Written evidence from RPMI to the House of Commons Public Bill Committee on the Pension Schemes Bill [House of Lords] 2019-21

30th October 2020

Executive summary

- Our comments in this submission are confined to those around Clause 123: Scheme Funding (and the associated, Schedule 10). The 2018 Pensions White Paper promised "not to make fundamental changes to the existing system." However, without policy clarification on the face of this Bill we are concerned there is an unintended, but potentially existential threat, to defined benefit pension schemes that continue to allow new members to join ("OTN schemes").
- OTN schemes still perform a vital role in pension provision, often for lower and middle-income families who have few other savings. Therefore, they warrant careful attention.
- There are clear differences between open and closed schemes. An OTN scheme replaces leavers with new members, and does not have to sell assets to pay pensions. They may continue indefinitely. In contrast, closed schemes have a fixed end point in sight. Some of their assets need to be readily available to pay pensions, which means investing in assets whose value is more predictable, inevitably leading to lower asset returns.
- The Lords passed a clarificatory, cross party, amendment to Clause 123 to make provision for open schemes to be treated differently from closed schemes, given their unique characteristics. Unless made clear explicitly on the face of the Bill, there is a significant risk that The Pensions Regulator (TPR) will regulate investment strategies of OTN schemes in line with closed ones.
- It has been suggested that the amended Clause 123 is unnecessary as TPR's proposed 'bespoke' funding option in its draft Code of Practice (COP) for DB Schemes will cater for large, open schemes, whilst its 'fast track' option is more appropriate for smaller, closed schemes. However, due to specific provisions within the COP, it is clear that 'bespoke' is little more than a variant of 'fast track', and not a genuine alternative.
- It is entirely appropriate that elected politicians should look to provide a policy direction of travel to the regulator without dictating points of detail, which remain rightly the realm of regulations.
- **Regrettably, no official economic assessment has been produced in advance of the legislation passing to understand the impact of the COP. We have therefore conducted our research with a cohort of open schemes which estimates that TPR's proposals could increase liabilities by between £120bn and160bn.**
- Companies will be forced to move billions of pounds unnecessarily from productive investment in their businesses to their pension funds. This will reduce tax take, and damage the long-term health of the UK economy as a whole, just as the country recovers from COVID-19.
- Most, if not all, currently open schemes will become unaffordable, leading to the premature closure of otherwise healthy schemes, contrary to government policy. It will have a profoundly detrimental impact on over two million existing members of such schemes.
- We ask members of this Committee to retain the Lords Amendment to Clause 123. However, if that is not possible, in the spirit of consensus that has governed pensions policy for decades, we have proposed in this evidence a new compromise amendment (see page 9) that provides the crucial protection that open schemes need without being too restrictive on the regulator. We would hope that this could be agreed by all members of the Committee.

About RPMI

1. RPMI looks after all administration, investment and trustee services for the Railways Pension Scheme (RPS). The RPS, the fifth largest pension scheme in the country, provides Defined Benefit (DB) pensions for more than 150 companies operating within the railway industry, with assets of over £30 billion and total membership of around 350,000.

2. The RPS has over 100 distinct sections, with most sections operating on a shared cost basis, with contributing members paying 40% of the cost of benefit accrual and deficit contributions (if required) and employers paying the remaining 60% of this cost. 45 sections remain open to new entrants and, in 2019, there were over 8,000 new entrants admitted to DB membership in the RPS.

Introduction

3. RPMI welcomes the opportunity to provide written evidence to this House of Commons Public Bill Committee on the Pension Schemes Bill [House of Lords] 2019-21. This is an important Bill and there is much to support in terms of its provisions relating to the introduction of a pensions' dashboard, the new collective defined contribution schemes and commitments on climate change. However, we have confined our comments in this submission to those around Clause 123: Scheme Funding and the associated Schedule 10 as that is where our specific concerns lie.

4. The sections of the Bill that relate to the funding of DB schemes developed out of the 2018 White Paper, 'Protecting Defined Benefit Schemes'. It noted that "the government believes the system is working well for the majority of Defined Benefit schemes, trustees and sponsoring employers." In particular, the White Paper acknowledged that schemes which remain open to new members to join might reasonably adopt a long-term objective of "running on with sponsor support."

5. In the Ministerial Foreword to the White Paper, the Pensions Minister, Guy Opperman MP said: "For all schemes and businesses we are clarifying the rules and expectations, for example through a clearer, enforceable Defined Benefit Funding Code, but otherwise **not making fundamental changes to the existing system**" *(emphasis added).*

6. However, without further clarification this Bill could have a fundamental, potentially existential, impact on DB schemes, like the RPS, that remain open to new members to join. Far from allowing such schemes to continue to "run on with sponsor support", the proposed removal of the clause 123 safeguard amendment, could inadvertently see their premature and unnecessary closure resulting in significant detriment to the two million plus active members of DB schemes in the UK today.

The difference between open and closed DB schemes

7. It is important to understand the very clear differences between OTN schemes and closed schemes.

8. A typical OTN scheme is balanced, with new members replacing leavers. They do not mature, like a closed scheme, and will continue in stasis for the long term. Contributions from active members and investment income can be used to pay pensions, with some invested for the future,

so they do not need to sell assets. Therefore, they can invest in assets that attract higher returns, often with limited liquidity, keeping the schemes affordable.

9. Closed schemes, by contrast, have a fixed end point in sight. They are maturing as they have no new, younger members, joining to replace older leavers. Some of their assets need to be readily available to pay pensions, which means investing in lower risk assets, that ultimately deliver lower investment returns for members.

10. Many assume that DB schemes are already largely closed. However, 21% of private sector DB scheme members in the UK belong to OTN schemes (2.1 million members), with a further 52% in schemes closed to new entrants but open to future accrual (5.2 million members). Funded public sector schemes such as the LGPS are in addition to these numbers. As such, OTN schemes still perform a vital role in pension provision in the UK, often for lower and middle-income families who have few other savings, and therefore warrant careful attention.

Lords Amendment to Clause 123

11. The original version of clause 123, prior to amendment in the House of Lords, simply cross-referred to schedule 10. Schedule 10 required all schemes to have a long-term funding and investment strategy but did not distinguish between open and closed schemes.

12. In the Lords, Baroness Bowles of Berkhamsted, supported by former Conservative Transport Secretary, Lord Young of Cookham, and former Conservative Pensions Minister, Baroness Altman, tabled a clarificatory amendment (Appendix 1) that made explicit provision for OTN schemes to be treated differently to closed schemes given their unique characteristics.

13. The amendment was simply a safeguard to protect OTN schemes from any unintended consequences that might arise in the detail of secondary legislation. It passed with substantial cross party support by 263 votes to 227.

The need for a safeguard in primary legislation

14. The Pension Schemes Bill, and supporting regulations, set out new legal requirements to DB scheme funding. However, The Pension Regulator's (TPR) DB Funding Code of Practice will detail how it will enforce the regulations, and will carry great weight when trustees and employers decide how to fund their schemes going forward.

15. TPR has already consulted on draft changes to the Funding Code that it proposes would apply once the Bill is enacted. We set out in the following sections of this evidence concerns with the draft Code and how they will conflict with government policy unless a sufficient legislative steer is set out in the Bill. In summary:

   i. *Unless it is made clear explicitly on the face of the primary legislation, there is a significant risk that TPR will continue to maintain its position to regulate the funding and investment strategies of OTN schemes in line with closed schemes;*

   ii. *Absent a clear and legitimate expression of policy within the legislation, specifically allowing separate treatment for schemes that admit new entrants, TPR will likely regulate in such a* *way as to accelerate the closure of OTN schemes, contrary to government policy supported by all parties, not to do so.*

16. The amended Clause 123 of the Bill captures important key principles which it is appropriate to address in the Bill itself. This will set the appropriate framework for the development of the secondary legislation and will ensure that the regulations develop in line with policy. It will be for the regulations to ensure the right compliance with the legislative provisions.

17. It is entirely appropriate that elected politicians should look to provide a policy direction of travel to the regulator without dictating points of detail which remain rightly the realm of regulations. In fact, it should be considered helpful guidance to civil servants in drafting supporting regulations and to TPR in developing its own Funding Code, which might otherwise develop without due regard to open schemes.

18. TPR's own statutory objectives display a clear emphasis on accrued liabilities built up by existing members of schemes. Trustees of OTN schemes, on the other hand, take a more holistic view, taking into consideration the ability of members to continue to accrue new benefits, the interests of future members and helping to support inter-generational fairness.

19. Ultimately, the amended clause 123 is a safeguard. It simply clarifies government policy. This is particularly important as the outcome of TPR's draft code consultation will not be known until <u>after</u> this Bill receives Royal Assent. Without an amended clause 123, there is no guarantee that regulations and the Code will develop in line with policy.

<u>The interaction between Clause 123 and TPR's DB Funding Code of Practice</u>

20. Unfortunately, TPR's draft Funding Code is primarily designed for mature closed schemes with a heavy focus on investment de-risking. This is entirely appropriate for closed schemes, but is incompatible with OTN schemes running on with sponsor support in a number of areas:

    i. *It envisages treating all accrued benefits in open schemes as if they were closed. This would entail a more prudent investment strategy, a correspondingly lower discount rate and a much higher assessment of liabilities – creating immediate and significant deficits.*

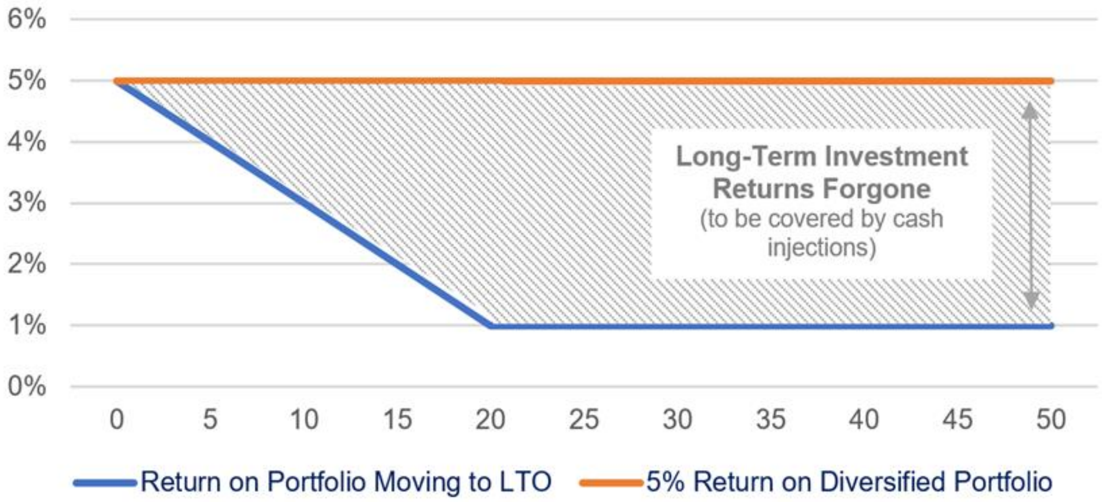
    ii. *Rather than recognising that a strong sponsor is the best protection for members, the new code seeks to limit covenant visibility to 3-5 years with similar impacts from a correspondingly more cautious funding strategy and reduced discount rate.*

    iii. *The draft Code strongly favours a flight path downwards towards a low dependency funding strategy (gilts +0.25% to +0.5%) referred to as a LongTerm Objective (LTO). Even if graduated over a long period, an actuary would have to reflect the impact today.*

    iv. *It suggests accruing for future pension benefits on a similarly more prudent basis that would potentially double contribution rates for some open schemes (even before assessing any Deficit Reduction Contributions arising from 1-3).*

21. Typical investment portfolios for OTN Schemes are balanced, with a mix of asset classes (equities, fixed interest, property, debt and infrastructure) to diversify risk and take advantage of the long investment time-frame, generating the higher returns available to patient capital. De-risking such balanced portfolios, even over a long period of time, will make it more difficult to invest

in illiquid asset classes and create a significant shortfall in future investment returns as seen in diagram 1 below.



22. Whilst much of what is proposed is eminently sensible for mature, closed schemes, it amounts to a fundamental dismantling of the scheme specific funding regime that works well today, as adjudged by the government's own White Paper. We believe that it will inevitably lead to expensive closure of existing OTN schemes whilst placing a huge burden on sponsoring employers, and in the case of shared cost schemes, like the RPS, ordinary members.

<u>When bespoke ≠ bespoke</u>

23. The draft Code proposes a twin-track approach to regulation: 'fast track' and 'bespoke.' The 'fast track' approach will be tightly constrained in line with TPR's own parameters. The 'bespoke' option is intended to be for those schemes that do not fit TPR's 'fast track' parameters, and is more tailored to each scheme.

24. It has been suggested that the amended clause 123 is unnecessary, as the proposed 'bespoke' option will cater for large, OTN schemes like the RPS, whilst 'fast track' is more appropriate for smaller and more mature, closed schemes. However, under closer inspection this argument falls apart because many of the detailed principles in the draft code mean that 'bespoke' is little more than 'fast track' under a different guise.

25. The general concept of a twin-track approach has merits, but not in the way the current consultation envisages. Bespoke should mean bespoke, recognising the specific circumstances of the scheme, as Scheme Specific Funding does, and not be simply a variant of fast track.

26. Due to the necessarily prudent margins within the fast track approach (to allow schemes to avoid detailed regulatory scrutiny), it automatically becomes inappropriate to use these parameters as the starting point against which to compare other schemes' approaches to scheme-specific funding.

27. It is important to recognise that this is not simply a view held by RPMI, but is expressed widely across the industry as the quotes in Appendix 2 from other respected institutions show. Without protection in the Bill, as set out in clause 123, the risk of inappropriate regulation of OTN schemes will remain.

The cost of not protecting OTN schemes

28. The current funding regime allows OTN schemes to invest in a way that reflects their particular characteristics. Under TPR's proposals, there would be significant additional (and unnecessary) costs imposed on OTN schemes as they would be forced into following the approach suited to closed schemes, that delivers lower returns to members.

29. TPR's draft code will not be subject to an impact assessment until late 2021. This seems a serious process deficiency as it leaves the industry debating principles without any knowledge of financial implications.

30. In the absence of a quantified impact assessment for the sector as a whole by a body such as the Government Actuary's Department, we have had to estimate ourselves the likely cost of TPR's proposals.

Economic impact on the UK

31. We have previously estimated the impact of the proposals on the Technical Provisions (liabilities) of the RPS alone to be in the region of £15-20bn.

32. We have now estimated the impact on the DB universe as a whole, compared against the base position from TPR's own data (see Appendix 3 for methodology) which includes some funded public sector schemes that may be affected by changes to the Code of Practice:

As at 31 March 2019 £bn	**Current Code of Practice**	**Proposed Code of Practice - Fast Track**
Assets	1,960	1,960
Technical Provisions	2,120	2,475
(Deficit)	**(160)**	**(515)**
Funding level	*92%*	*79%*

33. We estimate that TPR's proposals will increase Technical Provisions (liabilities) of all DB schemes by around £350bn, the equivalent of 16% of 2019 UK GDP. This represents more than a 3-fold increase to deficits and more than a 10% deterioration in funding levels.

Impact on open schemes

34. We expect that the brunt of this impact will be felt by schemes which are open to new entrants. The figures above consider the impact on accrued benefits only. In addition, for open schemes, the consultation proposals will also have a very substantial impact on future service costs. Without amendment, this could lead to costs becoming unaffordable for employers and members, and

scheme closures. This would be expected to have a severely detrimental impact on retirement incomes for members of these schemes.

35. In light of the potential impact on open schemes, a group of large, open schemes have formed the ‘Open To New Entrants Cohort’. These schemes represent an aggregate DB membership of 6 million people with assets of around £370bn.

36. These schemes have individually estimated the potential impact of TPR’s proposals on their own schemes. On an aggregate basis:

    i. **Technical Provisions are estimated to increase by £120bn – £160bn.**
    ii. **The ongoing cost of accrual is estimated to increase by £8bn – £11bn pa.**

37. <u>As the majority of these open DB schemes are public sector, or quasi-public sector, this cost may ultimately fall on taxpayers to pick up.</u>

38. It must be stressed that most of these schemes are at or near full funding at present. The impacts above are purely driven by enforced de-risking of long-term investment strategies to achieve a perceived improvement in security of member benefits sought by the regulator. However, we are firmly of the view that, given the scale of the impacts and the current economic environment, there would only be a marginal improvement at best and in some cases a worsening of member security due to the additional funding burden for OTN schemes that de-risking creates,

<u>Economic impact on employers and employees</u>

39. We estimate that investment returns account for 75% of pensions paid within the RPS, with contributions making up the remaining 25%. Any constraint to investing as we do currently will mean more needs to be funded through higher employer and member contributions, or future benefits will need to be reduced.

40. Even a very graduated approach to de-risking, from a balanced portfolio with a 5% p.a. return expectation to an ultimate portfolio with a return of gilts plus 0.5% p.a. (in line with TPR’s ‘fast track’ guidance) over a 40 year period, would result in significantly increased contributions and foregone investment returns. We estimate that the costs of building future benefits would more than double, before Deficit Repair Contributions were factored in.

41. As 40% of these costs are borne by members, in the RPS, contributions at these levels would mean most members would leave the scheme. All the burden of the deficit would then fall back on employers, who would need to auto-enrol employees into a new suitable arrangement.

42. The outcome of not providing specific protection for OTN schemes is that employers would be under pressure to increase their pension contributions significantly. To reduce this burden, they may close their schemes, which would otherwise be perfectly viable and affordable, resulting in negative outcomes for members, employers and, ultimately, taxpayers.

A proposed solution and way forward

43. The simple solution is to recognise and protect the different characteristics of OTN schemes in primary legislation, to ensure different treatment is not only permissible, but expected.

44. In discussions with the Department and the Minister, it became clear that there were some concerns surrounding the wording of the original amendment tabled by Baroness Bowles, which resulted in us proposing some changes to it (Appendix 4). However, this was not accepted.

45. As many speakers reflected at Second Reading of the Bill, pensions policy in the UK is typically carried out in a non-partisan, consensual way, reflecting the fact that pensions policy is likely to have an enduring impact over many decades.

46. In the spirit of that consensus, we would like to propose to members of this Committee, a new compromise amendment to the Bill that aims to strip down the Lords amendment to Clause 123 to its bare bones but still retains its intent on the face of the legislation, providing the crucial protection that OTN schemes need without being too restrictive on the regulator. We would hope that this could be agreed by all members of the Committee.

A new amendment

47. The new amendment would amend Schedule 10 to the Bill to capture the core aims of clause 123(1) but address concerns that have been raised.

48. On a technical point of drafting, the amendments sought are better situated in Schedule 10 to the Bill to take effect as an amendment to Part 3 of the Pensions Act 2004, rather than being part of the main body of the Bill.

49. The amendment would <u>not</u> apply to schemes at or near significant maturity – that is the effect of the definition of ‘relevant scheme'. Whilst regulations will provide an opportunity to determine the explicit provisions to be made, this should remove any scope for gaming the system.

50. The level of obligation placed on the Secretary of State by the amendment is less than that previously in clause 123(2) - instead of an obligation to achieve a specific result, this new amendment merely sets out the objectives that the Secretary of State should have in exercising his/her powers.

51. Substantively, the amendment now focusses on just two core objectives:

    i. Firstly, to support the ability of trustees to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme, consistent with the trustees' duty to invest assets in the best interest of members and beneficiaries. This is intended to protect schemes from any inappropriately risky or risk-averse requirements which would significantly adversely affect the affordability of schemes for employers and members.

    ii. Secondly, in recognition that schemes are usefully and beneficially open to new entrants and should be allowed to remain so, an objective to avoid requirements in funding and investment strategies that are likely to accelerate the closure of relevant schemes.

The new amendment we propose is:

Schedule 10, page 185, line 29, at end insert -

"221C Guiding Objectives

(1) In exercising any powers to make regulations or otherwise to prescribe any matter of principle under this Part, the objectives of the Secretary of State must include:-
   (a) supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries; and
   (b) avoiding the specification of requirements in relation to funding and investment strategies that are likely to accelerate the closure of relevant schemes.

(2) In subsection (1), "relevant scheme" means an occupational pension scheme that is not near significant maturity and is open to new members and is reasonably expected to remain so, either indefinitely or for a significant period of time."

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Appendix 1: Amendment to Clause 123 passed in the House of Lords by a cross party group of Peers

Pension Schemes Bill [HL]

Submitted on 2020-06-22 14:33:16

Clause 123

BARONESS BOWLES OF BERKHAMSTED

Page 118, line 4, at end insert—

"(2) In exercising any powers to make regulations, or otherwise to prescribe any matter or principle, under Part 3 of the Pensions Act 2004 (scheme funding) as amended by Schedule 10, the Secretary of State must ensure that—

(a) schemes that are expected to remain open to new members, either indefinitely or for a significant period of time, are treated differently from schemes that are not;

(b) scheme liquidity is balanced with scheme maturity;

(c) there is a correlation between appropriate investment risk and scheme maturity;

(d) employer affordability is maintained;

(e) member affordability is maintained;

(f) the closure of schemes that are expected to remain open to new members, either indefinitely or for a significant period of time, is not accelerated; and

(g) trustees retain sufficient discretion to be able to comply with their duty to act in the best interests of their beneficiaries."

Member's explanatory statement

The liquidity profile of an open and active scheme that is receiving regular, significant cash contributions is very different from a closed scheme. This amendment seeks to ensure that they are treated differently accordingly.

Appendix 2: Quotes from various respected organisations in response to TPR's draft DB Funding Code on its proposed 'bespoke' approach

PLSA – Pensions and Lifetime Savings Association

"There are concerns that the Bespoke route is not truly "bespoke", given that the assessment criteria asks that funding arrangements use the Fast Track approach"

"Many of the rules proposed by TPR are too prescriptive and could result in worse outcomes for savers. They may also lead to the unnecessary closure of some open defined benefit schemes, especially as the UK enters a more challenging economic environment." Tiffany Tsang, Senior Policy Lead: LGPS and DB, PLSA.

APL – Association of Pension Lawyers

"We are also concerned that the fast track process could be seen as "the standard" against which any bespoke proposal is to be assessed; we would strongly suggest that "bespoke" should mean "bespoke … and that every bespoke approach should be considered on its own merits by references to the given set of circumstances affecting the scheme and its employer."

ACA – Association of Consulting Actuaries

"It is important for the 'Fast Track' approach not to simply be seen as the 'default' option and that 'Bespoke' offers a genuine and viable alternative for pension schemes. Bespoke must remain as a genuinely scheme specific alternative."

IFoA – Institute and Faculty of Actuaries

"It is important to ensure that the new Code does not lead to the unwinding of sensible and innovative funding strategies which have been designed to be in members' best interests. Therefore, we strongly believe the 'Bespoke' framework should be genuinely bespoke, and should enable consideration of each case on its own merits … We are concerned that the 'Bespoke' examples provided relate to situations where a scheme is largely compliant with Fast Track, but with some limited and specific exceptions"

PMI – Pensions Management Institute

"There is limited detail on the Bespoke compliance route in the consultation documentation, but it would suggest for most schemes a more onerous process than is the case under today's regime. TPR may view this as proportionate to achieving its aims, although as noted in our Executive Summary to the consultation, the government concluded in its white paper 'Protecting Defined Benefit Pension Schemes' that the present framework is largely fit for purpose, which might call into question the need (or mandate) for such a comprehensive overhaul."

LCP – Lane, Clark and Peacock: a leading independent, owner managed pensions, investment and insurance consultancy

"We think bespoke should be flexible – not rigidly benchmarked against Fast Track … Our key concern is that TPR proposes to measure the acceptability of a Bespoke valuation using Fast Track as a rigid benchmark … Fast Track parameters are unlikely to result in the best overall outcomes in some scenarios, and so they should not be used as a rigid benchmark for a Bespoke solution."

“In our view, TPR’s interpretation of “the same level of security” is likely to mean that open schemes are effectively treated like immature closed schemes – in some cases leading to unnecessary de-risking and premature closure of otherwise viable schemes”

Susan McIlvogue, head of DB at consultancy Hymans Robertson

“This could force further DB closures by the back door, by pushing up future service contribution rates, and ultimately lead to the acceleration of the disparity between the security of accrued DB benefits and the level of pension provision for future service and future generations. It could force more stressed employers into insolvency at the expense of trying to secure DB benefits … Put simply, it could push up costs so high that DB pensions become a thing of the past.”

Matthew Percival, director of people and skills policy, CBI

“The regulator’s proposals risk moving back to one-size-fits-all regulation. Businesses and trustees need to be confident that the new code will allow them to make decisions that benefit savers and the long-term health of companies.”

Trade Union Congress - TUC

"It is not appropriate to use fast track as a benchmark when assessing schemes that opt for the bespoke route. Under a scheme-specific funding regime, these schemes should be able to start with a blank sheet of paper when designing a funding strategy. It needs to be stressed that investment risk is not a negative thing. It generates increased levels of long-term returns, and this is essential for delivering decent member outcomes. Making it harder for schemes to benefit from this risk will only worsen outcomes in the long term as more employers close schemes or reduce accrual rates in response to the rising costs of providing a DB pension."

Baroness Altmann, former Conservative Pensions Minister

“The current proposals by the regulator would impose potentially draconian costs on sponsors of DB pension schemes. If the government does not ensure sponsors of open schemes are able to benefit from better expected long-term investment returns available from a diversified range of asset classes, which may have higher volatility than fixed income, then these schemes will be forced to close, the funding of the DB promises will become ruinously expensive, and members will be at risk of not receiving their expected benefits.”

Appendix 3: Calculation methodology for the costs to UK DB schemes of following the proposed TPR funding approach

TPR publishes extensive data for the universe of DB pension schemes. Relevant publications include:

- The Purple Book, published annually by the PPF covering all scheme eligible for the PPF (5,436 schemes as at 31 March 2019);
- The Pensions Landscape, TPR's annual report on the DB schemes it regulates; and
- TPR's annual analysis of scheme funding, based on scheme returns and recovery plans submitted to TPR by pension schemes.

These publications and the consultation document include information which can be used to estimate the impact of TPR's proposals on the DB universe on an aggregate basis. This uses information such as assets, Technical Provisions, estimated buy-out liabilities, the average discount rates used within Technical Provisions and the average scheme duration. We have also made allowance for schemes which are not included within the dataset, but which are expected to be affected by changes to the Code of Practice.

The calculation methodology is consistent with that used to estimate the impact on the RPS. The consultation document provided worked examples based on illustrative Fast Track requirements. These include guidelines on the minimum ratio of Technical Provisions to Long Term Objective by covenant rating and maturity.

The calculations are based on a low-dependency Long Term Objective with a discount rate in the middle of the gilts+0.25% to gilts+0.5% pa range set out in TPR's consultation. The calculations also make allowance for the expectation that some schemes will choose to adopt a Long Term Objective of buy-out, or transfer to a consolidator, rather than low-dependency.

Appendix 4: Suggested ‘compromise’ amendment provided to the DWP on 6 October 2020

“2. Before section 222 insert—

221AA Guiding Principles

In exercising any powers to make regulations, or otherwise to prescribe any matter or principle, under this Part, the Secretary of State will follow these principles—

a) *schemes that, unless at or near significant maturity, are expected to remain open to new members, either indefinitely or for a significant period of time, should be treated differently from schemes that are not;*

b) *scheme liquidity and appropriate investment risk should be balanced with scheme maturity;*

c) *the closure of schemes that are expected to remain open to new members, either indefinitely or for a significant period of time, should not be accelerated;*

d) *trustees should retain sufficient discretion to be able to comply with their duty to act in the best interests of their beneficiaries; and*

e) *the affordability to employers and to members of contributions should be considered.”*