



Department  
for Work &  
Pensions

## **Consultation Questions:** **Broadening the investment opportunities of Defined Contribution schemes**

Name of respondent(s)/organisation (please provide):

Hymans Robertson LLP

<b>Pension Scheme type (cross all those that apply)</b>	
Master Trust (500+ employers approx.)	
Master Trust (fewer than 500)	
Single-employer trust	
Contract-based	
Defined Benefit	
Hybrid	
Administration	
Investment consultant	X
Consumer organisation	
Law firm	
Other (please state)	

*Please indicate, next to any responses given, if you are **not** content for DWP to publish relevant sections of your responses in the future. Without a specific request for anonymity, we reserve the right to publish your response in full.*

## Disclose & Explain questions on draft regulations

**Question 1:** Do you have any comments on the draft regulations in relation to the disclose and explain provisions? Please include in your answer any comments on whether you consider they meet the stated policy intent.

It is good to see the Government's ongoing focus on facilitating investment from DC schemes in a wider universe of opportunities including illiquid assets. In particular, we are supportive of the requirement to require trustees to put in place formal policies on illiquid assets in their statements of investment principles.

However, we are disappointed that the proposals don't go further to drive meaningful changes in behaviours towards wider value and opportunity. As an industry we will fail DC savers if we don't focus on areas that can really move the dial in terms of members' retirement outcomes. Requiring reporting on asset allocation including illiquid assets in the annual Chair's Statement will, in our view, add further costs and pressure on trustees, detracting from a focus on bigger picture areas that can really improve these outcomes. We don't see any value potential from this disclosure, and particularly not for members for whose interests the proposals lack focus in terms of overall outcomes.

In our view, the proposals will perpetuate the current over-emphasis on minutiae detail of reporting versus bigger picture areas. When we responded to the original consultation, we highlighted the overlap in reporting requirements with the implementation statement. With policies on illiquid assets introduced to SIPs, trustees will be required to comment on how they are implementing these in their annual implementation statements. Adding to chair's statement reporting requirements is therefore unhelpful duplication. It's disappointing that this has not been addressed in the response.

As an industry, we need to move emphasis away from governance requirements that don't add value, to addressing bigger picture issues. This includes not tinkering around the edges of regulation – we need much bolder action to improve outcomes for DC savers and we have included comments below with this in mind.

**Question 2:** Are there other elements not covered in these regulations that you would expect to see?

There is a lack of focus on the impact of regulatory changes (or substance of them) on member outcomes. Member outcomes should be the primary driver for regulatory changes, and give consideration not just to investment strategy and enhancements that can add value, but wider implications such as communications and engagement and addressing their values with regard to climate change and social factors. As an industry we need to address the needs and concerns of the end consumer. This includes changes that can help drive improvements in financial outcomes (such as proposals for policies on illiquid assets in SIPs) but also steps to improve their engagement and understanding in their pension. We feel this would benefit from wider engagement with bodies and organisations outside of the pensions and financial industry.

One of the activities often placing too much emphasis on cost over value is in the selection of pension providers. As an organisation we have taken steps to ensure cost is not the primary driver, rather overall value and member outcomes. A majority of provider selection exercises we've been involved in have led to the appointment of providers who were not the cheapest. However, there is not a material difference in pricing offered by the more competitive providers – often pitching total expense ratios within 0.05% p.a. of each other. In our view, this focus on cost over value does not permit investment strategies that can support the best outcomes for members in retirement where the potential to improve investment returns can be of the order of >1% per annum. We would support regulations that require pension providers to put their best foot forward in terms of proposition, even if that means higher cost given often large headroom relative to the charge cap. To be effective in a commercially competitive environment, this will also need to go hand in hand with regulations to require employers selecting pension providers to demonstrate how they have made that choice on the basis of factors other than cost alone. This recognises that there is only so much advisors and pension providers can do if willing and engaged. Meaningful change will require consideration of how to engage decision makers in the process too.

## Disclose & Explain questions on draft statutory guidance

**Question 3a:** Do you have any comments on the proposed regulatory asset allocation disclosure requirements included in the draft statutory guidance?

(Please enter your response here)

As noted above, we firmly disagree with proposals to extend the chair's statement to report on allocations to different asset classes including illiquid assets. We do not see any value to members from this proposal, but added governance burden and cost for trustees that could otherwise be more wisely spent. We note that many schemes already explain what the default arrangement looks like in investment fund guides or similar – an interested party could find asset allocation reported more frequently through fund factsheets and reporting from asset managers.

As noted in our original consultation response and above, there are already provisions in place for trustees to explain how they have put their investment policies into practice through the annual implementation statement. Given the new requirement to include comply and explain policies on illiquid assets in SIPs, it will be an automatic requirement for trustees to comment on how they are putting this into practice on an annual basis.

We are generally frustrated that the approach for seeking a behavioural shift in emphasis from cost to value is being driven through additional governance reporting requirements, rather than targeting stakeholders and decision makers key to the process.

As discussed in question 6, many clients and providers see cost/benefit and operational issues as the main barriers to increasing use of illiquid assets. We do not expect any meaningful increase in the use of illiquid assets until these concerns are addressed.

In short, we propose that:

- Additional reporting requirements for the annual chair's statement are removed entirely;
- Reliance is placed on annual reporting in the implementation statement, reflecting policies in the SIP;
- When forming policies and regulations, greater consideration is given to creating meaningful change in behaviours amongst key stakeholders that can drive the cost to value shift – namely advisors (assessing value), pension providers (putting best foot forward net of costs) and employers (making decisions on basis of value and outcomes, not primarily cost).
- Practical steps are explored with the pensions and investment industry to make it easier for schemes to access illiquid assets.

**Question 3b:** Are there any areas where further clarity might be required?

(Please enter your response here)

At this stage, we think clarity is needed on the policy intent and why it is justified to add reporting requirements within the annual chair's statement. We see no correlation between this and the overall aim to shift emphasis away from cost to value, and facilitate investment in less liquid assets. Our industry, in our view, would benefit from a much more significant driving force for change which can create the conditions for improved outcomes for members.

## Impact Assessment Questions

**Question 4:** Do you agree with the information presented in the impact assessment?

(Please enter your response here)

The Chair's Statement is, for all intents and purposes, a compliance reporting document. Therefore, we firmly disagree that the regulations will increase the information members and employers will receive. This assertion assumes that members and employers read the annual chair's statement, which we know is overwhelmingly unlikely. It is also unreasonable to expect members and employers would read a document dozens of pages in length, or be expected to digest all of the information.

Asset allocation information is provided in factsheets and evidence suggests members are much more likely to digest that information if seeking information about their investments.

If tPR are still fining trustees for non-compliance of Chair Statement content on a non-material basis then legal fees should not be dismissed as voluntary given financial and reputational damage. Legal reviews are now generally part and parcel of the Chair's Statement production process given the minutiae compliance driven nature of the process. We note that these challenges are well trailed in the industry, with various representatives from stakeholder groups making petitions.

**Question 5:** Do you have any comments on the impact of our 'disclose and explain' proposals on protected groups and how any negative effects may be mitigated?

(Please enter your response here)

No further comments

## Performance fee measure questions on draft regulations

**Question 6:** Do you have any comments on the draft regulations in relation to the performance fee measures? Please include in your answer any comments on whether you consider they meet the stated policy intent.

(Please enter your response here)

From conversations with our clients and providers, and as acknowledged in the consultation, many see that there are significant cost/benefit and operational barriers to making any, let alone a material, allocation to illiquid assets. The relaxation to exclude performance related fees from the charge cap does not address these concerns – the added costs to members will still be there, and cost continues to be a key focus.

Major hurdles for access to illiquid assets by DC members are liquidity and the slow/uneven distribution of investment gains/losses. Daily pricing and dealing was driven by consumer demand some years ago and is now firmly entrenched in providers administration systems – meaning that the costs of change would be prohibitive (and likely to be passed on to members). Ensuring fair treatment across all members will be a duty of both Trustees under trust law and providers under the FCA's "treating customers fairly" rules, but these can be overcome e.g. through the development of well-diversified private markets solutions (blending performance fees) or by asset managers adopting flat fee structures.

We believe that these issues are best resolved by the pension and investment industry, but will need collaboration with the DWP, FCA and TPR to ensure that otherwise restrictive regulations are amended. We feel that access to illiquid assets/private markets for DC members is best provided through "fund of funds" approaches where liquidity, dealing constraints and performance reporting can be managed holistically. Collaboration and continuity of engagement between the bodies mentioned above, so policy development is consistent and complementary will also be beneficial for the wider industry and end consumers.

At present the LTAF rules preclude use outside of schemes' default arrangements. A relaxation in these requirements, with proportionate safeguards for retail investors, would lead to economies of scale as the assets under management increase.

**Question 7:** Are there other elements not covered in these regulations that you would expect to see?

(Please enter your response here)

For the reasons set out above, we think there are a number of areas that would be worth exploring to drive material changes in behaviours in the DC workplace industry, and we would welcome an opportunity to share thoughts on this basis. We also believe extending the stakeholder group to include organisations and representative groups from outside our industry would be beneficial, so we benefit from diversity of thought and challenge when forming policies.

## **Performance fee measure questions on draft statutory guidance**

**Question 8a:** Do you have any comments on the performance fee sections of the draft statutory guidance?

(Please enter your response here)

Not further comments

**Question 8b:** Are there any areas where further clarity might be required?

(Please enter your response here)

No further comments

## **Cost and Benefits question**

**Question 9:** Do you have any comments on the impact of our proposals, in relation to the exemption of performance-based fees on protected groups and how any negative effects may be mitigated?

(Please enter your response here)

No further comments