Northern Ireland Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Pension Schemes Bill: Northern Ireland Assembly Research and Information Service

16 September 2020

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Members present for all or part of the proceedings:
Ms Paula Bradley (Chairperson)
Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Jonathan Buckley
Mr Mark Durkan
Ms Sinéad Ennis
Mr Fra McCann
Mr Robin Newton

Witnesses:
Ms Eleanor Murphy Northern Ireland Assembly Research and Information Service

The Deputy Chairperson (Ms Armstrong): Eleanor Murphy from the Assembly's Research and Information Service (RaISe) is here via StarLeaf to brief the Committee on her Pension Schemes Bill paper, which will support us with the Bill's Committee Stage. Members have been provided with papers in their pack.

By way of background, the Pension Schemes Bill was introduced in the Northern Ireland Assembly by the Minister for Communities on 23 June 2020. The Bill mirrors the provisions of the Westminster Pensions Act 2017, which introduced a new regulatory framework for master trusts and sought to regulate unfair member-borne commissioning charges and early-exit charges.

Eleanor, you are very welcome. We are really looking forward to this, because any expertise that you can impart to help the Committee will be welcome.

Ms Eleanor Murphy (RaISE): Thank you, Chair, and good afternoon, members. This will be a brief, high-level, 10-minute summary of my Bill paper to refresh the Committee's mind on the contents of the Bill before you begin your clause-by-clause scrutiny. I will run through the three main provisions of the Bill, but I will not labour the points too much, because you have already received several departmental briefings.

I will begin with the provisions relating to master trusts. Members are probably well versed by now on exactly what a master trust is, and you will be aware that there has been a rapid growth in membership of master trusts in recent years. That growth is primarily down to the fact that they were a very good vehicle in which to deliver employer obligations under automatic enrolment. The UK Government, however, argued that master trusts were under-regulated. That point was agreed on by the then Work and Pensions Committee that looked at the issue. The Pensions Regulator had

previously attempted to put in place a voluntary accreditation scheme, but the regulator and the UK Government felt that a more compulsory statutory framework was necessary. That new framework was included in the Westminster Act that you referred to, and the provisions are now contained in the Northern Ireland Pension Schemes Bill.

The Bill is perceived to be very important legislation for a number of reasons. First, it will protect the pensions interests of some of the lowest-paid employees in Great Britain and Northern Ireland. Secondly, master trusts are very important vehicles for small employers and microemployers to meet their automatic enrolment obligations. Thirdly, master trusts are a multibillion-pound, not multimillion-pound, section of the pensions industry.

The new regulatory scheme contains a number of detailed elements. I will not go over them all in detail, but the most notable features are as follows. A person cannot operate a master trust unless it is authorised. To receive authorisation, the trustees must apply to the Pensions Regulator, and their application must include a range of very detailed documents and information, such as the trust's latest accounts, the scheme's business plan, and its continuity strategy. Members will want to note that the continuity strategy is very important as it sets out how the interests of members will be protected during a triggering event. There is more detail on triggering events in the paper, but, basically, it is an incident that may compromise the financial viability of the organisation, although there are other trigger events defined in the Bill.

To grant authorisation, the trust has to meet five criteria. Page 24 of my paper provides an extract from the Pensions Regulator's master trusts code of practice, which is a statutory code of practice already in operation in Great Britain. It provides a much more user-friendly synopsis of the criteria, and I will go through those very quickly. All individuals being assessed must be able to satisfy that they are fit-and-proper persons; for example, they do not have any convictions that would disqualify them from being classified as a fit-and-proper person. Master trusts must have sufficiently robust IT and other processes, such as governance processes, in place to run efficiently and govern effectively. Master trusts must demonstrate financial sustainability, and there is lots of evidence that master trusts must provide to the regulator to prove financial sustainability. Scheme funders must be a body corporate or a partnership and only carry out activities directly relating to master trusts, although there are some exceptions. Trusts must have a robust continuity strategy with contingency planning. Essentially, the regulator is looking for how members will be protected if a triggering event occurs.

The Bill also confers a number of important powers on the Pensions Regulator, which is already exercising those powers in respect of trusts covered by the Westminster Act. For example, it can refuse to issue authorisation, and there is an appeals mechanism associated with that; it can withdraw authorisation; and it can, under certain circumstances, order trusts to pause certain activities, such as accepting new members onto the scheme. It provides the regulator with a suite of enforcement tools, such as allowing it to impose civil penalties and to issue fixed and escalating penalty notices if a trust refuses or neglects to provide certain information.

Perhaps one of the most central parts of the legislation is the placing of a duty on a range of people involved in a trust to notify the regulator that a triggering or significant event has occurred. There are also provisions in the Bill that provide the regulator with ongoing supervisory powers so that the regulator can monitor the activities of trusts on an ongoing basis.

Members are aware that this regulatory framework has been operational in Great Britain for a number of years. We have one master trust in Northern Ireland, the workers pension trust. It has already received authorisation from the regulator and, as required by legislation, appears on a published list of authorised schemes. In July of this year, the Pensions Regulator told me that, at that time, 38 master trusts had received authorisation and that 28 trusts were in the process of exiting the pensions trust market.

We are squeezed for time, so I will run over Part 2 quickly. Part 2 will facilitate a ban on member-borne commissioning charges, which are charges that employees of a pension scheme are typically not aware of and do not necessarily receive any benefit from, and it is hoped that that aspect of the Bill will create more transparency on fees and charges. The second aspect is to facilitate the placing of a cap and a ban on early-exit charges, and those charges will be set out in subordinate legislation. As you know, the UK Government have a pension freedoms drive to enable the over-55s to access pensions should they wish. Research has shown that significant exit charges from some providers were putting people off accessing their pensions early.

I am far from being a pensions expert, but I am happy to take any questions. If I do not know the answer, I will take the question away and come back to you.

The Deputy Chairperson (Ms Armstrong): Thank you very much, Eleanor. I would go as far as to say that you know an awful lot more about pensions than I do. I have a few questions for you.

Your briefing paper notes:

> *"The Department highlights that a new regulatory regime for master trusts has already gone live for master trusts operating in Great Britain (since April 2018)."*

That is, in England, Scotland and Wales. Has your research found issues in those jurisdictions that we should be concerned about as we start to look at the Bill?

Ms Murphy: Nothing really jumps out from the information that is coming from the devolved Parliaments or Committees. It was a lot more difficult to get information on the experience of master trusts in the new regulatory process. If you are taking evidence from the Pensions Regulator, you could perhaps ask whether master trusts find this to be an overly onerous process and whether it is going to review the process in a number of years.

Ms Armstrong: Your briefing paper states that the Pensions Regulator can impose civil penalties as well as fixed and escalating penalty notices. What are those penalties in monetary terms? I know that you give an example of an escalating penalty notice that goes up by £1,000 a day. Is that the sort of figure that we are looking at?

Ms Murphy: The escalating penalty notice and the fixed penalty notice will, I think, be in subordinate legislation. The table that you are referring to is the current escalating pensions notice that is applicable to master trusts in Great Britain.

The Pensions Regulator can impose civil penalties, so if a person is found to be operating a master trust without authorisation, the regulator can impose:

> *"a penalty of up to £5,000 for an individual and £50,000 in any other case".*

I am not sure what "in any other case" means. I take it that it is maybe on an organisational level. If it cannot identify an individual discrepancy, maybe it would impose a penalty on the organisation.

The Deputy Chairperson (Ms Armstrong): Could those sorts of fines have an implication for those who have their pension with that master trust? Would those delve into the pot of money for their pension?

Ms Murphy: Yes, I think quite rightly so. A whole range of individuals would be subject to the penalties, so it would have a very costly impact if they were found not to be operating in a transparent environment.

Ms Armstrong: I have a final question before I go to Fra; he is the first member to indicate that he wants to ask a question. A number of master trusts across the UK are exiting the market. Have you come up with a reason why that is happening?

Ms Murphy: It appears to be due to consolidation. A lot of smaller master trusts are exiting the market for a number of reasons. One is that they may not have the infrastructure to cope with such a rigorous authorisation process. The Pensions Regulator has played quite a role in overseeing that that is managed properly and in ensuring that members in smaller trusts are subsumed correctly into authorised trusts. That is another issue that you may want to discuss with the Pensions Regulator, should it give oral evidence.

Mr McCann: That was one of the key questions that I was going to ask, because a number of concerns were raised when this process was being implemented, and people were a bit wary of it. Eleanor's paper says that:

> *"Master Trusts are run on a profit basis."*

The document also says that a profit motive always raises concerns about, for example, who has control over the money and how it is spent and managed. As you said, it is a multibillion pound operation. Have we any idea how much of what local people in the North pay into a scheme each year goes to the organisation as profit? That is basically what I want to know. One of the questions that I raised back then was whether a control was in place that ensured that people were not being treated shabbily, in terms of their finances, taking into consideration the fact that it was mostly low earners who were going into the scheme.

Ms Murphy: I can try to find out from the Department whether there is a source that you can go to for that information, Fra, or whether the Pensions Regulator would hold that information. It has been somewhat difficult to get information from the Pensions Regulator. I had to go through a freedom of information request, which is quite a difficulty, to find an inroad in to speak to somebody. Hopefully, the Committee could ask the Pensions Regulator whether it holds that information, or, if we can get a contact, I could try to have a conversation with them to see whether we can get that data for you.

The Deputy Chairperson (Ms Armstrong): Yes. That is an important issue, Eleanor, that we need to find out about. It is a bit strange, when we are trying to examine the work on this, if we cannot get the Pension Regulator to —.

Mr McCann: Especially as it is the protection of the money that is probably uppermost in people's minds.

The Deputy Chairperson (Ms Armstrong): Exactly.

I do not see any other member online with their hand up. I will just double-check as it can take a minute to come through. Do any other members in the room have a question?

Eleanor, I think that you are going to escape, but I expect that we will probably see you next week.

Ms Murphy: Yes, you will do.

The Deputy Chairperson (Ms Armstrong): I look forward to that. We will meet you after the Committee meeting next week to go through that session on research proposals.

Thank you very much for your work on this. It is a comprehensive paper, and it certainly makes understanding the pensions world a little bit easier for us. Thank you very much.

Ms Murphy: No problem.

The Deputy Chairperson (Ms Armstrong): Thank you very much.