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## Covering Statement

### About Law Debenture

Law Debenture Pension Trustees and Law Debenture Pensions Governance (together, LawDeb) are the longest-established provider of professional trustee and pensions governance services in the UK, with a history dating to 1969.

We currently hold appointments, including on several commercial and industry-wide Master Trusts, IGCs and other DC governance arrangements, across approximately 141 pension schemes, representing over £317 billion in assets and a membership that spans a significant proportion of the UK's private sector DC universe. Our team of more than 50 salaried pensions professionals operates across trustee, secretariat and governance roles.

We are structurally independent: we provide no investment management, actuarial, covenant, or administration services. We appoint and oversee advisers on behalf of the schemes we serve, with no advisory relationships of our own that could create a conflict with the interests of those schemes. That structural independence is not incidental to our model; it is the foundation of it.

This response is submitted jointly by Christopher Hay, Pensions Executive, and Elizabeth Hartree, Head of DC.

### Executive Summary

We responded in detail to the first consultation on the VfM Framework (CP24/16) and as such our comments here are complementary to and build upon our response at that time. We welcome the fact that the consulting bodies have listened to industry voices and adapted the Framework. In particular, we think the simplification of backwards-looking metrics, and removal of an external advice requirement for forward-looking metrics are sensible changes. We also welcome the 'bedding-in' period, whereby there are no automatic consequences for ratings as a positive step. We continue to voice our concern that good member experience in own trust schemes needs to be captured, e.g. where employers provide significant additional benefits whether through bearing costs, or ancillary services, which do not neatly fit into the Framework. As always, member and savers' interests are at the heart of all we do.

**Consultation response.**

## Chapter 2: Scope and Thresholds

**Question 1: Do you have any comments on our proposals for phasing?**

We support the proposed approach, save that we consider that for trust-based arrangements, only commercial Master Trusts should be included in the first phase. Other multi-employer arrangements, particularly industry-wide Master Trusts, are not set up to monetise and benefit from improved VFM ratings. Nor do they have anything like the scale of the commercial arrangements. The administrative burden to comply with phase 1 falls disproportionately on these arrangements and they should be included in phase 2.

Consistent with our response to the first consultation, we continue to have concerns about the extension of the framework to small single-employer trusts. We do not consider that the metrics other than fund performance are sufficiently weighted to cater for the often significant support and additional financial input from employers. We repeat our belief that having to assess performance within the Framework could lead to an analysis that such members would be better off if the arrangement were consolidated, when in fact this may not be in those members' best interests. Trustees and IGCs should be able to factor in these benefits, if appropriate, in their Step 3 rationalisation, consistent with the approach for legacy benefits and demographic features.

**Question 2: Do you have any comments on our proposal to limit the first data collection period to 6-months?**

Both for consistency and streamlining of design, we think it would be preferable if the first data collection period were a full 12 months, even if this delays the eventual publication of VFM reports.

**Question 3: Do you have any concerns about our proposed exemptions and Inclusions?**

We agree that, due to the significant burden and creation of an expectation of reporting, it is appropriate to remove the option for voluntary reporting for the time being.

We agree with the exemption for arrangements with less than 1,000 members, and think this threshold should be kept under review.

Whilst we can see the advantage of excluding AVCs and CDC arrangements for the initial period, in due course we support the development of appropriate data collection and assessment of these arrangements, albeit for different reasons. AVCs whilst predominantly legacy arrangements, remain a poorly-served, under-examined section of the money purchase universe. CDC by contrast is currently new and relatively small scale in the market as a whole, but is expected to gain traction and begin to form a material sub-section of the DC market.

**Question 4: Do you agree with the proposed exemptions (full and partial) for contract-based arrangements where there is a transfer or a plan to transfer? Why or why not?**

Transitions place additional costs and introduce risk to administrators and critically to savers. As such, we strongly agree that arrangements in the process of or fully committed to a transfer be exempted. The reporting period for the receiving plan should capture performance changes.

**Question 5: Do you have any further comments on our proposed scope?**

We have no further substantive comments.

## Chapter 3: Investment performance – Backward-looking metrics (BLMs)

**Question 6: Do you agree with the proposed updated methodology? Do you envisage any issues with calculating investment performance metrics on a basis that tracks members experience over time, while excluding contributions? Please specify where problems might arise, if any.**

We welcome the move away from arithmetic methodology, and agree that removing contributions will allow for clearer performance comparators between arrangements.

**Question 7: Do you agree with the removal of standalone BLM disclosures at 5YTR? Are there any issues associated with its removal?**

We welcome the removal of these disclosures and broadly agree with the rationale in the consultation.

**Question 8: Are you comfortable with ASD as a risk metric for all arrangements, or should some arrangements calculate their volatility metrics differently. Please specify under what circumstances and what modified calculations you would recommend.**

We have previously raised concerns about whether an unintended consequence of using uniform metrics, including annualised standard deviation, would be to deter providers and trustees from allocating more boldly to private markets. This is because the range of outcomes is far wider than for other asset classes. That said, for the initial phase of reviews, we accept that over an arrangement as a whole, and given the relatively small allocations to private markets to date in default arrangements, we consider this risk is not outweighed by having a coherent, uniform approach. However, we would ask for a commitment to revisit the ASD calibration as private market allocations grow.

**Question 9: Are there any circumstances in which a scheme would not have access to the historical cost information required to apply the same chain-**

**linking methodology to costs as done to gross performance figures, noting the more limited scope under which chain-linking is applicable?**

We do not have any material response to this question and consider this is primarily an issue for providers to comment on.

**Question 10: Would there be a material reduction in burden if net performance were to be calculated first, and then chain-linking applied to it, rather than chain-linking costs in order to derive accurate net performance metrics?**

Given the objective of showing net performance over the period, we do not object to the concept of chain-linking after the calculation of net performance.

**Question 11: Would trustees or firms have the necessary data to retrospectively determine if an arrangement would have been classed as quasi-default up to 10 years prior, so as to apply chain-linking where necessary?**

This will vary by arrangement, but we expect commercial master trusts would have sufficient access to this information to produce meaningful data for quasi-defaults.

**Chapter 4: Investment performance – Forward-looking metrics (FLMs)**

**Question 12: Do you agree with the proposed requirements for FLM disclosures and safeguards? Why or why not?**

We welcome the removal of FLMs for the 5YTR cohort.

We also welcome the removal of the external advice requirement, and agree that publication of CMAs in the central database is important, but should be kept under review. In our view it will be difficult to compare FLMS between different arrangements, especially where different assumptions are used.

**Chapter 5: Asset Allocation Disclosure**

**Question 13: Do you agree with our revised proposals in relation to Asset Allocation? Please provide details of any concerns you have relating to our proposals.**

We repeat our comments in respect of the risk of herding as providers have access to competitor asset allocation data. We do not believe the transparency aims of these disclosures outweigh the potential detriment to savers of a less diversified market with less ambitious investment strategies. We leave it to providers to comment on any potential commercial impacts of these disclosures. We would support an appropriate lag between submission and publication of data, or for the data to be published in bands rather than with specific weightings. We believe this will still support the transparency objective without creating exact, replicable positioning.

**Question: Do you have any comments on the definitions used above? In particular, do you have any comments on the definition of 'UK-based entity'? Is there an alternative definition you would suggest?**

We repeat our concerns set out in our previous response, that a UK-based entity or listed company does not necessarily invest in or derive most or all of its revenues from activities in the UK. We cannot therefore see the benefit of this approach for savers, as it will not help them understand what portion of their pension pots are invested 'in the UK'.

**Question 14: Do you agree with our proposed definitions? In particular, do you agree with our definitions of UK assets? Are there any areas where definitions need to be tightened to ensure consistency of measurement?**

We have no further substantive comments.

**<u>Chapter 6: Costs and Charges</u>**

**Question 15: Based on the new proposed calculation methodology, we would be**
**interested in views on whether, to help mitigate the risk that there are few – or no – members within the retirement cohorts it would be more practical to calculate the median based on the number of employers, rather than members.**

No response submitted.

**Question 16: We would be interested in views on whether all multi-employer arrangements should disclose maximum, minimum and median cost metrics, in order to highlight variations in the treatment of small or large pots.**

No response submitted.

**Question 17: We would be interested in views on whether member-level calculations (Option A) or the model pot size approach (Option B) would be more effective.**

We have no further substantive comments.

**Question 18: Do you agree with our suggestion that the variable effects of complex charging structures on pots of different sizes should be disclosed separately from the effects of commercial variations of fee terms? Do you agree with our proposal for achieving this?**

We have no further substantive comments.

**Question 19: How should the separate pot size effect disclosures be used in the assessment of value? Should they be based on peer-to-peer comparisons (consistent with the rest of the VFM Framework) or should trustees / IGCs carry out value assessment internal to the arrangement, to determine**

**whether the small pot members are excessively disadvantaged compared to their fellow members with larger pots?**

We have no further substantive comments.

## <u>Chapter 7: Quality of Services</u>

**Question 20: Would it be helpful if we defined STP as a fully automated process for the purposes of VFM and asked schemes to confirm:**
**• What percentage of payments fall within this definition?**
**• The mean and range of all contributions falling outside this definition?**

We support a consistent definition of STP as a fully automated process. This should improve comparability across arrangements and reduce the scope for differing interpretations.

We also support disclosure of the proportion of transactions processed via STP and the processing times for transactions outside that definition. However, STP transactions should not be excluded from service metrics entirely. Members are concerned with outcomes rather than the operational route used to achieve them. STP data is therefore best considered as additional context rather than a substitute for service quality measurements.

**Question 21: Do you agree that the metrics for trust-based and contract-based complaints processes are now comparable? Are there any further steps that we should take?**

The revised proposals represent an improvement and should allow meaningful comparison between trust-based and contract-based arrangements.

However, complaints data should be interpreted with care. Not all complaints are of equal significance and complaints behaviour can vary materially between member populations and workforce demographics. Complaint metrics should therefore be considered alongside the wider service quality data and not in isolation.

We would also welcome further consistency around the treatment of repeat complaints, informal complaints and complaints that span reporting periods.

**Question 22: Are partly upheld Financial Ombudsman decisions recorded as a separate category by firms or included within the upheld figures?**

We support separate disclosure of fully upheld and partly upheld Ombudsman decisions where this information is available.

However, Ombudsman determinations are inherently backward-looking. Complaints determined in a reporting year will often relate to issues that arose several years earlier and may therefore reflect historic service levels rather than the current member experience.

This creates a risk that reported outcomes do not reflect improvements that have subsequently been made through administration changes, governance interventions or service improvement programmes. We therefore view Ombudsman data as useful context, but not necessarily as a direct measure of current service quality.

## Chapter 8: Assessment Process

**Question 23: Do you agree with the proposed approach to consider decumulation aims separately for the 0 YTR cohort? Why or why not?**

We agree that arrangements with materially different decumulation objectives should be assessed separately at 0 YTR.

Arrangements targeting annuity purchase, drawdown and cash will naturally have different investment strategies and risk characteristics. Assessing them against a common comparator group risks producing misleading outcomes and penalising arrangements for pursuing an appropriate strategy for their target retirement outcome.

**Question 24: Would decumulation aims be more appropriately considered in step 3 rationalisation?**

In our view this would not be appropriate.

Decumulation objectives should be reflected within the comparator framework in Step 1 rather than through Step 3 rationalisation.

Step 3 already provides considerable scope for trustees and IGCs to adjust outcomes for factors such as legacy benefits, member demographics and other arrangement-specific features. While some flexibility is necessary, there is a risk that excessive reliance on rationalisation dilutes the objectivity and transparency of the Framework.

The more elements that can be explained away in Step 3, the less confidence stakeholders are likely to have in the comparability of outcomes. Different decumulation objectives are better addressed through appropriate comparator groups at the outset.

**Question 25: Do you agree with the decumulation aim sub-categories? Why or why not? Are they sufficiently clear, or do they need to be defined?**

We agree with the proposed categories.

The proposed distinction between drawdown, annuity and cash reflects the principal retirement outcomes targeted by workplace pension arrangements and should capture the vast majority of current default designs.

A more granular approach may improve precision but would increase complexity, reduce comparator group sizes and increase the risk of inconsistent classification. We believe the proposed categories strike an appropriate balance between practicality and meaningful comparison.

**Question 26: The proposed shift in approach for the first year of the Framework moves away from a more granular assessment of value that we have consulted on previously. We welcome feedback on where stakeholders consider there to be concerns in relation to the data sets, the proposals set out in CP26/1 for the publication and use of multi-employer cohorts, and the proposed changes.**

We understand the rationale for moving to a simplified assessment process in the first year, particularly given concerns regarding commercially sensitive pricing information and possible competition implications.

However, some of the most valuable aspects of the original proposals were contained within the more granular analysis. Multi-employer cohort data has the potential to identify situations where overall scheme outcomes appear competitive, whilst specific groups of members or employers receive materially different value.

We therefore support the continued collection of the full dataset, including employer cohort data and minimum, median and maximum outcomes, even where some elements are not used in year-one assessments or made public.

Whilst the concerns around publication of highly granular charging information appear valid, we would not want year-one simplifications to become a permanent feature without further review. A mature Framework should be capable of identifying not only poor-value arrangements, but also groups of members within arrangements who may not be receiving comparable value.

**Question 27: Do you agree with the simplified approached proposed for multiemployer arrangements for year 1? Why or why not?**

We agree: the simplified approach represents a proportionate way to introduce the Framework and should reduce implementation risk during the first assessment cycle.

Provided the supporting data continues to be collected, we consider this a sensible transitional arrangement.

**Question 28: Do you agree with the simplified approach proposed for single employer arrangements for year 1? Why or why not?**

We broadly agree with the proposals.

Comparison against median market data provides a practical approach for the first year. However, care will be needed where single-employer arrangements have characteristics that differ materially from the comparator population, particularly in relation to demographics, charging structures or contribution patterns.

In those circumstances, trustees should retain the ability to apply judgement within the assessment process.

**Question 29: Would the simplified approach be appropriate if it was applied from year 2/on an ongoing basis, for all in-scope arrangements completing assessments, with consequences attached? In particular, we are interested in feedback in how it may impact the assessment outcomes of SETs, bespoke and legacy arrangements.**

There are advantages to a simplified approach on an ongoing basis, including improved consistency, reduced reporting burden and easier understanding of assessment outcomes.

However, we have some reservations about applying a simplified approach permanently once assessment outcomes have regulatory consequences attached.

SETs, bespoke arrangements and legacy arrangements may all have characteristics that are not fully captured through simplified comparator analysis. In particular, legacy arrangements may contain guarantees or protected benefits that provide value not readily visible through the Framework metrics.

We would therefore support the simplified approach as the core assessment methodology, but encourage regulators to review whether it produces fair outcomes across different arrangement types before adopting it permanently.

**Question 30: Do you agree with the proposal for multi-employer arrangement consideration of minimum, median and maximum? Why or why not?**

We agree that consideration of minimum, median and maximum outcomes is helpful.

Focusing solely on average outcomes risks overlooking cohorts of members who receive materially poorer value than others. Including minimum and median measures provides a more complete picture of whether value is being delivered consistently across an arrangement.

However, these metrics should not be applied mechanically and trustees should retain discretion to consider the reasons behind unusually high or low outcomes.

## <u>Chapter 9: Actions for arrangements offering poor value</u>

**Question 31: Do you agree with the proposed actions for not value arrangements?**
**Why or why not?**

We welcome the deferral of consequences until 2029, which we consider to be in savers' interests. We agree that the production of an action plan and the associated reporting to employers and relevant regulators is a sensible step. We continue to have concerns that if amber-rated arrangements are immediately closed to new business, with no grace period, this will de facto mean the arrangement will not continue. A combination of employers freely moving elsewhere, advisers not being able to recommend a closed arrangement, and the lack of incoming fees and contributions will make it extremely difficult in a competitive market for these arrangements to do anything but transfer members out. Where there is a reasonable or high degree of likelihood that the amber rating was an anomaly which is being addressed and that the arrangement would recover a green rating in the following year, we consider that savers staying in that arrangement outweighs the cost, disruption and confusion of transferring them out.

We recommend the introduction of a defined cure period - for example 12 months - during which an amber-rated arrangement may continue accepting new business provided trustees or IGCs can demonstrate, on a reasoned basis consistent with the Step 3 rationalisation approach, that the rating reflects a specific and addressable issue rather than sustained underperformance. Closure to new business should be a consequence of failure to recover within that period, not an automatic trigger on first rating.

## Chapter 10: Disclosure Requirements

**Question 32: Do you anticipate that a shorter initial data collection period would create any practical or analytical challenges, and if so, how might these be mitigated?**

We suggest that a whole measurement period should be used for consistency and to reduce administrative complexity.

**Question 33: Do you agree to proceed with data publication in November given the risks identified? How likely are these risks to emerge and what steps could we take to address them effectively?**

This is predominantly a commercial issue for providers.