

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Eighth Delegated Legislation Committee

DRAFT OCCUPATIONAL PENSION SCHEMES
(MASTER TRUSTS) REGULATIONS 2018

Tuesday 10 July 2018

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Saturday 14 July 2018

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The Committee consisted of the following Members:

Chair: IAN PAISLEY

Amesbury, Mike (<i>Weaver Vale</i>) (Lab)	† Opperman, Guy (<i>Parliamentary Under-Secretary of State for Work and Pensions</i>)
† Bruce, Fiona (<i>Congleton</i>) (Con)	† Penrose, John (<i>Weston-super-Mare</i>) (Con)
† Clark, Colin (<i>Gordon</i>) (Con)	† Phillipson, Bridget (<i>Houghton and Sunderland South</i>) (Lab)
† Davies, Mims (<i>Eastleigh</i>) (Con)	Shuker, Mr Gavin (<i>Luton South</i>) (Lab/Co-op)
† Dromey, Jack (<i>Birmingham, Erdington</i>) (Lab)	† Streeting, Wes (<i>Ilford North</i>) (Lab)
† Foxcroft, Vicky (<i>Lewisham, Deptford</i>) (Lab)	† Sturdy, Julian (<i>York Outer</i>) (Con)
† Fysh, Mr Marcus (<i>Yeovil</i>) (Con)	
† Green, Kate (<i>Stretford and Urmston</i>) (Lab)	
† Jenkyns, Andrea (<i>Morley and Outwood</i>) (Con)	Mike Everett, <i>Committee Clerk</i>
† McKinnell, Catherine (<i>Newcastle upon Tyne North</i>) (Lab)	
† Merriman, Huw (<i>Bexhill and Battle</i>) (Con)	† attended the Committee

Eighth Delegated Legislation Committee

Tuesday 10 July 2018

[IAN PAISLEY *in the Chair*]

Draft Occupational Pension Schemes (Master Trusts) Regulations 2018

2.30 pm

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I beg to move,

That the Committee has considered the draft Occupational Pension Schemes (Master Trusts) Regulations 2018.

The draft regulations were laid before the House on 18 June. Some 9.7 million people are saving through auto-enrolment, and 1 million employers are successfully assisting their employees. The vast majority do so through a master trust pension scheme, and these draft regulations will provide a robust set of standards and controls to ensure safe management and protection of their savings.

The draft regulations will introduce a new approach to how those occupational pension schemes are regulated. From 1 October, both existing and new master trust pension schemes will be required to be authorised by the Pensions Regulator and will be subject to ongoing supervision to ensure that they are maintaining the standards required at authorisation. Any scheme that chooses not to apply for authorisation or that fails to meet the required standards on application will be required to wind up and transfer its members to an operating scheme. The draft regulations will fully commence the authorisation and supervision regime for master trust pension schemes under the provisions of the Pension Schemes Act 2017.

The past eight years have seen significant growth in the master trust pensions market, with membership growing from 200,000 in 2010 to approaching 10 million today. The assets managed by that market now account for more than £16 billion, and that will continue to grow over the coming years. The rapid increase in both membership and assets is a direct result of the overwhelming success of the policy automatically to enrol employees in workplace pensions, with more than 90% of those being enrolled by their employer saving into a master trust pension scheme. As always, it is fair to say that the policy was originally introduced under a Labour Government, expanded by the coalition and taken forward by this Conservative Government.

The 2017 Act received Royal Assent in April last year. Since then, Government officials have been working closely with the regulator, the industry and other parties to develop the detailed policy design for the draft regulations. The draft regulations were subject to a public consultation, which I launched on 30 November 2017. The consultation generated more than 70 responses; it was detailed and well received. The vast majority of responses were supportive. Some made suggestions for technical improvements to the drafting, which were most welcome. I thank all parties who have so contributed.

On the draft regulations themselves, we have always been clear that our aim is to design a regulatory regime that meets the needs of all parts of this diverse market,

which ranges from long-established schemes, including many not-for-profit organisations, to new schemes set up in the wake of automatic enrolment and large, long-standing insurance providers that have taken the decision to diversify and join this emerging market.

During the passage of the 2017 Act, we made provision for regulations to apply the regime to schemes that could be said to fall outside the definition set out in the Act and to disapply it to schemes that otherwise would fall within the definition. That is intended to provide flexibility when deciding the detailed scope of the regime and to respond to market changes. We have considered that at length. The draft regulations provide greater clarity on the characteristics of schemes that will be subject to authorisation requirements.

In relation to the application process, the draft regulations require schemes to have a business plan approved by the trustees and the scheme funder. That critical document will include detailed information about the ambition and financial strategy of the scheme, as well as information about the scheme funder and the systems and processes that are to be used and information on trustees and others in a position of influence over the running of the scheme. In addition, schemes and scheme funders will need to provide their audited accounts and the accounts of any third-party funder.

The Act identified five key authorisation criteria that schemes must meet: the people running the scheme must be fit and proper; the scheme must be financially sustainable; the funder of the scheme has to meet various requirements; the scheme must have adequate systems and processes in place; and the scheme has to prepare a continuity strategy. I will quickly summarise those points.

In relation to the people running the scheme being fit and proper, the regulator needs to be satisfied that everyone involved in the running of a scheme has the appropriate integrity. Those in identified roles will each need to complete a questionnaire covering bankruptcy, unspent criminal convictions, disqualification from being a director or trustee, any adverse civil judgments and any decision or information provided by a regulator or Companies House. An additional test will be applied to those who are acting as scheme strategists or trustees, as they will also need to demonstrate a level of knowledge and understanding appropriate to their roles.

On financial sustainability, the regulator will need to be assured of the prudence of the assumptions made by the scheme, the capital it holds, the insurances that are in place, or the strength of the sponsor covenant to fund the operating costs up to the break-even point. Trustees and managers will also need to show that the scheme has financial resources to meet certain costs, including the costs should it get into difficulties and be required to wind up.

The scheme business plan will further provide details of any arrangement between the scheme and the scheme funder. The regulator also needs to be satisfied that the scheme funder can meet certain costs. That is why funders have to provide their accounts, together with the accounts of any third-party funder.

On systems and processes, when assessing whether the IT and wider systems and processes, including those relating to governance arrangements and resource planning, are sufficient to ensure that the scheme is run effectively,

the regulator must take account of the scheme's need to provide an effective service to its members and to deliver the future ambitions set out in its business plan.

Finally, a continuity strategy must be prepared by the scheme strategist and signed off by the scheme funder. It will need to set out how the scheme plans to respond, in the interests of its members, in the case of a triggering event that could lead to closure of the scheme.

I briefly want to address the supervisory regime. Our intention is to have a process that supports high standards and encourages schemes to seek support when any difficulties are first identified. The regulator will require schemes to update their business plans regularly, including when significant changes occur. Examples of that are a change to key personnel or a failure to keep to or meet a previously declared key milestone, target or planning assumption.

The regulator will also be able to request periodically a supervisory return from any scheme. That will inform the regulator's ongoing risk assessment of all authorised schemes and will be based on the five authorisation criteria. Although the regulator can only request such a return at most once a year, it will have some discretion over how regularly returns are requested, based on an ongoing assessment of the level of risk each scheme carries.

The master trust market is growing and vibrant, and it is not in our interest, and nor is it our intention, to interfere with it unnecessarily. We believe that this new approach is accepted and supported by the industry, which in turn is being actively supported in its preparation for the changes ahead by the Pensions Regulator.

The draft regulations introduce a robust new regime for master trust pension schemes that will provide added protection for the millions of our constituents who are saving towards their retirement, most of whom do so by way of automatic enrolment. I commend the draft regulations to the Committee.

2.38 pm

Jack Dromey (Birmingham, Erdington) (Lab): It is a pleasure to serve under your chairmanship, Mr Paisley. The priority of every pension scheme should be to provide security and dignity in retirement, with everyone—employers and employees—contributing towards an income in retirement. I am proud of the achievements of a Labour Government in establishing the concept of auto-enrolment, and I also welcome the continuity of approach. As a consequence, as the Minister has said, 9.7 million people are saving towards their pension—something that would not otherwise have happened.

Having said that, for all the progress made, we are a long way from finishing the job. That the Government are moving towards the development of a regulatory framework for auto-enrolment is welcome, but it is not before time. The lack of one has left people's savings at risk for too long.

We have three key priorities that legislation does not adequately address. The first is transparency: members must know what choices they are making and how much they cost, including all investment chain costs. The second relates to the scale and size of a pension fund's assets alongside improved governance of the pension system. The third is the need to improve governance, create and support more member trustees, and ensure effective engagement with them.

We badly need simplicity in the system. Members must know, in simple terms, what their workplace pension scheme is, so that they can make the most of what they invest. We must ensure that every person who is auto-enrolled is given the opportunity to understand what pension system they are going into, how much it costs and how much they will get, even if that is more estimation than fact in a defined contribution scheme. They must know how much each investment choice and transaction costs. Only then will they be able to make an informed decision.

Pension fund providers, and others involved in fund management, often try to dissemble or obfuscate when asked direct questions on costs. Such evasive answers reduce trust in providers. Members cannot make the accurate choices needed to improve their investment performance without knowing the cost. That is why we believe that the next stage is for the Department for Work and Pensions to create statutory guidance that requires all DC schemes to use the Financial Conduct Authority's cost-collection template, which is due to be published in September. Trustees and managers of the schemes would then be able to get to the root data for the first time. If that template is not used, the Government will not be able to meet the objectives they set trustees.

Although we support the draft regulations, because there is no effective regulation of master trusts, the Government's approach falls short of what is necessary to create the scale required to improve pension outcomes. It would have been better for primary legislation, in particular the 2017 Act, to state directly that if a fund cannot deliver value for money because it does not have the investment scale, it should merge, as in the Australian system, rather than indirectly push up costs for smaller master trusts through that regulation.

It is instructive that in the defined benefit world, the Government are persuaded of the argument that scale delivers better value for the local government pension scheme, through asset pooling, and for the DWP, in the form of the proposed super funds. Why not have a value-for-money regulatory system or an efficiency target whereby master trusts would merge if it is not met?

On the crucial issue of the governance of master trusts, improved governance must mean a trustee status with a package of improved training and dedicated facility time to do the job. Master trusts and independent governance committees lack scheme member input into the investment process. To be frank, they require a drastic overhaul. The voice of scheme members should always be heard.

Although some companies choose to operate a trust-based defined contribution scheme, most new auto-enrolled members will not find themselves saving into one. Instead, the vast majority of people will find themselves saving into a master trust or a group personal pension arrangement. Under such schemes, member representation on governance boards is far more rare.

We are in a new landscape. We have lost something that we had believed to be established as a clear fiduciary principle, namely member-nominated trustees. Most members do not have a say over which scheme they are enrolled into, and even if they believe a scheme is not the best possible fit, they are unlikely to be able to transfer without losing their employer contributions. The big difference between DB and DC is that employers

[Jack Dromey]

choose the schemes. If someone wants to get their employers' contributions, they have to go with their choice of scheme.

Better member representation would help to reassure members that they are enrolled in schemes that are well governed by boards that have their best interests at heart. The Association of Member Nominated Trustees believes that it needs employer support, which could come in the form of secondment release from day jobs, and that without such support it will be hard to get people to sign up to the ever-increasing workload and demands of being a trustee.

Workplace pensions must be low cost, with transparent and comparable explicit and implicit fees. There must be an efficiency drive to ensure that every penny in a pension fund is accounted for and used for growing the members' pot at the lowest possible cost. They must be well governed, with the scheme members at the heart of the process, by well-trained and supported member-nominated trustees. There must be an improved fiduciary duty for members to ensure that they are active investors who use their property rights to improve the performance of the companies they own.

To conclude, we sought in the Pension Schemes Bill Committee to make certain improvements along the lines that I have laid out, and it was a matter of regret that the Government refused to accept them. As a result, many of the people who matter most—the workers saving through auto-enrolment—will not have the means to enjoy retirement in quite the way they had hoped. Although the proposed secondary legislation is unobjectionable and we will not vote against it, the simple fact is that there remain fundamental flaws in the UK pension scheme that, notwithstanding the progress that has been made, particularly on auto-enrolment, lead to too many workers being denied a decent pension. Although the proposed legislation is a step in the right direction, it does not go far enough in fixing them. We urge the Government to move further and faster at the next stages.

2.46 pm

Guy Opperman: To address the three points raised by the hon. Member for Birmingham, Erdington, I accept the challenge that we need to do more to ensure the

long-term prosperity of pensions for all of the population. Auto-enrolment is making a massive impact on that particular problem, with 9.7 million signed up to it. The figure is expanding regularly: it is up to 5% and will be reach 8% next year.

On the issue of governance, the Pensions Regulator already has a range of powers that it can use to support a failing master trust scheme, which include appointing new trustees where necessary. The regulator's powers have been increased so that it can better oversee schemes and, if necessary, direct trustees in a particular situation, which will, of course, safeguard members' pots. The hon. Gentleman should remember that master trusts are required to regularly submit to the regulator an up-to-date business plan and accounts, and I believe that that addresses the point made about governance.

On transparency, the hon. Gentleman may have forgotten—like me, to be fair—that on 26 February this House passed regulations relating to costs and transparency. They specifically gave members of a money purchase scheme the right to know the costs and charges that they pay. Moreover, on occupational money purchase schemes, those regulations also set out that trustees have to publish, online in a publicly accessible format, details of all costs and charges. I accept, however, that the process is ongoing and we are acutely aware of the need to do more regarding the publication of that information and its distribution to members, so that they are made aware of it.

I take the hon. Gentleman's point about scale. Although it is unquestionably the case that scale can deliver better value, we have taken a slightly different approach to master trusts for good reason. We will certainly review the draft regulations on an ongoing basis. He mentioned the FCA's cost-collection template, which is pending and on the horizon. I am happy to discuss that with him at a later stage.

The draft regulations will provide additional consumer protection for many of our constituents and the 10 million or so people who are newly saving towards their retirement outcome. They are very much deserving of the support that the new regime will provide. I commend the draft regulations to the Committee.

Question put and agreed to.

2.48 pm

Committee rose.

