the two remedies and in turn the estimated number of cases which might arise. (TPR do not have a robust estimate for the number of breaches per annum).
- TPR will adopt a flexible risk appetite in response to volumes of non-compliance reporting.
- One-off costs are based on adopting existing processes and adding questions to the scheme return. These costs would be higher if new processes have to be established.

We have not quantified the cost to TPR of consulting on and producing guidance for trustees in support of the remedies because this is based on the CMA recommendation which TPR have accepted rather than being a requirement of the regulations.

As the relevant sector regulator, TPR expects to allocate resource towards enforcing DWP regulations through robust compliance monitoring. Hence, TPR costs are greater than the CMA savings.

<u>Benefits to CMA</u>

With regards to compliance, the CMA will no longer incur the costs associated with enforcing compliance against the CMA Order. The estimated annual cost of CMA compliance is £4,000, totalling £27,000 by the expiration of the CMA Order[56].

**Wider Economic and Societal Impacts**

The intended impact is better value for pension scheme members through better access to the information trustees need to assess value for money (fees, costs, quality etc.) DB sponsoring employers and DC members are less likely to pay higher prices for lower quality services for IC and FM than they otherwise would. In turn this can have a major impact on pension scheme outcomes through the IC/FM influence on the overall strategy, asset allocation and risk management. Any positive impact on scheme outcomes will accumulate and compound over time, especially given the length of many IC/FM appointments, and the time horizon over which pension scheme investment decisions are made.

Increased competition may lead to more switching in the IC market and challenge dominance of incumbent firms providing services, allowing smaller firms or specialist consultants to enter the market. This may in turn encourage schemes to be more adventurous around alternative investments which require specialist advice, such as infrastructure. The CMA took the view that this was a proportionate regulatory intervention to address the adverse effect on competition of the current market situation and that this remedy was intended to have a positive overall effect on competition.

**Key Assumptions and Sensitivity Analysis**

The following are key areas of sensitivity for the costs of the regulations and extension of scope compared to the CMA Order.

<u>1. One-off cost to trustees to familiarise themselves</u>

We assume it will take all trustees 114 minutes to familiarise themselves with the new requirements giving a total familiarisation cost of £1,220,000 in the first year only (2022/23). When allowing for sensitivity around this assumption of 50 per cent (i.e. 57 or 171 minutes), holding everything else constant the cost estimate decreases to £610,000[57] and increases to £1,829,000[58]. The remaining assumptions used in this calculation are based on the latest data from the Pension Protection Fund, The Pensions Regulator and the Office for National Statistics.

<u>2. Ongoing cost to trustees to source and compile the additional information required for TPR scheme return</u>

We assume it would take one administrator per scheme 20 minutes to source and compile the required names, addresses and dates giving a total ongoing cost of £39,000 in each year. When allowing for sensitivity around this assumption of 50 per cent (i.e. 10 or 30

[56] Annual cost of compliance = £4,000 (6 weeks required to enforce compliance on HEO Salary). (£33,000/52) * 6 = £4,000, Total years elapsed from DWP regulations to end of CMA Order = 7.17. Total cost to enforce compliance = £27,000 all figures rounded to nearest 1000.

[57] Calculation: (5,220*3.0)*(0.95*29) + (2,335*2.7)*(0.95*29) = £610,000 rounded to nearest 1000.

[58] Calculation: (5,220*3.0)*(2.85*29) + (2,335*2.7)*(2.85*29) = £1,829,000 to nearest 1000

minutes), holding everything else constant the cost estimate decreases to £20,000[59] and increases to £59,000[60]. The remaining assumptions used in this calculation are based on the latest data from the Pension Protection Fund, The Pensions Regulator and the Office for National Statistics.

3. One-off and ongoing cost to the additional 8 schemes in scope to set objectives and report against them

We assume there are 8 schemes in scope based on master trusts sponsored by IC/FM firms and other IC/FM providers that we are aware of. We assume the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample giving a total one-off cost in the first year of £278,000 and an ongoing cost per year of £286,000[61].

When allowing for sensitivity around the volume assumptions of 50 per cent (i.e. 4 and 12 schemes in scope), holding everything else constant it has the following impact on the cost estimates:

- One-off cost decreases to £139,000 and increases to £417,000;
- Ongoing cost per year decreases to £143,000 and increases to £429,000[62].

When allowing for sensitivity around the cost assumptions based on the CMA evidence, the minimum one-off and ongoing costs would be £0, and the maximum one-off and ongoing costs would be in excess of £800,000. Using the average excluding zeros (i.e. if the 8 schemes impacted all incur a cost), holding everything else constant it has the following impact on the cost estimates:

- One-off cost increases to £445,000;
- Ongoing cost per year increases to £458,000[63].

4. Ongoing cost to trustees from change in scope (as a result of the difference between interconnected body corporate and group undertaking)

We do not know precisely how many organisations will be impacted by this policy change.

- We have assumed that the CMA captured all schemes which now fall into scope of an FM service in the counterfactual and therefore that no additional trustees are required to run a qualifying tender and there is no additional cost to business.
- We have assumed that, based on our regulations, trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender and therefore that no additional trustees are required to make endeavours to obtain an additional bid from an FM provider and there is no additional cost to business.

[59] Calculation: (5,220*0.17*16) + (2,335*0.17*16) = £20,000 to nearest 1000
[60] Calculation: (5,220*0.5*16) + (2,335*0.5*16) = £59,000 to nearest 1000.
[61] Figures have been uprated in line with the CPI figures for September each year. (1) £272,000* 1.017 (2019) * 1.005 (2020) = £278,000 (2) £280,000* 1.017 (2019) * 1.005 (2020) = £286,000 rounded to nearest 1000.
[62] Figures have been uprated in line with the CPI figures for September each year. (4 Schemes One-Off) £136,000* 1.017 (2019) * 1.005 (2020) = £139,000. (4 Scheme Ongoing) £140,000* 1.017 (2019) * 1.005 (2020) = £143,000. (12 Scheme One-Off) £408,000 * 1.017 (2019) * 1.005 (2020) = £417,000 (12 Scheme Ongoing) £420,000 * 1.017 (2019) * 1.005 (2020) = £429,000.
[63] Figures have been uprated in line with the CPI figures for September each year. (1) £435,200* 1.017 (2019) * 1.005 (2020) = £445,000. (2) £448,000 * 1.017 (2019) * 1.005 (2020) = £458,000.

5. One-off cost to tender 19 fiduciary management (FM) delegations commissioned between 11 June and 09 December 2019

We have estimated there are 19 tenders in scope based on the evidence from the ISIO Survey and CMA Report and that the cost to tender for FM services will not include the cost of a TPE, giving a one-off cost of £97,000 which is split evenly from 01 October 2022 to 09 December 2024[64].

When allowing for sensitivity around the volume assumptions of 50 per cent (i.e. 10 and 29 delegations in scope), holding everything else constant, the one-off cost decreases to £51,000[65] and increases to £148,000[66].

When allowing for sensitivity around the cost assumptions based on the CMA evidence, the average one-off cost would be £22,000[67] and the maximum one-off cost would be £66,000[68]. Holding everything else constant the one-off cost increases to £421,000[69] and £1,262,000[70] respectively.

6. Ongoing CMA savings to not enforce Order once DWP regulations have been set (until the expiration of the CMA Order)

We assume the CMA compliance process takes 6 weeks to enforce resulting in an annual saving of £4,000 per year. When allowing for sensitivity around the time assumptions of 50 per cent (i.e. 3 and 9 weeks), holding everything else constant, the one-off saving decreases to £2,000[71] and increases to £6,000[72].

Once DWP regulations come into force the CMA confirmed they will no longer enforce the Order. DWP regulations are scheduled to come into force on 01 October 2022 and the CMA Order will conclude on 10 December 2029. The period between the start of DWP regulations and the end of the CMA order is 7.17 years, resulting in a total saving of £27,000[73]. When allowing for sensitivity around the time assumptions of 50 per cent (i.e. 3 and 9 weeks), holding everything else constant, the total saving decreases to £14,000[74] and increases to £41,000[75].

7. One-off and ongoing costs to TPR

The cost estimates provided by TPR using 2014 powers, give a one-off cost of £10,000 in the first year and an ongoing cost of £59,000. When allowing for sensitivity around the one-

[64] Figure has been uprated in line with the CPI figures for September each year. £95,000 * 1.017 (2019) * 1.005 (2020) = £97,000 rounded to nearest 1000.
[65] Calculation: £5,000*10=£50,000. Figure has been uprated in line with the CPI figures for September each year. £50,000 * 1.017 (2019) * 1.005 (2020) = £51,000 rounded to nearest 1000.
[66] Calculation: £5,000*29=£145,000. Figure has been uprated in line with the CPI figures for September each year. £145,000 * 1.017 (2019) * 1.005 (2020) = £148,000 rounded to nearest 1000.
[67] Figure has been uprated in line with the CPI figure for September each year. £22,000 * 1.017 (2019) * 1.005 (2020) = £22,000 rounded to the nearest 1000.
[68] Figure has been uprated in line with the CPI figure for September each year. £65,000 * 1.017 (2019) * 1.005 (2020) = £66,000 rounded to the nearest 1000.
[69] Figure has been uprated in line with the CPI figure for September each year. £412,000 * 1.017 (2019) * 1.005 (2020) = £421,000 rounded to the nearest 1000.
[70] Figure has been uprated in line with the CPI figure for September each year. £1,235,000 * 1.017 (2019) * 1.005 (2020) = £1,262,000 rounded to the nearest 1000.
[71] (50/100) * 6 * (33,00/52) = £2,000 rounded to nearest 1000.
[72] (150/100) * 6 * (33,00/52) = £6,000 rounded to nearest 1000
[73] £4,000 * 7.17 = £27,000 all figures rounded to the nearest 1000.
[74] £2,000 * 7.17 = £14,000 rounded to nearest 1000.
[75] £6,000 * 7.17 = £41,000 rounded to nearest 1000.

off cost assumptions of 50 per cent, one-off costs decrease to £5,000 and increase to £15,000. TPR provided conservative and worst-case scenario estimates for the number of mandatory tendering breaches. This resulted in a lower-bound ongoing cost of £45,000 and an upper-bound ongoing cost of £73,000[76].

**Small and Micro Business Assessment**

*Scope of Regulations*

The proposed regulations will affect DB and DC pension schemes with 2+ members including hybrid schemes but excluding Executive Pension Schemes (EPSs) and Small Self-Administered Schemes (SSASs) The regulations will affect pension scheme trustees and sponsoring employers regardless of sector or size.

These small and micro pension schemes (EPSs and SSASs) have been deemed out of scope of the regulations as it would be disproportionate for it to apply to them. For these schemes, where the members are all trustees, or directors of a corporate trustee, it would be unreasonable to make trustees undertake the time and cost to tender or set objectives when they are already directly incentivised to do so to improve their own outcomes.

Most small businesses do not administer their own pension schemes, but instead use an external provider to meet their duties.

*Findings from the CMA Report*

The CMA found that small schemes and DC schemes are less engaged in the IC market[77] and the supply of IC services to smaller pension schemes is particularly unconcentrated[78]. The CMA report defines ‘small’ schemes as those with assets below £100 million.

The CMA survey found that smaller schemes are less likely than larger schemes to purchase IC and FM services:

- 49% of smaller pension schemes use IC services compared to 94% of large schemes
- 18% of smaller pension schemes buy FM services compared to 26% of large schemes[79].

In their report[80], the CMA highlighted concern that the costs or time required for mandatory tendering may result in a scheme incurring costs which could represent a greater relative burden on smaller schemes. The CMA however concluded that the mandatory tendering remedy should have no minimum threshold for scheme size as this would reduce effectiveness (the problems are more prominent amongst smaller schemes so including a minimum threshold and exempting these schemes would mean these benefits would not be realised). This suggests small and micro schemes may be disproportionately impacted by these regulations as they may need to invest relatively more resources in meeting the new requirements. As the CMA have not excluded these small and micro schemes in their Order

[76] TPR costs have been calculated using internal data from 2021.
[77] CMA, Investment Consultants Market Investigation, Final Report Paragraph 32 Link
[78] CMA, Investment Consultants Market Investigation, Final Report Section 4.83 Link
[79] IFF Research Report on the CMA survey, Page 13 Link
[80] CMA, Investment Consultants Market Investigation, Final Report Section 12.46-12.50 Link

(with the exception of EPSs and SSASs) these schemes are already in scope in the counterfactual of the preferred option.

*Data on DB and DC Schemes by Size*

Table 6 shows that the majority of DB schemes have more than 100 members though there are a significant number of schemes with fewer than 100 members. Table 7 shows that the majority of DC schemes in scope have fewer than 100 members. These tables refer to scheme size and are not a direct measure of the number of employees in the underlying sponsoring employer. The vast majority of members are in schemes with more than 100 members[81].

Table 6: Number of DB schemes by scheme size[82]

| Number of Members | Number of Schemes (Purple Book-Estimated 2021 Universe) |
|---|---|
| 2-99 | 1,874 |
| 100-999 | 2,280 |
| 1,000-4,999 | 720 |
| 5,000-9,999 | 160 |
| 10,000+ | 186 |
| **Total** | **5,220** |

Source: Pension Protection Fund, The Purple Book, 2021

Table 7: Number of DC schemes by scheme size[83]

| Number of Members | Number of Schemes (includes hybrid schemes) |
|---|---|
| 2-11 | 965 |
| 12-99 | 660 |
| 100-999 | 360 |
| 1,000-4,999 | 210 |
| 5,000+ | 140 |
| **Total** | **2,335** |

Source: The Pensions Regulator Scheme Return 2021-22 and Micro Scheme estimate 2022

The costs to business fall to the trustees of DB and DC schemes so small and micro businesses that sponsor DB and DC schemes may be affected. Small and micro businesses would not be directly impacted by the change in regulation, but they may face indirect costs if small schemes face higher relative charges that are then passed onto sponsoring employers. However, assessing the impact of the proposed changes on this group is difficult, as small and micro pension schemes may not necessarily correspond to small and micro businesses[84]. As there is currently no robust evidence to link pension scheme size to employer size, it is disproportionate to accurately assess the impact on small and micro businesses.

[81] 99.9% of DC members in schemes with 12 or more members are in schemes with more than 100 members (DC trust: scheme return data 2021 to 2022 Link). 99% of DB members are in schemes with more than 100 members (TPR Annual DB Report Link).
[82] Pension Protection Fund, The Purple Book, December 2021 Link Figure 2.1
[83] 1,370 DC and Hybrid Schemes with 12+ members: The Pensions Regulator, DC trust: presentation of scheme return data 2021 – 2022 (March 2021) Link 965 DC Micro Schemes with 2-11 members: The Pensions Regulator estimate.
[84] For example, a large firm may sponsor a small scheme with only a few members. Similarly, many small and micro businesses participate in large multi-employer schemes or master trusts.

The Annual Survey of Hours and Earnings (ASHE) dataset provides information on the size of DB and DC sponsoring employers with active members. This will only include those who are contributing to a DB or DC pension so will exclude members who are in schemes closed for future accrual but it helps to provide an indication of the size of sponsoring employers.

Table 8 shows the proportion of Private sector and Not for Profit active DB members by employer size. The majority of active DB members work in businesses with 50 or more employees. 15% and 4% of active DB members work in Small and Micro businesses respectively[85].

Table 8: Proportion of DB sponsoring employers, by employer size[86]

| **Size of Employers** | **Proportion of DB members[87]** |
|---|---|
| 0 | 0% |
| 1-9 | 4% |
| 10-49 | 15% |
| 50-99 | 6% |
| 100-499 | 17% |
| 500-999 | 8% |
| 1000+ | 50% |
| **All sizes** | **100%** |

Source: ONS Annual survey of Hours and Earnings, Great Britain, 2020

Table 9 shows the proportion of Private sector and Not for Profit active DC members by employer size. The majority of active DC members work in businesses with 50 or more employees. 19% and 12% of active DC members work in Small and Micro businesses respectively.

Table 9: Proportion of DC sponsoring employers, by employer size[88]

| **Size of Employers** | **Proportion of DC members[89]** |
|---|---|
| 0 | 0% |
| 1-9 | 12% |
| 10-49 | 19% |
| 50-99 | 7% |
| 100-499 | 12% |
| 500-999 | 5% |
| 1000+ | 44% |
| **All sizes** | **100%** |

Source: ONS Annual survey of Hours and Earnings, Great Britain, 2020

If small and micro businesses use smaller sized pension schemes (rather than participating in a multi-employer scheme) then they may encounter a higher cost because of the regulation relative to their overall cost, but they will benefit from the introduction of the requirements. However, small and micro businesses are not the same as small and micro pension schemes.

85 A micro business has 1-9 employees. A small business has 10-49 employees. Link
86 DWP estimates derived from ONS Annual Survey of Hours and Earnings (GB)
87 Figures are rounded to the nearest 1%
88 DWP estimates derived from ONS Annual Survey of Hours and Earnings (GB)
89 Figures are rounded to the nearest 1%

Small and micro businesses make up more than 50% of active NEST membership[90]. As many small and micro businesses use large pension schemes, we anticipate no disproportionate impact.

**Monitoring and Evaluation**

A Post-Implementation Review (PIR) has been added to the Statutory Instrument (SI). DWP has committed to a review of the regulations and a report will be published by 31st December 2028. The report will assess to what extent the policy objectives have been achieved and if the regulations are still appropriate. If the regulations are still deemed appropriate, additional reports will be published in intervals not exceeding five years.

[90] NEST MEMEMP Database, NEST members with active status by size of current employer, 31 December 2021.

## Summary of Total Costs[91]

Table 10: One-off familiarisation cost to trustees and ongoing cost to trustees (to source and compile the additional information required for TPR scheme return)

| Type Of Cost | Scheme Volumes | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| One-off | DB: 5,220<br>DC: 2,335 | £1,220,000 | Year 1 (2022/23) | We assume it will take all trustees 114 minutes to familiarise themselves with the new requirements, based on the length of regulations.<br>We assume schemes will already be complying with the CMA Order and therefore, the familiarisation process will be simple. |
| Ongoing | | £39,000 | Yearly | We assume it would take one administrator per scheme an additional 20 minutes to source and compile the required names, addresses and dates, based on trustees already knowing this information to report compliance to the CMA. |
| **Total Cost** | £1,220,000 in Year 1 (2022/23) and £39,000 per year | | | |

Table 11: One-off and ongoing cost to additional 8 schemes to set objectives and report against them from extension of scope (to include schemes where the principal or controlling employer of a scheme is themselves a provider of FM services and Master Trusts for which an IC-FM firm is the scheme strategist or scheme funder)

| Type Of Cost | Scheme Volumes | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| One-off | 8 | £278,000 | Year 1 (2022/23) | We assume there are 8 schemes in scope based on master trusts sponsored by IC/FM firms and other IC/FM providers that we are aware of.<br>We assume the 8 pension schemes affected by this measure are equally as likely to have already set objectives as the schemes in the CMA sample. |
| Ongoing | | £286,000 | Yearly | |
| **Total Cost** | £278,000 in Year 1 (2022/23) and £286,000 per year | | | |

[91] All costs are rounded to the nearest 1000.

Table 12: One-off cost to tender 19 fiduciary management (FM) delegations commissioned between 11 June and 09 December 2019

| Type Of Cost | Delegation Volume | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| One-off | 19 | £97,000 | We assume the cost of tendering is split evenly from 01 October 2022 to 09 December 2024. | We estimate 19 delegations made between 11 June and 09 December 2019 will be required to tender. We assume the cost will be the lowest estimate provided to the CMA information request because these costs include a Third Party Evaluator (TPE) which schemes will not be required to use. |
| **Total Cost** | £97,000 split evenly from 01 October 2022 to 09 December 2024. | | | |

Table 13: Ongoing CMA savings to not enforce Order once DWP regulations have been set

| Type Of Cost | Scheme Volumes | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| Ongoing (until CMA Order has concluded) | N/A | £4,000 | Yearly | The CMA have confirmed it will take one administrator (HEO) 6 weeks per year to enforce compliance of the CMA Order. We estimate the cost of enforcement to be £4,000 per year for as long as the CMA Order is in place, totalling £27,000 by 2029/30. |
| **Total Cost** | £4,000 each year for the remaining time the CMA Order is in place, totalling £27,000 by 2029/30. | | | |

Table 14: Ongoing cost to trustees from change in scope (as a result of the difference between interconnected body corporate and group undertaking)

| Type Of Cost | Scheme Volumes | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| One-off | 0 | £0 | Year 1 (2022/23) | We assume that the CMA captured all schemes which now fall into scope of an FM service in the counterfactual. We assume that trustees would know to avoid more than one approach to firms which formed a group undertaking and would instead seek a different tender, based on our regulations. |
| Ongoing | | £0 | Yearly | |
| **Total Cost** | £0 in Year 1 (2022/23) and £0 per year | | | |

Table 15: One-off and ongoing cost to TPR

| Type Of Cost | Scheme Volumes | Cost | Frequency | Assumptions and Rationale |
|---|---|---|---|---|
| One-off | N/A* | £10,000 | Year 1 (2022/23) | The costings are estimated on existing processes and do not include the potential costs of more complex cases that might arise. There is insufficient data to make robust assumptions on the number of schemes in scope for the two remedies and in turn the estimated number of cases which might arise. (TPR do not have a robust estimate for the number of breaches per annum). TPR will adopt a flexible risk appetite in response to volumes of non-compliance reporting. One-off costs are based on adopting existing processes and adding questions to the scheme return. These costs would be higher if new processes have to be established. |
| Ongoing | | £59,000 using 2014 powers | Yearly | |
| **Total Cost** | £69,000 in (Year 1) 2022/23 and £59,000 per year using 2014 powers | | | |