Institute and Faculty of Actuaries

Steer report

Subject	CDC Pension Schemes
Regulation Board meeting	5 May 2021
Previous Board Update/Steer/Approval	29 May 2019 – Approval of proposal to set up Regulatory Working Party
	13 March 2020 – Approval of note setting out IFoA view on the actuarial work in CDC Schemes set out in the Bill
	17 November 2020 – Update on Emerging Pension Funds
	12 February 2021 – Update on DB consolidation / superfunds and CDC Pension Schemes
International Issues Considered	This is a UK specific issue
Author	IFoA Executive
Purpose	Steer

A: Executive summary

1. This paper follows the 'deep dive' on CDC pension scheme provided to the Board at its last meeting in February, presented by Simon Eagle, the Chair of the original Working Party set up at the IFoA to consider Collective Defined Contribution Pension Schemes.

2. As explained at that deep dive, the Pensions Schemes Act 2021 sets out the legislative framework for the creation of a new type of Pension Schemes in the UK, namely Collective Defined Contribution (CDC) Pension Schemes.

3. The Board set up the CDC Pension Schemes Regulatory Working Party in 2019 to consider and recommend changes required to the IFoA's regulatory framework as a result of the new schemes.

4. This paper seeks a steer on the Working Party's initial findings and recommendations.

B: Introduction

5. The Pension Schemes Act 2021 received Royal Assent in March 2021. The Act allows for the creation of Collective Defined Contribution (CDC) Schemes. Part 1 of the Act sets out how a scheme qualifies as a CDC Pension Scheme or a "Collective Money Purchase Benefit" pension scheme to use the Act's terminology. The Act, when read in conjunction with secondary legislation, requires the appointment of a Scheme Actuary to every CDC scheme, with the actuary required to be a Fellow of the IFoA.

6. At section 49 of the Act “Scheme Actuary” is defined as the person appointed under section 47(1)(b) of the Pensions Act 1995 in relation to the scheme. The 1995 Act states that: “For every occupational pension scheme there shall be… an individual appointed by the trustees or managers as actuary…” Further specification is set out in the Occupational Pension Schemes (Schemes Administration) Regulation 1996, at regulation 4 “for the purposes of… the 1995 Act the qualifications and experience or approval required for appointment as… the actuary are… Fellowship of the Institute and Faculty of Actuaries.”

7. This is the same provision as applies to the Scheme Actuary in Defined Benefit (DB) Pension Schemes, for which there is currently a Practising Certificate required. So, in effect, the new rules have extended those existing Scheme Actuary requirements to apply to CDC Schemes.

8. The Regulations to accompany the legislation are in the final stages of drafting. The IFoA is liaising with the Department of Work and Pensions (DWP) and the Pensions Regulator (TPR) about the terms. The DWP plans to consult on proposed regulations in the summer.

9. The regulations are relatively technical in nature. The focus of the discussions with the DWP and TPR has been the provisions relating to the Viability Certificates (explained further below) and the requirements around the actuarial valuation. There have been extensive discussions as to how the schemes can achieve fairness of the distribution of benefits and how legislation and regulation could induce fairness.

10. Of particular interest to the Board will be Regulation 15, which specifies that in advising the trustees the Scheme Actuary must have regards to any guidance or standards adopted or prepared by the IFoA or TPR. The DWP and TPR have been advised that this addition is very much welcomed, but that it is unusual in law for actuaries to have regard to guidance or standards issued by the IFoA or TPR. The DWP are aware that the IFoA are committed to exploring what this might look like to ensure there is a joined up approach, particularly in the production of guidance for actuaries.

C: Discussion

11. Uptake of CDC Schemes

11.1. It is not expected that there will be a significant number of CDC Scheme Actuaries in the immediate future, as it remains the case that only the Royal Mail have committed to establishing a CDC scheme. It is expected that their scheme will open in 2022.

11.2. The Executive has been informed that it is unlikely another CDC scheme will open within a year of the Royal Mail, and that there are unlikely to be more than ten CDC schemes by 2025. This view has come from a member of the Working Party who is working closely with the Royal Mail.

12. Responsibilities of the CDC Scheme Actuary

12.1. Within the legislation there are two roles for the Scheme Actuary:-

(a) To certify the soundness of the design of a CDC scheme, through the viability certificate; and

(b) The provision of advice to the trustees, calculation of benefits and preparation of an annual actuarial valuation.

12.2. The legislation is silent as to whether the two roles can be fulfilled by the same person. The expectation from working party members is that the Scheme Actuary may be appointed in order to certify the design of the Scheme and then would remain in that role when the pension scheme opens. The Board is invited to consider whether it is comfortable with this approach.

12.3. The responsibilities are set out in more detail here:

(a) Certification of the viability of the design of the scheme:

- To set up a CDC pension scheme an application for authorisation must be made to TPR. A Viability Report and Viability Certificate must be provided. The legislation sets out the criteria for authorisation, and this includes a number of areas in which actuarial advice is required. The Viability Report explains the design of the scheme and gives the reasoning as to why the applicant considers the design to be sound. It is accompanied by a Viability Certificate, from the Scheme Actuary certifying whether in the actuary's opinion the design is sound.

- The Scheme Actuary must be satisfied that the scheme has rules in place that meet the requirements around Calculation of Benefits (as set out the in the Act) and any other regulations that are subsequently put in place.

- At least once a year the trustees must review the Viability Report, revise it if necessary, and then obtain a Viability Certificate in respect of the new or revised report.

(b) Ongoing advice to the trustees:

- The legislation requires that CDC pension schemes to have rules about how the rate or amount of benefits provided under the scheme are to be determined. The trustees must seek the advice of the Scheme Actuary before making decisions as to the method and assumptions used in determining these rules.

- Regulations could create requirements for the Scheme Actuary when advising trustees in this regard, and this could include obligations on the Scheme Actuary to have regard to guidance. There are penalties for trustees who fail to obtain the advice of the Scheme Actuary in this respect.

- Scheme Actuaries will also be asked by the trustees to provide actuarial valuations, which are defined as a "report prepared and signed by the Scheme Actuary setting out (a) the available assets of the scheme and their value, (b) required amount, and (c) whether an adjustment to the rate or amount of benefits provided under the scheme is required, and if so, the amount of the adjustment." In preparing this actuarial valuation, the Scheme Actuary has to determine the three aspects of the actuarial valuation in accordance with the scheme rules and have respect to any regulations subsequently set out.

- When the trustees need to adjust the benefits of the scheme they must cite the actuarial valuation and explain to TPR if the adjustment is not made in accordance with the recent actuarial valuation.

- An additional actuarial valuation may be mandated by TPR where trustees have failed to comply with certain aspects of the legislation and, possibly, where a Pause Order is made by TPR.

13. Comparison to DB Scheme Actuary Responsibilities

13.1. In comparison to the work reserved in the role of the DB Scheme Actuary, the main difference in responsibilities relate to the testing the viability of the scheme design, a certificate of which is required in the application to TPR. The CDC Scheme Actuary must thereafter continue to certify the viability of the scheme design annually.

13.2. Beyond certifying that a design is viable, CDC Scheme Actuaries will have no influence on contribution levels but do materially influence benefit levels. In comparison, DB Scheme Actuaries' work materially influences contribution levels and influences benefit levels to a limited extent.

13.3. In both roles the Scheme Actuaries must advise on member options but there are differences in the mechanics of the setting of factors.

13.4. There are additional issues the DB Scheme Actuary must advise on, which do not apply to CDC roles. The CDC Scheme Actuary's reserved work is therefore narrower than that of the DB.

14. Criteria for the introduction of a new Practising Certificate

14.1. Board members will recall that as part of the 2018 review of the Practising Certificates regime, criteria was agreed to assess when a practising certificate is required for a. The criteria is set out in a table at Appendix A. The current certificates are shown, along with an additional column for the CDC Scheme Actuary.

14.2. Given the importance of the actuary's role in the setting up and ongoing assessment of the suitability of the design of the CDC Scheme it is likely the role will be under increased public scrutiny. The executive consider that the role meets all the criteria for a new Practising Certificate.

15. Progress of Working Party

[redacted]

18. **Technical Actuarial Standards**
[redacted]

D: Conclusions and Recommendations

[redacted]

D: Recommendation

[redacted]

25. **Timescales**

[redacted]

E: Appendices

A. [redacted]