

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

PENSIONS DASHBOARDS (PROHIBITION OF INDEMNIFICATION) BILL

Wednesday 26 October 2022

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CLAUSES 1 AND 2 agreed to.
Bill to be reported, without amendment.

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Sunday 30 October 2022

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The Committee consisted of the following Members:*Chair:* MR VIRENDRA SHARMA

Brown, Alan (*Kilmarnock and Loudoun*) (SNP)
 † Burghart, Alex (*Parliamentary Under-Secretary of
State for Work and Pensions*)
 † Clarkson, Chris (*Heywood and Middleton*) (Con)
 Cooper, Rosie (*West Lancashire*) (Lab)
 † Graham, Richard (*Gloucester*) (Con)
 † Green, Chris (*Bolton West*) (Con)
 Hollern, Kate (*Blackburn*) (Lab)
 † Johnston, David (*Wantage*) (Con)
 Lewer, Andrew (*Northampton South*) (Con)
 Linden, David (*Glasgow East*) (SNP)

† McCabe, Steve (*Birmingham, Selly Oak*) (Lab)
 † Opperman, Guy (*Hexham*) (Con)
 † Robinson, Mary (*Cheadle*) (Con)
 † Smith, Nick (*Blaenau Gwent*) (Lab)
 Tami, Mark (*Alyn and Deeside*) (Lab)
 † Throup, Maggie (*Erewash*) (Con)
 † Wheeler, Mrs Heather (*South Derbyshire*) (Con)

Anne-Marie Griffiths, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 26 October 2022

[MR VIRENDRA SHARMA *in the Chair*]

Pensions Dashboards (Prohibition of Indemnification) Bill

10 am

The Chair: I have a few preliminary reminders for the Committee. Please switch electronic devices to silent. No food or drinks are permitted during sittings except for the water provided. *Hansard* colleagues would be grateful if Members could email their speaking notes to hansardnotes@parliament.uk. My selection and grouping for today's meeting is available online and in the room. No amendments have been tabled, and we will have a single debate on both clauses in the Bill.

Clause 1

NO INDEMNIFICATION FOR PENALTIES UNDER PENSIONS DASHBOARDS REGULATIONS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider clause 2.

Mary Robinson (Cheadle) (Con): It is a pleasure to serve under your chairmanship, Mr Sharma. I am grateful to you and to Committee members for joining me to look at the detail of the Bill. I am particularly pleased to be joined this morning on the Committee by my hon. Friend the Member for Hexham, who in his many years as Pensions Minister played a pivotal role in the introduction of the pensions dashboard, and has supported the Bill from its inception.

This is a simple Bill with just two clauses, but its purpose is to safeguard the interests of pension savers, which I think we can all agree is an important and worthy cause. The need for the Bill arises from the fact that there is currently nothing in legislation backed by a criminal sanction that specifically prohibits rogue trustees or managers from using a pension scheme's assets to reimburse themselves and to repay civil penalties that they incur for breaches of pensions dashboard legislation. The Bill addresses that problem. It is welcome to have not just Government support for the Bill but, I hope, support from Members on both sides of the Committee. I noted that on Second Reading the hon. Member for Westminster North (Ms Buck) said:

"It should never be the case that mistakes, failures or a lack of action to meet legal requirements on the part of trustees should land with scheme members."—[*Official Report*, 15 July 2022; Vol. 718, c. 659.]

I agree wholeheartedly with that point, which explains in a nutshell why I introduced the Bill.

Before going on to the specific detail of the Bill, it is worth briefly recapping some of the broader context about what pensions dashboards are, and the work that the Government are doing to make them a reality. Pensions dashboards are an electronic communication service that will allow individuals to see their pensions information, including the state pension, in one place online. With the continued success of automatic enrolment,

millions more are saving for their retirement, and so may have multiple pension pots with no easy way of keeping track of them. Dashboards will help individuals to be reunited with lost and forgotten pensions. They will also support people in better planning for their retirement, making it possible for people to review their pensions savings online in the same way that people might currently view their bank accounts, whether on their phone or laptop at home.

There will be an online dashboard provided by the Money and Pensions Service. Additionally, to help to cater for the varied needs of the millions of people with pensions savings, it will also be possible for other organisations to provide dashboard services. Those organisations will be regulated by the Financial Conduct Authority, which will soon consult on a regulatory framework and rules for pensions dashboard operators. Individuals will see the same information regardless of which dashboard they use.

Importantly, the technology behind pensions dashboards has been designed with the security of data at its heart. Crucially, pensions information is not stored in any central database. It will continue to be held only by the pensions schemes themselves or by a third party administering the data on their behalf, and will be displayed only at the request of the individual. Individuals will always have control over who has access to their data and will be able to revoke access at any time.

I know that the Government are committed to ensuring that pensions dashboards become a reality as soon as possible. Even since I spoke on Second Reading of the Bill in July, much progress has been made. Only last week, the Pensions Dashboards Regulations 2022 were laid before Parliament and will be the subject of affirmative debates in due course. That is a huge milestone, because those regulations will require trustees and managers of occupational pension schemes to connect their schemes to the pensions dashboards digital architecture and provide information on request. I understand that the Financial Conduct Authority expects to confirm the final rules for personal and stakeholder pensions in the near future.

In the event of non-compliance with any of the requirements in part 3 of the Pensions Dashboards Regulations, the Pensions Regulator may, at their discretion, issue compliance notices, third party compliance notices and penalty notices. If the regulator chooses to issue a financial penalty, that can be up to a maximum of £5,000 in the case of an individual or up to £50,000 in other cases, such as corporate trustees.

That brings me neatly back to the contents of the Bill. Despite amounting to just two short subsections, clause 1 provides the real substance of the Bill. Committee members will see that subsection (1) simply adds section 238G of the Pensions Act 2004 to the list of statutory provisions in section 256(1)(b) of that Act. Section 256 of the Pensions Act 2004 prohibits any amount being paid out of the assets of an occupational or personal pension scheme for the purpose of reimbursing, or providing for the reimbursement of, any trustee or manager of the scheme in respect of a penalty they are required to pay under specific pensions legislation.

Richard Graham (Gloucester) (Con): There may be some people listening to this debate who are unpaid trustees of pension funds and are concerned that these

provisions will give them a huge potential liability. Will my hon. Friend confirm that many pension schemes have indemnity policies arranged through insurance companies, which will prevent that from happening, and this legislation will enforce the obligation on managers and trustees to ensure that the pensions dashboard is implemented?

Mary Robinson: I am grateful to my hon. Friend for making that point, because he is exactly right. It is worth reinforcing that we know that the overwhelming majority of people who take on the role of trustee want to do the best thing in the right way. This legislation reflects what is already in law, to ensure that financial penalties cannot be reimbursed from pension funds. It is important that we protect those savers' pension pots.

Section 238 of the Pensions Act 2004 relates to the compliance provisions for pensions dashboards. The Bill extends an existing prohibition set out in section 256 of the Pensions Act to include penalties under the compliance provisions in the Pensions Dashboards Regulations and future regulations made under section 238G of the 2004 Act. As a result, if a trustee or a manager were to be reimbursed out of the assets of a pension scheme for a penalty issued under the Pensions Dashboards Regulations and knew or had reasonable grounds to believe they had been so reimbursed, they would be guilty of an offence, unless they had taken all reasonable steps to ensure that they were not so reimbursed, as I have said—that is so important that it was worth saying twice. On successful prosecution, that person would be liable to receive a sentence of up to two years in prison or a fine or both. Additionally, were any amount to be paid out of the scheme's assets in contravention of this provision, the Pensions Regulator would have the power to issue civil penalties to any trustee or manager who failed to take reasonable steps to secure compliance.

Clause 1(2) makes a similar amendment to article 233 of the Pensions (Northern Ireland) Order 2005, essentially replicating the change that I have just described, so that the same prohibition on reimbursement using the assets of a pension scheme would also apply in Northern Ireland. It is entirely sensible to ensure that relevant pension members across the whole of the United Kingdom can benefit from the safeguards that the Bill provides.

Clause 2 sets out vital but standard information on how clause 1 is to be brought into legal effect, and the territorial extent of the two subsections in clause 1. The Bill has been drafted so that its respective protections extend to England, Wales and Scotland by virtue of amendments to the Pensions Act 2004, and to Northern Ireland by virtue of amendments to parallel legislation in Northern Ireland.

On commencement, clause 2 allows the Secretary of State to make regulations by statutory instrument to appoint a day for commencement in England, Wales and Scotland. It also enables the Department for Communities in Northern Ireland to make an order, by statutory rule, to appoint a day for commencement in Northern Ireland. That provides flexibility for the provisions to be brought into force at an appropriate time.

This is an important measure that will safeguard the interests of pension savers from any would-be unscrupulous trustees. On Second Reading, the Bill received cross-party support, and I hope it will continue to do so today.

The Chair: I call Nick Smith.

Nick Smith (Blaenau Gwent) (Lab): Mr Sharma, I am not the Labour Front Bencher on this Bill.

The Chair: I know, but do you want to contribute at this point?

Nick Smith: I will ask some questions later of the Conservative Minister, if that is okay.

The Chair: Yes. I call Maggie Throup.

Maggie Throup (Erewash) (Con): I congratulate my hon. Friend the Member for Cheadle on successfully navigating this short but important Bill to Committee. I should start by declaring an interest: I am one of the few people in this room likely to benefit from the Bill sooner rather than later. *[Laughter.]* I know that does not seem likely, but there we are.

This is a simple Bill that strengthens the pensions dashboard regulations. I will focus on clause 1, which I fully support. When the pensions dashboard regulations come into force, the pensions regulator may take enforcement action, which could include a financial penalty, if a trustee or manager of an occupational pension scheme fails to comply with the regulations. When that occurs, there is nothing in legislation to prevent them from reimbursing themselves from the assets of the pension scheme.

The provisions in the Bill will make it a criminal offence for pension scheme trustees or managers to reimburse themselves using the assets of the pension scheme in respect of the penalties imposed under dashboard regulations. It achieves that by amending section 256(1)(b) of the Pensions Act 2004. I am sure that we have all had surgery cases where constituents feel, for a variety of reasons, that they are not getting their expected pension due to inappropriate use of funds. I am sure that this Bill will go a long way to addressing those concerns.

The part of the explanatory notes detailing the impact assessment quite rightly indicates that there may be some indirect benefits of the Bill, as it should help to reassure pension savers that protections are in place to deter unscrupulous trustees or managers, therefore providing greater confidence to save for a pension, protecting our financial futures. In conclusion, I am sure that my Erewash residents will welcome the measures in the Bill, so I am delighted to support clauses 1 and 2 as they stand.

Richard Graham: As a trustee of the parliamentary pension scheme, I should declare a relevant interest. Today is a great moment to congratulate two colleagues. The work on creating the pensions dashboard was done by my hon. Friend the Member for Hexham. I think we all recognise what a great job he did on that as Parliament's longest-serving pensions Minister. It is also right that we all congratulate my hon. Friend the Member for Cheadle, who has taken this forward, building on the work done by my hon. Friend the Member for Hexham, to create surely one of the shortest and least contentious Bills that this House has ever had to deal with. I am sure that the Minister will say something similar in due course.

[Richard Graham]

Ensuring that trustees and managers do not effectively raid a pension fund, other people's assets, effectively, to deal with their own errors—advertent or inadvertent; as my hon. Friend the Member for Cheadle said, most instances will be inadvertent—is absolutely right and proper. This just sensibly fills a gap. The business of insurance indemnification for trustees against inadvertent mistakes will also be reassuring to those who volunteer as trustees almost always completely free of charge. On that basis, there is a huge amount to appreciate and support in this short Bill.

10.15 am

The Parliamentary Under-Secretary of State for Work and Pensions (Alex Burghart): It is a pleasure to serve under your chairmanship, Mr Sharma. I hope Committee members will forgive me if I keep my remarks relatively short; as they will be able to hear, I am losing my voice. This is my first speech as Minister for Pensions and Growth, and it may be my last. If I survive the day in post, I will have two further speeches to give, and I would like to have the voice to give them.

Luckily, my hon. Friend the Member for Cheadle has said just about everything that there is to say about this excellent and uncontentious Bill, which strengthens the great work that my venerable predecessor, the hon. Member for Hexham, did in his five years in office. It is fair to say that under him and his predecessors, a veritable quiet revolution in pensions has been taking place, to the benefit of tens of millions of people.

The revolution began with auto-enrolment, which, I am pleased to say, celebrates its 10th birthday today. It is difficult to overstate the success of auto-enrolment: it is one of the greatest examples of nudge theory ever seen in public policy. New figures released today show that, in the 10 years that auto-enrolment has been in place, the number of employees participating in workplace pensions has increased from 10.7 million to 20 million, which is an increase of 86%—a truly remarkable achievement. Last year alone, British people saved nearly £115 billion into workplace pensions and pension pots—a 40% increase on where we were before auto-enrolment.

The pensions dashboard is the next step in that revolution. If the first job was to help people to save, the second is to help them to understand what they are saving. We believe that that will create a further nudge of its own, as people understand what they have accumulated in their pots throughout their working life, and what they can expect to have in their retirement. This Government are helping more people to save more so that they can do more in their retirement years. I am very proud to support the latest chapter in that work today.

Nick Smith: I congratulate the hon. Member for Cheadle on introducing this important Bill, and I join the Minister in recognising the fantastic success of auto-enrolment, which has changed saving across our country. But I hope the Minister can help me on two points.

First, the hon. Member for Hexham has—for sure—done all the heavy lifting on introducing the pensions dashboard, but when does the Minister anticipate its proper introduction to the marketplace to support pensioners

across the country? It is a great idea, but it has been in development for a long time. Secondly, I note that there is no impact assessment or consultation on the introduction of the Bill. I am sure that there are fair reasons for that, but have the FCA and the other regulators involved had any input on the development of the Bill?

Alex Burghart: I thank the hon. Gentleman for his intervention. We expect that, during the course of next year, all the requisite data will be pulled together from pension funds and assembled on the dashboard, and that the public will have access to it for the first time in the middle of 2024. As he says, it is major work, and it is important that we get it right. Through the passage of legislation such as this Bill, we will be able to ensure that our pensions system and dashboard are fit for the future. This is a major change, involving a great deal of work by a huge number of outfits, and it will make a major difference to the way people see and participate in the world of pensions.

The hon. Member for Blaenau Gwent had a further question about the FCA. Based on information gathered by sample providers, the regulatory impact assessment considers the costs of all relevant pension schemes and providers in scope of dashboards, connecting to the dashboard digital architecture and supplying pensions information. Although FCA-regulated personal and stakeholder schemes fall outside the scope of Department for Work and Pensions regulation, the Pension Schemes Act 2021 requires the FCA to make corresponding rules covering the requirements of these schemes in relation to pensions dashboards. Therefore, the impact assessment takes into account the costs for both these providers and the occupation scheme trustees.

I turn to the detail of the Bill. Clause 1, as my hon. Friend the Member for Cheadle said, will prohibit trustees and managers of occupational personal pension schemes from being reimbursed out of scheme assets in respect of penalties imposed on them for non-compliance with the pension dashboard regulations. That is obviously an important safeguard for pensions savers. It is achieved by amending section 256 of the Pensions Act 2004, under which if a trustee or manager were to be reimbursed or knew or had reasonable grounds to believe they had been so reimbursed, they would be guilty of a criminal offence, unless they had taken all reasonable steps to ensure they were not so reimbursed. We are talking about a serious crime. The provisions will allow for a maximum sentence of up to two years in prison or a fine or both.

Additionally, were any amount to be paid out of a pension scheme's assets in such a way, the pensions regulator would have the power to issue civil penalties to any trustee or manager who failed to take all reasonable steps to secure compliance. Section 256 of the 2004 Act already prohibits reimbursement of penalties issued under a number of other pieces of pensions legislation, so the proposed amendment to the 2004 Act is a logical change that the Government welcome.

Clause 1 also makes corresponding changes to article 233 of the Pensions (Northern Ireland) Order 2005. As hon. Members know, all aspects of pensions policy are transferred to the Northern Ireland Assembly; however, there is a convention that the pensions legislation made in Northern Ireland stays in lockstep with that of England, Wales and Scotland, to ensure parity across the whole

United Kingdom. The usual procedure in the instance of Parliament making provision of a transferred policy area would be to obtain a legislative consent motion from the Northern Ireland Assembly.

However, as hon. Members will be aware, the Assembly has thus far failed to elect a Speaker, so it is not in a position to grant this consent. I am pleased to say that Deirdre Hargey MLA, Minister for Communities in Northern Ireland, has written to the Department for Work and Pensions and confirmed that she would, in principle, be content to seek agreement for the provisions in the Bill to extend to Northern Ireland. That was, however, conditional on the agreement of a functioning Executive, but there will be further opportunity for this issue to be considered by the Assembly if the current impasse in Northern Ireland is resolved before the Bill has completed its journey through Parliament.

Clause 2, as my hon. Friend the Member for Cheadle stated earlier, sets out the standard information needed for all Bills and includes detail of how provisions will come into force and their territorial extent. The Government are committed to protecting pensions savers and agree that the safeguards in the Bill provide a welcome deterrent against rogue trustees or managers exploiting pension assets for which they are responsible. We commend the Bill to the Committee.

Mary Robinson: I thank the Minister for his remarks and am pleased his voice held out. I thank all Members here for their support, in particular the Minister, who has had a short time to become familiar with this subject. I also thank the officials for their invaluable support over the past few months. I thank my colleagues for their contributions and for being here to support the Bill.

As my hon. Friend the Member for Erewash said, this is about protecting our financial futures, and it is a very worthy cause. It is important for the up to 52 million people the Bill will cater for. My hon. Friend the Member for Gloucester rightly pays tribute to the former Minister for Pensions, my hon. Friend the Member for Hexham, who has done so much over the years and has been pivotal in everything he has brought to this place.

Alex Burghart: I am worried that I did not pay fulsome enough tribute to my predecessor in my speech. Stepping into a large brief such as this is a daunting exercise, but to have handed over to me such a well-ordered series of policies and such a clear sense of direction is a testament to the work he did over five years. As my hon. Friend the Member for Gloucester said earlier, there have probably been no Ministers who have held the brief for so long or have done so much to contribute to this essential part of the way we support citizens in later life.

Mary Robinson: I am grateful to the Minister, as I know everyone here will be. He has succinctly echoed all our thoughts. My hon. Friend the Member for Gloucester also said he thought it was the shortest and least contentious of Bills, but I hope it is one of great importance to millions of pension savers. I commend the Bill to the Committee.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Bill to be reported, without amendment.

10.27 am

Committee rose.

