Burges Salmon Pensions Law Summary
Master Trusts

Burges Salmon

Scope and Summary

This note provides a practical summary of some key aspects relating to transferring DC benefits from traditional employer sponsored occupational pension schemes to master trusts as at September 2021.

Key takeaway points include:

- employers and trustees need to ensure that minimum legal requirements are met;
- trustees will need to consider their duties before agreeing to a proposal; and
- there are often other items that need to be considered, for example where members have tax protections or they can use their DC pot towards their pension commencement lump sum (in a hybrid scheme), as well as practicalities such as investment mapping.

What is a master trust?

A master trust allows for multiple unrelated employers to participate and by law must be authorised by the Pensions Regulator to operate.

Master trusts appeal to employers and members because they typically have lower maintenance costs, due to fees being shared amongst a larger pool of employers and members, whilst retaining the strong governance that is provided by the scheme guardianship of a trustee. Depending on what is currently in place, they can provide more options for the member to engage with their pension and often have retirement options.

To receive authorisation from the Pensions Regulator the master trust will be assessed against five criteria:

- Are those responsible for the well running of the scheme fit and proper?
- Is the scheme financially sustainable?
- Does the master trust have adequate systems in place?
- Is there a continuity strategy in place that equips the scheme to deal with a variety of situations?
- Is the scheme funder able to support the scheme?

The authorisation process is thorough and even after authorisation, master trusts remain subject to supervision from the Pensions Regulator. Trustees of the master trusts are required to submit an annual supervisory return to the Pension Regulator, a failure of which could see the master trust closed down under the Pension Regulator's powers.

Key points to consider:

These will depend on whether employees will accrue benefits in the master trust going forward or have their accrued benefits transferred (or both).

Considerations if accruing benefits going forward	Transferring accrued benefits – considerations regarding can the transfer take place	Transferring accrued benefits – considerations regarding should the transfer take place
Does your existing scheme need to be closed to future benefit accrual? If so, consideration will need to be given as to how this can be achieved	Check your scheme rules allow transfers without member consent (and, if not, amend them)	Trustee duties: trustees will need to consider their duties before accepting a proposal (even if moving to an authorised master trust)
Employer consultation requirements often apply	Consider the legislative requirements for transfers without member consent (if transferring to an authorised master trust this is an automatic gateway but some DC arrangements will not qualify e.g. “with-profits” investments)	Tax protections: consider practicalities and requirements for those with tax protections, for example have any members got a protected pension age or protected tax free cash?
Auto-enrolment compliance needs to be maintained during the transition	Give members at least a month’s notice of the transfer	Pension commencement lump sum: can members use their DC pot for their PCLS in a hybrid scheme? If so, consider how to deal with this. One popular option is allowing members to transfer their pot back at retirement
A deed of participation will be entered into which will allow the employer/s to participate in the master trust and for members to accrue benefits	A transfer agreement will document the terms of the transfer and a deed of participation for the employer will usually be needed	Practicalities of transition: investment mapping may be required, and advice on this should be taken. Consider how to minimise risks and costs of the transition. Plan for post-transition reporting and other compliance requirements, and winding-up of the original scheme if applicable

Other Considerations

Project planning and governance should be considered at an early stage. An employer and trustee joint working group often works well. There may be conflicts of interest to manage.

Member communications are a key part of a successful project and should be carefully planned.

Monitoring of the master trust: the existing scheme trustees will have no responsibility for the operation of the master trust arrangement. The employer will need to consider how to monitor the master trust to check it continues to be fit for purpose and, if not, take appropriate steps.

Trustee protections: are the trustees adequately protected if there are no assets in the original scheme or section and a claim is brought? Consider what indemnities and/or insurance may be available.

In Summary

- Master trusts are becoming a popular alternative to the traditional defined contribution scheme model. They can have advantages. However, due consideration will need to be given to the details of any proposal made, with risks and benefits weighed up after mitigations are put in place. Automatic acceptance of a proposal is not appropriate.
- Please contact us if you would like further information or advice on anything in this note.

This practical summary is not intended to be a full statement of the law on this topic and is not legal advice. It does not take account of any developments since it was written or last updated.

www.burges-salmon.com

One Glass Wharf, Bristol BS2 0ZX **T** +44 (0) 117 939 2000 **F** +44 (0) 117 902 4400
Atria One, 144 Morrison Street, Edinburgh EH3 8EX **T** +44 (0)131 314 2112 **F** +44 (0)131 777 2604
6 New Street Square, London EC4A 3BF **T** +44 (0) 20 7685 1200 **F** +44 (0) 20 7980 4966

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