Department for
Communities
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Proposals for a Pension Schemes Bill

Equality Impact Assessment

December 2016

CONTENTS

EXECUTIVE SUMMARY

1. The pensions landscape has changed significantly over recent years and as a result the way in which people can save and access their pension savings has been transformed. In addition, the on-going roll out of automatic enrolment has resulted in a significant increase in the number of people being enrolled into a workplace pension.

2. Since the introduction of automatic enrolment master trusts have become a popular vehicle for employers, particularly small and micro-employers, seeking to enrol employees into an occupational pension scheme. A master trust is a form of multi-employer occupational pension scheme for unconnected employers where instead of the employer setting up their own pension scheme, the scheme will be provided by an external organisation which runs a pension scheme for numerous employers.

3. Although these schemes can offer good value for members and employers, the current legislative framework is not considered appropriate. Master trusts are currently regulated by the Pensions Regulator (TPR) and occupational pensions legislation. However, that legislation was developed mainly with single-employer pension schemes in mind. As master trusts have different structures and dynamics a stronger regulatory framework is required.

4. The Government introduced the Pension Schemes Bill to Parliament on 19 October 2016. The Bill seeks to protect savers and to maintain confidence in pension savings by increasing the regulation of master trusts.

5. Many private pension schemes operating in Northern Ireland are UK-wide schemes. Additionally, TPR, the Pensions Ombudsman and the Pension Protection Fund operate on a UK-wide basis. Therefore it is highly desirable that the same regulatory framework is in place in Northern Ireland to facilitate compliance and enforcement.

6. It is anticipated that, subject to Ministerial and Executive agreement, a corresponding Northern Ireland Bill will be introduced in the Assembly in 2017. This EQIA focuses on the key proposals which it is anticipated will be contained in any Assembly Bill.

7. The majority of the Bill will focus on master trusts and seek to address gaps and weaknesses in the current regulatory environment which could otherwise result in members having a lower level of protection compared to other types of pension scheme arrangement. It is essential to protect members benefits (savings) not only to ensure confidence in pension saving is maintained but also to achieve the aim of automatic enrolment which is to increase security in later life through getting millions more individuals saving for retirement.

8. The Bill will also amend existing legislation in relation to charges in order to cap early exit charges and ban member-borne commission charges.

SECTION 1 - INTRODUCTION

Background

Master trust authorisation

1. The introduction of automatic enrolment into workplace pension schemes, under the provisions of the Pensions (No. 2) Act (Northern Ireland) 2008, made it compulsory for employers to automatically enrol eligible workers into a qualifying workplace scheme. The reforms are being phased-in between October 2012 and February 2018. By the end of September 2016, across the UK, over 250,000 employers had automatically enrolled more than 6.7 million eligible workers[1]. The Government estimates that by 2018, approximately nine million workers will be newly saving or saving more into a workplace pension scheme as a result of automatic enrolment[2].

2. The pensions market has responded to the introduction of automatic enrolment and as a result the master trust market has developed. The Westminster Government has reported that as at January 2016, master trusts account for over four million members and £8.5 billion assets in 84 schemes. In May 2014, TPR published a master trust assurance (MTA) framework. Accreditation enables schemes to demonstrate that adequate standards of governance and administration have been met and, in turn, TPR signposts employers to such schemes. Such accreditation schemes are voluntary and TPR has no power to compel trusts to meet MTA standards. Consequently, a large number of master trusts (74 out of 84) are not currently accredited or seeking accreditation.

3. In May 2016, the House of Commons Work and Pensions Committee published a report examining the introduction of auto-enrolment. It found that the master trust model was a "good fit" with auto-enrolment because such trusts could provide the

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[1] http://www.thepensionsregulator.gov.uk/docs/automatic-enrolment-declaration-of-compliance-monthly-report.pdf
[2] National Audit Office, *Automatic Enrolment to Workplace Pensions: Summary*, November 2015

"ongoing oversight of investments provided by a trustee board at lower operating costs than single employer schemes"[3].

4. However, the Committee noted the concerns expressed by a number of bodies that the level of regulatory scrutiny was not sufficient. TPR stated that it was "not able to exercise stronger regulation". It highlighted that the Financial Conduct Authority (FCA) had the authority to enforce rigorous standards and "act as barriers to entry" for contract-based pensions, as well as powers to "issue legally binding rules to support its regulatory functions". However, the TPR, it stated, "just learn about a master trust being set up through the Revenue" and relies on "non-binding guidance". The Committee recommended that legislation should be introduced to provide the TPR with stronger regulatory powers over the establishment and supervision of master trusts.

<u>Member-borne commission charges</u>

5. In March 2014, the then Westminster Government announced a range of control measures to protect savers automatically enrolled into a workplace pension scheme, including a ban on member-borne commission. Member-borne commissions are arrangements agreed between a service provider and an adviser, or an employer and an adviser, where the charge is passed onto members who are required to pay for advice and services they may not use or may not benefit from.

6. Subsequently, the Department introduced the Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations (Northern Ireland) 2016, which from April 2016 banned member-borne commissions in relevant occupational pension schemes that were under the new arrangements (i.e. those agreed on or after 6 April 2016).

[3] House of Commons Work and Pensions Committee, *Automatic Enrolment*, 15 May 2016

Capping Early Exit Charges in Occupational Schemes

7. In the 2014 Budget, the then Westminster Government announced that it would change the rules to enable individuals with defined contribution (DC) pension savings to withdraw them "at a time of their choosing". The necessary changes to pension tax legislation were introduced by the Taxation of Pensions Act 2014. From 6 April 2015, people aged 55 and over would be able to access their DC pension "how they wanted, subject to their marginal rate of income tax", either via their current scheme or by transferring their savings to a scheme that offered flexible access options.

8. However, concerns were raised that individuals were finding it difficult to access the new pension flexibilities easily and at a reasonable cost. On 17 June 2015, the then Chancellor of the Exchequer, George Osborne, announced an investigation into how to remove the barriers to people accessing their money and a possible cap on charges. In response to the consultation, the Government concluded that early exit charges were presenting "significant barriers" to those who incurred them, "potentially prohibiting individuals from accessing their pension benefits flexibly". As a result, under the provisions of the Bank of England and Financial Services Act 2016, a duty was placed on the FCA to impose a cap on early exit charges in relation to contract-based schemes. However, this left a gap in relation to the level of protection for members of non contract-based schemes.

Summary of proposals

9. The Bill provides that:

- an authorisation and supervision regime for master trusts will be introduced, so that master trusts would have to demonstrate to TPR that they meet certain key criteria on establishment, and then continue to do so;

- existing master trusts will be brought into the regime and required to meet the new criteria.

- requirements will be placed on trustees to act in certain ways in the event of wind up or closure of a master trust to protect members in those circumstances; and

- TPR is provided with greater powers to take action where the key criteria are not met.

10. The authorisation regime and criteria aim to target specific areas of risk that arise from the structures and dynamics in master trusts compared to other occupational pension schemes, for example:

    - including employer engagement with the scheme;
    - the profit motive for most master trusts;
    - the volume of savers involved in these schemes; and
    - the potential impact on confidence in pension savings should a scheme fail or otherwise leave the market and the exit is not properly managed.

11. The provisions in the Bill focus on the authorisation regime process and TPR's powers to operate it, the authorisation criteria, and the introduction of measures intended to ensure an orderly exit where a scheme fails or otherwise chooses to leave the market. The focus on an orderly exit is aimed at providing continuity of member saving and support to employers in continuing to fulfil their automatic enrolment duties where applicable.

12. The Bill will also amend existing legislation to allow regulations to be made which override terms of certain contracts which conflict with the regulations. This seeks to support the policy intention of introducing a cap on early exit charges in certain occupational pension schemes.

13. This change will also support the policy intention to ban member-borne commission charges arising under existing arrangements in certain occupational pension schemes. Member-borne commission charges under new arrangements

were banned from April 2016.

Consultation

14. The measures outlined in this document were initially consulted on in Northern Ireland as part of the Westminster consultation process and the details are outlined below.

15. The Government issued a consultation paper, "*Pension transfers and early exit charges*", in July 2015 to gather stakeholders' and consumers' views on whether early exit charges applied by schemes were preventing consumers from accessing their pension savings. To support the consultation, the FCA and TPR conducted an evidence gathering exercise on the prevalence of exit fees and charges and the transfer process in occupational defined contribution pension schemes[4].

16. The response document "*Pension transfers and early exit charges: response to the consultation*" published in February 2016, set out proposals for going forward.

    https://www.gov.uk/government/consultations/pension-transfers-and-early-exit-charges-consultation

17. A separate consultation on "*Capping Early Exit Charges for Members of Occupational Pension Schemes*" was held between May and August 2016. It set out the approach the FCA had adopted to determine the level of the cap in relation to personal pensions. It considered the definition of early exit charges that should be applied in occupational pension schemes, statutory exclusions from that definition and how the cap should be implemented in occupational pension schemes. The responses to the consultation are currently being reviewed.

[4] https://www.fca.org.uk/news/statements/new-pension-flexibilities-%E2%80%93-update-fca

https://www.gov.uk/government/consultations/capping-early-exit-charges-for-members-of-occupational-pension-schemes

18. The consultation period runs from 16 December 2016 to 09 February 2017. Responses should be sent to:

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Email: helen.wilson@communities-ni.gov.uk

If the information is not in a format that meets your needs please contact foi@communities-ni.gov.uk.

Consideration of Impacts

19. Although pensions are a devolved matter, in general, Northern Ireland's pensions policy and legislation operate in line with corresponding pension provision in Great Britain in line with section 87 of the Northern Ireland Act 1998. In effect there is a single pension system and regulatory regime across the United Kingdom.

20. The proposals have been considered in the context of their impact on the groups set out in section 75 of the Northern Ireland Act 1998. Those impacts have been considered in light of available data and the policy intention to determine whether their effect is adverse. If a potentially adverse impact is identified, the Department is committed to giving consideration to mitigating measures.

21. In considering mitigating measures or changes to policy, the Department has to be cognisant of section 87 of the Northern Ireland Act and the implications for the many schemes and regulatory bodies which operate on a UK-wide basis.

Confidentiality of Information

22. All information contained in responses, including personal information, may be subject to disclosure under the Freedom of Information Act 2000 (FOIA).

23. The Department for Communities processes personal data in accordance with the Data Protection Act and in most circumstances this means that personal data will not be disclosed to third parties.

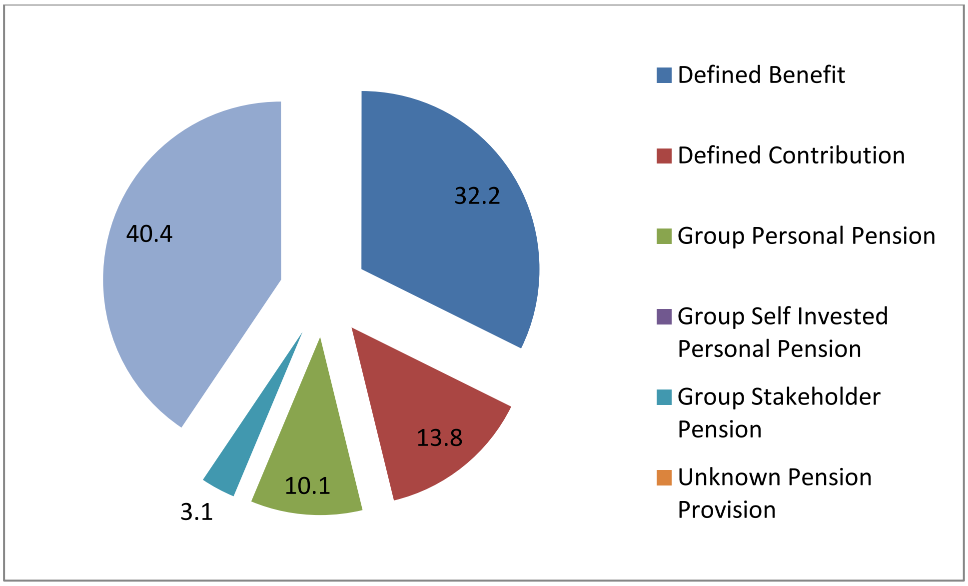
SECTION 2 – ASSESSMENT OF IMPACTS

Master Trusts

1. The proportion of employees in Northern Ireland who belonged to an occupational pension scheme was in steady decline between 2004 and 2012. Since then, the proportion of employees who belonged to an occupational pension scheme has increased significantly. The introduction of automatic enrolment in 2012 is likely to have been a key factor in this increase. Sixty percent of all employees were members of some form of workplace based pension scheme in 2015, up from 44% in 2012[5].

2. Chart 1 shows the breakdown of occupational pension scheme membership in 2015.

Chart 1: Pension scheme membership (%) by scheme type



Source: Table P1.1 Pension Type by Age Northern Ireland ASHE 2015[6]

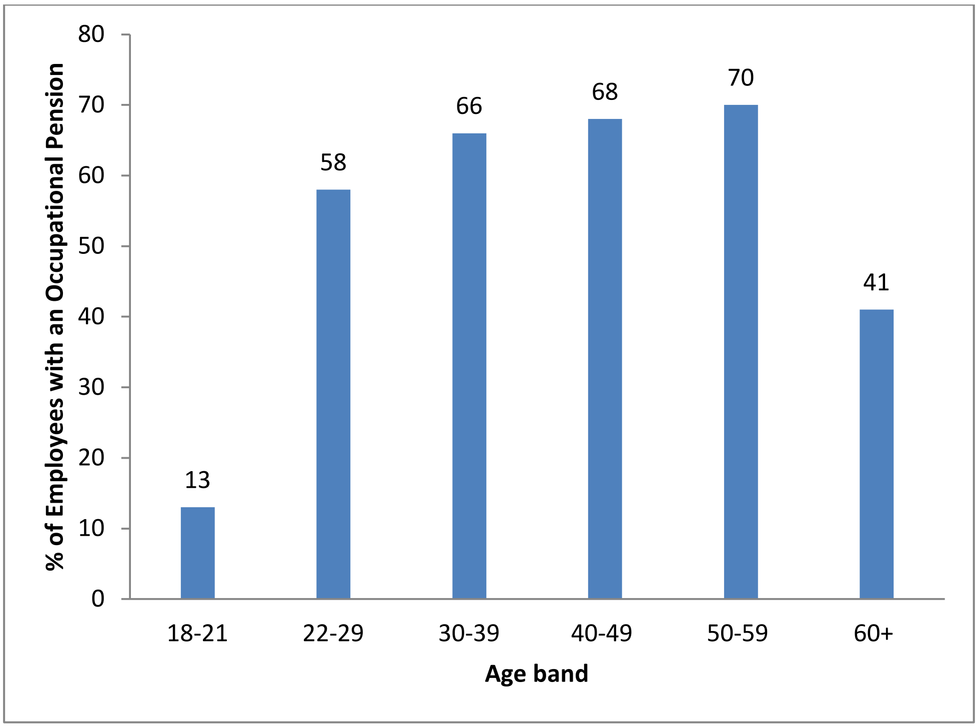
Note: Figures do not round to 100 as the figure for Group Self Invested Personal Pensions was too small to be considered reliable

[5] Northern Ireland Annual Survey of Hours and Earnings 2015: Pension Results
[6] https://www.economy-ni.gov.uk/publications/ni-ashe-2015-pension-results

Age

3. The Northern Ireland Annual Survey of Hours and Earnings (ASHE) 2015 found that age is a key factor in determining whether or not an individual is a member of an occupational pension scheme. Chart 2 shows the percentage of Northern Ireland employees who were members of an occupational pension scheme in 2015. It shows that private pension scheme membership increased steadily with age up to 60+ years with those aged 50 – 59 having the largest proportion of occupational pension scheme membership. Although only 13% of employees aged 18 – 21 were members of an occupational pension scheme this was a significant increase from 2014 when only 3% of that age group were members of an occupational pension scheme.

Chart 2: Proportion of employees with workplace pensions by age, 2015



Source: Northern Ireland ASHE 2015: Pension Results

4. We would not expect the creation of a new legislative framework for master trusts or amendments to allow for the capping of charges to have any adverse differential impact on the grounds of age.

Gender

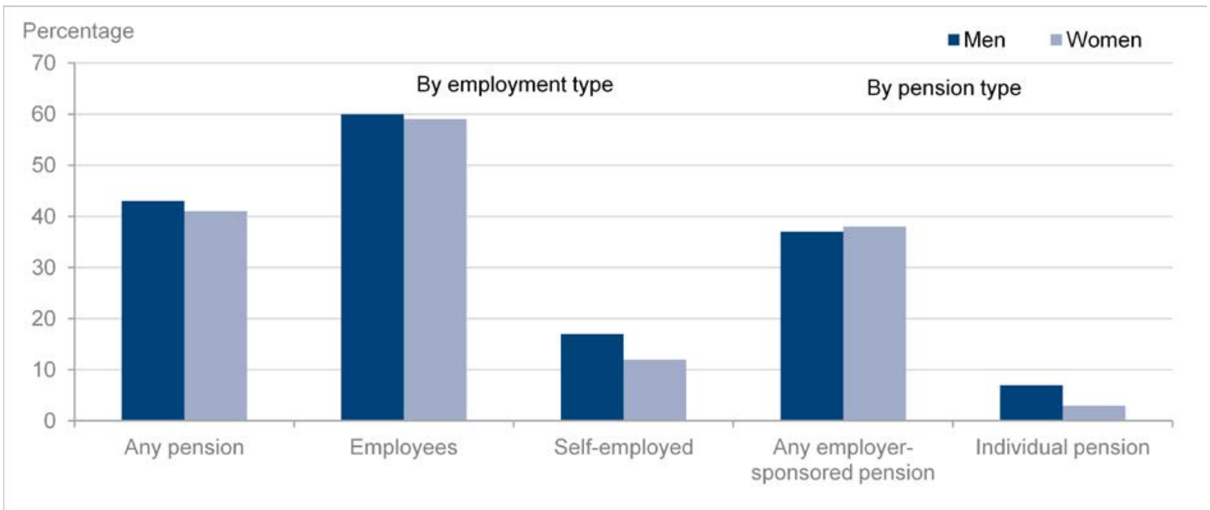
5. Overall pension scheme participation rates were very similar for men and women in 2014/15. Forty three per cent of all working age men were contributing to a pension compared to 41% of working age women.

6. Sixty per cent of employed men and 59% of employed women participated in pension schemes. Seventeen per cent of self-employed men contributed to a pension compared to 12% of self-employed women.

7. Participation rates in employer-sponsored schemes were also very similar for men (37%) and women (38%).

8. Participation in individual pension schemes (personal, including stakeholder pensions) was lower for women (4%) compared to men (7%). Differences in participation rates in personal pensions between males and females may be affected by differences in economic status (self employment is more prevalent for males and inactivity is more prevalent for females).

Chart 3: Pension scheme participation of working age adults by gender and economic status, 2014/15, United Kingdom



Source: Family Resources Survey 2014/15

9. We would not expect the creation of a new legislative framework for master trusts or amendments to allow for the capping of charges etc to have any adverse differential impact on the grounds of gender.

Marital Status

10. Information is not readily available in relation to the marital status of members of occupational pension schemes. However, the creation of a legislative framework for master trusts or amendments to allow for the capping of charges etc will have little direct impact on the basis of marital status. We do not expect there to be any adverse differential impacts on these grounds.

Religious Belief / Political Opinion

11. The religious belief or political opinion of members of occupational pension schemes is not recorded; therefore, assumptions have had to be made based on available data.

12. ASHE data shows that 85% of all public sector employees and 35% of all private sector employees were members of a workplace pension scheme in 2014. Data contained in the annual fair employment monitoring report would suggest that this equates to approximately 254,884 individuals.

13. If the membership of occupational pension schemes were to reflect the religious breakdown of the workforce outlined in the Equality Commission's data this would suggest that approximately 133,599 Protestants (52%) and 121,285 Catholics (48%) were members of a workforce pension scheme in 2014.

14. The proposals do not make any direct provision in relation to religious belief or political opinion. We would not expect the creation of a legislative framework for master trusts or amendments to allow for the capping of charges etc to result in any adverse differential impacts on the grounds of religious or political belief.

Racial Group

15. Data in relation to the ethnicity of members of occupational pension schemes is limited. However, we are aware that people from ethnic minority groups are more likely to have lower pension incomes overall. Chart 4 outlines the components of pensioner income by ethnic group.

Chart 4: The components of mean gross income of pensioner units, and the percentage in receipt by ethnic group, 2012/13 - 2014/15

Incomes in £ per week, 2014/15 prices

	All	White	Asian / Asian British / Chinese	Black / African / Caribbean / Black British	Other
Gross income	500	503	419	368	561
Benefit income	213	214	193	206	210
of which					
State Pension	167	169	123	125	135
Income related benefits	23	22	44	58	49
Disability benefits	17	17	17	17	14
Occupational pension	140	142	86	74	139
Personal pension income	20	21	4	6	35
Investment income	38	39	30	5	47
Earnings	85	84	104	75	125
Other income	3	3	3	2	5
Proportion of pensioners in receipt of:					
Benefit income	100%	100%	100%	100%	100%
of which					
State Pension	97%	98%	86%	86%	89%
Income related benefits	27%	26%	38%	48%	39%
Disability benefits	21%	21%	22%	22%	15%
Occupational pension	62%	63%	36%	46%	45%
Personal pension income	18%	19%	7%	10%	13%
Investment income	63%	65%	41%	29%	52%
Earnings	17%	17%	20%	17%	22%
Total population figures	8,720,000	8,340,000	200,000	120,000	60,000
(rounded to 10,000)					
Sample sizes	21,120	20,391	380	223	126

Source: Pensioner Income Series 2014/15

1. Data based on the average of three years of Family Resources Survey Results from 2012/13, 2013/14 and 2014/15 and uprated to 2014/15 prices.
2. Other includes Mixed/ Multiple ethnic groups and Other ethnic groups
3. Ethnicity is recorded based on the ethnicity of the head of the pensioner unit. It may therefore be that other members of the pensioner unit are not the same ethnicity.

16. Chart 4 shows that Asian pensioners were the least likely to be in receipt of an occupational pension (36%) or have personal pension income (7%). White pensioners were the most likely to be in receipt of an occupational pension (63%) or personal pension income (19%). Furthermore, White pensioners receive significantly more from their occupational pension (£142) compared to other groups. This is almost double what Black pensioners receive from their occupational pension (£74).

17. Historically, people from ethnic minority groups have been more likely than those from white backgrounds to have characteristics associated with low pension incomes. These include lower rates of pension scheme membership, lower rates of employment and earnings and lower rates of employment at older ages.

18. As discussed in paragraph 17, factors other than the type of occupational pension scheme available have a greater impact on pensioner outcomes for ethnic minorities. Therefore, the introduction of measures to strengthen the regulatory framework for master trusts or amendments to allow for the capping of charges etc is not expected to have any adverse differential impact on these grounds.

<u>Mitigation</u>

19. The continued roll-out of automatic enrolment should improve pension outcomes for all eligible jobholders including those from ethnic minorities who traditionally have lower rates of pension scheme participation.

Sexual Orientation

20. Data in relation to the sexual orientation of members of occupational pension schemes is limited and we would be happy to consider any additional data presented. However, the introduction of measures to strengthen the regulatory framework for master trusts or amendments to allow for the capping of charges etc is not expected to have any adverse differential impact on these grounds.

Persons with a disability and persons without

21. There is no data available in relation to whether or not members of occupational pension schemes have a disability. We would not, however, expect there to be any adverse differential impact on the grounds of disability as the proposed reforms simply introduce greater regulatory scrutiny of master trusts and allow for the capping of charges etc.

Persons with dependants and persons without

22. There is no data available in relation to whether or not members of occupational pension schemes have dependants. We would not, however, expect there to be any adverse differential impact on these grounds as the proposed reforms simply introduce greater regulatory scrutiny of master trusts and allow for the capping of charges etc.

Conclusion

23. The provisions of the Bill would seek to build on recent pension reforms such as automatic enrolment into an occupational pension scheme and ensure that those saving into a master trust are adequately protected.

24. None of the proposed measures are expected to have an adverse impact on any of the section 75 groups.

25. In line with the Department's commitment under the Equality Scheme, any adverse differential impacts on equality of opportunity or good relations identified will be shared with the Department for Work and Pensions and taken into account in its ongoing monitoring of the effects of the policy. Such findings will be used to inform further development of, or modification to, existing policies.

Data Sources

- Department for Work and Pensions – "*Capping Early Exit Charges for Members of Occupational Pension Schemes"* (May 2016)

- Department for Work and Pensions – "*Family Resources Survey 2014/15*" (June 2016)

- Department for Work and Pensions – "*Pensioners' Income Series: Financial Year 2014/15*" (June 2016)

- Department of Work and Pensions – *"Pension transfers and early exit charges: consultation"* (July 2015)

- Department of Work and Pensions – *"Pension transfers and early exit charges: response to the consultation"* (February 2016)

- Equality Commission for Northern Ireland – "*Employment Monitoring Report No. 25*" (December 2015)

- House of Commons Work and Pensions Committee – "*Automatic Enrolment: Eleventh Report of Session 2015/16*" (May 2016)

- National Audit Office, "*Automatic Enrolment to Workplace Pensions: Summary*" (November 2015)

- Northern Ireland Statistics and Research Agency – "*Northern Ireland Annual Survey of Hours and Earnings 2015: Pension Results*" (March 2016)

- The Pensions Regulator – "*Automatic Enrolment Declaration of Compliance Report July 2012 – end October 2016*" (November 2016)