



Work and Pensions Committee

Oral evidence: Pensions automatic enrolment HC 579–iii

9 March 2016

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Members present: Rt Hon Frank Field (Chair), Heidi Allen, Mhairi Black, Ms Karen Buck, Neil Coyle, John Glen, Richard Graham, Steve McCabe, Craig Mackinlay, Jeremy Quin, Craig Williams

Questions 115 - 203

Examination of Witnesses

Witnesses: **Lesley Titcomb**, Chief Executive, Pensions Regulator, and **Charles Counsell**, Executive Director for Automatic Enrolment, Pensions Regulator, gave evidence.

Chair: Welcome. Lesley, please identify yourself for the record, then Charles can do the same.

Lesley Titcomb: Good morning. I am Lesley Titcomb, chief executive of the Pensions Regulator.

Charles Counsell: I am Charles Counsell, executive director for automatic enrolment at the Pensions Regulator.

Q115 Neil Coyle: In one of the evidence sessions we had a discussion about regulators' engagement with professional bodies. Could you talk us through what you have done to engage with professional bodies such as the chartered institutes, for example?

Lesley Titcomb: We are in a situation where we now have 6 million employees, with 100,000 employers having gone through auto-enrolment. That has been largely the larger and medium-size employers. We are now coming to the small and micros. We are not complacent, although it has gone very well so far. We recognise that the small and micros present a particular challenge. One way we can get at them is through their professional advisers and professional bodies. There are also people who are not necessarily grouped in that, such as bookkeepers. Charles will tell you about our programme with them.

Charles Counsell: We have a very active programme with them. We meet them on a quarterly basis—14 of the professional bodies around the UK, which covers pretty much all of the accountants, the bookkeepers, the IFAs and the payroll professional organisations. The

purpose of those sessions is for us to be able to talk about what we are doing, and also to be able to get the messages through them into their publications and, vice versa, for us to hear from them about how their members are finding automatic enrolment so that we can learn from that and adapt our approaches.

We have a very active programme of information that is sent out through them, and then more broadly through trade magazines, so we are also engaged with over 100 trade bodies from different sectors—hospitality, for instance, and agriculture—so we have a really active programme.

Q116 Neil Coyle: How are you measuring the effectiveness of what you have been doing?

Charles Counsell: We have been doing that since 2012. We have a six-monthly survey of the intermediary market. The primary measurement that we have been looking at is the awareness and understanding, and we have seen that track up over the period since then. It is now pretty much universal. We look at awareness and basic understanding, which is now pretty much universal. The latest study we did showed that over 90% of all categories of professionals are aware that it is happening and understand it. We also know that over 90% of them are now engaged at some level with clients already—again, bookkeepers and accountants.

Q117 Neil Coyle: You mentioned 2012, so that was in the year of the first significant changes. Is that because you felt people would not engage sooner if it was not a pending change, or was there another specific reason for leaving it to the year of that first change?

Charles Counsell: We started in the spring of that year—as you say, ahead of—and at that point we were focused on a slightly different intermediary market, although we have always tracked the ones who are now advising micro and small employers. We were also looking at that point at, for instance, employee benefit consultants and the big implementers and where they were, but we stopped doing that after a period because the large employers had been through it and they were really focused on large employers. The trigger for doing it was because the first duties were in 2012.

Q118 Jeremy Quin: This follows on from Neil's question. You have got over 90% of professional bodies engaged. I like the publicity. It's Workie, isn't it, the trade beast? Some good messages are getting out there, but you still have quite a large rump of smaller businesses that are not yet engaged. How do you see yourselves getting them into the process? Clearly, there is a big stick at the end of the day, but how can you pull them in?

Charles Counsell: Our focus has always been on educate and enable. We will enforce where we have to, but we educate and enable. We have a series of techniques for getting at employers. Part of it is through professional bodies, because we know that they will turn to their bookkeeper or accountant, and equally their bookkeeper or accountant will nudge them.

They will say, “Look, let me find out what your staging date is”, and they will then start to help them to get ready. So they are an important route.

We also write directly to all employers. We have a series of letters that we send that starts 12 months before the staging date for each individual employer. So that is 12 months, six months, and one month before; just after their after staging date; and then immediately before the point at which they must have completed their declaration with us. So every employer will have had five letters from us. Last year, we also wrote to all employers to make them more generally aware that this was coming and to encourage them to check when their staging date was.

We have done other things. I have mentioned getting out through trade bodies, and we will extend that during the course of this year. We have also got a programme of working through regional media. We recognise that the regional newspapers as well as the trade press are an important vehicle for smaller employers. One morning I did 25 radio interviews for various BBC and independent channels.

Lesley Titcomb: It is really important to recognise as well that we test and learn constantly. For example, with the letters, the text of the letters has been tested to judge its effectiveness, and the type of envelope that it goes in, all that kind of thing. We do adapt these things as we learn what works and what does not.

Q119 Jeremy Quin: You do feel you have got a handle on the level of defaulting going on. You have got a strong sense as to how many firms are not in compliance.

Charles Counsell: Yes, we do. We know who employers are because we have a direct link from HMRC, which tells us who all the employers in the country are. Also from that route is how the staging date is determined. So we know who they are and we know, therefore, the ones who are engaging in the process and the ones who frankly do not engage in the process and do not complete their declaration of compliance at the end.

We encourage employers. There are a couple of things that are worth saying. We really do encourage employers to start preparing early. I cannot emphasise enough the importance of starting to get yourself ready early. In doing that, we encourage them to nominate someone we can work with. That might be them, particularly if they are an employer who is an individual just employing someone in the home; or it may be their accountant or bookkeeper or someone else in the organisation for a small business.

We encourage them to nominate that person with us and then we can direct information to that person. When they have done that we will send emails again, just preparing them and taking them through the countdown to when they need to be ready.

Lesley Titcomb: So it is not just about knowing whether they have complied at a particular point in time: we know whether people are engaging and getting ready, that type of thing.

Q120 Neil Coyle: We were told that it was not just a rump that was not complying; we were told it was a very significant rump. Talk me through this. I think the Department suggested about two thirds of its correspondence is not read by the recipients. Talk us through these envelope changes and the segmentation use. Are the letters purely based on business size or business type? Is it, “Your shop needs to do this.”? How does that work?

Charles Counsell: We have adapted that approach so that it is segmented to a degree. It is not really about business type; we have not segmented it that way. What we have done is segmented by different types of employers. For instance, if someone is an employer of a personal care assistant, then we have a series of letters designed specifically for them with language that we hope and believe works for them. I say “hope and believe”; we have tested it with employers of that sort and, indeed, organisations that support employers of personal care assistants.

We have also adapted the language for people who are individuals who employ people in the home. Again, they get specific letters and information, because if we use the term “your business” it does not mean anything to them because they are not a business. I recognise that an earlier witness talked about the need for that change. We have already changed to do that. Thirdly, a business will get another set of letters, with language suitable for them. So we do segment it in that way.

To be frank, we do not always know which category they are in. We ask them to come to our website and there is this thing called the duties checker at the beginning that allows them to self-segment so that we can send them the right information.

Lesley Titcomb: We have also adjusted the advertising campaign. Workie is directed specifically at the small and micro audience, but we also recognise that radio advertising is very effective with that group. The radio ads that play are also important. Workie is important in terms of cutting through to that group and getting attention.

Q121 Chair: Do you ever ring them up?

Charles Counsell: We do occasionally. With the category of employers with personal care assistants, we do. There is a small number of employers who have been exempted by HMRC to do online returns. We do things more proactively with that group. Typically, with telephones it is reactive. If someone asks us to ring them we will ring them, but typically it is reactive.

Q122 Heidi Allen: I have picked up on phrases that you have both used in the past few minutes: “get at them”, “educate and enable”, and “nudge”. I can tell you that my husband with his small business has been nudged quite a lot. He is complying with this, by the way, but his accountant is obviously very diligent. How and, crucially, when will you draw the line between those people who are intentionally not complying and those who perhaps just haven’t engaged yet? At what point do you decide to use the stick rather than the carrot?

Charles Counsell: That point is rather specific. If they have failed to complete their declaration of compliance at the end of the process—they need to have done that five months after their staging or start date—that is when we switch. The purpose of the declaration of compliance is for them to be able to tell us that they have done the duties and then to have this formal declaration to say, “I’ve done it, and I understand that if any of the information I provide is wrong, that’s a criminal offence.” It is a bit like doing your tax return—it is very similar to that. At that point, if we still haven’t had anything from them, we move into compliance action. The first thing we do is send out a compliance notice, which is a formal notice—a formal power that we have. It is akin to a red gas bill, if you like. It says, “Look, you haven’t done it. You should have done it. Here’s the date by which you must do it—and by the way, there are consequences if you don’t.” The next stage is a fixed-penalty notice.

Q123 Heidi Allen: You described it as being like a red gas bill. Is there, therefore, an elongated timeframe for these people? Do they get a bit longer to comply?

Charles Counsell: Yes. There are two parts to that. We typically give them another 28 days to get themselves ready. What we don’t do, though, is say, “You have 28 days before you have to start to make contributions.” That’s not fair. The contributions were due to the employee in the period before that, so we ask them to make sure that the contributions are backdated.

Q124 Heidi Allen: You spoke very thoroughly about the tailoring of different correspondence for different audiences. Will this compliance approach be tailored as well?

Charles Counsell: Yes, it is. This also applies to the question about outbound calls, particularly to those who employ personal care assistants. We recognise that they are a vulnerable group and that we need to help them to become compliant. Where we know that they are an employer of a personal care assistant we will tailor the approach, because we really want to help them and support them to become compliant.

Lesley Titcomb: I should add—as the Federation of Small Businesses told you—that the vast majority of people want to comply. Some of them need a little help in getting over the line and we want to give them that help. It reflects our overall approach as a regulator to educate and enable, and to enforce only if necessary. There are various steps and we are doing everything we can to assist them to get over the line.

Q125 Ms Buck: On the same theme, it is the old 80:20 rule, isn’t it? Most people will comply but the vast amount of your efforts are going to be spent on the minority who don’t. We have heard evidence about some of the tactics that might be employed by businesses that are seeking, for whatever reason, not to comply. How exactly will you monitor and track those businesses that are trying to find a deliberate way around complying?

Lesley Titcomb: There are several possibilities that we can see. Some of them are fairly obviously part of wider attempts to operate in the black economy, if you like. For example, if someone doesn’t register for PAYE at all, it is because they are trying to get

around the tax and NI, let alone us. Obviously it behoves us to work principally with HMRC on that type of thing. Other types of thing we can see are people trying to switch PAYE schemes—Charles has seen some examples of that—or inducing employees to opt out.

Q126 Ms Buck: You are describing what they might do, but what are your systems for monitoring that?

Charles Counsell: We monitor it. To use the example of someone switching PAYE schemes, theoretically you could put your staging date back by closing a PAYE and opening a new one. It is not a completely straightforward process, so it would require someone to really want to avoid this, but we have seen it. Where we have seen it, the reality is that they remain the same employer, so we will be in touch with them and say, “You haven’t changed your staging date; all you’ve done is change your PAYE.” It’s not really a helpful thing for them to do.

Lesley Titcomb: We have lots of sources of intelligence on this, but obviously No. 1 would be whistleblowers coming to us. We systematically follow up on those pieces of intelligence. Some of them are significant enough to turn into a formal investigation, or what we call cases. We will then devote resources to investigating them.

Q127 Ms Buck: That is an interesting point. Presumably you have a budget line for what you do to monitor non-compliance.

Lesley Titcomb: Yes, we do. That’s right. We have a significant piece of compliance and enforcement work in our programme budget. Indeed, significant numbers of people are coming on board to do that, both within the regulator itself and within our outsource department.

Q128 Ms Buck: What are you picking up so far in these early days? As much as you would expect? Less than you would expect?

Charles Counsell: Less than we would expect. On our initial projections, I am very pleased to say that we have had much less non-compliance than we forecast. We now have significant numbers of small and micro-employers who have been subject to the duties, so we can be reasonably confident that the behaviour of future waves of small and micros will be as the ones that have been through. We have to take non-compliance seriously. People have to know that there are consequences of not doing this. We don’t want to use the powers that we have, but they must know that we will do.

Q129 Ms Buck: What about the employers? Again, it will be rare, but we have heard some evidence that an employer may try to persuade all their individual employees to opt out—a sort of reverse nudge.

Charles Counsell: Yes. Again, the principal way that we will spot that is through whistleblowers, and we have had some whistleblowers from employers who have tried to

induce, or have allegedly induced, their employees to opt out. We would also look at unusual patterns. Where we see that a very high proportion of an employer's employees have opted out, we might look at it. Clearly, when you get to a micro-employer, it is just not the same. If you have one employee, either they opt out or they don't opt out; there is no pattern there.

Q130 Ms Buck: I have a last question on that. The experience of minimum wage enforcement is a little bit discouraging in terms of the impact of whistleblowing. Just as you have said, there will be more than one indicator within an employer. Minimum wage would be another good example. If employers are trying to evade the minimum wage, they are almost certainly going to be in your high-risk group in terms of pensions. How are you sharing that information? How are you learning from the fact that capacity for minimum wage enforcement is probably below what it should be?

Charles Counsell: We have close contacts with national minimum wage. Only last week, we conducted what we call a "proactive drive," but basically we go out and check to see what is happening. We did that in conjunction with national minimum wage and EESA, looking at particular employers. We do proactive joint investigations with them.

Q131 Craig Mackinlay: Something that comes up with some smaller employers, or smaller companies, because I would imagine that we have hundreds of thousands of director-owner type businesses where there may be payments just to himself or herself, or perhaps to a husband or wife, of the classic £671 a month, as you will be well aware. That is above the lower earnings limit, but class 1 is at £0. In those circumstances, you would need a PAYE scheme, even though it is not actually paying anything over. That would be caught in your data transfer from HMRC to yourselves. What about those who are not registered and don't need to be registered? I am hearing from a lot of people, "What is the point of going through the rigmarole of getting registered? We are only a husband and wife company, and we are never going to do it anyway." The means by which they can get out of this, as it were, is to make sure that their payments are below the LEL of £112 a week. Is there any good sense in people who are using the £671 threshold, which we know most people do, actually going through the rigmarole of registration just to opt out? Is there something to be said for that? This is hundreds of thousands of smaller owner-managed companies.

Charles Counsell: Strictly, they are already exempted from these duties. If they are director-only organisations and they don't employ anyone, the duties do not apply to them.

Q132 Craig Mackinlay: But they are meant to have a payroll scheme if they are paying themselves more than the LEL of £112 a week.

Charles Counsell: They would be required to have a PAYE scheme, but they wouldn't have automatic enrolment duties if they are director-only companies.

Q133 Craig Mackinlay: That hasn't been made clear at all, because that is the first that I have heard of it. That could be a simplification that needs to be out there a little bit.

Charles Counsell: That guidance is out there on our website, and we make it clear to professional bodies. It is a very important technicality, but it is a technicality that not everyone realises. If a husband and wife are the two directors and they don't employ anyone else, they are exempt. The background to this and the legislative intent behind it is that self-evidently they will make their own decisions. If they wanted to have a pension scheme, they will have created a pension scheme.

Q134 Craig Mackinlay: Could you go through the procedure? You've got your £671 payments, so you ought to have a PAYE scheme registered. That will trigger letters from you. How do they then go through the procedure to say, "We are a husband and wife arrangement; we don't need to do this"?

Charles Counsell: We will usually be able to spot in the data that we get from HMRC that they are director-only companies, because the HMRC data says that. Occasionally it doesn't, and then they can come to us and tell us—either on the website or over the phone.

Q135 Richard Graham: The story so far is a success, as you rightly said at the beginning, Lesley. I guess the real risk is the risk management of a higher rate of non-compliance. I think I'm right in saying that about 1.5 million employers are still to auto-enrol. Can you just remind us, Charles, what the next staging posts are and how many are going to need to auto-enrol by those staging posts? How are you going to be able to maintain the high rates of compliance? That is at the heart of making sure this mission carries on succeeding.

Charles Counsell: Yes, I think that is right. The challenge with automatic enrolment has always been the sheer volume of very small employers. If we break down the proportion of employers into categories, by far the largest category is employers who employ one or two people. Well over 50% of the total is employers with one or two people, whether domestically or as a small business. Each stage that is coming up is a stage of employers who have fewer than 29 employees. The stages are now no longer by size; they are all very similar. They vary a bit by a percentage point here or there, in terms of the proportion with the very smallest employers, but not much. In terms of how it rolls out, in the first quarter of this year there are about 100,000 employers who are subject to the duties. Over the course of 2016, there are half a million. The rest of them are in 2017 and early 2018.

Q136 Richard Graham: Obviously the half million in the rest of this year—the remaining three quarters of the year—can complete that process in advance. There is nothing to prevent employers from auto-enrolling, starting now. Equally, there is nothing to prevent them from doing it at quarter to midnight on the last day. At what stage do your alarm bells start ringing, triggering reminders and all the rest of it? If you get to the end of December and there are a couple of hundred thousand still outstanding, it's panic stations, isn't it?

Charles Counsell: Each month, a chunk of employers are subject to the duties. We see them beginning to complete their duties, as you say. Some of them might do it earlier. There's nothing to stop an employer saying, "Right, I want to get ahead of this. I want to just do it, so I'm going to bring my staging date forward."

Q137 Richard Graham: Is that happening?

Charles Counsell: Yes, it is. Quite a lot, actually. Perhaps slightly more than we expected. It's not hundreds of thousands, but there are tens of thousands that have brought their staging date forward. Thereafter, they will complete their duties. They are—dare I say it?—a bit like individuals. Some of us do things well in advance, and some of us tend to leave things to the last minute. That will be the fact of this. I can't emphasise enough the fact that we encourage employers to prepare early so they don't leave it to the last minute. It is true that they are more likely to incur costs if they leave it to the last minute because, to use your example, the night before they suddenly realise they haven't done it, and they think, "I don't know how to do it. I need to call up an adviser to get them to do it for me." That is likely to be more expensive.

Q138 Richard Graham: So are you planting articles, for example, with the media, to keep reminding people of deadlines and fines, and all the rest of it?

Lesley Titcomb: We also do letters to individual firms. The one-month letter is, "You really have left it very late at this point." There are the ongoing campaigns, the regional campaigns; there is the trade association stuff that Charles talked about, that is directed at particular sectors—but it really is the letters from us that tend to have the effect.

Q139 Richard Graham: That brings me to the last question. In another context, we have heard from people who say that they were never told about changes to their pension. How many small businesses are we going to hear from in due course, who say they did not know and they were not told?

Charles Counsell: There will be some, no doubt. I would question whether they really have not been told. We have a few who—for instance, there is part of the process where if we do issue a penalty they can appeal that penalty, and we do get as part of the appeal, "But I never knew," but in most cases they did, and they have received our letters and we have got evidence of it.

Q140 Chair: Do you keep records of the letters you send?

Charles Counsell: Yes.

Lesley Titcomb: Yes.

Q141 Chair: Even of the different coloured envelopes?

Charles Counsell: Well, they all go out in the same kind of envelope, which is brown, almost mimicking HMRC's envelope. If people get a brown envelope it typically will be HMRC or the Pensions Regulator.

Q142 Chair: So it is rather like the person who thought, “Oh God, this is a tax return” and found out it was one of the major honours being offered—in a brown envelope.

Q143 Steve McCabe: I just want to go back to this question of employers who deliberately seek to induce their employees to opt out. You said you had examples of this. How many?

Lesley Titcomb: At the moment, I think we have had about 60 whistleblowing reports, and we follow up each of those on a case-by-case basis. Some of them prove not to be an issue at a fairly early stage. Others are worthy of further investigation. I think about half of those so far have gone into a more detailed look at what is going on.

Q144 Steve McCabe: What is the penalty if you find that they have deliberately done that? This isn’t a mistake—you cannot inadvertently arrive at this decision. This is a conscious attempt to evade the rules. So what is the penalty if you are found guilty of doing that?

Charles Counsell: We can issue a fixed penalty notice.

Q145 Steve McCabe: Which is?

Charles Counsell: It is £400. If they fail to put things right we can then go into the escalating penalties. The truth of it is that should this happen employers tend to say, “Oh, okay, I’ll put it right,” and that in the end is a better answer—to put it right, and make it good for the employees.

Q146 Steve McCabe: Even if, as I say, this cannot be confused with someone who just didn’t understand the system? This is quite a deliberate attempt to evade the whole enrolment process.

Charles Counsell: Yes. At its most extreme it could be a criminal offence.

Q147 Steve McCabe: When do you expect to complete your first investigation?

Charles Counsell: We have completed our first investigation.

Q148 Steve McCabe: And what was the outcome?

Charles Counsell: The employer put right what had gone wrong.

Q149 John Glen: Can I ask about the Master Trust Assurance Framework? There are about 5.1 million members in the three big trusts, but there are suggestions from the industry that this framework is not robust enough, as compared with contract-based schemes. There is that point; but in terms of the creation of smaller trusts how do you plan to extend the Master Trust Assurance Framework, and when will that become mandatory for other schemes, to ensure that they are up to a certain standard that you would expect?

Lesley Titcomb: The provisional master trust is a really important vehicle for auto-enrolment. We take a considerable interest in it, and they fall under our form of regulation, as you say, rather than contract-based regulation. There are a number of large ones. There are five trusts with master trust assurance on the list at present. There are a number of others in the pipeline and we expect to add some more shortly. There are 72 master trusts registered and open at the moment. They are an important way of providing auto-enrolment effectively for a range of employers. It is good value; in many cases, it is good governance.

We are concerned that we are not able to exercise stronger regulation on this group, given their importance, the number of employees—members—they are serving and that type of thing. As I have said, a number are still coming into existence. We introduced the Master Trust Assurance Framework in conjunction with the Institute of Chartered Accountants in England and Wales as a way of trying to help employers choose a scheme. That was the particular role it had. Employers were telling us that it was a big challenge—how could we signpost schemes? For master trusts we introduced master trust assurance. We signpost other lists for contract-based providers, through the ABI and that type of thing. However, the master trust assurance scheme is voluntary, because—as the regulator—we have no power to make it mandatory.

Q150 John Glen: Doesn't this leave a real issue in terms of the gap and in terms of quality of assurance?

Lesley Titcomb: In my view, yes it does.

Q151 John Glen: So how can we resolve this? What do you think the solution is?

Lesley Titcomb: We are in talks with the DWP—with the Government—at the moment to see what else in a range of possible solutions could be brought to bear. You rightly point out that making the Master Trust Assurance Framework mandatory would be one way forward. There are a range of other possibilities as well.

Q152 John Glen: The point about the mandatory nature of it, which obviously you say you are in discussions about, is one matter, but there is also the issue around the gap—the discrepancy—between that and the sort of rigour of the FCA scheme for contract-based providers. How do you feel about that?

Lesley Titcomb: I feel that there is a gap; you are absolutely right. A good example would be that we just learn about a master trust being set up through the Revenue telling us, so there are no checks at the gateway. I am a regulator of 25 years' experience and I know

that gateway checks tend to be rather more effective than trying to deal with the problem later down the road. That is one point.

The other point that particularly concerns me, given the nature of this market at the moment, is the sustainability of the business model of some of these master trusts. In particular, what I would be concerned about as a regulator is this: if something goes wrong, is it possible to wind them down in an orderly fashion? The typical regulatory tool for addressing that would be a fairly simple expenditure-based capital requirement, to show that they had a certain amount of financial strength and cash available if they needed to be wound down in an orderly fashion.

Q153 John Glen: I do not want to be alarmist, but it seems a bit troubling that you have a new scheme that offers—apparently—a great level of assurance to people putting money away for a pension, and yet what you are telling us is that you are rather concerned about your ability as a regulator to guarantee the integrity of those smaller schemes against a voluntary assurance framework.

Lesley Titcomb: Before we had the voluntary assurance framework, there was nothing at all.

John Glen: Sure, I accept that.

Lesley Titcomb: We saw that gap and we have made the point, and we have done what we can about it. We are also, for example, carrying out proactive work in respect of these master trusts: going out and visiting them; discussing with their senior management their business model and their sustainability; and so on and so forth. We are doing a range of things within the limited range of powers available to us at present.

Q154 John Glen: I have a final question on this. You say you are talking about the mandatory nature of it, but don't you really want more power to make interventions with schemes that you deem, from your collective experience, to be inadequate in terms of the resilience to do the job that they are intending to do and offering to people?

Lesley Titcomb: I would certainly like more regulatory tools available to me in this space. I am open as to what those are, and those discussions are ongoing at the moment.

Q155 Jeremy Quin: In written evidence, the ABI suggested that the Master Trust Assurance Framework, or a similar framework, should be made mandatory for, as the ABI put it, “non-FCA regulated firms”. I am slightly bemused as to how a “non-FCA regulated firm” could be doing this in the first place.

Lesley Titcomb: Well, through the trust-based mechanism for which we are the regulator. There are two choices. You can establish yourself to provide a scheme to employers as a contract-based arrangement, and group pension providers would be the typical example. Generally they are insurance companies and therefore they are regulated by the FCA. Alternatively, you can come down the trust-based route by which you fall under the

regulation of the Pensions Regulator. That is exactly the dichotomy of pensions regulation. We have two types, which is why we have two regulators.

Q156 Jeremy Quin: But that is something that you are not comfortable with.

Lesley Titcomb: We were originally there for single employer schemes. You can absolutely see why multi-employer schemes have grown up, particularly in the context of auto-enrolment, but the question is, in that circumstance, where they are perfectly reasonably established under the trust-based machinery, which has a lot going for it, it is an important part of our framework, we as the regulator do not have the same range of regulatory tools for businesses that are a broadly similar commercial model.

Jeremy Quin: That is a very valuable point. Thank you.

Q157 Craig Mackinlay: Let me pursue that point a little. Would you know? Do you get the information as to which master trusts are being used?

Lesley Titcomb: Yes.

Q158 Craig Mackinlay: Would it not be sensible to advise some of these smaller employers who have been tempted into small fees and lower charges to get out? There are other ones out there that have got the master trust assurance. The amounts that have been accumulated in these—I'm not going to call them dodgy—unregulated schemes at the moment is going to be small. Now would be a good time to say, "Move before anything occurs."

Lesley Titcomb: Yes, you could argue that. What we are out there doing is saying, first, "You have to make the choice as the employer. That is what the law requires." Secondly, we have provided various signposts to the master trust assured and others, so there is some help. We are constantly examining whether we could go further.

Until we have gone out and done the work and looked at the various master trusts that are out there—and we are doing that within the limited range of capabilities and powers we have at the minute—I would be reluctant to go much further, because I feel we could be damaging successful businesses at the same time, on not 100%-sure grounds. It is important to recognise that there is a degree of competition in this market and that is probably a good thing.

Q159 Craig Mackinlay: To take that a little further, would all of these master trust arrangements be required to have an annual audit, and under what sort of framework?

Lesley Titcomb: No, not all of them would. That is why we have introduced master trust assurance. We can get information on their bald financial position from the returns they have to send us and so on. Master trust assurance focuses on the controls over the business—a range of important issues about how they are running the business in the members' interests

on a day-to-day basis. It goes much wider than just the financial strength, which is all you would really get from looking at the financial returns that they send to us.

Q160 Craig Mackinlay: Charles, a brief point on the fines, penalties and appeals. Who is the first tranche of appeal? Where does that go to? Is that a bit like HMRC's internal review and then, if there is still an unhappy outcome, it goes to a first-tier tribunal?

Charles Counsell: That is exactly right.

Chair: Thank you very much for our session this morning.

Sitting suspended.

On resuming—

Examination of Witnesses

Witnesses: **Baroness Altmann CBE**, Minister of State for Pensions, Department for Work and Pensions, and **Charlotte Clark**, Director of Private Pensions, Department for Work and Pensions, gave evidence.

Q161 Chair: Ros, I am not going to welcome you back again, because we will both be parodied in tomorrow's media if I do. That said, you know the drill; will you introduce yourself for the record? Then we will go on to Charlotte.

Baroness Altmann: I am Ros Altmann, the Pensions Minister.

Charlotte Clark: I am Charlotte Clark, the Director of Private Pensions at the Department for Work and Pensions.

Q162 Richard Graham: Minister, welcome back. We have had good discussions with and taken quite a lot evidence from people on the whole process of auto-enrolment, the challenges ahead, communication and the likelihood of difficulties that might affect the success of getting to small businesses. What gives you the biggest concern? How can you tackle, in particular, the issue of small, possibly unstable master trusts?

Baroness Altmann: Clearly, with a programme as massive and as important as this, there are huge numbers of areas of concern. In reality, we are only a fraction of the way through getting this policy embedded across the country. Around 5% of employers in the whole country have started a pension scheme under auto-enrolment, so clearly the big bulk of the work is yet to come, and of course the ones that have already started are the biggest ones, which are most likely best placed to be able to cope. So we have to enable the small firms—the 1.8 million smaller employers, some of whom are not businesses at all, but just ordinary individuals—first of all to know that they actually need to do something, because many of them probably do not know that yet. They then have to be able to do it, both from the point of view of the administration and, importantly, knowing how to choose the right pension

scheme for themselves, which is not a simple task for someone who has never heard of pensions. Those are the issues that are really uppermost in my mind.

For me, it is crucial to help these 1.8 million small employers to know that they need to do it, and then to cope with it. What I do not want to see is lots of small employers facing fines for not doing something, inadvertently or because it was too difficult, so we must certainly be simplifying the system, getting the messages out there and promoting auto-enrolment across the country, both at a national and a local level, to help individuals. MPs themselves are able to spread the word. I know that you have done some great work in Gloucester, helping your small businesses understand what auto-enrolment is all about. So that is a big issue.

I guess you could predict the other issues that concern me: making sure that enough people stay in and want to stay in and stay engaged. That means they need to have a good experience. As contributions are going up, we need to make sure they are not put off and they will keep in—opt-out rates have been impressively low. Hopefully, that also means that pension companies will do more to look after their customers. The Government is handing them millions of people on a plate—here they are, starting pension saving for the first time—and we want the providers to look after them, offer them good products and good value, and change the way people think about pensions.

Finally, you are right: we need to ensure that the schemes into which people are enrolled are safe and secure. There is currently an issue, as we all know, with master trusts and I am anxious that we ensure proper protections are in place. We can do that in a number of ways, but ideally it would be a legislative route, which means we need legislation and a legislative vehicle in order to be able to put in adequate protections. That is not just for the assets. In most cases, the assets may be protected, but we want to ensure that if any of these trusts wind up, the costs of wind-up do not fall on the members' assets.

Q163 Richard Graham: If we are looking at primary legislation then time is quite tight. When do you anticipate that that will come forward?

Baroness Altmann: I have been pressing for a pensions Bill for us to be able to do that. So far we do not have one, but hopefully we will have one. We are still bidding.

Q164 Chair: Ros, when you do that, perhaps you might send in our Whips so that people can see how busy we have been over the past few months and whether there is a shortage of legislative time. For me, this has been the most gentle Parliament historically, as far as legislation is concerned, so the Government's business managers ought to be really pleased if you want to have a Bill—it would give us something to do.

Charlotte Clark: I will definitely pass that back to PBL.

Q165 Craig Mackinlay: First, the penalties for people who do not get towards their compliance have been described as “draconian”. Even for the smallest employer, they are £350 a week or £1,400 a month, which possibly could be more than the profitability of that

small business. Is there any danger of some employers getting caught in this fairly stiff scheme? Everyone appreciates that you need a stick to make things happen, but how do you think the regulation of enforcing fines will work? Will it be light-touch, properly done, allowing for reasonable excuses? Will it hit people who have really done their best but have not quite got there?

Baroness Altmann: The aim for me is clearly that the employers who have a written obligation to set up pension schemes do not face fines. Many of them will just not realise what they have to do or not be able to cope with what they have to do. The regulator has got a series of careful steps to try to avoid having to fine anybody. For me, that is crucial. There is a warning letter, there is a compliance notice and they get 28 days to co-operate with the regulator. If they are co-operating in that time, they will not face a fine.

The first thing that happens if they have not bothered to co-operate in that 28-day period is that they will get a £400 fixed penalty notice. Again, they will not have the £50 a day or the member size-related fines until they have had that first one. For me, it is really important that we do not fine people; we just help them do it. That is why we have been trying to get the messages across so that people know.

Q166 Chair: It is back to your point, Ros, about having a good experience, isn't it?

Baroness Altmann: Yes.

Chair: Yes, if you are going to bed it down.

Charlotte Clark: I think that is it. I am sure you heard from the regulator this morning about the approach they take. It is about trying to get people to engage, and that is the point of the fixed penalties. The moment that they engage, it is about helping them fulfil their duties; it is not about fining them. That process seems to be working very well for us.

Baroness Altmann: Of the big firms so far, 99% have just done it without needing any fines. We want to ensure that the small ones don't fall foul of this inadvertently through lack of information, or through being unable to cope.

Of course, we want to ensure that it becomes the norm. That is the aim of the policy. If you are an employer in this country, even if you have just one worker, you are responsible for their national insurance, their tax and their pension. That needs to become the norm; that is where we need to end up. Employers thinking, "It doesn't apply to me", "I don't want to do it" or "It is too difficult" is something that we need to overcome.

Q167 Neil Coyle: You mentioned the 1.8 million small and micro employers who are perhaps least well engaged in the process so far. What are the key staging posts from here on in for them to seek advice from yourselves or the regulator, from whom we have already heard this morning? How do you plan to meet those peaks in demand for support and information?

Baroness Altmann: We did our pathfinder study of 12,000 of the small and micro employers. Their staging date was brought forward to last June, so we have had that learning experience, trying to understand directly from them where any complications, confusions or difficulties are. As a result of that, we have simplified the website and tried to simplify the processes.

We are doing more—we should all be concerned about this—for people who employ care workers to look after them. They might have a personal independence payment or something like that, and they are an employer. If they do not use an agency, they will have to set up auto-enrolment. We are also doing more for people who employ someone in the home, maybe a mum with a nanny. We are trying to have a dedicated process and targeted materials for them, first, to make it easier for them to self-identify, so that we know who they are and that they might need special help, and, secondly, so that we perhaps talk to them in softer language. We have toned down the letters to make it less frightening. Sometimes, if you talk in too frightening a tone it can put people off doing it, whereas, if you are saying, “Come on, we’ll help you,” it is much more likely that they will do it. Part of that is happening through this engagement; that is the first step.

Charlotte Clark: In terms of the pathfinder, we had 12,000 coming through but, within that, we had about nine or 10 different cohorts trying different things and ensuring that we were learning what worked: when to engage with them, when to send them information, what information to send them.

Alongside that, as the Minister said, we have also been looking at triaging it for different groups to see whether we can simplify the journey much more. For people who employ carers, we don’t tell them that they need to choose a scheme; we just tell them that we set up NEST with them in mind. We are just trying to make it easier. If they want to do something different, they can move off these customer journeys, but we don’t expect most of the people in that group would want to. They just want the simplest way to comply. So we have set up those journeys with that in mind.

Baroness Altmann: One thing we have also recently done, for disabled people who employ someone or elderly people who need help in the home and have to pay more than the £10,000 a year threshold, is to provide a phone number they can call either at NEST or at the regulator if they want to go there first and then thereafter, so that they don’t have to pay someone to set up a scheme for them, because that would be disproportionate.

If they themselves can’t apply online, because online is obviously the normal process for NEST, they can have a family member help them. We are trying to give them a route where they won’t have to go and pay hundreds of pounds to an adviser to do the auto-enrolment for them, but where they can have a relative or a friend talk through over the phone how to help them finish their declaration. That is something we have recently set up and we are working to embed it now.

Q168 Neil Coyle: Is that mostly for privately arranged social care and support, or is it linked to local authority direct payments and personal budget support care workers?

Baroness Altmann: If you use your direct payment to employ someone directly rather than through an agency, you will be responsible. If you use an agency, they take care of it. If you use a local authority, the local authority will take care of it. It is only when you have your own funding, either privately because you do not qualify for local authority support, or because you have local authority support and have chosen to use it in that way.

In any of those circumstances where people are responsible for the auto-enrolment, we would like to help them, not have them unable to cope. We know that it can be an added stress for them. We want the person who is working for them to have the opportunity of a pension—that is the point of the policy—but we don't want to make it inordinately difficult for the person who is employing them to cope. Does that answer you?

Neil Coyle: Yes and no.

Baroness Altmann: Tell me what I missed

Q169 Neil Coyle: I am still intrigued by that relationship with local authorities, because it sounds like you are going for the individual, when actually going through the local authority might be an easier way to reach more of those very, very micro employers, who might just be one or two people.

Baroness Altmann: We have recently written to all local authorities, helping them to understand what pathways and assistance and facilities we have put in place for anyone who gets funding from them and uses it for care. We have also explained to the local authority that people who are currently getting funding for their social care from the local authority will potentially have extra costs as a result of auto-enrolment and that their award needs to reflect those extra costs, so that it does not come out of the amount of care they get. If the local authority is funding it directly, it will take care of the auto-enrolment. This is only for the situations where the local authorities give the person money and they decide how to spend it.

Charlotte Clark: Or they are privately financed—they have their own wealth and are choosing their care.

Q170 Neil Coyle: When did that correspondence go out and what response have you had from local authorities? There was a case—I think it was Hammersmith council—where because the amount paid to the individual who then passed it on to a care assistant did not go up, they were found to be in breach of their duty to ensure that the care package was unchanged, because they couldn't afford the increase in minimum wage, or whatever the other cost was.

Baroness Altmann: This went out a couple of weeks ago.

Charlotte Clark: Yes.

Q171 Neil Coyle: So very recently.

Baroness Altmann: Yes. When we heard there was an issue, we decided to write. We kind of assumed that the local authorities would understand that this is part of the legal responsibilities for anyone who is an employer and that it needs to be taken account of, but it seems that message may not have got through clearly enough, so we sent this letter to make sure.

Q172 Neil Coyle: But there could now be a new cost to councils as a direct result of this change, which hasn't even been communicated with councils until the last fortnight.

Charlotte Clark: I wouldn't say that. We have been working with local authorities about this issue since the beginning of the policy, but we sent the additional letter a few weeks ago.

Baroness Altmann: They may not have realised it, even if they had been told or even if they should have been aware. We did it in case they were not aware. Obviously, local authorities are under pressure—

Q173 Chair: Their budgets are very tight, aren't they, Ros?

Baroness Altmann: Obviously, local authorities are under pressure budget-wise, but this is a legal obligation and we don't want it to impinge on the care that somebody is already getting and needs. It is clear that local authorities should have known from 2012 that this was coming.

Q174 Heidi Allen: On a completely different tack, where potentially a small employer uses a third party to provide the pension for them, perhaps a payroll provider, whose responsibility is it if that pension fund turns out to be no good or goes under? Where does the liability fall?

Baroness Altmann: The payroll provider is responsible solely for the admin. It is only if you use a financial adviser who has recommended a pension scheme to you that they would be responsible for the choice if it was a poor choice. That is why I said one of my deeper concerns is ensuring that people know how to choose a good pension scheme. Because you can get help with payroll and most employers are already using some kind of payroll service anyway, but the admin is separate from the choice of a pension scheme.

I think for many people who have never heard of pensions, such as a young person starting up a business and taking on their first employee, they have never had a pension and they have never heard of pensions, so how would they know how to choose a pension scheme? Somebody needs to give you some guidance, because ultimately it is your responsibility.

If it goes wrong you don't really have anywhere to fall back on. That is why the regulator is trying to signpost people to certain schemes that have got some assurance, but that has not overcome some of the protection issues that we alluded to in Richard's first question.

Q175 Chair: If a master pension fund went under, Ros, would it go into a pension protection fund?

Baroness Altmann: Currently, there is no protection for wind-up in master trusts, which is why I am so exercised about it. We know that doing nothing is not an option. The issue is that the assets may well be protected. The assets may be invested in a Legal & General fund or some other fund protected by the FSCS or some other mechanism, but the costs of wind-up for the master trust may have to come out of the assets of the trust. So even though the assets are protected, the members' pensions may be impacted.

I don't want to scaremonger. We have got about 72 of these master trusts, and many of them are quite large. The issue is the smaller ones—the approval process in the first place and the ongoing monitoring and protection of these funds. Doing nothing is not an option; we need to ensure that we have some proper protections.

Q176 John Glen: It seems incredible to me that we are getting to this point now. We have got this vulnerability hardwired into the system. We have a voluntary mandatory master trust scheme. We have got this long tail of small organisations that may or may not decide, or maybe mandated to, join it. We have got the regulator telling us that she is uncomfortable with the lack of power that she has. This is obviously not a criticism of you because you have not been in place for long but, given all the hassles and scandals with different schemes over the past 20 years, why wasn't this oversight and back-up put into the initial legislation, so that there would be some underpinning for these schemes, which obviously carry a lot of vulnerability to individuals?

Heidi Allen: It is ripe for exploitation, isn't it?

Baroness Altmann: Since I have been here and understood this, we have been working on how we can best address it. As far as the history is concerned, Charlotte?

Charlotte Clark: I think when we were looking originally at whether or not we would have different requirements for schemes, there was no expectation that we were going to have big growth in the master trust market. We thought that they are contract-based, where these are not issues, so they do not come under FCA regulation, but they may play a part in the market. If you go back five years, people were saying, "Auto-enrolment, that's an unprofitable area; everyone's going to end up in the NEST scheme."

So the fact that schemes are set up under this slightly took us by surprise. You can argue that it shouldn't have taken us by surprise, but I think now when we are seeing the risk we are thinking "What is the best way to address that risk?" To date, we have not had issues, but I think it is about making sure that these schemes are sustainable. I hope that there are none being set up for nefarious reasons; but it is their sustainability that really is the concern.

Q177 John Glen: Just on the three biggest schemes, which I think have about 5.1 million members—as I understand it, those are the ones under the framework—what degree of protection do those members have?

Charlotte Clark: NEST—

John Glen: NEST is protected—and the other two?

Charlotte Clark: NEST, NOW: Pensions and the People's Pension.

Q178 Chair: Do you have a Bill on the shelf, ready for Parliament?

Charlotte Clark: I don't think you are meant to pre-empt these things, are you? We are working through the policy and what is the right approach for this, so that we would be ready to legislate as soon as we could.

Q179 Jeremy Quin: I just wanted to clarify, if I may, Minister and Charlotte, that when you are seeking to address this issue, you are not seeking to extend a Government guarantee; you are seeking to focus on the regulation to ensure sustainability, and that may include giving regulators powers to force the mergers, or force the early closures, of master trusts if you feel that they are unsustainable.

Baroness Altmann: Or capital adequacy; so that the costs of wind-up may be in an escrow account, or that there is some provision in place to cover the costs of winding up the scheme. If the assets are safe, if the assets are protected, that is one thing; and of course that comes under a different area. The costs of wind-up, of course, can be quite substantial for a small scheme, proportionately, and therefore what we want to make sure is that people are not using regulatory arbitrage, and trying to set up under a different format, to see if it works, have a go, and if they don't succeed just decide, "Oh, well, it hasn't worked, we're going to wind it up," and the members bear the cost. That is not acceptable—absolutely not acceptable.

Q180 Jeremy Quin: The key thing is this: it is great that you are absolutely on top of this as a risk, but the legislation, therefore, is looking to give the regulatory powers to a body—maybe grouping it back into the FCA, I don't know—that could then keep close monitoring of the adequacy and the provisions within the master trust to wind up without adverse impacts on the members.

Baroness Altmann: There are different potential routes. First of all, you could look at the requirements before a scheme is approved. We don't have that within our remit; they are approved by HMRC. So that is one potential route. The other potential route is to give the regulator more powers, legislatively. I am keen to give the regulator more power anyway, because there are certain areas in which I think they need to be able to require schemes to do certain things which currently they can't. Then, potentially, insurance: but it would not be a Government guarantee. We don't have a Government guarantee for DB schemes, either. It has worked quite well having the Pension Protection Fund; but, as I say, doing nothing is not an option. We have to do something to protect this.

Q181 Craig Mackinlay: I think we have opened up a really powerful stream of worry this morning, more than anything else. I do worry that, if we're not careful, in 15 years' time we will be sitting here dealing with the master trust mismanagement action group or something.

Baroness Altmann: Enough of my life has been spent on those issues.

Q182 Craig Mackinlay: I think we have the opportunity to nip this early, because these master trusts will be some of the smaller employers; there won't be much money in them yet, and if the losses do occur now they are going to be very minimal.

Carrying on the thread of liability, I am a little concerned that when smaller employers go to their payroll provider or accountant, the accountant or payroll provider will say, "Well, it's all very easy. Just go to NEST," which is perfectly good advice. My worry is whether, in years to come, those people who have been paying in to those pensions with NEST could come along and say, "Well, that really wasn't the best thing for me. NEST has been very pedestrian in its returns. If I had gone to X, Y or Z, I would have got a bigger pension fund. I am now going to sue you—either my employer, my payroll provider or my accountant—for poor advice." Is there a statutory exemption for anyone who says, "NEST is okay"? I don't think there is, and I think we are opening up a potential stream of litigation in the future.

Baroness Altmann: This goes back to some of the FCA and other protections in place for people who go to a financial adviser to recommend a pension scheme, which is why I keep coming back to the point that many people don't want to recommend a pension scheme to anybody. They want the individual employer to choose it themselves, and we need to make sure that there are clear signposts to what is a well-run scheme and what is not.

Charlotte will come in in a second, but from my perspective, with any pension scheme you take an investment risk and a performance risk. That is the nature of saving in pensions. In most cases, the accountant or anyone else would be pretty careful to say, "It is up to you which scheme you choose. NEST is one of them." The regulator is also saying, "It is up to you which scheme you choose. This is a list of ones that have the master trust assurance, but it does not give you any assurance about investment performance or, indeed, about protection on wind-up."

Charlotte Clark: It is a question about whose liability it is. If you are a professional adviser and you give somebody bad advice, there is an issue about your own liability. If you are an employer and you have made a decision, there is no liability—that is clear in the legislation. If you have decided to go with NEST rather than NOW: or People's, there is no liability that can fall on you as an employer.

Baroness Altmann: Also, whoever is advising an employer does not fall under the same kind of legislation and protection as someone who is advising an individual, even though in many cases the employers still to come will probably need just as much protection as the ordinary person, because they are an ordinary person. Currently though, the system is that you don't have to be FCA-approved as a so-called adviser to the employer.

Q183 Chair: So everybody is covered except the person who is paying in the money?

Baroness Altmann: The employer needs to be very careful on behalf of the employee to choose a decent scheme, which is why it is really important that we help people to understand who the better providers are and to steer them carefully away from those that might be much more risky. That is a question of continually putting out messages, helping employers to know where to go to find out more information and to assess schemes. Generally speaking, bigger schemes will have more security.

Q184 Chair: But it is also partly about whether you have the power in the first place not just to gently guide people here, there and everywhere but to knock the bad schemes on the head.

Baroness Altmann: Absolutely. That is what we want.

Q185 Craig Mackinlay: I'm still not entirely clear on this point. The small employer—the nanny employer—has come along to the payroll provider and said, “I don't want to do this. Can you do it for me? What shall I do?” You are not going to have an IFA interested in that type of work, so the payroll provider will say, “You've got NEST out there. It's got the kite mark. It's Government-backed. It does all the things that you need it to do.” Would there be any potential liability for that payroll provider when, years hence, an employee says, “Ah, well, some clever analyst has said that if I had done the same amount with the People's Pension, my pension would be bigger. I am now suing you because you should not have given me that advice, because you were not IFA-registered to give it.” I think we need a statutory exemption for anybody who advances the benefits of NEST, otherwise we are in some very dangerous grounds for the profession.

Baroness Altmann: As far as I understand it, anyone who suggests to an employer that they might consider using NEST would be ill-advised to say, “That is what I recommend,” and secondly, even if they did, it would not be classified as advice that you could then come back and sue them for. As I say, anyone who is helping an employer choose a pension scheme is not covered by the same kind of FCA regulations and protections as they would be if they were advising the employee.

Charlotte Clark: I think that's right. If you go to the Pensions Regulator website, there are certain groups—I think of your nanny example—and NEST is the only scheme that we flag.

Baroness Altmann: Same for disabled people. But I want to also suggest that we do have confidence in the way NEST is managing the money. It is set up to be a prudent manager and I think it is doing very well. If you look at the performance, it is certainly doing well so far. With pensions and long-term investment in a range of assets with different kinds of risk characteristics, you will always find schemes that have done better than others over a period of time, but I do not think it would be reasonable to say that you should have, with hindsight, known this was going to be performing in this way.

Q186 Jeremy Quin: We won't bang on for ever, but I want to express a little sympathy for the Minister. It is dangerous territory when you get into saying as a Minister that a larger scheme is almost by definition a safer scheme, but at least that is easier than trying to define what is a better or less good provider of these services. There may be circumstances to which you referred. In the case of a young person setting up their own firm and employing a similarly young person alongside them, a small, racy pension fund may be exactly what they should be investing in for the next 20, 30, 40 years, with that kind of horizon. It will get very difficult if the Government try to give advice as to particular pension firms and their averages, but I assume this comes down to good regulation. This is where we started. It is making certain that they have the means to ensure that the assets are safe for members.

Baroness Altmann: Absolutely. If you take the example of a young person employing a few mates in their business, as can often happen, they may all decide they want to take some risk. The important thing is to make sure you have the appropriate statutory protections if something goes wrong with the administration and the running of the scheme. I am not talking about the actual assets, because that will depend on the choice of investments that are made by the scheme. What worries me is that the assets might be protected, but then the costs of wind-up still need to be met from the protected assets. But I don't want to scaremonger. There are tiny amounts of money in these schemes at the moment. Now is the time to be looking to do this. That is why I am so exercised about pressing for this now.

Q187 Ms Buck: I want to switch to the issue of auto-enrolment and some of the groups, particularly relating to some of the trends in the labour market—self-employment in the first instance. What is the thinking on incentives to try to deal with higher enrolment among people who are self-employed?

Baroness Altmann: At the moment, anyone who is self-employed can make a pension arrangement for themselves. In theory, the big attraction of auto-enrolment is that the employer sets up the scheme for you and puts money in alongside you, so if you put in one pound, you get another pound for free if you get tax relief as well at the basic rate. If you are self-employed, it is the same person, so forcing somebody to set up a scheme for themselves and then opt out if they want to does not make any sense in the way that auto-enrolment does.

Q188 Ms Buck: No, but in a sense the nudge element of it does, in terms of it incentivising or encouraging people to make their own pension provisions. Auto-enrolment has a double benefit, doesn't it? It is partly about the money, as you say, but it also nudges people to take a sensible long-term decision.

Baroness Altmann: Unless you were to do that via the tax system, it is difficult to see how you would automatically put some of the self-employed money into a pension scheme.

Q189 Ms Buck: Have you looked at any of those options?

Baroness Altmann: It's not up to us to do that. Do you want to discuss that, Charlotte?

Charlotte Clark: The issue of self-employed has come up throughout the debate on automatic enrolment. We do talk to HMRC about whether or not there is some sort of way we could encourage the self-employed through their tax returns, but do we have an answer to that? No. With personal tax accounts, the possibilities can open up, but bearing in mind where we are and the structures that we have at the moment, we are probably a few years away from having an option.

Q190 Ms Buck: It seems like we're in a situation where the labour market is changing. I don't know whether you have seen today's figures, but there has been a massive jump in zero-hours contracts—they are up 15% in a year. We are getting some trends—I know they are not mainstream—where the labour market is going in an opposite direction to the whole principle behind auto-enrolment. It seems like we should be trying to keep on top of that.

Baroness Altmann: You are absolutely right. You might disagree, but the way I see it is that over the next three years or so we are establishing pension saving as the norm in the workplace. We are starting off with those who earn £10,000 and above and those who are 22 to state pension age. You have to start somewhere. Hopefully we are going to make it normal that everyone—everyone—in those categories is in a pension scheme.

Currently, about 5% of those who are not eligible are opting in. That is about a quarter of a million people who don't get the nudge but are choosing to go in anyway. The idea would be that as we move forward over time and people recognise, hopefully, that this is a good thing that everybody should aspire to, first we can ramp up the contributions, which we are doing—by 2019 they will be quadrupling from the level they are now, and hopefully they will go even further than that—and then we might be able to have more encouragement for the self-employed via some kind of national campaign.

Just as we are doing work to encourage employers to recognise that they need to set up a scheme and to encourage employees not to opt out—it seems to be working well right now—we could then take that one stage further. Once you say to people, "Everybody else is doing it", they are more likely to do it. We may need to look at the incentives that we give to self-employed people, because clearly they won't have the incentive of an employer contribution from somewhere else, which is so powerful in the automatic enrolment programme.

Q191 Ms Buck: The principle of this is completely right. I am not in any way criticising the basic principles of auto-enrolment—I think it's great—and of course you cannot do absolutely everything. Nevertheless, when we are giving massive financial incentives to, in particular, better-off people in stable employment to save for their pensions, it seems a bit of a shame that we are not currently looking at any sort of incentive whatever for the people who are probably the most at risk, which is self-employed groups and those on zero-hours contracts, with a sharp increase in the latter.

Baroness Altmann: It is a question of timing. I am really exercised about the massive task we have ahead of us with 95% of employers still to set up a scheme, and with contributions quadrupling and the enormous capacity issues that that will pose. Given that that is already in place, we want this programme to succeed. So far, it is, and we want that to continue. Because it has been going since 2012 and because all the big employers have done it and we have got a few million people in there, there seems to be almost an impression that automatic enrolment is already done. Actually, there is a hell of a long way to go. We are conscious of that and want to make sure that we don't take our eye off the ball that we need to be playing now. That does not mean to say that we don't want to encourage self-employed people to have pensions where we can. Of course we do—it is really important—but perhaps that comes once we establish this as a norm that they themselves will automatically want. We can do that with more communications.

Charlotte Clark: Just to add to that, big projects generally go wrong when you start changing them as you are trying to implement them. We have always been really clear about what we are trying to implement now and what we should wait until we get to the end of auto-enrolment for and then reflect on. We have always had the idea of the 2017 review post-auto-enrolment to really look and see what worked, what did not work and what we need to look at now.

Baroness Altmann: That is a really important point because it is one of the things we will be looking at in the 2017 review. It will be a wide-ranging review and an opportunity for us all to engage in looking at how best we should steer auto-enrolment forward. I hope that the Committee will engage with us. We will be talking to a wide range of stakeholders, trying to ensure that the review can set up the future for auto-enrolment in the right direction. You are right that self-employment will be a big strand. We will look, perhaps, at how we can bring more earners in, how we could move on once it is embedded and at auto-escalation. We will be looking at lots of issues in the review, and there are things that we may not have thought of that you could bring to us.

Chair: We would be failing in our duties if we do not engage with you on that, so I am sure we will. Jeremy, can we stay on the point about levels of contribution?

Q192 Jeremy Quin: The Department is on the record, prior to the election, saying that they were keen to encourage people to save above 8%, which is the minimum. My view is that 8% at the bottom end of the wage distribution is not enough. I am nervous that the vast majority of people get auto-enrolment, which is a great scheme—congratulations, because it is great that we have it and that saving is happening—but that those people feel that they have ticked that pension box. They are then not of the mindset to say that they should be doing more and throwing more of their own resources into this. Where do we go from here? Where do we see this rising to a level at which we can all be comfortable that we have set in place a good scheme and that it is really sufficient for the task?

Baroness Altmann: At the moment I have been very clear that we have to get to 8% first, and we are a long way from 8% now. We are at 2%. We will not be at 8% until 2019, which is absolutely right. You do not want to make it so draconian at the beginning that people opt out. It is the boiling frog principle or whatever you call it. We are gradually increasing the contribution so that people can cope. We have also aligned the increases with

the beginning of the tax year, which was a carefully thought through decision that is mindful of some of the burdens on employers and tries to play with the psychology of auto-enrolment.

At the beginning of each tax year, the tax threshold will change between now and 2019. Workers' take-home pay will automatically be increasing as a result of the tax threshold change. So, the fact that the pension contribution is going up can be masked by the change in the personal tax threshold. If you did that at a different time of year, it would become much more noticeable in the pay packet.

Once we get to 8%, how do we help people to get more? Even now, how do we plan? That will partly be the 2017 review but auto-escalation is an important part of what we need to think about so that anyone who gets a pay rise automatically thinks, "I want to put some of that money into my pension", to increase their contributions.

I am reluctant to suggest that employers should do a lot more or that we should force employers to do a lot more. Many employers are putting in above the minimum anyway but, to me, the crucial element between now and 2019 is that pension providers engage with their customers and make them have the kind of experience that will ensure that they feel that they want to do more. Too frequently in the past, pension providers have relied on somebody else—an employer, the Government or a financial adviser—to bring them the customer's money and they do not engage enough with the end customer. Auto-enrolment is their chance now to engage with the end customer and make the customer feel that they have had a good experience, a good service and good products and want to do more, just like any other industry. If customers go and shop somewhere and have a good experience, they will come back to the shop; if they feel they have been roughly or unfairly treated, they will say, "No thank you."

We need to get to 2019 at the full rate with the majority of people who are in pension saving thinking, "My provider's done a good job for me. When I can, I want to do more." If we just say, "The next stage in auto-enrolment is that we're going to move gradually up to 15%"—whatever it is; people are talking about 10%, 12% or 15%—however much the Government increase the auto-enrolment minimum from the current level, if people are not happy, they will just opt out. So I do not think that is the solution—certainly not the whole solution.

We have to help the pension providers—many of them are doing this—to step up to the plate, engage customers in ways they have not done before and make it a bit of fun with apps and gamification, which they are starting to do. They need products and services that make these customers—who are coming in and staying in at the moment; the opt-out rates are 10% or so—feel, "Yes, this is a good thing for me. I'm happy to be here and I want to do more when I can." If we get to that sort of mindset—of course, NEST wants to do that. The big master trusts want to do that. Some of the bigger providers need and want to do that. That is how I see it, but you may feel that there is a different approach.

Q193 Mhairi Black: I want to turn to the £10,000 threshold for automatic enrolment. How can you ensure that people who are earning below £10,000 are saving for their retirement substantially?

Baroness Altmann: Currently, £10,000 is the threshold—as you know, we have not increased it, although we could have done, but it is important to establish that for the moment. As part of the 2017 review, it is important to look at how we can bring in lower earners, what is the right timing and what is the best way, and we are open to suggestions. I am conscious that there is a gender issue here; there are a lot of women who are earning less than £10,000 who will not be getting the benefit of auto-enrolment. They can opt in, but of course they don't get the behavioural nudge to do so. We also have to be mindful of the burdens on employers.

We have had excellent cross-party consensus across all groups, both politically and in the workplace, that auto-enrolment is the right way forward, and it has widespread support. I hope that as we move forward and the programme is successful, which obviously is the key, we can help employers to recognise the benefits of bringing in lower earners and possibly support lowering the threshold. I am not sure currently we would get that support.

We have also done some modelling about the value of the pensions that someone who is earning very low salaries might deliver and the size of the pension pot that the industry would need to administer. Given the capacity issues, we have to be mindful of that. I would certainly say that a major aim is to bring in as many low earners as possible.

Q194 Mhairi Black: I am glad you brought up low earners, because that is where I was going. One of the suggestions we heard was to take the £5,800 opt-in threshold and lower it to zero, and then take the £10,000 threshold and lower that to £5,800. Could that be considered?

Baroness Altmann: It would all be part of the 2017 review. I understand that, and I think it would certainly make it administratively more simple, but of course you can already choose to enrol on the entire salary if you want to. Employers are not currently choosing to do so because of the cost issues. As we move forward with more small employers, they may choose the simpler route and decide to just do it on their employees' entire salary rather than fiddling about with the threshold. We may learn something about that.

Charlotte Clark: It comes back to the design of the policy. It is a few years ago now, but the idea that auto-enrolment would sit on the state pension, so for people who are learning less than £10,000 the importance of the state pension—I do not get many letters about people worrying that they are over-saving—economists worry about these things and actually whether or not the state provision was enough for that group. I think it is one of the things that we want to have a look at: whether or not people stay in that group; whether their earning fluctuate; or whether it is actually just about the culture of saving. We will need to consider all of those things.

Q195 Steve McCabe: Tell me about all these people who have got several small pension pots. What are you going to do about all this money that is scattered around multiple pension pots?

Baroness Altmann: As you know, we have put on hold for the moment some of the work started under the last Government: the pot follows member approach—the automatic

transfers approach—because it is important to see how the market develops. And there is certainly an indication that current pension saving is migrating towards a few big providers rather than a whole mass of smaller ones, and that would make it a lot easier then to aggregate.

I am not sure if we know enough yet about the best way to aggregate, because we do not know enough about how the market will finally look once auto-enrolment is finished, but I absolutely assure you that we know it is essential to help people bring their pension pots together. The problem we have right now is that many people have got pensions scattered all over the place with providers who do not have very good systems. With the best will in the world you could set up a portal or platform which they could all bring their pensions to, but the providers would not be able to link up. So part of this has to come from the industry and parts of the industry are already working on this programme with us.

Charlotte Clark: I think it was right we put the automatic transfers project on hold. The market is changing—

Q196 Steve McCabe: How long is it on hold for?

Charlotte Clark: Probably until we get to automatic enrolment. I think it links to the master trusts issue. If we are moving money around a system, having security in that system is very, very important. So the pot follows member idea of “We will just move people’s pots to different schemes”, if the industry is changing and consolidating either through regulation or through market forces, actually waiting for that to happen and then seeing what the industry looks like and the structure of the industry. It is a completely different task, trying to link together three or four different master trusts—there are 70 master trusts—

Baroness Altmann: Plus all the private providers.

Charlotte Clark: Yes, plus all of the insurance companies. So where we have focused our energies at the moment and where the industry is focusing its energy is on projects called pensions dashboards, which rather than moving and trying to consolidate money you are trying to consolidate information. So you log on to something and it does not matter where your pension pots are, you would be able to see them all. If we could do that, then that gives us a really good platform for then thinking, “Right, do you want to consolidate all of these in one place?”—or does it matter to that individual if they are in five or six different places if they are logging on and seeing it?

Baroness Altmann: The other thing to bear in mind is that we are so far away from being able to do that. We do not even have pension providers providing their customers with a standard statement of what pension they have got. Even if you know where your pension is and you phone up or write to your company and say, “Can you tell me what my benefits are under the scheme I have got with you?” each company will send you its own version of the information that you would want to know. Companies call the same sort of thing something different and all of the information is presented differently in different places.

We are trying to work forward on a standardised form—this is my vision. We are a long way from that but we are working on it. It will be a standard form where anyone can be

given information, certainly in the wake-up pack or any time before that, saying, “These are the benefits you have got with us; this is the value; this is what it is called; these are the guarantees; these are the penalties.” That will all be in the same place on a standard piece of paper.

That itself will help the individual know what they have got and understand it better, but even more importantly for some it will mean that they can then go to Pension Wise and say, “This is what I have got. I don’t understand it,” but Pension Wise will, because everything will be standardised, and can help them.

At the moment, some of the people going off to Pension Wise, trying to understand and decide what to do with their pensions, do not even know what they have got.

Q197 Steve McCabe: What is a reasonable timescale to achieve what you have just described?

Baroness Altmann: Ask the industry. They will give a different answer from mine.

Q198 Steve McCabe: I am asking you. What do you think is a reasonable timescale for that?

Charlotte Clark: There is a different problem in terms of auto-enrolment and people who are currently retiring. People who are currently retiring have saved in pensions in legacy systems that are quite outdated now, where a lot of them are going to be employer-run systems with defined benefits or with employers who no longer exist. Where people are currently retiring is quite a complex landscape. The auto-enrolment landscape is a little bit cleaner. Trying to give people information for auto-enrolment is in some ways the easier task than trying to give information to people who have very complicated arrangements. Some of the pension arrangements from the 1990s and early 2000s are very complex, with different guarantees and penalties. The regulation now is much cleaner than in the legacy systems. There are two issues.

Q199 Steve McCabe: This is the point I am trying to make. What the Minister has just described sounds quite satisfactory but, if there is no sense of when it is going to come to fruition, she might just as well have sat there and sang a little song or something. It has got no value, has it?

Baroness Altmann: We need the FCA and the Pensions Regulator to be able to get people together around a table to agree—there are some efforts to try to agree at the moment—what the standardised form should look like. Of course, there are different ways to do it. We don’t have to prescribe it. It would be good if the industry itself could agree on what to call each thing and where to put it on the form.

Q200 Chair: If they did, Ros, it might provide a useful clause in the Bill that you want.

Baroness Altmann: Correct. We need to get more power to the Pensions Regulator, to be able to do that.

Chair: Precisely.

Q201 Craig Mackinlay: Something has vexed enormously me for some time. I know I always go out to bat for the smaller employer. A lot of smaller employers have the basic HMRC tools for doing their RTI and necessary monthly or weekly returns. It is not the best of things, but it seems to work in its own merry way. I have always taken the view that, if the Government want something new and fairly administrative and overbearing, they should provide the tools to do it.

Do you think there is a case to be made for some sort of NEST functionality, or one of the other approved master trusts functionality? I note that there is another lovely acronym—PAPDIS—the payroll and pension data interface standard. Is there not a case to be made for the basic HMRC tools and the RTI system to have built in that type of data link to NEST functionality for the smaller employer?

So they would have one bit of software that they would become familiar with to enable them to do everything they need to. At the moment, all we have is the Pension Regulator's Excel tool. You have shared your worries about the master trusts. If this directed people more directly to the approved ones, perhaps you would not need a Pensions Bill at all, because this would be the natural first port of call for employers.

Baroness Altmann: I think we would still need a Pensions Bill anyway, to be honest, but as you say, the regulator has developed this basic assessment tool to supplement HMRC's basic PAYE tool for employers who want to assess their staff and calculate the contributions. One of the issues we are dealing with, as you know, is that there are so many different payroll systems across the country.

Q202 Craig Mackinlay: I wasn't worried about that. I want it to be linked within what is provided free for the small employer.

Baroness Altmann: As far as I understand it, NEST is working on an interface that will enable it to link up with all these systems, but of course, we have the issue of state aid, whereby we can't just signpost everybody to use NEST.

Charlotte Clark: We did discuss this with HMRC, and TPR have discussed it with HMRC, as to whether or not building on their tool was the right approach. We decided that wasn't the right approach with HMRC and had our own separate tool. I understand that HMRC have written to the Committee about it. My sense is that HMRC view the market, and the payroll provider market, as actually, they should get out and engage with the payroll providers—most of the payroll providers provide auto-enrolment tools—and that that is the best way of getting to small and micros, rather than HMRC providing payroll services rather than focusing on tax. We did have a number of conversations with them, but our assessment tool and having it separate was what was designed as the best way forward.

Q203 Craig Mackinlay: With respect, I think it was a bad decision. HMRC have come up with these basic tools for a reason—for the sub-nine employee company. They have done it for a reason and it does what it is meant to do. What I am asking is why those conversations have not encouraged HMRC to add on your bit of functionality that smaller employers need to run a NEST system within that one tool. It seems to be the easiest way, because the technology is there, to make this slightly burdensome system for the smaller employer very easy in one very quick bound. We did not have a very good response from HMRC—

Chair: Might you take that away with you and come back to us, so we don't get an immediate response?

Charlotte Clark: Okay, that's fine.

Chair: Thank you very much indeed to both of you.