

DC hot topic

September 2018

Master trust authorisation



The law relating to master trust authorisation comes into full effect from 1 October 2018. All DC master trusts must apply for authorisation by 1 April 2019, or wind up.

In order to be authorised by the Pensions Regulator (TPR), master trusts must demonstrate that they meet extensive criteria in a number of areas. The Pension Schemes Act 2017 and related regulations set out the legal framework and tests associated with authorisation and ongoing supervision. A separate Code of practice and TPR guidance fill in some of the gaps to explain TPR's proposed approach. However, there are still some grey areas. It is important to consider the Code alongside the detail of the legislation and the scheme's own set-up in preparing an application for authorisation.

Key lessons from the readiness review

- 1 It is the trustees who make the application.** TPR therefore expects to see evidence of input from the trustees with an emphasis on the interests of members, rather than the commercial perspective of the scheme sponsor. For example, growth is important because it leads to better sustainability of the trust/economies of scale for members, rather than being important commercially. In other words, the master trust should be treated as a pension scheme for the benefit of its members rather than a product.
- 2** The application must meet the specific requirements of legislation and the Code, and follow TPR's guidance. While this might appear obvious, it requires a high degree of precision and attention to detail to ensure that the application clearly meets each of the extensive requirements, and includes clear signposting. Applications should aim to make it as easy as possible for TPR to tick all the relevant boxes.
- 3 Fit and proper tests** – TPR expects evidence to be provided of collective competence as well as individual skills, knowledge and experience. A skills matrix or similar document may be a way of demonstrating this to TPR.
- 4 Systems and processes** – external audit material should not be relied upon too heavily, as TPR requires direct evidence. An independent external assessment such as the AAF assurance framework is not, on its own, sufficient in this area. It is necessary to link control objectives cited with the specific requirements for systems and processes in the master trust legislation, and provide process documents referenced. Any lack of alignment with the requirements under legislation will fail the relevant test.
- 5 Financial sustainability** – there has been some confusion from some master trusts over the extent to which schemes can offset income/revenues against the financial reserves required. TPR has explained that any offsetting should not usually represent a significant proportion of the reserves held by the scheme, and it will not be satisfactory for a scheme to seek to offset with its revenue most or all of its financial reserves. Offsetting needs to be based on actual scheme income/revenue, evidenced appropriately, rather than projections.

Master trust authorisation cont.

The authorisation process

Although the window to apply for authorisation is expected to open on 1 October 2018, TPR has been encouraging master trusts to take the time they need to get the application right rather than rushing to apply in the hope of a “first mover” advantage.

TPR’s Determinations Panel will make authorisation decisions affecting existing master trusts, following a recommendation from TPR’s authorisation team. If a submission is incomplete, TPR will not accept it and will advise that items are outstanding. TPR expects it will normally complete assessments within four months of receiving a complete application.

We understand that, if TPR feels it needs more information when considering the application, it will ask, but would not expect to have to ask for anything that would result in significant changes. Any changes to the scheme after the submission of an authorisation application (eg a transfer in from another master trust) should be raised with TPR.

If the authorisation team’s preliminary recommendation is that a master trust should not be granted authorisation, or the Determinations Panel is not convinced that the authorisation criteria are met, then the master trust can provide new information in writing in support of why it believes the application criteria are met. This will normally be required within no more than two weeks. The authorisation team will consider any written submissions and may request further information before considering any updated recommendation. An oral hearing or decision meeting may also be held.

This process gives some comfort that there is room for dialogue if the authorisation team misunderstand aspects of the application or if some information is missed accidentally. However, this should not be viewed as an opportunity for schemes to avoid including sufficient details in their initial application, or to backfill gaps or inadequacies in substance after the initial application has been made.

How can we help?



We can provide legal support on:

- interpreting requirements within the legislation, Code or guidance
- identifying persons with scheme funder and scheme strategist status
- drafting and advising on amendments to the trust deed and rules to reflect the new requirements, for example, to ensure the intended “scheme funder” provides the necessary legal support or to change the balance of powers within the scheme
- reviewing submissions and related documents (such as the Chair’s annual statement) for compliance with the requirements of the legislation and the Code
- advising on appropriate governance standards, such as trustee knowledge and understanding requirements
- challenging adverse decisions from TPR on authorisation
- setting up new governance structures to comply with the ongoing supervision process.



For further information, please speak to *Helen Ball*, *Claire van Rees* or *Jacqui Reid* or your usual Sackers contact. You can also visit www.sackers.com/expertise/schemes/defined-contribution.