



19 November 2024

The Occupational Pension Schemes  
(Collective Money Purchase Schemes)  
(Extension to Unconnected Multiple  
Employer Schemes and Miscellaneous  
Provisions) Regulations 2025

Response from the PMI



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## Response to the DWP Consultation “The Occupational Pension Schemes (Collective Money Purchase Schemes) (Extension to Unconnected Multiple Employer Schemes and Miscellaneous Provisions) Regulations 2025”

### Introduction

The PMI is the professional body which supports and develops those who work in the pensions industry. The PMI offers a range of qualifications designed to meet the requirements of those who manage workplace pension schemes or who provide professional services to them. Our members (currently some 7,500) include pensions managers, lawyers, actuaries, consultants, administrators and others. Their experience is therefore wide ranging and has contributed to the thinking expressed in this response. Due to the wide range of professional disciplines represented, our members represent a cross-section of the pensions industry as a whole.

The PMI is focused on supporting its members to enable them to perform their jobs to the highest professional standards, and thereby benefit members of retirement benefit arrangements for which they are responsible.

We trust that the feedback in the following pages proves helpful.

1. Do you think draft regulation 25 delivers the policy intent for the opening of a new section for unconnected multiple employer CDC schemes?

We agree with the DWP's proposals to create a new trigger for when a new section would be created in respect of unconnected multiple employer CDC schemes. This should allow greater design flexibilities (such as different rates of contributions and accrual) without sectionalising the scheme, which would otherwise lead to over-sectionalisation (given such schemes would typically have multiple employers with different accrual, contribution and potentially different retirement ages).

The reference in Regulation 25 of the Occupational Pension Schemes (Collective Money Purchase Schemes) (Extension to Unconnected Multiple Employer Schemes and Miscellaneous Provisions) Regulations 2025 (the "2025 Regulations") to qualifying benefits being "materially different" due to changes to the scheme's investment strategy could, however, lead to potential uncertainty given this term is ambiguous. Further guidance as to what "materially different" means and how this should be interpreted will be important to ensure groups are protected from cross-subsidy and to ensure fairness whilst achieving sufficient scale to reduce pooling risk.

In addition, the requirement to specify what changes to the investment strategy would trigger sectionalisation in the Viability Report could be difficult to agree in advance. We would query if there is a potential risk that any changes to the investment strategy which are needed over time could be restricted if they risk triggering sectionalisation.

Actuaries will need to be confident this flexibility can be implemented within single sections so that trustees can comply with their overriding duty to act impartially between members and exercise their powers in members' interests.

2. Do you think the definition of connected in draft regulation 22 can work effectively to establish whether a scheme is a single or connected employer CDC scheme or an unconnected multiple employer CDC scheme?

Yes, we agree that it is reasonable to adopt a consistent approach in relation to these definitions in line with that used for master trusts. We consider that Regulation 22 can work effectively to establish whether a scheme is a single or connected employer CDC scheme or an unconnected multiple employer CDC scheme.

3. Do you have any comments on the draft regulations on the fit and proper person requirements?

We agree with retaining the existing 'fit and proper' persons requirement for current CDC schemes (as set out in section 11 of the PSA 2021) and that the 2025 Regulations will need to capture all relevant people related to unconnected multi-employer CDC schemes for the purposes of the existing 'fit and proper' persons requirements.

Whilst we agree that those marketing and promoting CDC schemes should be within scope of the test, we would query whether there is a potential risk that the requirement could cover unintended persons by including anyone who “promotes or markets” the scheme (for example, employers promoting the CDC scheme to employees). We would suggest this is further clarified by way of additional TPR guidance where possible

4. Do you agree with the functions we have identified for the role of Chief Investment Officer?

We agree that it seems reasonable to also assess (where relevant) the Chief Investment Officer in relation to an unconnected multiple employer CDC scheme for the purposes of the fit and proper persons test.

The reference to any person who has a “significant influence” over the criteria listed in paragraph 32 of the consultation does, however seem quite broad and so it would be important to ensure that this does not inadvertently capture a wider group.

5. Does the drafting of the scheme design tests deliver the policy intention of providing a sensible measure of whether a scheme's design is sound, at initial application and on an ongoing basis?

Yes, we agree that the drafting of the scheme design tests generally delivers the policy intent to provide a sensible measure as to whether the scheme design is sound. However, we note that the Viability Report will need to include in the “scheme design” section an explanation of what changes to the investment strategy the trustees consider would be changes that would result in a need to sectionalise (see 9(1)(c) of Schedule 2 of the 2025 Regulations ). Actuaries will need to be confident that this can be sensibly reported on as there are presumably several ways in which a scheme's investment strategy could materially affect the expected return on assets and impact on the soundness of a scheme's design.

The gateway tests set out in the draft legislation will need actuarial review - this sets out the matters the actuary must have regard to when providing a viability certificate and considering whether the design of the scheme is sound. Potentially it may be helpful to include additional margin around the CPI test so that (rather than being based on the estimate of the projected average annual increase in CPI), this should be an average which is “broadly” or “materially” in line with CPI to give some further flexibility.

6. Do you have any comments on the drafting of the actuarial equivalence test? Is it clear that the scheme actuary must use the methods and assumptions used in the most recently completed valuation to satisfy the test?

We do not have any comments on the drafting of the actuarial equivalence tests. These appear to meet the aim of two clear ways to satisfy the equivalence test and the drafting

makes it clear that the value of benefits accrued must be equal to the total contributions paid, although these should of course be reviewed from an actuarial perspective.

7. Do you have any comments on the draft regulations on financial sustainability?

We agree with the introduction of a business plan requirement, similar to that for Master Trusts. The revised section 14(3B) of the Pension Schemes Act 2021 (PSA 21) provides that the Pensions Regulator must be satisfied that the business strategy of the CDC scheme is sound. There are a number of factors that TPR may consider when deciding this and this includes the business plan and other information referred to in s14(3C) PSA 21. Given the factors TPR can take into account are potentially wide ranging, it is important that any additional factors not set out in the legislation are prescribed in detail in the Code (for example, how schemes can evidence they would satisfy the financial sustainability criteria). We suggest that, so far as possible, there is alignment with the DC Master Trust regime in this respect.

The 2025 Regulations provide that the scheme proprietor must be liable to provide some or all of the costs of setting up the scheme and some or all of the costs of obtaining authorisation. The legislation should potentially be clarified on the extent to which the scheme proprietor would contribute to those costs. We consider that further guidance should be provided with the updated Code on the scheme proprietor requirements to mitigate these potential issues.

In addition, we would query if there would be benefit in having more flexibility in the single scheme proprietor requirements. Rather than requiring a single scheme proprietor entity, it may be preferable to spread the funding risk across a number of employers rather than through a single entity.

8. Do you have any comments on the draft regulations on promotion or marketing?

The draft 2025 Regulations on promotion or marketing are generally clear and the Schedule 1C restrictions on promotions that are unclear or misleading and having adequate systems and processes in place is helpful, although we have some comments below.

The new transparency requirements in Schedule 1C will be subject to the provisions in the Code and any other matters set out in the Code and so the additional guidance will need to be reviewed further in due course.

It is suggested that trustees should not be involved in marketing or promotion of the scheme. This covers "any communication about the scheme for the purpose of inducing an employer to use, or continue to use, the scheme." This is potentially too broad as trustees should still be able to hold the scheme proprietor and advisors accountable and ensure good outcomes for members and they may of course need to communicate this

to the employer. Further consideration of what “inducing” means may also be needed: for example, is telling a potential participating employer that a CDC scheme could deliver higher returns for its employees an “inducement”?

In addition, further guidance may be needed on the difference between ‘promotion and marketing’ and simply providing information. For example, if a commercial master trust provider sets up a multi-employer CDC arrangement and if the provider then writes to each employer stating as a matter of fact that they have set up a CDC scheme, would this be considered to be “promotion” or “marketing”?

In addition, whilst the rules in the 2025 Regulations prohibiting trustee promotion or marketing of the scheme generally seem reasonable for commercial CDC arrangements, we recommend further consideration of the implications of these requirements in connection with non-commercial CDC schemes such as not-for-profit or industry schemes where there is a limited pool of employers and the scheme would not be otherwise seeking business from outside of a limited pool of employers.

The 2025 Regulations also require that marketing and promotion of the scheme must be accurate and consistent with the information in the Viability Report. There will need to be sufficient flexibility in the 2025 Regulations to enable the trustees to simplify complex matters for members (e.g. information in relation to the soundness of the scheme design and investment strategy) without fear of breaching the 2025 Regulations.

It seems unclear what systems and processes and quality assurance checks would be required in practice and there is clearly a balance to be struck in not being too prescriptive whilst also providing sufficient information for unconnected CDC schemes to understand what is expected of them. The contents of the Code will again be important here.

The Pensions Regulator will need to monitor and consider whether any marketing or promotion of the scheme has been unclear or misleading and that there are adequate systems and processes in place. TPR will need to be certain that it has sufficient resources in place to be able to take on these additional responsibilities.

9. Are the draft regulations clear that a trustee's ability to pursue continuity option 3 must not be unduly constrained or fettered and how this would be evidenced to the Regulator?

Yes, we agree the 2025 Regulations are clear that a trustee's ability to pursue Continuity Option 3 will not be unduly constrained or fettered. Regulation 17A of the 2025 Regulations sets out the information that TPR must take into account when deciding whether trustees would not be prevented from pursuing Continuity Option 3. The list of potential fetters is arguably unclear in the new s17A(3)(c) PSA21 where it refers to following “any other process”. This wording may need to be narrowed down in the final

drafting of the regulations.

We note that the proposal that trustees would not be prevented from pursuing Continuity Option 3 (and therefore running the scheme as a closed scheme where viable to do so) would potentially mean that commercial providers are prevented from winding up the scheme once it is set up even where there are good reasons for this.

10. Are the draft regulations clear on how valuation and benefit adjustments should happen?

Yes, we consider the draft 2025 Regulations on how valuation and benefit adjustments should happen are generally clear. The provisions are detailed and should also be carefully reviewed from an actuarial perspective.

11. Do you think that the significant events listed in draft regulation 44 will provide the information the Regulator needs or are there other significant events that should be added?

The additional significant events for unconnected CDC schemes are comprehensive. We would query, however, whether in practice it is practicable to notify the Regulator each time here has, for example, been any promotion or marketing in relation to the scheme that is unclear or misleading. Further thought may be needed, for example, whether some of the new significant events could be triggered too easily, given the need to report each time there is a failure to meet 'any milestone, target, estimate or assumption' in the business plan.

12. Do you have any comments on the draft regulations that provide for ongoing supervision of unconnected multiple employer CDC schemes?

We agree that these revisions should enhance TPR's ability to address issues in relation to unconnected CDC schemes. We do not have any substantive comments on this aspect of the 2025 Regulations.

13. Do you agree with the changes in Part 6 of the draft regulations?

Yes, we agree with these changes and do not have any substantive comments on these consequential changes to the 2025 Regulations.

14. Do you agree with the changes in the Miscellaneous Amendment CDC Regulations 2025?

Yes, these changes all seem sensible.

*PMI does not have any comment to offer for the remaining questions.*

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