



Impact Assessment (Final)

Title of measure		Clarification of the coverage of the administration charge definition
Lead Department/Agency		Department for Work and Pensions (DWP)
Planned coming into force /implementation date		Spring/Summer 2019
Origin (Domestic/EU/Regulator)		Domestic
Policy lead		David Farrar / Sinead Donnelly
Lead analyst		Tara Nicholson
Departmental Assessment		Self-certified
Total Net Present Social Value (over 10 year period): £0m	Equivalent Annual Net Direct Cost to Business (EANDCB) (over 10 year period): £0m	Business Impact Status: Non-Qualifying Regulatory Provision

Summary - Intervention and impacts

Policy background

The Government has committed to protect members of occupational pension schemes against high and unfair charges, especially members of defined contribution schemes and those who were automatically enrolled into occupational pension schemes.

To deliver this, DWP has made a series of regulations, introduced from April 2015 onwards to:

- implement a cap of 0.75% (or an equivalent combination charge) on charges in the default arrangements of schemes used for automatic enrolment;
- ban a range of other charges deemed inappropriate for an automatic enrolment environment;
- and require charges and other costs to be given to members and published. These regulations rely on a definition of “administration charge”, which is contained in Schedule 18 of the Pensions Act 2014. A similar definition, in Section 1 of the Welfare Reform and Pensions Act 1999 underpins equivalent provisions for stakeholder pension schemes.

A survey of pension charges, carried out in 2016 after the introduction of the cap, has shown that the default charge cap is protecting members from high charges in the way the Government intended. Charges in default arrangements of schemes used for automatic enrolment are now between 0.38% and 0.54% depending on the type of scheme¹.

Issue and rationale for intervention

Both DWP² and The Pensions Regulator (TPR)³ produced guidance for trustees to support the introduction of the cap, which covered its scope and application. Despite this and subsequent revisions to guidance, some uncertainty still persists over the full range of costs which are controlled by the cap. This uncertainty could result in inadvertent breaches of the member-protection measures introduced by Government. Such breaches would be detrimental to members as well as the trustees of the scheme, who could face punitive action by TPR. Since the non-legislative approach has not provided sufficient certainty, it is necessary for Government to provide clarity through legislation.

Proposed intervention

We are proposing to amend the definition of “administration charge” in Schedule 18 to the Pensions Act 2014 and Section 1 of the Welfare Rights and Pensions Act 1999. The changes will make clear the purpose to which the Government intends the “administration charge” to be put.

¹ Pension Charges Survey 2016 [Link](#)

² The charge cap: guidance for trustees and managers of occupational schemes [Link](#)

³ The Pensions Regulator, Using the adjustment measure [Link](#)

In line with the commencement date we will also amend the charge cap regulations⁴ to provide clarity that the costs solely associated with holding physical assets are not subject to the default fund charge cap.

Intended Effects

The changes are intended to help trustees avoid inadvertent breaches of these measures, by reassuring them and their advisers about the intended scope of the definition. This will also help reassure industry that the measures have the same broad scope stated during the passage of the 2014 Act.

It is important to highlight the proposed changes do not alter the existing policy requirements and do not create any new requirements - they only clarify the existing requirements.

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

Option 1: Do nothing

Not amending the legislation would not address confusion amongst some parts of industry over the actual scope of the administration charge definition and would perpetuate the risk of trustees falling into an unwitting breach of legislation. This will not benefit members or trustees and is not what the Government intended when it introduced these measures.

Therefore “do nothing” is not a viable option.

Option 2: Alternatives to regulations- Issue DWP statutory guidance or TPR regulator guidance

DWP and TPR have already provided guidance but this has not resolved the uncertainty that exists over the scope of the administration charge definition. In addition, such guidance cannot be used to overrule existing primary legislation which would still carry greater weight. It may in fact only create further uncertainty and result in calls from some parts of industry for greater legislative clarity.

Therefore “option 2” is not a viable option.

Option 3: Amend the legislative definition of “administration charge”

By amending the legislation to clarify the definition of “administration charge” we can address immediate uncertainty amongst some trustees and their advisers over the scope of our charges measures. This should negate the risk of inadvertent breaches of the charges measures to the benefit of both trustees and pension scheme members.

Therefore ‘option 3’ is the preferred option.

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

Our assessment is that there will be no impact on business because the measure is providing clarity on the existing policy intent. The associated secondary legislation will result in no net cost to businesses on this basis. The policy has been costed in previous legislation and thereby all impacts of the policy on business now sit within the counterfactual (more detail is in the Charges in Qualifying Pension Schemes Impact Assessment, published in 2014⁵), and so there will be no additional costs.

We expect that some schemes (and eventually their sponsoring businesses) will benefit from the clarification / reduced uncertainty from:

- reduced familiarisation costs, and
- reduced risk of misinterpreting the requirements and incurring any costs associated with misinterpretation.

The Department for Work and Pensions (DWP) will review this assessment at the secondary legislation stage, and, if required, will produce an updated impact assessment.

We assess it to have no impact on members or any other subgroups on the basis that the proposed measure is for maintaining the existing policy only.

Departmental Policy signoff (SCS): Fiona Walker Date: 22/11/2018

Economist signoff (senior analyst): Rhys Cockerell Date: 23/11/2018

⁴ SI 2017/774 The Occupational Pension Schemes (Charges and Governance) Regulations 2015

⁵ Charges in Qualifying Pension Schemes Impact Assessment 2014 [Link](#)

Better Regulation Unit signoff:

Prabha Mistry

Date: 26/11/2018