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The Rt Hon. the Lord Strathclyde CH

Chair, Constitution Committee

09th February 2026

Dear Lord Strathclyde,

Government Response to the Constitution Committee on their Report on the Pension Schemes Bill (17th Report of Session 2024–26)

Thank you for the Constitution Committee's report on the Pension Schemes Bill. The Government welcomes the Committee's scrutiny and has carefully considered the issues raised in its analysis. The points made by the Committee are important and I am grateful for the opportunity to set out the Government's position in response.

The Committee's view:

We strongly endorse the conclusions of the Delegated Powers and Regulatory Reform Committee regarding the skeletal nature of this Bill. Whilst it is true that the legal regime for regulating pension schemes is complex, the blanket justification provided by the Government for taking this approach is insufficient to justify the extent to which this Bill is reliant on delegated powers. The framework nature of the Bill is likely to severely inhibit scrutiny of its intended effects. The House may wish to seek further justification for the skeletal nature of this Bill, in order to be assured of the necessity of the Bill's extensive delegations of power.

The Government's response:

The Constitution Committee's conclusions on the Bill's use of delegated powers are acknowledged. However, the Government does not accept that the Bill is skeletal or that its delegated powers extend beyond what is necessary for the safe and effective operation of pensions law.

The Bill contains substantive statutory provisions that define the purpose, scope and limits of each reform, and these provisions give effect to the core policy decisions that have already been subject to consultation and wider engagement. Delegated powers do not replace missing policy; they allow for the development of technical and operational rules that cannot safely be fixed in primary legislation without detailed input from those who will deliver and regulate pensions in practice.

The pensions system is unusually diverse and technically demanding, it encompasses trust based and contract based defined contribution schemes, defined benefit schemes of many different sizes and structures, large master trusts, the Local Government Pension Scheme, hybrid arrangements, Collective Defined Contribution schemes and the compensation regimes operated through the Pension Protection Fund and the Financial Assistance Scheme. These schemes differ significantly in governance, investment practice and

administration. Attempting to impose a single set of prescriptive statutory rules across this landscape would be unworkable and would risk rigidity, unintended consequences and future misalignment between different types of schemes.

Successive pensions Acts have therefore taken the same approach: primary legislation establishes statutory duties, limits and safeguards, while the more technical and operational matters are set out in regulations. This approach was used in both the Pensions Act 2004 and the Pension Schemes Act 2021, each of which relied on delegated legislation to give effect to detailed operational requirements. The number of delegated powers in the present Bill reflects the breadth of the reforms it brings together and should be understood in that established context rather than as a departure from previous legislative practice.

The Bill also includes proportionate safeguards, many powers are subject to the affirmative procedure, including where their impact is significant or where they may amend primary legislation. Scheme regulations made under the Public Service Pensions Act 2013 are subject to mandatory consultation, with additional protections where proposed changes relate to protected schemes or retrospection. In areas involving FCA-regulated schemes, detailed requirements are made through the FCA's rule-making processes rather than by ministers. These arrangements ensure that the use of delegated powers remains structured, limited and subject to appropriate oversight.

We recognise the Committee's interest in understanding how the reforms will operate in practice. To support parliamentary scrutiny, the Government has published detailed Explanatory Notes, a comprehensive Delegated Powers Memorandum, a full Impact Assessment rated Green by the Regulatory Policy Committee and the workplace pensions roadmap. Collectively, these materials set out how delegated powers are expected to be used and the planned sequencing of secondary legislation.

Where possible, draft regulations have been shared, specifically those relating to Local Government Pension Scheme pooling. In other areas, draft regulations cannot credibly be produced until detailed engagement with trustees, administrators and regulators has taken place, which is essential to ensuring deliverability and proportionality.

For these reasons, although the Bill necessarily contains a significant number of delegated powers, it provides a clear and comprehensive statutory basis for the reforms. It sets out the essential duties, limits and safeguards in primary legislation and follows a long-established approach that enables the pensions system to remain safe, proportionate and responsive to changing conditions.

The Committee will also wish to note that I have formally responded in full to the report of the Delegated Powers and Regulatory Reform Committee and we expect that response to be published in due course.

The Committee's view:

It is unclear why there is inconsistency in the Bill's approach to providing for appeals processes against penalties. In our view, the provision of an appeals process against such penalties ought not to be left to governmental discretion. While—in the absence of an appeals process—regulator decisions may be subject to judicial review, a judicial review can only proceed on specific, and limited, grounds. The Government should either provide an explanation for the differences of approach within the Bill or amend it to bring consistency between these provisions.

The Government's response:

I would like to thank the Committee for its thoughtful recommendations in relation to enforcement and compliance provisions in the Bill, in particular whether relevant regulations 'must' or 'may' provide for a review or appeals process against the imposition of penalties.

Firstly, I should like to be clear that the Government recognises its duty to give effect to the provisions in the Bill in a way which is compatible with the European Convention on Human Rights, including the right to a fair trial in Article 6.

The Bill enables the Government to bring forward regulations to allow for appeal rights in respect of the imposition of penalties in relation to a number of measures, for example Value for Money, Small Pots, Guided Retirement and Scale and Asset Allocation. I can reassure the Committee that in all the aforementioned cases, the Government will bring forward such regulations.

Whilst the Committee is right to highlight the apparent inconsistency in language between the different measures, I can briefly outline the rationale for the drafting approach which has been taken in each case.

In summary, the differences in drafting reflect the fact that the measures establish regimes of different kinds and therefore require different approaches to enforcement and appeal rights, so that the powers operate in a way that is proportionate, coherent and workable in practice.

The compliance powers in clauses 18 (value for money), 32 (small pots) and 54 (guided retirement) all follow an established precedent in paragraph 3 of Schedule 18 to the Pensions Act 2014 and in section 41C of the Pensions Act 1995 (which was inserted by section 124 of the Pension Schemes Act 2021).

Under these powers, the Secretary of State may make regulations providing for different methods of enforcement, including compliance notices and penalty notices. One appeal route that may be appropriate for certain compliance routes that may be imposed under the regulations is an appeal to the First-tier Tribunal or Upper Tribunal. This is why the word "may", rather than "must", is used in this context. Other appeal routes may be available and appropriate, such as the Pensions Regulator's internal appeals process or the judicial review process. The compliance powers are framed to give the Secretary of State appropriate discretion to provide for different approaches.

An example of a compliance regime already in place under equivalent powers is in Part 4 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015. Part 4 of these regulations sets out the regime for compliance with the charge cap and chair's statement requirements. It includes provision for a right of appeal against certain penalty decisions to the First-tier and Upper Tribunal in prescribed circumstances (see regulation 32).

Another example can be found in Part 3 of the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021. Regulation 13 makes provision for references to be made to the First-tier Tribunal or Upper Tribunal.

New section 28I to the Pensions Act 2008, inserted by clause 40 of the Bill is different in that it is not providing for a compliance regime to be established. It is providing for a specific penalty for a particular breach, so a different drafting approach is taken.

The Committee's view:

If the Government does not intend the Bill to require regulations to introduce appeals processes against the impositions of such penalties, the House may wish to satisfy itself that recourse to judicial review provides an appropriate means of challenge and sufficient protection of relevant rights under Article 6 of the European Convention of Human Rights.

The Government's response:

As outlined above, where regulations are made to impose penalties under powers in the Bill, the Government will bring forward regulations to introduce the appeals processes with which the Committee's recommendations are concerned.

I am grateful for the Committee's careful scrutiny of this Bill and its ongoing service to the House. I hope this clarification is of assistance in that work.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M L S', written in a cursive style.

Baroness Sherlock OBE

Minister of State, Department for Work and Pensions