Association of Consulting Actuaries Limited · First Floor (129) · 40 Gracechurch Street · London · EC3V 0BT
Tel: +44 (0)20 3102 6761 · Email: acahelp@aca.org.uk · Web: www.aca.org.uk

16 January 2025

Pensions Investment Review Team
Issued by email to quarryhouse.pensionsinvestmentreviewdcreforms@dwp.gov.uk

Dear All,

Pensions Investment Review: Unlocking the UK pensions market for growth Consultation Response

We welcome the opportunity to respond to this consultation, and our responses to the consultation questions are set out on the following pages. The ACA is content for our response, or extracts of our response, to be published.

Yours sincerely

Tess Page
Chair, DC Committee
On behalf of the Association of Consulting Actuaries Limited

Disclaimer

This document is intended to provide general information and guidance only. It does not constitute legal or business advice and should not be relied upon as such. Responding to or acting upon information or guidance in this document does not constitute or imply any client /advisor relationship between the Association of Consulting Actuaries and/or the Association of Consulting Actuaries Limited and any party, nor does the Association accept any liability to any person or organisation relating to the use of such information or guidance.

Consultation questions

Chapter 2 – Achieving scale in the Defined Contribution market

1. **Do you think that providers should be restricted to a limited number of default funds, and if not why? Please consider any equality considerations, conditions and to what extent saver choice could be impacted.**

While we support the desire for consolidation of default options, particularly legacy arrangements which may offer poorer value, we believe a formal limit on numbers goes too far the other way. Key points to support this view are:

Equality impacts

- Limit on defaults would restrict ability to tailor default arrangements for member needs (noting that not all groups of members / sets of employees have the same needs) – e.g. some earnings groups may have a lower tolerance for risk than others, and retirement patterns / needs for security vs flexibility in retirement vary.
- Provision of Shariah default funds would not be possible
- Provision, competition and choice for lower earners and smaller employers could be negatively impacted. This is because governance bodies may consider that their lower earning population may need a lower risk default strategy to reduce risk of loss of already small pots. Smaller employers are more likely to be affected here.

Scale to support efficiencies and private market investment can be achieved in other ways (for example, group structures and pooling of underlying assets offer the scale objective seems to be seeking to achieve). Indeed, private markets investment could be curtailed if the surviving defaults are at the lower cost end of the spectrum due to commercial pressures. Creating a new default typically enables a quicker move into private markets as it allows for governance bodies / employers to opt for a strategy with higher charges, which are necessary due to the higher cost of managing private market investments.

Other proposed measures and the separate new VFM framework would contribute to achieving a reduction in default funds (particularly in contract-based arrangements and own trusts) in practice without this being “forced” with the risks that a disorderly closure of defaults would bring.

Member outcomes could be negatively affected if multiple “end goal” defaults targeting different retirement benefits (annuity, drawdown, cash) are not permitted (or become harder to maintain) – for example, the asset allocation underlying an annuity-targeted default is very different to a drawdown or cash targeted default.

2. **The proposed approach at default fund level could mean that the number of default arrangements would remain unchanged. Will imposing the requirement at this level have any impacts on the diversity of investments or the pricing offered to employers?**

The proposed approach (to require a minimum size of AUM) at default fund level is likely to create significant disruption in the market, curtail investment in private markets (as outlined in Q1), reduce innovation and add to regulatory and delivery cost and complexity (which may ultimately fall back on members).

We do not believe that the requirement to have a specified minimum AUM in a single default fund, in and of itself, will drive a more diversified investment strategy, because while scale can support private market investment, this scale need not be at the level of default fund or arrangement level to have this effect. Pooling is already happening, beyond single default level activity. The assets within the schemes / products managed by a provider or investment manager are often invested in the same underlying investments. Therefore, access to diverse investments is determined by the scale of assets held across the default funds and other funds – not just at the individual default fund level.

Scale at the level of the provider, or the level of quais pooling– combined with the ability to transfer members without consent - achieves the same effect for far less regulatory cost and complexity.

Many own trusts for example operate high quality, good value default strategies, that by using pooled funds allow access to a diversified range of investments, increasingly including private markets.

3. **What do you think is the appropriate minimum size of AUM at default fund level within MTs/GPPs for these schemes to achieve better outcomes for members and maximise investment opportunities in productive assets?**

As above, we do not believe that setting a minimum AUM at default fund level is appropriate, due to the risks and consequences we outline elsewhere in our response.

4. **Are any other flexibilities or conditions needed regarding the minimum size of AUM (for example, should it be disapplied in circumstances at regulators discretion for example to enable an innovator to provide competitive challenge in the market or be disapplied in case of a market shock or another specified circumstance)?**

If the proposal to apply a minimum AUM requirement moves forward, then flexibilities will be essential to avoid disorderly market dynamics.

Regarding the specific reference to 'innovators', the basis for approval to operate could be un-equal versus existing operators looking to make innovative developments over time – therefore the basis for this type of exception must be transparent and open to all. This discretion would be a significant power for regulators and must be subject to public scrutiny. One route for 'innovators' would be for the provider to be required to articulate a clear roadmap for growth to reach scale, with interim targets and milestones that would need to be reported.

Providers and / or defaults deemed too small to operate but not able to transfer immediately (or potentially for a prolonged period) due to broader business activity may also need flexibility applied in the form of extended timelines. For example, entities going through M&A – we comment further on M&A aspects later in this response. Clearly this should not be endless, but forced transfers should be avoided.

A significant investment market downturn, triggering a decline in AUM, could be another circumstance. A provider or default operating at the margins of the £AUM limit could be pushed out of operating (even simply due to more normal market movements, or the transfer of a big client to another arrangement, including for strategic reasons rather than VFM). These scenarios need to be identified in full and an approach for "real world" situations developed and tested, if a specific £AUM minimum requirement is progressed.

Operational exemptions / flexibilities will also be needed. For example, if the AUM minimum applies at default fund level, exemptions may also be needed for lifestyle/ de-risking pre-retirement funds, target date fund structures (where "new" funds are launched as time goes on, starting out with low AUM), Islamic finance funds, new fund launches etc.

5. Do you think there should be targets for (i) achieving a reduction in default fund numbers down to a single fund and, (ii) setting incremental minimum AUM?

Hard, fixed targets could be sub-optimal as the changes are likely to trigger / require M&A for some providers which takes time to do well. Specific target dates may put pressure on pricing for acquisitions and limit time for proper due diligence and regulatory approvals.

Even without M&A, if requirements apply at default fund level, time will be needed to plan significant investment transitions, communications to members and employers, administration resource, and legal aspects, all with the flexibility for market conditions.

A reasonable solution would be as outlined in consultation paragraph 47, detailed here for reference: "…we are considering putting in place a process for progress

reporting against predetermined criteria for these schemes to 'staircase up' their value and reduce the number of default funds they operate. This could involve an expectation pathway to meet the required minimum size of AUM or for schemes to set out their plan for how they can meet the requirements or consolidate. These plans would be monitored by the regulators who will also be able to support and provide guidance. To minimise additional requirements, we propose utilising existing reporting requirements where possible such as the business plan requirements for MTs."

6. **Are there any potential barriers/challenges that should be considered in reaching a minimum size of AUM at default fund level before a future date, such as 2030?**

Legislation and guidance will take time to finalise and be enacted (similar to dashboards and new VFM framework – multiple consultations needed across different parts of chain and regulators)

Market capacity needs to be considered – administration, investment teams, governance bodies, the Pensions Regulator and FCA resource, etc. This is at the same time as existing and substantial work in relation to pensions dashboards, the new VFM framework, exploration of private markets, decumulation requirements, and small pot consolidation, along with intense BAU requirements around climate change reporting, production of the Chair Statement and Implementation Statement, and other regulatory disclosures.

Our preference would be to prioritise the successful completion of the initiatives already in flight, along with Phase 2 of the Pensions Review.

7. **Given the above examples, what exclusions, if any, from a required minimum size of AUM at default fund level and/or the maximum number of default funds requirement should government consider?**

If going ahead, we suggest:

- CDC schemes should be exempt, to provide the opportunity for them to establish themselves in the UK.
- If the provider / scheme is serving a niche customer / market e.g. Shariah compliant, low earners, industry specific, TPT-esque.
- Decumulation product funds (for now)
- Bespoke employer defaults by employer if there is good reason for having a "non-standard" default, such as demonstrable member needs or benefit structures.

8. **With regards to the proposals in this chapter, we anticipate the need for mechanisms to encourage innovation and competition, and for safeguards to**

protect against systemic risk. Are there other key risks that we need to consider? How do we mitigate against them?

Key risks:

- Competition and impact on new business (AUM becoming a key differentiator rather than quality of proposition)
- Reduction in innovation
- Systemic risk - too big to fail
- Investment herding / concentration in small no of defaults
- Cost of change falls on members
- Loss of trust in the pension system (especially if any of the surviving defaults "go wrong").
- Impact on provider business and therefore wider economy.
- Could reduce no of own trusts consolidating to MT / GPP if trustees think "we will wait to see this out and then reassess in 2030".

In terms of mitigating actions, we support an overarching framework that would include:

(1) Requirement for greater regulatory oversight with fewer larger schemes, with criteria such as having an innovation plan (and showing progress against this)
(2) Acknowledge an appropriate timeframe for AUMs to attain a certain level, to avoid barriers to entry.
(3) Delivery actions suggested under question 10 below.

9. Under a minimum AUM model, competition in the market could be more restricted. Would additional exceptions be required to ensure innovation can continue to flourish?

No further comments beyond those above.

10. We would welcome views on what further interventions or regulatory changes might be necessary or beneficial to accelerate this process?

Measures that would help support wider aims of these proposals – **most impactful**:

- Increasing scale by increasing contributions (press on with Phase 2 of review)
- Incentives for private market and UK investment (including tax incentives, or removal of disincentive (stamp duty))

Needed for delivery :

- TPR and FCA capability and resourcing
- MT authorisation framework adjustments
- Review the requirements for consolidation of Master trusts which are onerous, and can place additional costs on members
- VFM framework to be finalised

- Guidance or regulation to support the proposals
- Engage with administrators on realistic resourcing / capacity

11. How would moving to a single price for the same default impact positively or negatively on employers, members and providers?

We welcome Government's recognition that there is too much focus on price, which comes from the buyer side (including the role of third-party assessors) as well as the seller side (using scale to push commercial pressure on others, including innovators). However, we do not agree that moving to a single price regime would address the objectives to change the mindset here.

It could have negative consequences for members and employers especially when combined with the other proposals in the consultation.

There are sensible reasons for differential pricing. The costs incurred by a scheme or provider often differ depending on the scale of the employer and the nature of their workforce. This is seen in other financial services such as retail banking. Without differential pricing, there will be winners and losers / cross subsidisation between different employers, potentially weakening employer support for pensions saving if they are disadvantaged.

Differential pricing is also a principle that Government applies. For example, the current structure of the General Levy means the per member charge is varied by inverse correlation in relation to the total number of members. It is also seen in the benefits system where couple rates of benefits are lower than the sum of two individual rates.

Factors that go into pricing include:

- Number of members
- Turnover of members (e.g. a retailer has a very different turnover rate vs a professional services firm)
- £ amount of contributions (impacted by salary levels).
- Specific services to be made available (e.g. some employers do elements of member comms in-house, benefit structures may vary)
- Fund line up (e.g. different weighting of sustainable investing, or access or restriction to a particular market or industry).
- Desire for engagement programmes (including on site member presentations)
- Level of reporting required / meetings
- Provision of retirement products.
- Regulatory expenses (e.g. TPR scrutiny of larger MTs >> additional governance costs)
- Level of General Levy also costs large scale schemes (by member) significantly more in total than for smaller schemes.

We do note that significant scale can start to lessen the direct influence of these factors.

Different schemes will deal with these differences in costs in different ways. This is because of the range of business models stemming from the UK history of pension evolution and innovation, the breadth of the market in terms of scale of employer and contribution amounts, and current and anticipated trajectories regarding any changes in these factors.

Negative impacts:

- **Differential pricing is likely to be essential for private market investment**. If schemes have to have a single default price, which is the market's focus, what incentive is there to increase investment costs through adding private markets?
- A single price point requirement at default fund level would require significant restructuring over a small period of time.
- Price changes unsettle members and damage trust – any price changes can't all be downwards!
- Will draw employer focus even further on price and likely see significant flux in the market based solely on price at a time when schemes are also seeking to introduce allocations to more expensive, less liquid, private market investment.

Chapter 3 – Contractual override without consent for contract-based arrangements

12. Under what circumstances should providers be able to transfer savers to a new arrangement without their consent?

Fundamentally, we are supportive of the contractual override, as a means to drive out legacy arrangements that aren't as delivering value and to minimise the growing tail of old default arrangements.

All comments rely on:

- Implementation of robust VFM framework being in place to test merits of transfers
- Clear guidelines on the circumstances when transfers are appropriate, agreed through consultation with the industry
- Adequate notice and information being required to give to members with the option for them to make an alternative choice in advance.
- Where an active employer is in place, employers should also be given adequate notice and time to take advice, select their own alternative provider / investment option, etc.

1. **Intra scheme / arrangement transfers -** Transfers from legacy default arrangements to newer auto-enrolment defaults within the same provider / scheme, or where a new investment option that is assessed as more suitable and in members' interests is identified. We strongly support a solution to the current position whereby contract-based schemes accrue multiple legacy defaults due to the barrier of individual member consent.

The ideal future situation is that a saver never finds that they have a DC pot/part of it in a "legacy arrangement". Those arrangements exist now for various reasons, including due to guarantees and protected terms, but the term "legacy" (and what it often means in practice - platforms that are not supported or updated, the inability to interact with an administrator other than by email/letter, and other outdated practices) needs to be phased out. Moving past service to join with future service also speaks to the drive to consolidate pots and the benefits that this brings with it.

2. **Inter scheme transfers on closure / wind-up –** For transfers between schemes / arrangements when one is closing either due to red VFM or other reason. Here will need a robust framework to avoid commercial conflicts of interest leading to providers and/or investment managers focusing on AUM rather than customer outcomes. Especially as it will then become a journey where how the employer is influenced/advised is key.

3. **Small pots** being moved to a default consolidator.

13. Do you think that an independent expert, such as an IGC, should be responsible for undertaking the assessment of whether a transfer is appropriate?

An IGC feels like the most suitable body, especially as they will be responsible for the VFM process. Guidance similar to 'Bulk transfers without consent: money purchase benefits without guarantees – Guidance for trustees' should be set out by the FCA, following consultation with industry so that IGCs are clear on their duties and responsibilities. The guidance will need to recognise the legal differences between IGC duties and Trustee fiduciary duties.

Despite their "independent" nature, it could be argued that IGCs still have by their very nature a bias to the provider's commercial success. We would like to see a requirement for IGCs to take independent advice on the suitability of the transfer by an external, independent, professional adviser.

14. What, if any, changes may be needed to the way an IGC's role, or their responsibilities/powers for them to assess and approve contractual overrides and bulk transfers?

Contractual overrides and bulk transfer decisions should be made solely in members best interests and not the provider's commercial needs to attain the asset thresholds / targets. With this in mind, consideration should be given to IGC members all being required to be independent rather than the majority, or for provider representatives to not have a vote on such matters.

Consideration also needs to be given to IGC members who may have conflicts of interest – for example by sitting on more than one IGC or Master Trust Board.

Clear guidelines and regulations will be required covering how IGCs should exercise their powers to avoid litigation, including any additional duties and accountabilities required to make their position comparable with trustees. FCA guidance will need to be comprehensive including when there is a duty to receive specialist independent advice.

The rationale for decisions will need to be clearly documented, including supporting evidence.

15. What, if any, role should the employer have in the transfer process?

If an active scheme for AE - employer should be given time and option to select the new arrangement in the first instance, including adequate time to review the market, take advice, and select an alternative (this should apply for active members who are in their employment; ex-employees with paid up polices can be dealt with by the IGC). A defined time period would however be useful to avoid this being put on the back burner by the employer and causing issues for an IGC or the provider. We believe 6 to 9 months to review and select a new arrangement is reasonable.

In the case of bespoke default funds, this would already suggest a high level of engagement from the employer in the design of default fund and its ongoing review. Therefore, it would again seem appropriate in this instance that the employer is firstly given the opportunity to select an alternative arrangement.

For legacy schemes where there is no employer involved, then these individual policies should be dealt with collectively by the IGC.

Employers can have a helpful role in the communications process, in terms of amplifying communications from the provider and aligning HR / people functions to help support themes for engagement.

We do not believe that the employer have a direct role in the physical transfer of assets between default funds and all the associated operational decisions (e.g. Go, No-Go decisions in light of market volatility, asset transition plans, etc) as this would imply a level of decision making that falls into professional advice and services.

16. For active schemes, would a transfer require a new contract between the employer and provider?

For contract-based schemes the contract is with the employee rather than the employer. However, depending on the requirements of the receiving provider (which may change if the number of default funds available is limited) it may be necessary for new documentation to be signed to set up a Qualifying Workplace Pension Scheme and in relation to AE duties.

17. What procedural safeguards would be needed to ensure that a new pension arrangement is suitable and in the best interests of members? What other parties should be involved and/or responsible for deciding the new arrangement?

- A robust VFM Framework with published data and agreed outcomes for a RAG status. Until we have this there will be grey areas and lack of clarity for decision making.
- Independent regulated advice should be required on suitability.
- Advice requirements should be aligned between IGCs and Master Trusts to ensure that there is no advantage or bias for either regime. The FCA and TPR should consult with the industry on the content to ensure that it is comprehensive enough whilst not being an impossible ask.

- Detailed guidance on areas that need to be included and considerations, similar to that available to trustees when undertaking a bulk transfer without consent, should be available to those entrusted with making this decision.

Special consideration should be given to benefits with guarantees or protections including Protected Pension Ages (PPAs), guaranteed annuity rates (GARs) and with profits. The consultation refers to the potential need for actuarial advice on the value of such benefits and whether the benefits offered by the receiving arrangement are broadly similar or better. We support this and feel IGCs would welcome this level of technical advice to support their decision making.

We also see a need for legal advice here, and for with profit funds likely investment advice. The preference would be to retain what we see in the trust based market so that the changes here do not unduly impact established practice.

18. Do you foresee any issues with regards to transferring savers from contract-based arrangements to either other contract-based arrangements or trust-based arrangements? If so, what issues?

The issue around savers with protections such as GARs, PPAs and with profits etc.is recognised within the consultation. Data quality needs to be good enough to capture this information, with a duty on providers for transparency.

Other issues include:

- Out of market risk – members may challenge when it was done, how long it took etc. if they experienced financial loss due to unit price variation.
- Who will cover transaction costs, including clarity on how such costs are calculated (many providers will state there is no cost as funds are single priced, but this misses underlying costs).
- Considerations for savers who are very close to retirement
- Tracing missing members, potentially a significant task for contract-based providers, especially if data is poor. How to deal with lost pots.
- Data protection issues if intra-provider transfers are taking place.
- Different tax relief regimes between contract-based and trust-based arrangements (Relief at Source v Net Pay)

19. What safeguards and measures should be put in place to ensure that consumers are protected?

See previous comments. In addition, the right of recourse is also important should FCA procedures not be implemented correctly. The framework for this must be considered carefully to avoid inhibiting providers from taking action for fear of “ambulance chasers” and the next mis-selling scandal and rectification costs associated with such exercises. The right should not be conferred to individuals on the basis “it wasn’t right for them” but rather that IGCs hadn’t fully complied with their duties or had made a decision that was not in the best interest of members collectively.

20. Are there any specific circumstances in which a transfer should not be allowed to take place, or savers should be able to opt out?

We believe timelines should be sufficient to give members notice so they have the opportunity to opt out of a transfer and select an alternative option. However, this should not be a deal-breaker if members cannot be traced – i.e. they shouldn't have to prove that all members received notice and the right to opt-out, but providers should undertake member tracing to facilitate communications and options to the best of their ability.

Protections – unless can be covered/matched in receiving scheme or the saver can be traced and has given permission.

Members who have actively selected to be in the default fund should also be given special consideration as the contractual override of an individual's explicit choice feels like possibly a step too far, especially if made recently (a 5-year window is applied in the trust world). It may be appropriate to consider when a decision was made, for example if pre-auto enrolment then it may not indicate a firm desire to be invested in that fund but rather a reflection of how investment choice worked at that time. This requires member records to clearly differentiate between "active default" and "default default" investors, which may not be possible in all cases.

21. What complications could arise if savers have the choice to opt-out of a transfer and remain in their current arrangement?

In simple terms, this could result in a long tail of very small arrangements with small numbers of savers invested.

Where possible, any opt-out should lead to an active alternative decision rather than a choice to remain in their current arrangement. The exception to this might be where members would lose any protections or valuable guarantees by virtue of moving to an alternative.

If a member opts out of the transfer from one default to another default, this should be deemed to be an active fund selection. So, whilst the fund continues to be a default arrangement, the member is no longer considered to be a "default investor".

If a member opts out of the transfer from one arrangement to another, they should be given a period to elect to transfer to an alternative individual scheme within a suitable (but not excessive timescale).

Where protected / guaranteed rights are involved and an alternative is not feasible, providers could be left with a default fund with very low membership, unable to close them unless they have the contractual power separately to do something. Therefore, the problem of numerous legacy pension arrangements isn't fully solved.

22. In what circumstances do you think that consumers/savers should have the right to compensation or an individual right of recourse enforceable in court?

As noted in Q19, here for completeness, we believe the right of recourse is important should FCA procedures not be implemented correctly. The framework for this must be considered carefully to avoid inhibiting providers from taking action for fear of "ambulance chasers" and the next mis-selling scandal and rectification costs associated with such exercises. The right should not be conferred to individuals on the basis "it wasn't right for them" but rather that IGCs hadn't fully complied with their duties or had made a decision that was not in the best interest of members collectively.

23. What safeguards from trust-based bulk transfers may be appropriate for contractual overrides, so that similar consumer protections apply?

Relevant provisions of Regulation 12 of the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 and the good practice requirements of 'Bulk transfers without consent: money purchase benefits without guarantees – Guidance for trustees' would seem appropriate, adapted to reflect that IGCs do not have the same duties as trustees and so elements of this may need to be tailored accordingly.

In the absence of fiduciary duties, a more prescribed level of detail and specific requirement for advice should be given.

24. Where the transfer is into a trust should the duties of the receiving scheme trustees be extended to ensure terms and conditions balance both the interests of incoming and current members?

We consider that fiduciary duty considerations under the trust would pick up key issues, without the complexity of requiring formal terms and conditions in the contract-based arena to be extended to Trustee duties.

25. How should the cost of the transfer be borne?

In the trust world where these transfers are more common, there is no set precedent as to whether members meet these costs directly or are reimbursed by the provider or indeed the scheme or employer in some instances.

Forcing providers to cover / reimburse the transaction costs could prove to be a barrier to consolidation of defaults. Therefore, accepting that transaction costs will be incurred by members seems the only realistic option. However, providers could be given a legal duty to ensure these costs are minimised as far as possible and are disclosed to members.

It would seem appropriate that any out of market risk, which could lead to potential loss for the member, should be borne by the receiving pension provider through 100% pre-funding. If moving to a default fund of significant scale in terms of AUM, this may be achievable.

All operational costs of the transfer should be met by the providers (and employer if they choose to play an active role and take separate advice).

26. What costs do you expect to be involved in a contractual override/bulk transfer and what factors may influence the level of costs?

- Transaction costs (including selling and buying costs, commissions and taxes).
- Out of market costs, resulting in potential loss for the saver, will also occur if not fully prefunded by the receiving provider.
- Advisory costs - investment suitability advice and legal advice.
- Communication - the costs of communicating to members and other parties such as employers, likely multiple times (warm up, reminders, post transfer, etc) and in multiple media (digital, paper, scheme website, etc).
- Admin and operational
- Platform development – tech builds may be required to facilitate consolidation / transfers.

27. What benefits may a member lose out on because of a bulk transfer? What benefits could they gain?

- Any guarantees / protections / underpins
- Out of market costs, if not refunded
- Future performance may be better or worse
- Gains relating to modernisation of the underlying platform / proposition – e.g. better funds, better governance of those funds, better administration and support, better digital experience.

28. What role should the FCA, and where appropriate TPR, have in contractual overrides and the bulk transfer process?

We strongly advocate harmonising regulatory regimes to ensure consistency.

We support the FCA having the power to mandate transfers in defined circumstances especially to avoid schemes moving straight to a backstop scheme. FCA need to manage this strategically as potentially a large number of schemes enter the market.

Chapter 4 – Costs versus Value: The role of employers and advisers

29. Do you think establishing a named executive with responsibility for retirement outcomes of staff could shift from the focus on cost and improve the quality of employer decision-making on pensions?

In principle yes, but there would need to be appropriate specification of the responsibilities, alongside training, resources, and support to enable such an individual to fulfil their responsibilities effectively. We have seen at times senior individuals given a (non statutory) role to “look after pensions” where they have no former knowledge of this area and duties are vague.

The resources may include access to relevant data, initial and ongoing training and professional development, and support from independent advisers to stay informed.

At the same time, we think that establishing this function should not be overly burdensome, particularly for smaller employers. A threshold based on employer size could be beneficial, as the relative cost of establishing this role may be higher for small employers.

30. What evidence is there that placing a duty on employers to consider value would result in better member outcomes? If such a duty was introduced, what form should it take? Should it apply to a certain size of employer only? How can we ensure it is easier for employers to make value for money comparisons?

We consider that employer engagement can contribute to improved member outcomes. Supportive employers are more likely to offer adequate benefits (and / or encourage employees to save adequately), and can play a helpful role in delivering engagement programmes.

Employers and advisers can also help providers to innovate an evolve their propositions, by sharing views from their employees and clients respectively, and challenging providers on certain design features.

At the same time, in our experience, many employers feel the need to prioritise cost minimisation in their decision-making processes, which can inadvertently lead to suboptimal outcomes for members. A duty to consider value could encourage a more holistic approach, prompting employers to evaluate not only costs but also the quality of services and long-term benefits provided by pension schemes.

Therefore, overall, we agree with the proposed duty requiring employers to consider the overall value of their pension arrangements during scheme selection and to conduct a review every 3-5 years. We believe that this could help to shift the focus from cost to value. We think, however, that material changes will be needed to really shift this mindset:

- The consultation does not explain specifically *how* employers would need to account for value in selecting a scheme for their employees. For example, an employer may assess overall value as part of the selection process and still make a decision based on cost alone and we therefore think that specific guidelines would need to ensure that “non cost” considerations factor sufficiently into the decision-making process.

- One option we tested in informal discussions with DWP was to prevent price being “seen” by employers within a selection exercise, at least within the first round of a process. While this may seem extreme, it is this sort of innovation in decision making that we consider will be necessary to make a difference.

While we would expect employers to make use of any league tables that emerge as a result of visibility of the new VFM framework, this should not be focused solely on price an backwards looking performance metrics (which may be the most “visible” information) – it is the forward looking aspect that is critical.

Introducing a duty to review schemes every 3-5 years may inadvertently create retention risks, as employers might feel pressured to switch providers frequently. This could lead to instability in the market and disrupt the continuity of member benefits. Clear guidance will need to be given as to the appropriate steps to be taken where a lack in comparative value has been identified.

At the same time, we think it is crucial to ensure that this duty is manageable and does not become overly burdensome, particularly for smaller employers. A threshold based on employer size could be beneficial, allowing smaller employers to be exempt.

31. What evidence is there that regulating the advice that some employers receive on pension selection will better enable them to consider overall value when selecting a scheme?

We believe that regulating the advice provided to employers could play a crucial role in ensuring that they are equipped to consider overall value in their pension scheme selection. Given that advisers typically possess a higher level of technical knowledge and understanding than their clients, they are in theory well-positioned to facilitate discussions that extend beyond mere cost and performance metrics. By steering conversations towards interpreting value and assessing provider capabilities, advisers can help employers make more informed choices that ultimately benefit their employees.

However, in our experience the extent and quality of advice received (and the aspects it focuses on) differs across the market, and we think that regulation or as a minimum guidance, would be helpful in establishing a common baseline. This could be achieved, for example, by publishing a clear set of guidelines that employers and advisers are required to follow, including factors that must be considered when selecting a pension scheme.

32. What evidence is there that regulating the advice that pension schemes receive on investment strategies would enable more productive asset allocation? What type of regulation would be effective?

Reputable advisers rely on their experience and research to formulate recommendations. Therefore, in our view, advisers will always seek to recommend investments that will create the greatest expected benefit for members, having taken into account the needs of members.

Because investment advisers generally work within FCA regulated firms, and have their own internal requirements for being able to give advice, while the advice itself may not constitute “regulated activity” it sits within a regime that is highly regulated and subject to professional standards.

We understand that the term “productive assets” refers to less liquid, private market assets. The availability of such investment options in the market is driven by the regulatory framework, asset managers and investment platforms. Advisers can only recommend products that are available in the market, as long as they are expected to address the long-term return requirements of pension savers.

Overall, we do not have evidence that regulating the advice that pension schemes receive on investments would enable more productive asset allocation. We also note that while there is evidence that illiquid assets have outperformance potential above listed assets by capturing the “illiquidity premium”, there is no guarantee that this will always be the case, or that the illiquidity premium will persist at a stable level in the future. We therefore think that advisers should be

encouraged to use their investment expertise to recommend investment in assets that will provide the best expected outcomes for members – regardless of the asset class – rather than pushed to recommend illiquid assets in every case.

Chapter 5 – Impacts and Evidence

As the focus of the ACA is actuarial and consulting advice, our member firms are not all "providers" and hence we do not comment on the section aimed at providers themselves

33. **How many AE workplace default arrangements and default funds do you have?**
34. **What is the total AUM you have across all these AE workplace default arrangements and default funds?**
35. **Do you have a small number (for example 3-5) of AE workplace default arrangements/funds that cover the majority of these assets and if so, how many of these are there?**
36. **Have you previously combined default funds or arrangements together within the same organisation?**
    If 'yes', do you have an estimate of the cost of this (overall or on a per pot basis)?
    If 'no', do you have an estimate of how much you think this might cost (overall or on a per pot basis)?

37. **Have you previously consolidated Single Employer Trust assets into a MT or GPP? If 'yes', did you experience any barriers in this process? If so, could you set out what these were, if and how they were overcome, and how long the process took?**

38. **Do you currently charge different price levels to different employers for the same default fund? If so, what is the average price charged to members compared to lowest decile charge and 90th decile charge?**

39. **Do you have experience of bulk transfer of pots within the same organisation? If 'yes', do you have an estimate of the cost of this (overall or on a per pot basis)?**

40. **For those who run both a MT and a GPP:Do you use the same defaults across the two offerings? What has been the comparative investment performance and average cost/charge between the two for young (30 years before retirement) and older savers (1 day before retirement)? Do you see a noticeable difference in the offer between your MT and GPP product?**
41. **What is the estimated cost to an employer of reviewing a pension scheme every 3 to 5 years?**
42. **What proportion of employers are estimated to use formal advisers when choosing, or switching, a pension scheme?**

About the Association of Consulting Actuaries (ACA)

Members of the ACA provide advice to thousands of pension schemes, including most of the country's largest schemes. Members of the Association are all qualified actuaries and all actuarial advice given is subject to the Actuaries' Code. Advice given to clients is independent and impartial. ACA members include the scheme actuaries to schemes covering the majority of members of private sector defined benefit pension schemes.

The ACA is the representative body for UK consulting actuaries, whilst the Institute and Faculty of Actuaries is the professional body.