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21 June 2018

# Current pension issues

ROBIN ELLISON, PINSENT MASONS + CASS BUSINESS SCHOOL

# Background

- ▶ Policy
- ▶ Taxation
- ▶ Politics
- ▶ Regulation

Rachel Reeves/Frank Field



# Policy

- ▶ What does the government want in pensions?
  - ▶ State provision?
    - ▶ Non-pension benefits
    - ▶ Pensions?
  - ▶ Private provision?
    - ▶ CDC
    - ▶ Adequacy
    - ▶ Retirement ages
    - ▶ Consolidation
- ▶ Brexit

Guy Opperman/Jack Dromey



# Taxation

- ▶ NHS
- ▶ Fat cats
- ▶ Caps
- ▶ Complexity
- ▶ Unintended consequences



# Taxation

(c) in the case of an arrangement to which section 165(3A) never applied but only if the time falls after the member's drawdown pension fund in respect of the arrangement is converted into the member's flexible access drawdown fund in respect of the arrangement of paragraph 8B or 8C of Schedule 28, 80% of the maximum amount that could have been paid in accordance with pension rule 5 in the drawdown pension year in which the conversion occurs had no conversion happened in that year by the operation of either of paragraphs 8B and 8C of Schedule 28.

Finance Act 2014: inserting Schedule 36 paragraph 20(4)(c) of the Finance Act 2004

# Politics

- ▶ Maxwell
- ▶ Equitable
- ▶ BHS
- ▶ Regulators
- ▶ Daily Mail
- ▶ **Carillion**



# The growth of regulation: general

- ▶ About 160,000 pages (pensions only)
- ▶ About 1.4M paras (MiFID II only)
- ▶ About 65,000 pages (EU financial services)
- ▶ Complicated
- ▶ Punishments
- ▶ Costs direct and indirect



# A moment on Carillion

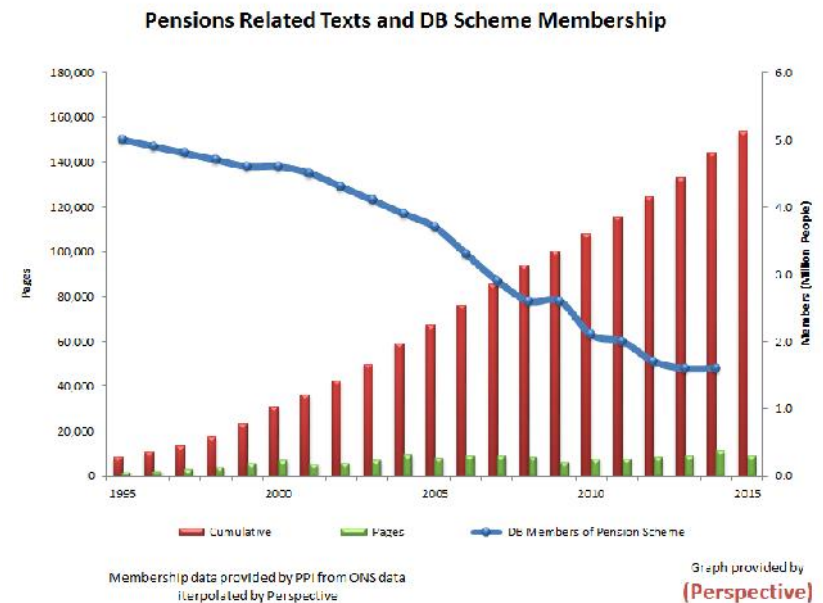
- ▶ Contributions
- ▶ Mindset
- ▶ Corporate failure
- ▶ Why anyone cared
- ▶ The Select Committee
- ▶ TPR and PPF pressures





# The regulators and regulation

- ▶ TPR
- ▶ PPF
- ▶ DWP
- ▶ HMRC
- ▶ FCA
  - ▶ MiFID II
  - ▶ Fees
  - ▶ Competition
- ▶ HMT



## The FCA: John Kay

‘Show me the person who has actually read the ‘important information’ you must understand before entering the website of an institution regulated by the Financial Services Authority and I will show you a man who has difficulties with girls.’

*[To be modernised/degenderised]*

John Kay, FT, 6 July 2011



# Not just pensions. . .

- ▶ Brexit
- ▶ GDPR
- ▶ Financial services
  - ▶ Dodd Franks
  - ▶ MiFID II etc etc
- ▶ Elf 'n safety
- ▶ Planning
- ▶ Money laundering



# Is there hope? What can **we** do?

- ▶ **Pressure from us** on TPR / DWP to counter pressure from Select Committee
- ▶ **Trade bodies** to do their job
- ▶ **Respond** politely but firmly to regulatory excess (expensive)
- ▶ **Improve** (demand) training, education and ethical conduct of regulators
- ▶ **Trustees** have expectations too
- ▶ **Signs of improvement:** new personnel, legal challenges



# TPR / FCA excesses

- ▶ Trustees (+/- employers)
  - ▶ S72 notices
  - ▶ Chairmens' statements
  - ▶ AE fines
  - ▶ Tougher etc etc
- ▶ Asset managers
  - ▶ Costs
  - ▶ Fiduciary
  - ▶ MiFID II
  - ▶ FCA/CMA



# What's about to happen

- ▶ Increasing trustee exposure
- ▶ Increasing employer exposure
- ▶ Increasing regulatory intervention (White Paper)
- ▶ Litigation on DC?
- ▶ Are there really problems in pensions?
  - ▶ Funding?
  - ▶ Governance?
  - ▶ Outcomes?
- ▶ Drive to consolidate
- ▶ Alternative provisions: CDC, DA . . .

Nicola Parish/Lesley Titcomb



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- ▶ Pressure from us on TPR / DWP to counter pressure from Select Committee
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# Investment concerns for trustees

- ▶ Added costs for asset managers
- ▶ Fiduciary challenges
- ▶ Disclaimers
- ▶ Regulatory challenges
- ▶ Knowledge requirements
- ▶ Alternatives: capacity and advice
- ▶ ESG, ETF, Factor investment





# Dysfunctional regulation

- ▶ You-Tube clip. . .

<https://www.youtube.com/watch?v=VSiuXEXV6Nc>



# Conclusions

- ▶ **Asset managers** are having a tough time – and it will get tougher
- ▶ **Trustees** are about to have a tough time – and need to argue back
- ▶ **Regulators** are not our friend
- ▶ **Parliament** is not our friend
- ▶ **Everyone** needs friends
- ▶ **Members** need trustees

  
**KEEP  
CALM  
AND  
BE  
HAPPY**



# Conclusions

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- ▶ Increasing **employer exposure**
- ▶ Increasing **regulatory intervention** (White Paper)
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  - ▶ Funding?
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- ▶ Drive to **consolidate**
- ▶ Alternative provisions: **CDC, DA . . .**

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