PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

PENSION SCHEMES BILL [*LORDS*]

Third Sitting

Thursday 5 November 2020

(Morning)

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Monday 9 November 2020

The Committee consisted of the following Members:

Chairs: Mr Laurence Robertson, † Graham Stringer

† Bailey, Shaun *(West Bromwich West)* (Con)
† Baker, Duncan *(North Norfolk)* (Con)
† Baldwin, Harriett *(West Worcestershire)* (Con)
† Bell, Aaron *(Newcastle-under-Lyme)* (Con)
† Buck, Ms Karen *(Westminster North)* (Lab)
† Davies, Gareth *(Grantham and Stamford)* (Con)
† Drummond, Mrs Flick *(Meon Valley)* (Con)
Eagle, Ms Angela *(Wallasey)* (Lab)
† Eshalomi, Florence *(Vauxhall)* (Lab/Co-op)
† Gray, Neil *(Airdrie and Shotts)* (SNP)
Griffiths, Kate *(Burton)* (Con)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Morris, James *(Lord Commissioner of Her Majesty's Treasury)*
† Opperman, Guy *(Parliamentary Under-Secretary of State for Work and Pensions)*
† Roberts, Rob *(Delyn)* (Con)
† Thomson, Richard *(Gordon)* (SNP)
† Timms, Stephen *(East Ham)* (Lab)

Kenneth Fox, Huw Yardley, *Committee Clerks*

† attended the Committee

Public Bill Committee

Thursday 5 November 2020

(Morning)

[Graham Stringer *in the Chair*]

Pension Schemes Bill [*Lords*]

11.30 am

The Chair: Before we resume, I remind the Committee that we need to respect the social distancing guidance, and I will intervene if the guidelines are breached. Also, if hon. Members have speaking notes, it would be helpful to our *Hansard* colleagues if those notes were sent to hansardnotes@parliament.uk.

Clause 123

Funding of defined benefit schemes

The Parliamentary Under-Secretary of State for Work and Pensions (Guy Opperman): I beg to move amendment 9, in clause 123, page 118, line 1, leave out subsection (2).

This amendment would remove a subsection which requires the Secretary of State, when making regulations or prescribing principles or matters under Part 3 of the Pensions Act 2004, to ensure that certain purposes are achieved as regards pension schemes.

The Chair: With this it will be convenient to discuss amendment 18, in schedule 10, page 185, line 29, at end insert—

"221C Guiding Objectives

(1) In exercising any powers to make regulations or otherwise to prescribe any matter of principle under this Part, the objectives of the Secretary of State must include—

(a) supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries; and

(b) avoiding the specification of requirements in relation to funding and investment strategies that are likely to accelerate the closure of relevant schemes.

(2) In subsection (1), "relevant scheme" means an occupational pension scheme that is not near significant maturity and is open to new members and is reasonably expected to remain so, either indefinitely or for a significant period of time."

Guy Opperman: It is a pleasure to serve under your chairmanship, Mr Stringer. I thank colleagues for their attendance and all the parliamentary staff as we try to progress parliamentary business in difficult times.

Clause 123 introduces schedule 10, which amends part 3 of the Pensions Act 2004. The clause is necessary, because it introduces amendments that improve the existing statutory framework for defined-benefit pension scheme funding and strengthen the enforcement powers of the Pensions Regulator to protect members' pensions better. It follows from the DB White Paper and various consultations that have taken place for a considerable time.

The Government are seeking to overturn the amendment made in the House of Lords. This is with no disrespect to the other place. I respectfully suggest that no Government can commit to ensuring that contributions remain affordable or that scheme closures are not accelerated. We cannot be bound to ensuring that all schemes that are expected to remain open are treated differently from other schemes, as open schemes in this category do not all share the same characteristics. Some will be maturing, just like closed schemes, and it opens up the potential for abuse. A closed scheme could reopen to very small numbers of new members, circumvent safeguards and pursue a riskier investment strategy that would otherwise be inappropriate.

We do not want good schemes to close unnecessarily, or to introduce a one-size-fits-all regime that forces immature schemes with strong sponsors into an inappropriate de-risking journey. What we do want is to build on a well established scheme-specific funding regime that takes account of the key metrics of individual schemes in enabling trustees to assess what can reasonably be supported in terms of investment risk. To ensure that members' benefits are protected and schemes do not take inappropriate risk, it is vital that trustees look at the characteristics of each scheme and balance scheme liquidity and investment risk with maturity. Open schemes with a strong sponsoring employer that are immature and have managed their risk appropriately should not be forced into an inappropriate de-risking journey.

I make it clear that the Government can commit to using the regulation-making powers available to ensure that the secondary legislation works in a way that does not prevent appropriate open schemes from investing in riskier investments where there are potentially higher returns as long as the risks being taken can be supported and members' benefits and the Pension Protection Fund are effectively protected.

Neil Gray (Airdrie and Shotts) (SNP): There is a problem with encouraging good open schemes to de-risk. We know where the bond market and gilts market is right now; we know that that puts them at risk. Baroness Altmann has intervened this week to say:

"If you decide to 'de-risk', then you are also deciding to 'de-return', taking away the upside potential that is so vital for making DB affordable. Deficit schemes just keep getting worse and contributions keep on rising. QE"—

quantitative easing—

"has undermined funding of all DB schemes".

Is it not crucial, then, that amendment 18, which is the compromise, be allowed to go through, to ensure that good DB schemes are allowed to stay open and continue? Otherwise, as is the position at the moment, the Government are putting those at risk.

Guy Opperman: With no disrespect to the hon. Gentleman, I disagree with the premise of what he said, and I disagree with Baroness Altmann, whom I spoke to only two days ago as part of ongoing consultation with their lordships and other peers as to the nature of this type of scheme. I can only reiterate—

Neil Gray: It is not just me or Baroness Altmann saying this. The schemes are saying that following this path puts their own good and open schemes at risk for members to continue to enjoy.

Guy Opperman: The context is that the regulator has a consultation on this issue. The schemes wish to have a different situation to what is proposed by the regulator.

It is worth making clear what the consolation is saying because it supports the argument that the Government are making, and not that of the schemes. Does the regulator's consultation make it clear that all open schemes will not be treated like closed schemes and forced into an inappropriate and expensive de-risking? To answer the question, I refer to paragraph 475 of the consultation, on page 109:

> "We acknowledge that if such schemes do continue to admit new entrants and do not mature then the scheme will not actually reach significant maturity. We are content that such a scheme retains the same flexibility in its funding and investment strategies that all immature schemes have."

The regulator adds later in paragraph 481, on page 111:

> "This is on the basis that open schemes have a longer time until they become significantly mature than closed schemes (some are not expected to mature at all) and longer investment horizons. Because of this extra flexibility, they can expect higher investment returns over the long-term which can be reflected in their discount rate assumptions."

I want to make it clear again—I have said it once, but I will say it again—that the Government are not proposing to introduce a one-size-fits-all funding standard and neither is the regulator. Its proposals seek to secure a reasonable balance between the protection of member benefits, fairness between schemes, and the ability of schemes to take more investment risk, especially where an immature scheme has a strong employer and expects to remain open and in a steady status for a long time. There is an ongoing consultation. On 2 October, I met with individual schemes making this case and discussed it for over an hour. I have also engaged with the peers who are the proponents of this amendment.

I regret to say that the Government do not agree that amendment 18 is an appropriate compromise. The amendment is unnecessary and unhelpful. We state that trustees are required to act and exercise their powers, including their investment decisions, in the best interests of their members and we are not seeking to change that. Trustees must first and foremost carry out the terms of the trust in accordance with the trustee, the rules of the scheme and the applicable law. Legislation must set the boundaries within which the trustees can exercise their discretions and ensure that their legislative duties operate in such a way as to protect all members by also protecting the PPF and its levy payers.

There is no mention in amendment 18 of the ability of the sponsor to pay more in the future if investments do not perform as expected, and that must be part of a scheme-specific regime that assesses whether risk is supportable in a transparent and rational way. It is reasonable for schemes to invest in return-seeking assets to try to keep costs down, if that risk is supportable. Indeed, the Government have made that clear—I am the Minister who brought forward the illiquid proposals, which permit investment in venture capital, renewables, social housing and the like. The Government are not against such investment as part of a balanced portfolio. We are not in support of amendment 18.

Neil Gray: The Minister protests strongly the Government and TPR's intentions. Why then not allow those protections and the intentions of the Government to be on the face of the Bill? The Opposition's amendment 18 would satisfy those concerns and ensure those protections and also what those open schemes are calling for.

Guy Opperman: With respect, I do not agree. The proposals in amendment 18 are not in accord with the proposals in the consultation by the regulator. As I have outlined, there are significant problems with such an amendment, and it is not something that this Government, or any Minister in my position, could support.

Seema Malhotra (Feltham and Heston) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Stringer. I thank the Minister for his opening remarks. He has had considerable dialogue with the hon. Member for Birmingham, Erdington (Jack Dromey), who I know is sorry that he cannot be here today. I will speak to Government amendment 9 and also Labour's amendment 18 on his behalf. I also thank the hon. Member for Airdrie and Shotts for his interventions.

We regret that the Government seek to remove the amendment made to clause 123 in the Lords. As the Minister is aware, there are grave concerns about the impact of the provisions in the Bill on open DB schemes, which includes many public sector schemes. Labour has been clear all along that we do not accept the premise that good DB schemes are not worth protecting.

Guy Opperman: Neither do the Government; we are as one on that.

Seema Malhotra: I thank the Minister for his intervention, and I am happy to see that that commitment continues to be made. Nevertheless, it is not least because DB schemes currently have 10.5 million members, with £1.5 trillion under management. The Minister will have noted that the Pensions Regulator recently made clear its desire to

"develop an approach that works well for open schemes",

stating that it wishes to

"secure a reasonable balance between protection of member benefits, fairness between schemes, and flexibility for schemes to fund and invest as they wish—especially where they have a strong covenant and a long-time horizon."

The new subsection (2)—as amended with this objective in mind—requires the Pensions Regulator to take a different approach to regulating the funding of open DB schemes, compared with those that are closed. It sets out several factors for the Secretary of State to take into account in regulations regarding scheme funding, which include distinguishing between open and closed schemes, balancing scheme liquidity and scheme maturity, and ensuring that affordability of contributions for employers and members is maintained.

Notwithstanding the Minister's comments, I want to continue with our argument. A number of peers with considerable authority in the pensions world spoke in favour of the amendment. The Minister said he had spoken with some of them in recent days, including Baroness Altmann, who supported the amendment in the Lords. Baroness Altmann noted that the Pensions Regulator's funding code seems

"to want to drive DB schemes on a path to so-called de-risking, aiming for a particular date of maturity. This concept is simply inappropriate for an open scheme."—[*Official Report, House of Lords,* 30 June 2020; Vol. 804, c. 681.]

However, given that the Government do not wish to retain these provisions, Labour's amendment 18, in the spirit of constructive engagement that we have maintained throughout this Bill, offers a compromise—as was noted by the hon. Member for Airdrie and Shotts—which

[Seema Malhotra]

aims to address the need for flexibility in the treatment of open schemes with the Government's aim, which we share, to ensure that schemes plan appropriately for the long-term.

The Minister said that this was not an appropriate compromise, but allow me to lay out our arguments for proposing it. In drafting amendment 18, we sought to address some of the concerns that were raised about clause 123, as amended in the Lords. The present amendment has two core objectives. The first is to support the ability of trustees to decide the funding and investment strategy for schemes, taking into account current and future maturity and liquidity, consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries. That is intended to protect schemes from any inappropriately risky or risk-averse requirements that would significantly adversely affect the affordability of schemes for employers and members. The second is to recognise that schemes are usefully and beneficially open to new entrants and should be allowed to remain so. The amendment is aimed at avoiding requirements in funding investment strategies that are likely to accelerate the closure of relevant schemes.

11.45 am

I am aware that the Minister has had representations about our amendment from multiple trade unions, including representatives of the railways pension scheme, which has 350,000 members, 100,000 of whom are still active. That number will probably continue. The Minister may also have noted that others in the pensions world have expressed concern about the treatment of open DB schemes.

In response to the Pensions Regulator's recent consultation on the DB funding code in September, the Pensions and Lifetime Savings Association expressed concern that the proposed code was too prescriptive and risked undermining many of the potential benefits of the new approach. It was also concerned that the proposals might unintentionally hasten the closure of open DB schemes. The requirement to fund accrued benefits in the same way as benefits for retirees would place a significant burden on funding requirements and did not reflect the differing dynamics and time horizons of many such schemes. The association said that the proposals could mean new accruals becoming prohibitively expensive when in practice benefits would not come into payment for many decades.

Lane Clark and Peacock also called for the treatment of open schemes to be given more thought, saying that it would lead in some cases to unnecessary de-risking and premature closure of otherwise viable schemes. The head of DB consultancy at Hymans Robertson said that the effect could be to force further DB closures by pushing up contribution rates, because of lower expected returns on investments, and that it could push stressed employers into insolvency at the expense of securing DB benefits:

"Put simply, it could push up costs so high that DB pensions become a thing of the past."

Regrettably, as far as I am aware, no official economic assessment has been produced in advance of the legislation passing to understand the impact of the code of practice. However, research by RPMI with a cohort of open schemes estimated that the Pensions Regulator's proposals could increase liabilities by between £120 billion and £160 billion.

Those are stark warnings. In that context, I welcome the Minister's comments on the issue that it is critical to the 1.1 million ordinary members of the schemes that are currently open to new members and to the 7.6 million who are members of schemes still open to future accrual. In fact, we do not believe that our positions are so divided on this issue. Baroness Drake summarised it well in the Lords:

"The amendment seeks to address two issues: first, that it should not be government policy to require trustees of pension schemes materially open to new entrants with strong employer covenants to adopt a strategy that will result in them de-risking their investments unnecessarily and prematurely…and, secondly, that the Secretary of State, in exercising powers under Schedule 10 to make provisions through regulation on the funding of defined benefit schemes, should make provisions that are consistent with the policy in the White Paper statement that running on with employer support could be an acceptable long-term strategy for a materially open scheme. The amendment is consistent with any reading of the government policy in the White Paper, but it seeks to ensure that it happens."—[*Official Report, House of Lords,* 30 June 2020; Vol. 804, c. 682.]

The Minister has said that he does not consider our amendment to be an appropriate compromise, but does he agree that the spirit of our amendment is consistent with Government policy? If so, will he continue to work with us to progress this issue in the light of the legitimate concerns raised about open defined-benefit schemes?

The Minister has referenced the regulator's consultation. Does he agree that it is entirely appropriate for elected politicians to provide a policy direction of travel to the regulator, without dictating points of detail that remain rightly the realm of regulations? Will the Minister also give assurances that the Bill, as amended by the Government in Committee, will not accelerate the closure of open schemes and that they will be treated differently?

Richard Thomson (Gordon) (SNP): It is a pleasure to serve under your chairmanship once again, Mr Stringer. I am pleased to get the chance to delve further into some of the issues that were raised on Second Reading, of which this was one. I am happy to add my support, along with that of my hon. Friend the Member for Airdrie and Shotts, to amendment 18.

When I spoke on Second Reading I warned of the need to be aware of unintended consequences, one of which originated outside the Bill. One that merited clear guidance in the Bill to prevent it from ever coming to pass was the issue around defined-benefit schemes.

The Minister says he does not want good schemes to close and schemes to be forced into the de-risking process. That is fine and good as far as it goes, but Ministers come, Ministers go, Ministers change their mind, yet legislation endures. I have been very impressed with the Minister's handling of the Bill today and I do not want to see him go anywhere—

Guy Opperman: Sit down now. Stop now.

Richard Thomson: I have got a bit to go. The Minister highlighted paragraphs in the Pensions Regulator's recent consultation, but I draw his attention to paragraph 210, which states:

"We consider that trustees' focus should be to ensure the security of members' accrued benefits rather than to ensure the provision of future benefits."

Taking all that together, it is at best inconsistent. It should be obvious why we all want to be assured that schemes are funded to meet their liabilities. Nevertheless, that is a deeply worrying statement for many people, including the scheme managers and trustees. There needs to be a difference in the investment strategy between DB schemes, which are open to new members, and those that are not.

As the Minister said, there are clear differences between open and closed schemes. A scheme that is closed to new members, for example, has to have a fixed end point, and their assets need to be readily available to pay pensions. That means investing in assets where the value is predictable, which inevitably leads to investing in asset classes that have lower returns.

In stark contrast, a scheme that is open to new members sees scheme leavers replaced with new members. It does not have to sell assets to pay pensions and can continue indefinitely. To deliver the required investment returns, it needs to be free to invest in a range of asset classes, which may be more speculative and less predictable, but which, nevertheless, over the longer term, might be expected to deliver better financial results and outcomes for the members.

Again, I hear what the Minister says about the actions he has personally taken to increase the range of asset classes in which pension schemes can invest. That is all well and good, which makes it seem all the stranger that we might end up inadvertently with the unintended consequence of choking that freedom off for DB schemes, for want of a lack of clear guidance in the Bill. That is assuredly what will happen.

If we insist on ensuring the security of accrued benefits, which are not at any serious risk, we effectively begin to mandate an investment policy suitable only for closed schemes. As soon as that happens, the potential returns are restricted. The liabilities of the schemes increase overnight, potentially anywhere between £120 billion and £160 billion. The cost of contributions to the employer, potentially the employee, or both is therefore increased. Inevitably, over time—potentially a very short time—the schemes are rendered unaffordable, and we see the closure to new members of what were otherwise perfectly good DB schemes.

Clause 123 provides for open schemes to be treated differently, given their unique characteristics. Retaining the amendment made to the clause would certainly be a stronger safeguard than amendment 18. However, amendment 18 is a genuine attempt to try to find a compromise position that captures the essence of clause 123, while at the same time managing to be far less prescriptive in what the Secretary of State is obliged to do.

Some 21% of DB scheme members belong to schemes that are still open to new members. They still perform a vital role in people's pension retirement provision, often for lower and middle-income families who have few other savings, and the matter therefore warrants the most careful attention. Amendment 18 would provide the means by which we can ensure that those DB schemes can continue to thrive and deliver for all their members, present, past and future.

I agree with the Minister when he says that there needs to be a reasonable balance between those classes of member, but legislation can be used to usefully set the parameters to guide trustees, which is exactly what amendment 18 would do, given the mixed messages from the regulator. If it is not deemed to be an appropriate compromise, I invite the Minister to work cross-party to try to find a compromise that would offer reassurance to scheme members and managers and that can definitely guarantee the future of DB schemes. Leaving it out of the Bill will not offer reassurance and, given the current mixed messages coming out of the regulator, will lead us down the path of unintended consequences with adverse outcomes for many of those who can least bear the cost.

Guy Opperman: I loved the first part of the hon. Gentleman's speech, and I am grateful for his tacit endorsement of our approach. I also loved the latter part, because I do want to work on a cross-party basis. If mixed messages have in any way been interpreted—I am not sure it is an intention in any way by the regulator; I assure him of that and I have spoken to the regulator—and if any clarification needs to be made, I cannot repeat any more that we are here to support DB in whatever shape or form. We have had a DB White Paper, and that consideration and the consultation has brought forward various things. The ongoing consultation by the regulator is exactly that—a consultation.

The request was made for more thought. There is a legitimate and relevant point, although I will resist the amendment, that this is a perfectly valid debate to have in this place. It will definitely influence the regulator's approach and ensure that, if there is any doubt whatsoever, not all schemes will be treated the same. There is not a one-size-fits-all approach. If anyone is proposing that that is the case, it simply is not. Every scheme should be looked at on its own merits and in its own particular way, because, as all colleagues have rightly identified, schemes have different profiles, different amounts and different objectives. That is what the regulator is trying to do—to build on the current approach.

I make a couple of quick points. Most schemes will not need to change their approach, as they are already doing the right thing. The investment risk that is supportable for each scheme will continue to depend on scheme-specific factors, including scheme maturity and the strength of the employer covenant, as is currently the case. Maturing schemes, whether open or not, will be expected gradually to de-risk their investments as they move towards lower dependence on the employer. There will be no such requirement for schemes that remain significantly immature, with strong employer covenants, who have been pursing appropriate funding and investment strategies. Taking investment risks—however one wants to describe that—is utterly acceptable as long as it is supportable.

I repeat that I am the Minister who, at the same stage as I am trying to improve and support DB, has given the schemes the power under the illiquids consultation to invest in alternatives, whether that is in green infrastructure, social housing or venture capital, building on the Treasury's work with the patient capital review and building on the work that the Department for Work and Pensions has done for some considerable time, to make it crystal clear that such investments can be pursued and that they can also produce a higher return.

Richard Thomson: Does the Minister accept that there is a difference between being given the opportunity to invest in those asset classes and having the freedom to invest in them, if there is a perception that people are being guided down a route of de-risking, and would not that be the benefit of setting it out loosely or flexibly in legislation, in terms of the guidance that could then be given to trustees on how those schemes ought to be managed?

Guy Opperman: The appropriate way forward, with respect, is a three-pronged approach, which would be a combination of primary legislation, regulation and the DB funding code to balance effectively employer affordability and member security. I think we all start with the fundamental principle—certainly as Minister I have to have it as the guiding principle—that the member is the most important person to be safeguarded, and I believe that the three-pronged approach is the appropriate way. There is an ongoing consultation and I genuinely believe that it should be allowed to run its course, with us all having the opportunity to make points to it.

I will just finish the point I was making: the scheme funding measures in the Bill, together with secondary legislation and the revised scheme funding code, seek to support trustees and employers to manage their scheme funding with a focus on longer-term planning. As is now the case, the scheme's liquidity requirements and investment timelines and the amount of risk each scheme can support will depend on factors including its maturity and the strength of the employer covenant. Trustees can and do already invest in illiquid assets such as infrastructure, and our measures do not seek to discourage such investments where they are appropriate.

12 pm

I finish on that point, although of course I am happy to maintain dialogue. I have met the various proponents of the scheme, I have explained to various peers why the Government cannot support these proposals, and I have exchanged correspondence with the various unions that have made representations to me. That dialogue will unquestionably continue, but, without any shadow of doubt, the Government will resist the Opposition amendment.

Question put, That the amendment be made.

The Committee divided: Ayes 9, Noes 6.

Division No. 9]

AYES

Bailey, Shaun	Drummond, Mrs Flick
Baker, Duncan	Morris, James
Baldwin, Harriett	Opperman, Guy
Bell, Aaron	Roberts, Rob
Davies, Gareth	

NOES

Buck, Ms Karen	Malhotra, Seema
Eshalomi, Florence	Thomson, Richard
Gray, Neil	Timms, rh Stephen

Question accordingly agreed to.

Amendment 9 agreed to.

Clause 123, as amended, ordered to stand part of the Bill.

Schedule 10

FUNDING OF DEFINED BENEFIT SCHEMES

Amendment proposed: 18, in schedule 10, page 185, line 29, at end insert—

"221C Guiding Objectives

(1) In exercising any powers to make regulations or otherwise to prescribe any matter of principle under this Part, the objectives of the Secretary of State must include—

(a) supporting the ability of the trustees of a relevant scheme to decide the funding and investment strategy for the scheme taking into account the current and future maturity and liquidity of the relevant scheme consistent with the trustees' duty to invest assets in the best interests of members and beneficiaries; and

(b) avoiding the specification of requirements in relation to funding and investment strategies that are likely to accelerate the closure of relevant schemes.

(2) In subsection (1), "relevant scheme" means an occupational pension scheme that is not near significant maturity and is open to new members and is reasonably expected to remain so, either indefinitely or for a significant period of time."—*(Seema Malhotra.)*

Question put, That the amendment be made.

The Committee divided: Ayes 6, Noes 9.

Division No. 10]

AYES

Buck, Ms Karen	Malhotra, Seema
Eshalomi, Florence	Thomson, Richard
Gray, Neil	Timms, rh Stephen

NOES

Bailey, Shaun	Drummond, Mrs Flick
Baker, Duncan	Morris, James
Baldwin, Harriett	Opperman, Guy
Bell, Aaron	Roberts, Rob
Davies, Gareth	

Question accordingly negatived.

Schedule 10 agreed to.

Clause 124

CLIMATE CHANGE RISK

Seema Malhotra: I beg to move amendment 17, in clause 124, page 118, line 23, leave out "an occupational pension scheme" and insert—

"(a) an occupational pension scheme, or

(b) a contract-based workplace scheme".

This amendment would add contract-based workplace schemes to obligations under this clause, as well as occupational pension schemes.

I will keep my remarks on the amendment brief. In a sense, it builds on the positive work in the Lords on climate change by extending the provisions in the clause to contract-based workplace schemes as well as occupational pension schemes. I hope the Minister will agree that it is a common-sense extension of the welcome measures already contained in the Bill, and that it would ensure effective governance of all relevant schemes with respect to the effects of climate change.

Guy Opperman: The clause introduces a variety of measures in respect of climate change risk. We believe the clause and the regulations that it allows the Government

to make are a huge step forward in the UK's fight against climate change and mark the first provisions of their kind globally.

We are proud that this Government are the first among the G7 to introduce a target for net zero by 2050. We are among the leaders in environmental, social and corporate governance with the pioneering way that we are transforming the pensions and asset managing processes of the City of London, and the pensions provision, on an ongoing basis. We have the green finance strategy that the Government have introduced. I respectfully suggest that the build-up to COP26, which is one year from today, gives us an opportunity to show the great work that we are doing in this country and to demonstrate how we can show leadership around the world.

I believe we all know and accept that climate change is a pressing and imminent threat not only to our planet, but to our investments and, therefore, to our pensions. Back in August, my right hon. Friend the Secretary of State for Work and Pensions launched the Government's consultation on the measures they propose to introduce, which include powers to ensure that pensions are properly protected against the risk posed by climate change and can take full advantage of the investment opportunity it presents. I believe that there is an opportunity for this country to lead the way—an opportunity to be the first in the market as we create climate change-friendly investments and an investment strategy that genuinely transforms this country, helps us to get to net zero and provides sustainable long-term pensions.

Gareth Davies (Grantham and Stamford) (Con): I warmly welcome clause 124, which affirms the Government's commitment to tackle climate change using the power of finance and investment to move things forward. Does he agree that the issuance of a green gilt and asset purchase facility is a good next step forward in enabling more pension funds in our country to invest in our bond markets in a way that will help us to meet our climate change targets?

Guy Opperman: My hon. Friend is a specialist in this field thanks to his profession prior to being elected to the House. It seems to me that as we drive forward the ESG reforms and the changes under clause 124, and as we have climate-related financial disclosure, pension funds will wish to invest in a sustainable way that produces an appropriate return but is supportable from an ESG point of view.

Effectively, only three forms of capital can provide the infrastructure renewal and retrofitting that will be required for us to get to net zero: Government money though taxes, private sector money brought forward by individual companies, and pension fund investments. Creating a green gilt, as the French, the Germans the Poles and some parts of California have already done, would be a very good way forward. To their credit, the Chancellor and Ministers at the Treasury are looking into it, and I believe that such a move will happen in the fullness of time.

I utterly support the efforts of my hon. Friend to ensure that a green gilt is an alternative form of investment for pension funds as they seek to invest in a sustainable long-term way that also supports the objective of this country. I utterly support the campaign that he has been fighting, both in word and in the House, on that issue.

Seema Malhotra: It is a matter of cross-party pride that we are seeing the commitment to climate change risk come into pensions legislation, and that we are leading the way on this issue. Over the past few years, we have introduced flexibility for trustees to look at non-financial measures in relation to investment decisions, which is an important part of the journey. In the spirit of these legislative provisions, does the Minister agree that, to realise the potential of the Bill and the opportunity for trustees, it is important to continue dialogue and to seek international agreement? Some countries are making progress in the right direction, but others are not—for example, the legislation passed in Australia looks like it is going in the opposite direction.

Guy Opperman: The hon. Lady makes a number of good points, all of which I endorse. It was noted in the record of the conversation between the Prime Minister and his Australian counterpart only last week that our Prime Minister tried to make the case to Mr Morrison that Australia should be doing more on climate change. The flipside of that is that, clearly, we should be using our advocacy. It is to his great credit that the right hon. Member for Doncaster North (Edward Miliband), when he was the Secretary of State for Energy and Climate Change in the Labour Government, introduced the Climate Change Act 2008. That work has continued since under the coalition Government and the Conservative Governments. The direction of travel could not be clearer in this county, and I believe our legislation has made clear what we are trying to do.

The Chair: Order. I do not want to turn this into a full-blown debate on climate change. We are debating a proposed amendment to a clause, which takes into account climate change in a specific way. I would be grateful if the Minister focused his remarks on the amendment.

12.15 pm

Guy Opperman: I entirely endorse everything you say, Mr Stringer, and I apologise. I was answering too fully what I would suggest is probably a legitimate question from the hon. Member for Feltham and Heston about a clause entitled "climate change".

However, to return to amendment 17, I respectfully suggest that that is not necessary. There are two fundamental reasons why. First, action has already begun on that specific issue; I have provided the hon. Lady with the exchange of correspondence between myself and Chris Woolard, the interim chief executive of the Financial Conduct Authority, dated 30 September and 22 September 2020, which specifically addresses the point. The FCA is the appropriate regulator to make proposals for its regulated sectors. The FCA, as Chris Woolard makes clear, will be making proposals on climate change with respect to personal pension schemes, otherwise known as contract-based schemes. The letter has been in the House of Commons Library since Second Reading.

I can assure the Committee that the FCA plans to consult on corresponding climate-related financial disclosures for personal pension schemes in the early months of next year and to finalise the rules by the end of 2021. That will mean that by 2022, subject to consultation and cost-benefit analysis, pension schemes, no matter whether they are occupational or personal, will be

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subject to TCFD reporting requirements. The whole point of the exchange of correspondence is that the FCA has effectively accelerated the process it has been going through to catch up with what the DWP and regulators are doing in this space. Given that announcement, I urge hon. Members to withdraw amendment 17.

Seema Malhotra: I take on board the points the Minister has made. This is an area that may requires further dialogue, and we will reflect on what the Minister has said. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 124 ordered to stand part of the Bill.

Clause 125

EXERCISE OF RIGHT TO CASH EQUIVALENT

Stephen Timms (East Ham) (Lab): I beg to move amendment 21, in clause 125, page 121, line 11, at end insert—

"(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme."

This amendment enables regulations under inserted subsection (6ZA) of section 95 of the Pension Schemes Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific "red flags" are identified in relation to the transfer or intended receiving pension scheme. Amendments 22, 23 and 24 are related.

The Chair: With this it will be convenient to discuss the following:

Amendment 22, in clause 125, page 122, line 4, at end insert—

"(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme."

This amendment enables regulations under inserted subsection (5A) of section 101F of the Pension Schemes Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific "red flags" are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 23 and 24 are related.

Amendment 23, in schedule 11, page 193, line 20, at end insert—

"(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme."

This amendment enables regulations under inserted subsection (6ZA) of section 91 of the Pension Schemes (Northern Ireland) Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific "red flags" are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 22 and 24 are related.

Amendment 24, in schedule 11, page 194, line 15, at end insert—

"(e) the results of due diligence undertaken by the trustees or managers regarding the intended transfer or the receiving scheme."

This amendment enables regulations under inserted subsection (5A) of section 97F of the Pension Schemes (Northern Ireland) Act 1993 to prescribe conditions about the results of due diligence undertaken in relation to a transfer request such as to determine that the statutory right to a transfer is not established if specific "red flags" are identified in relation to the transfer or intended receiving pension scheme. Amendments 21, 22 and 23 are related.

New clause 10—*Pensions Guidance*—

"The Secretary of State must write to members or survivors of pension schemes five years prior to the age of becoming eligible to access their benefits, to state a scheduled date and time for a pensions guidance appointment, or the option to reschedule or defer this appointment; and write annually until a pensions guidance appointment has been taken, or the member's desire to opt out has been confirmed."

This new clause would ensure members or survivors of pension schemes receive an impartial pensions guidance appointment prior to the point when they become eligible to access their pension benefits, with an appointment booked each year until such time that the member has received impartial guidance.

Stephen Timms: I am pleased to be serving under your chairmanship this morning, Mr Stringer.

The Work and Pensions Committee, which I chair, discussed amendments 21 to 24, and I am grateful to Labour colleagues on the Committee, the Conservative Vice Chair of the Committee, the hon. Member for Amber Valley (Nigel Mills), and the right hon. Member for New Forest West (Sir Desmond Swayne) for putting their names to the amendments. I am grateful to the hon. Members for Airdrie and Shotts and for Gordon for doing so today as well. This is a tripartisan amendment, as all good pension policy should be.

Last weekend, I was in touch with a nurse who works at a health centre in my constituency. Her husband drives a black cab. Some years ago, a financial adviser they knew well and who had given them good advice previously called and told them about an opportunity to realise their pension savings early with no real downside. They took up his offer. The upshot is that all their savings have gone and they now face a massive tax bill of about £60,000 with no means to pay it. The financial adviser, I understand, is living on a yacht in Tenerife.

All of us can understand just how devastating is the impact on hard-working families of being robbed of their life savings in that way. People who have saved conscientiously, worked hard and done the right thing, and who are entitled to be able to look forward to secure retirement, suddenly find that their hopes have been destroyed. The Transparency Task Force, one of the groups that urged the Select Committee to undertake an inquiry on scams, reports cases of spouses who, sometimes for years, have not dared tell their partner what has happened, so awful are the consequences. People wake up every day in dread of the future. They are often ashamed and embarrassed to have fallen for such a barefaced lie. Scammers groom people; they become trusted family friends. They "warn" savers that schemes will advise them not to transfer their money, and claim that that is because the schemes want to hang on to it for their own benefit. If the saver does become aware that the receiving scheme has fallen foul of regulators, they will say that that was just because someone was late filling in some forms.

It seems absurd that, as the law stands, trustees are compelled to make a transfer if a member demands it, even if the trustees know that the money is being handed over to crooks. Even if the receiving scheme is on the warning list, published by the Financial Conduct Authority, of firms known to be suspect, the law requires trustees to go ahead with the transfer; and if they are slow about it, they can be fined.

The Select Committee on Work and Pensions has launched an inquiry on the impact of the pension freedoms five years after they were introduced in April 2015, and the first of three parts is looking at pension scams. It is striking how loud a call there has been, from many different places, for the Select Committee to look at this matter. It reflects widespread revulsion at some of the scandals we have seen and fear of the damage that they do—certainly to individuals, but also to the industry as a whole. There has been a particular worry that the pension freedoms plus the financial pressures of the pandemic could be creating what the Pensions Regulator has called a golden age for pension scams, so the inquiry is looking at the prevalence and impact of scams.

Margaret Snowdon, who leads the Pension Scams Industry Group, told the Select Committee at its meeting on 16 September that, based on a survey that the group carried out a couple of years ago, it estimates that some 5% of pension transfers in the last five years have been into scams. The amount may total £10 billion over that period and 40,000 people may have been affected; some will not yet know that they have been scammed. And this is carrying on. Responsibility for preventing and responding to scams cuts across many different bodies, and our witnesses reflect that. It is a tragedy that many victims see very little, if any, of their money ever returned.

The Bill was amended in the other place before the summer break—the amendment was, I am glad to say, accepted by the Government—so that if a defined-benefit transfer application raises one of the red flags on a prescribed list of features likely to indicate that there is a scam going on, the trustees must delay the transfer until the saver has taken financial advice.

These four amendments are based on work by the Pension Scams Industry Group. I pay tribute to Margaret Snowdon and her colleagues for their hard work. The amendments would empower trustees to refuse a transfer altogether if they had good grounds, based on the red flag analysis, for believing that a proposed transfer involved moving pension savings into a scam. It would say to the trustees, "You don't have to do this." The amendments provide for the making of regulations that prevent a transfer from taking place, depending on the results of that due diligence on the receiving scheme undertaken by the trustees or the scheme managers. That would allow a period of consultation and evidence gathering before regulations were drafted and implemented, to ensure that the detail was right.

I am grateful to the Minister for the helpful discussions we have had on this point since the summer. I know that he is as appalled as I am by the impact of scams, and that he has been looking very carefully, with his officials, at whether it is possible to achieve the effect of the amendments—without actually accepting them—by using powers already in the Bill. I am looking forward to what he will have to say to us today about that. From what I have seen, and thanks to the work of his officials, it does look as though it might well be possible to deliver the effect of the amendments with regulations under the Bill as it stands. I was sceptical about that to begin with, but thanks to the work that the Department has now done, I can see that that might well be the case.

I want to sound one note of caution. I understand that the Department would like to exempt from its proposed regulations certain categories of scheme. For example, it would want to guarantee that a transfer to an authorised master trust should not be blocked on the basis of a red flag assessment. Actually, I have no problem with exempting authorised master trusts, given their oversight by the Pensions Regulator, but it would be a serious mistake to exempt FCA-registered schemes, because a lot of scams are FCA registered.

I am told, for example, that it is perfectly possible for schemes to be both FCA registered and on the FCA warning list. Typically, those might involve an overseas adviser, probably not FCA registered, who would use the platform of a UK self-invested personal pension which is FCA registered to offer exotic investments overseas. That is precisely the form that many such scams take. When the regulations are drawn up, whether under my amendments, if they are accepted, or under the existing powers as the Minister intends, it is important not to create a large loophole to allow the bulk of the crimes to carry on. We certainly need to improve drastically the protection for savers. Implementation of the pension freedoms without safeguards has inflicted great harm. We must now put essential safeguards in place.

I come now to new clause 10. Last week, the Department published a document entitled, "Stronger nudge to pensions guidance: statement of policy intent". That does not sound like a document that will set the world or fire, but I think its content is widely regarded as rather timid and disappointing. It does not deliver the default guidance approach that Members on all sides wanted when the Financial Guidance and Claims Act 2018 became law and was debated.

Consumer organisations are also calling for people to be directed to an appointment automatically, rather than expecting them to sort one out for themselves. We know how successful harnessing inertia to bring people into pension saving has been; we should harness inertia as well when people come to access their pension savings—auto-enrol in, but auto-enrol out, too. New clause 10 would auto-enrol pension savers into an appointment with Pension Wise these as they approach the point of accessing their pension. Put savers' interests first and recognise the dangers in hasty, badly made decisions.

Pension Wise is delivered by Citizens Advice. It is immensely popular with the rather small number of people who use it. Nine out of 10 of those who use it report high or very high satisfaction. That is a pretty impressive level of satisfaction, yet the service is hidden away from most people. A significantly higher number of users than non-users say that they are very or fairly confident about avoiding pension scams having used Pension Wise. The default ought to be that people get an appointment.

Progress on take-up has been poor. Pension Wise reaches only a fraction of those who need it most—non-advised pension savers at the point when they choose to access their pension savings. The FCA estimates that between one in 10 and one in eight savers—a tiny proportion—first use Pension Wise when accessing a pension, and what should be the norm is instead the preserve of a minority. We should not be surprised about that. Pension planning is complicated, people do not know the ins and outs, and it very easily drops down a to-do list with all the other things going on, despite its importance.

In the statement of policy intent of last week, the Department said it will implement a guidance policy based on the "Stronger Nudge trials" of the Money and Pensions Service. Those trials did show a very limited

[Stephen Timms]

increase in appointment bookings resulting from the nudges that were tested, but it is nowhere near enough. That is why the amendment is necessary.

Two nudges were tested. The first was that the pension provider offered to book a Pension Wise appointment for the consumer; the second was that the customer was transferred to the Money and Pensions Service, who then booked a Pension Wise appointment for them. The document sets out that, with both nudges, around 11% of pension holders attended a Pension Wise appointment, compared with 3% in the control group.

It is perfectly true that one in nine is a better level of take-up than one in 33, but we can surely agree that we must do far better than that. Auto-enrolment was needed for pension saving precisely because the nudges that we had all tried for years did not work. That is why we now have more than 10 million extra people saving into workplace pensions. Pension saving has become the norm, and impartial pensions guidance must become the norm as well. That is what the amendment would deliver.

12.30 pm

Sir Hector Sants, the chair of the Money and Pensions Service, said to the Work and Pensions Committee in March:

"A significant number of the people who contact Pension Wise will come away saying that, after having spoken to our guidance service, they have concluded that they should do something different from what they had in mind in the first place…72% of people are saying they have changed their mind about what they will do as a result of talking to our guidance service. In a way, that is a simple statistic that tells you that the vast majority of people, left to their own devices, will probably make a poor decision."

The amendment proposes that the Department should write to members of defined-contribution pension schemes each year from when they are five years away from being able to access their pension benefits and set a time and date for their appointment. That is the sort of thing that already happens with health checks. It is convenient for the saver, but it also allows the Money and Pension Service to schedule appointments efficiently, as its resources allow.

Pension Wise is the realisation of the pension freedoms policy—the promise that was made at the time of free, impartial, high-quality guidance for those who do not use a regulated financial adviser for pensions decisions. It is the main consumer protection in the pension freedom policy—it was not an optional extra—but hardly anyone is using it. Pension Wise can be the difference between well-informed decisions leading to financial security in retirement and bad decisions, with pensions scams a real possibility. We need determination to fix that, and the current policy lacks determination.

Auto-enrolling people to Pension Wise appointments fits the bill. Starting five years ahead of eligibility will get people thinking while they have time to reflect on their options and make their choices. An impartial session will set them on the right tracks and correct misunderstandings. Repeating the invitation each year until the appointment is taken up or is opted out of will equip savers with very important information to think ahead effectively for their financial needs in retirement.

Regulators will have a key role in the direction of pension guidance policy, because their consumer protection duties oblige them to take an interest in it. The FCA uses its own business plan to cite the

"significant risk of harm"

arising from,

"the way consumers have been given additional responsibility for complex investment decisions, through the shift to Defined Contribution (DC) pensions and the Government's 2015 pension freedoms."

Likewise, the Pensions Regulator has emphasised focusing on security and value in pension schemes, preventing and tackling pension scams and understanding and enabling good saver decision-making in its long-term corporate plan published recently. The regulators are absolutely up front about the risks for people and the need to address them, but the Department's policy response so far has fallen far short. It is much weaker than is needed.

We cannot sit back while Pension Wise continues to be an excellent service taken up by hardly anybody. The Government and regulators must end their indifference on this. Aspiring to an 11% take-up simply is not enough. We need auto-enrolment into a service that enables better outcomes from pension savings.

Neil Gray: I do not have too much to add to the fantastic speech that has just been made by the right hon. Member for East Ham, the Chair of the Select Committee. I have to say that my heart breaks—I am sure others feel the same—for his constituent and the way that family has been treated and the situation they are now in. That case reinforces the need—if there ever was one—for stronger and more robust action, and that is why we support the amendments and new clause.

I especially concur with the right hon. Gentleman's points about the actions of trustees where there are red flags and hope that the amendments or the Ministers response will satisfy our concerns that that will be addressed. We support these amendments on pension guidance and protecting against scams. We have been contacted by a number of organisations in this area, not least Just Group plc, who I am very grateful to for its briefing.

The Department appeared to pre-empt some of these discussions with its most recent statement of policy intent, which suggested a stronger nudge towards using Pension Wise. It is worth repeating the point made by the right hon. Member for East Ham that the cited MaPS stronger nudge trials showed only a very small increase in the number of people who actually went on to have a Pension Wise appointment. The DWP claimed that it

"significantly increased the take-up of Pension Wise guidance."

But, again, this is pure spin.

The hon. Member for Delyn earlier in the Committee stage said that we should look at outcomes. We agree. The outcome of the stronger nudge trials was to get people to Pension Wise appointments in less than one in ten cases. It moved them from 3% to 11%. Eleven per cent. A stronger nudge is just not going to be enough, not by a long chalk. On that trajectory, the most the DWP could hope for, according to Just Group plc, is that between 20% to 25% at the upper end of the range of eligible pension savers would receive their Pension Wise session.

That was a huge concern of ours during the passage of the Financial Guidance and Claims Act 2018. We argued then for an opt-out guidance system, and now we are back to looking at this again. We still support

this approach. The Government appear not to be willing to accept what colleagues across the House from all parties, Select Committees, and consumer groups and industry experts say is the best way forward. Instead, they are pushing stronger nudge.

The Government have not provided a timeframe for the DWP's planned consultation on the new guidance rules for occupational defined-contribution schemes, nor the FCA's rules for contract-based providers. In previous aspects of the Bill we have been asked to trust the Government to draft the necessary regulations. The same was said in consideration of the 2018 Act in this area, but we are still waiting. While I accept that the Chair of the Select Committee, has been having more intense discussions, I am sceptical. For those reasons and others outlined, we support the amendments and new clause.

Guy Opperman: I thank the right hon. Member for East Ham who leads the Select Committee for his kind words and heartfelt speech. I echo the comments in terms of his constituents, who clearly have had a terrible time. My thoughts are with them.

I will try to address the points raised. In respect of clause 125, the objective of the Government is quite clear. We wish to bring forward measures that will significantly and realistically prevent future scams. We believe that transfers will not go ahead if the conditions set out in the regulations are not met. These conditions can relate to both the destination of the transfers, meaning transfers can be prevented to schemes that do not have the right authorisation, and cases where the member has not supplied the evidence of, say, employment or residency. Importantly, those conditions can also include other red flags, such as who else is involved in a transfer. If those red flags are apparent, the regulations will enable the trustees to refuse to transfer. If the red flag is significant, it will direct the member to guidance or information that they must take prior to being allowed to transfer. Trustees will need to undertake due diligence to establish whether those conditions are met or not. Clause 125 puts trustees in the driving seat in relation to permitting transfers to proceed.

The right hon. Gentleman raised a number of specific issues, which I will try to address. The first relates to the scope of clause 125 in respect of DB and DC pension schemes. I take his point on master trusts, but I assure the Committee that the conditions to be met in relation to safe destinations, red flags and guidance before a transfer can proceed will be applicable to members of DB and DC schemes. Those conditions will be in addition to the current advice requirements for DB members seeking to transfer over £30,000 cash-equivalent value.

I have had discussions with the right hon. Gentleman, both in writing and in person, and with other colleagues on the Work and Pensions Committee, stakeholders, interested parties and other parliamentary colleagues. I have also engaged at great length, sadly by Zoom, with the all-party parliamentary group on pension scams, and then followed that up individually.

Colleagues who are concerned about the extent to which the PSIG requirements of red flags are being met should read the exchange of correspondence in the Library, following the right hon. Gentleman's agreement that I could disclose it, in respect of the background of our meetings in September on two occasions, the letter that I wrote on 6 October, which included the Financial Conduct Authority's approach of 5 October, and the follow-up letter of 22 October. If that second letter is not in the Library, which I am not totally sure it is, I will ensure that it is by close of business today. I wish also to put on record my thanks for the efforts of the PSIG, Margaret Snowdon and the various other parties who are all working for the common good to ensure that scams are prevented.

I will speak about guidance in a second, but first I will make two points. Clearly we wish to prevent, as far as possible, any scams or misdemeanours taking place, but that will have to be done through primary legislation and secondary regulations. It seems to me, as this process has been developing, that there is a degree of symmetry between the work that stakeholders—the PSIG and others—are doing, the work that this House is doing by passing primary legislation, and the specific drafting and codification of the regulations, which will be the nuts and bolts that will take this forward.

My objective is that we pass clause 125, which provides the statutory framework. My hope is that Royal Assent is received speedily and I suspect that my civil servants, who obviously have nothing else to do in these difficult times, will be able to progress the regulations very soon. I am hopeful that the Work and Pensions Committee report will have been published by then, and the ongoing dialogue that we have had with the Select Committee, cross-party, will continue, so that we frame the regulations that flow from clause 125 to accord with all our stated objectives.

I accept that the devil is always in the detail. We are all trying our hardest to be as precise as possible, without the regulations having been drafted already, but with regard to the four red flag objectives that are set out and that the right hon. Gentleman has rightly brought to my attention on Second Reading and in correspondence, I am confident that the answers that I have given to him in writing, and that the FCA has given, constitute a basis upon which we can regulate to prevent those matters.

The right hon. Gentleman is trying to tease out the extent of the amendments that he has tabled and the extent to which the Government can address them. We are able to address those matters within the confines of clause 125. I stress that we want to ensure that the powers can be applied quickly. I accept that time is of the essence in ensuring that the regulatory powers come forward as a matter of urgency.

Stephen Timms: I am grateful for the Minister's perceptiveness in our discussions. May I check that he accepts the point that I made, that there should not be a carve-out for all FCA-registered schemes? FCA-registered schemes have been part of the problem in quite a lot of the scams that have arisen over the past few years.

12.45 pm

Guy Opperman: The right hon. Gentleman flagged that to me. I will attempt to give an answer—he only flagged it to me this morning, but I have tried to devise a precise answer. We are considering how we can use the powers in the Bill to address those specific concerns about self-invested personal pensions. They are clearly an FCA-regulated personal pension scheme that permit investment in a broader range of investments than conventional personal pensions do.

[Guy Opperman]

I am asked to point that in 2018 the FCA wrote to SIPP operators to remind of the due diligence requirements to follow when accepting customers' investments. The FCA considers—this is the instruction I have been given, but I will follow it up in more detail—that most SIPP operators adapted their due diligence procedure in line with the FCA's expectations, or have voluntarily left the market as a result of the FCA's scrutiny. I assure the right hon. Member for East Ham and the Committee that that is the extent to which I can give him an answer today.

I will go away and drill down in more detail before Report and Third Reading, because the right hon. Gentleman makes a legitimate point. Clearly, the regulator is a separate one that I do not control, but in the time I have I will come on to how it is that we are trying to get the regulators to work together—how Project Bloom is something that we are addressing on an ongoing basis. We will get back to him before Report. However, my understanding is that we are considering how to address that issue within the confines we have. The point is legitimately made.

Neil Gray: Forgive me, for I have not been privy to all the discussions that have been going on. I take Members at their word that the exchanges that have been going on have been constructive. I therefore do not want to break that consensus in any way, but I am looking for some guidance from the Minister, in particular on the red flag amendments. Given that he has accepted that time is of the essence, and accepts the premise and principle of the amendments that we support, why is he unwilling to see them in the Bill? Is there a particular reason? What is his reasoning why those amendments cannot be accepted to ensure that they are in primary legislation as an added protection?

Guy Opperman: The simple answer is that this is not something that could be in primary legislation and then enforced; primary legislation is the framework, and it is has to be in the subsequent specific regulations that follow. I can give the hon. Gentleman an assurance on that point, as I have given it to the Chair of the Select Committee.

We accept these matters and believe that clause 125 already addresses the points made by the amendments, but we still have to draft specific regulations to deal with the specific problems, and those will be much larger than clause 125 and way more comprehensive. The process of dealing with a transfer, what particular points apply, how it is a trustee operates due diligence and how it is that that process works, is genuinely a complex process. Detailed provisions have to be gone through, working with the various parties going forward. The point I am trying to make is that we agree with the principle of the amendment, but it should not be on the face of the Bill; we should accept that clause 125 provides the framework, and we then need to deal with the regulations going forward.

In the time remaining, I will try to address the points about guidance and see if I can assess that in a particular way. Briefly, it is entirely right that people should be supportive of the good work that Pension Wise has done. Demand for the service has grown year on year since we launched it in 2015. The service delivered 205,642 transactions in 2019-20, which was a combination of face to face, telephone and online—more than triple the sessions in the first year of operation—and has had 10 million visits to the website since 2015.

I would push back on the argument for new clause 10, which is that there is no previous engagement. The DWP's work should also be seen in the context of the work that the FCA does. There is already a multitude of interventions at an earlier stage. Within two months of their 50th birthdays, members receive a single-page summary document that points to the pensions guidance, as required under the Financial Services and Markets Act 2000. Wake-up packs, which were developed in association with all of industry and the interested bodies and are a requirement of the 2000 Act, are received at the age of 55. They include the single page summary document and they point specifically to pensions guidance.

At a later stage, as the individual gets closer to accessing their pension savings and enters the drawdown phase in contract-based pensions, the FCA investment pathway requires that they be presented with four options as to how they want to use their drawdown pot, so it is not the case that there is no engagement prior to the drawdown. That is proposed by the FCA policy statement, which will come into force in 2021.

Although I fully accept that I should be pressed on DWP guidance, the FCA policy statement will come into force in 2021, and, between now and Report, detailed explanation of what that statement entails should be provided to the right hon. Member for East Ham. If it has not been provided to the Select Committee as part of its inquiries on scams, that is a lacunae that needs to be addressed, because it seeks to ensure that all arms of government are working together. The FCA policy statement, and the incoming changes, will definitely make a difference.

Briefly, on the stronger nudge towards guidance, which arose from the Financial Guidance and Claims Act 2018, it is fair to say that where there is transfer from one scheme to another to continue to accumulate and no risk is identified, the transfer can be acted on in accordance with the current requirements. Where a risk is identified, the member must be notified that they will be required to prove that they have taken information or guidance before the transfer can proceed. That is the appropriate effect of what we are legislating for in clause 125 and in the Bill.

Where there is transfer from one scheme to another to access pension freedom with no risk identified, there is the nudge towards guidance and the member is notified that they will need to prove that they have taken guidance or opted out. Where a risk is identified, the points that we have gone through on clause 125 and the prevention of scams come into play. The member must be notified that they are required to prove that they have taken information or guidance, and the amended requirements under clause 125 continue to apply.

There is a graded system depending on the identification of risk to the individual trustees as they proceed. In addition, work has been done to prevent pensions cold calling, and there has been a tightening of the rules to prevent fraud of registered pension schemes. I accept that more needs to be done to bring various departments together. I know that the Select Committee has looked at this area, assessing whether Project Bloom, the multi-agency partnership, and the ScamSmart campaign, are

working sufficiently well, and that is something that I have undertaken to improve. The regulator's evidence to the Select Committee on that exact point argued that a much more beefed-up effort was needed to bring all those particular parties together. Yes, the two arms of government need to work better together, and I hope I have explained how we are doing, but we also need much greater interdepartmental and interorganisational co-operation.

Finally, there has been criticism. I will not go into detail about whether the stronger nudge is a good behavioural insight trial. I support what has been done, but that is a matter of ongoing regulation as well. The appropriate approach would be that we work with the Select Committee on making that as effective as possible on an ongoing basis. I invite the right hon. Gentleman to withdraw his amendment.

Stephen Timms: I am grateful to the Minister and to everyone who has taken part in this debate. I welcome a lot of what he has said. On guidance, he told us that the FCA writes to everyone at age 50, but it seems to me that what it should do is say, "Your appointment with Pension Wise is at the following time and place", taking advantage of that opportunity to increase significantly the likelihood of the guidance being taken. I am grateful to him, however, for saying that further information will come forward before Report and that the discussions and deliberations on the four amendments will also carry on between now and Report. At this stage, therefore, I do not propose to press any of the amendments to a vote.

Seema Malhotra: I want to make a few comments. I appreciate the exchange between the Minister and my right hon. Friend the Member for East Ham. I recognise the complexity of the different regulators that the Minister alluded to, and the need to join things up. From a consumer perspective, it is very important to join up different regulators, because it is difficult and confusing for individual consumers or citizens to deal with multiple regulators on different issues. Invariably, we end up with multi-year battles that are exhausting for them and their families. Therefore, ensuring that we have stronger remedies in place is critical to reduce some of the risk.

I support my right hon. Friend and appreciate Minister's comments about not carving out FCA-regulated schemes that still pose a risk for those at risk of scams. The Minister has mentioned further regulations to come and that the exchange between him and my right hon. Friend the Chair of the Select Committee has been placed in the House of Commons Library—it will be important to review that—but the test will be the extent of the improvements to the system and of the tightening of protections. Those who are vulnerable to pension scammers are at serious risk, and gaps in regulation increase their vulnerability. It is not a harm-neutral situation. This is a uniquely difficult time, and it is a sad fact of the pensions world that there are people who seek to capitalise on that.

The hon. Member for Airdrie and Shotts also made some important comments. I want to lend our support, but we also need to keep this under review as we debate the regulations. We support the amendments, although my right hon. Friend the Member for East Ham has chosen not to proceed with them at this stage. They propose a sensible set of measures to counteract the risks that people, particularly those who are especially vulnerable, face right now.

Amendments 21 to 24 could play a part in future stages of the Bill. They would strengthen the protections to prevent individuals from transferring their pensions into scam schemes. We also welcome that the amendments have been tabled on a cross-party basis by members of the Work and Pensions Committee. It would be helpful to see how quickly those concerns move on to the Minister's radar, and his imperative to act on them. We welcome both the ongoing dialogue with the Chair of the Select Committee and the proposed route map for addressing the issues under existing powers, which we hope will dramatically increase protection against scammers.

New clause 10 is intended to protect people from scams by auto-enrolling pension scheme members in pensions guidance appointments. That principle is extremely important, and the arguments for a much-needed source of information and impartial advice were well made. That would empower individuals to make good pensions decisions, and through that empowerment they would be more resistant to scammers.

We strongly support the intentions of new clause 10 and amendments 21 to 24, tabled by my right hon. Friend the Member for East Ham. I congratulate him on his Select Committee's work on this crucial issue, which is a serious matter and could become more so for all our constituents. It is important to have the right protections to give savers greater confidence, particularly with continued pension scheme reform. I urge the Minister to act speedily to ensure that the arms of government that he talked about continue to work closely. I am sure that we can encourage and support him, on a cross-party basis, to move that along more quickly.

I would like to acknowledge the work of Pension Wise and Citizens Advice, and the services that they provide. There will, I hope, be ways—perhaps through what we can do here—to raise awareness of the services that those organisations offer, and, importantly, of pre-emptively encouraging people to get advice in what is a difficult area. We all fall prey to that: when something is incredibly confusing, as my right hon. Friend said, it gets put at the bottom of the pile, often until it is too late. These protections will go a long way to giving more people, particularly younger generations, the confidence to save and save early, which makes a difference.

Stephen Timms: I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Ordered, That further consideration be now adjourned. —*(James Morris.)*

1.3 pm

Adjourned till this day at Two o'clock.