Institute and Faculty of Actuaries

The Pension Schemes Bill [HL]: Second Reading – 28 January 2020

Why do we needs a Pension Bill?

Since the introduction of the ‘Freedom and Choice’ agenda, individuals have more flexibility in how they use their pension in retirement. The new landscape presents challenges for individuals, as they now find themselves managing their own longevity and investment risk in later life; risks that would have previously been shouldered by pension providers and life insurance companies. The Government, regulators and the pensions industry are still assessing exactly how the individuals are adapting to the new-found freedoms, and what that it will mean for their later life finances. The Institute and Faculty of Actuaries (IFoA) therefore welcomes the introduction of the Pension Bill that rightly seeks to ease some of these challenges for savers.

In addition to supporting individuals to manage their income in retirement, one of the biggest challenges is to get people saving enough in the first instance. Despite the positive impact of automatic enrolment, IFoA research suggests that individuals do not know how much they should save towards their retirement and that they are concerned that they are heading towards a retirement that does not meet their expectations. According to an IFoA survey almost a third of respondents (31%) said that they do not how much they would need to save to have ‘a good pension pot’. 48% said that they are not confident that they are on track to save enough into their pension. The same survey found that one in five respondents thought that a £100,000 pot would be enough to fund their retirement. Based on current annuity rates this would only generate an income of £2,825 per annum. This is nowhere near enough to fund a decent standard of living in retirement for the majority of people.

Therefore we strongly support the introduction of Pensions Dashboards which will provide savers with a complete overview of their retirement finances. However, this needs to be coupled with other measures to help people ensure that they know how much they need to save for retirement.

Accumulating sufficient funds for retirement could also be helped by the introduction of Collective Defined Contribution (CDC) schemes as their scale means that they could generate better returns than Defined Contribution (DC) pension pot for individuals. CDC schemes will also help to strike a balance between the long-term liabilities that Defined Benefit (DB) schemes place on employers, and transferring all of the risk to an individual. However, the potential transfer of DB to CDC arrangements may offer a way for pension providers to renege on their promises to individuals.

The introduction of stronger powers for the Pensions Regulator should strike the right balance between enabling the regulator to effectively protect savers from reckless behaviour, without placing too heavy a burden on the trustees, especially where smaller schemes are concerned.

What are they key measures contained within the Bill?

Part 1: Collective Money Purchase Benefits (Collective Defined Contribution schemes)

The enablement of CDC should be seen as a positive development for UK pensions. UK pension provision currently involves a stark choice between DB and individual DC schemes. The enablement of CDC would represent a third option which could better suit many workers compared with standard DC provision if their employers are not willing to bear the long-term risks associated with DB and would prefer to contribute a fixed cost. Government support for and a robust enablement of CDC would therefore be in the UK public interest.

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In CDC schemes, savers pool their money into a single fund to share the risks of investing and longevity. Members should get more certainty in their retirement, with regular pay-outs from their scheme, and unlike traditional final salary pension schemes, those pay-outs are not affected if an employer goes under. In addition members are able to access this risk-sharing mechanism without the costs of purchasing an annuity under the insurance regime.

We welcome the fact that this new legislation will facilitate other types of CDC schemes beyond the scope of the initial legislation for Royal Mail, in particular that it does not definitively require contribution rates or accumulation rates to be flat for all members. We see this flexibility as a helpful start to the introduction of CDC.

There is the potential for millions of workers to benefit from greater retirement security via CDC vehicles, provided there is an acceptance that the level of pension is not guaranteed and may change or reduce where there are insufficient funds overall. Therefore appropriate member communications are critical to ensure members understand the nature of the vehicle in which they are investing. In particular, it is essential that members understand that there may be times when their pension increases may reduce or their pensions may be cut.

The Pensions Regulator will have an important role in authorising new CDC schemes and providing ongoing supervision. Therefore, the Pensions Regulator will need sufficient resources to apply appropriate scrutiny.

We do, however, have concerns about the potential transfer of DB schemes to CDC schemes as a way for pension providers to renege on their promises to individuals. The Government should consider how best it can mitigate this potential risk for savers.

Part 3: The Pensions Regulator

The IFoA welcomes the Bill's intention to extend TPR's powers, including: increasing its information gathering powers; introducing new civil penalties to deal with wrongdoing; and new criminal offences to punish wilful, reckless behaviour, and non-compliance with Contribution Notices. The aim of this policy is to deter occupational pension scheme sponsoring employers or scheme trustees from engaging in wrongdoing in relation to their pension scheme.

At present the regulations within the Bill:

- Extend the list of duties and requirements which attract a civil sanction.
- Introduce a new £1 million civil penalty to appropriately address more serious breaches.
- Introduce three new criminal offences for wilful or reckless behaviour in relation to a pension scheme and failure to comply with a Contribution Notice.

Whilst we are supportive of the underlying principles of the proposals, they are wide-ranging and there is a therefore a risk that they overlook the basic premise that the current regime already works well for most schemes as stated by the Government itself. Given the existing challenges for trustees in running schemes for the benefit of members, it is important not to over-burden them with new legislative and regulatory requirements intended to penalise the few who are reckless or irresponsible, particularly if the costs are high (at the expense of members) and focus is lost. This is particularly pertinent for smaller schemes and the subsequent pressure it may place on trustees, although we recognise that members of small schemes equally require protection.

We are however concerned about the potential impact of Clause 107 of the Bill, on criminal offences. The Government announced at the start of the year that it would be introducing pensions-related criminal offences aimed at the most extreme forms of misconduct. However the Bill operates at a much lower level: it potentially criminalises much more routine behaviour by parties involved with pension schemes. In addition, while most of the existing Regulator powers are targeted at employers and their associates, the new offences would apply to anyone involved with pension schemes, including trustees, banks that lend to employers, insurers and investment counterparties. The position for actuaries is not clear cut: an actuary exercising statutory functions, such as signing off a certificate or schedule of contributions, could be within scope. Beyond the actuarial profession this clause could additionally impact on other professionals including, lawyers, administrators and accountants.

We are keen to work with Parliamentarians to seek further clarity on clause 107 in future stages of the Bill, so that it reflects the policy intentions set out the 'Protecting Defined Benefit Schemes' white paper. Further, we are keen to impress upon the Government the impact that the current drafting of the Clause could have on a number of persons who may be unintentionally punished for carrying out their duties on behalf of scheme members.

Part 4: Pensions Dashboards

The increasing prevalence of DC pensions means individuals are having to take increasing responsibility for the risks associated with saving for retirement. They must be equipped to do this from the most informed position possible. Pensions dashboards will therefore be an important tool to help people better understand their pension savings and the **IFoA strongly supports the Government's commitment to making dashboards a reality**.

The IFoA surveyed over 2,000 pension savers last October and the results suggest that dashboards could make a real difference to people's understanding of pension saving:

- Many individuals do not know what constitutes a 'good pension pot'. A fifth of respondents to a recent IFoA survey said they considered a £100,000 pot to be sufficient to fund their retirement. IFoA modelling suggests that this would buy an annual pension of just £2,825 at age 68.
- 48% of respondents to this survey also said they are not confident that they are on track to save enough money to build what they would consider to be a 'good' pension pot.

Research from the pensions industry also suggests that there are 1.6 million 'lost' pension pots, accounting for almost £20 billion[1]. Dashboards could have the dual benefit of reuniting savers with their lost pension pots, and showing them a reliable and up-to-date picture of their total current pension saving. This should be a solid base of information that savers can use to plan for their retirement.

The Pension Bill paves the way for the establishment of pensions dashboards, and provides legislative framework that will enable the Government to compel pension providers to provide data to the dashboard within a reasonable timeframe to ensure its successful delivery. The IFoA considers that there are two important elements to the Bill, and its implementation that need to be considered:

- Only a dashboard framework that provides universal coverage, allowing individuals to see *all* of their pension pots in one place, will give savers a truly complete picture of their potential retirement situation. This includes the State Pension, which for many people will make up a significant percentage of their income in retirement. **It is therefore crucial that the Government makes good on its promise to ensure State Pension data is included on early iterations of dashboards**.
- The Bill will, however, impose a new regulatory burden on the pensions industry in making data available for the dashboard project. **The Government should therefore consider the support offered to smaller and older 'legacy' schemes, the trustees of which may**

[1] https://www.pensionspolicyinstitute.org.uk/research/research-reports/2018/briefing-note-110-lost-pensions-whats-the-scale-and-impact/

reasonably argue that the costs of providing information for the dashboard are not in the financial interests of their members.

Should you have any further questions about the contents of this briefing please contact Katy Little – Katy.Little@actuaries.org.uk - 020 7632 2190.