

Master trust authorisation

# **Supervision and enforcement policy**

October 2018

The Pensions  
Regulator

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# 1. About this document

## 1.1 Introduction

The Pension Schemes Act 2017 (the 2017 Act) and Occupational Pension Schemes (Master Trusts) Regulations 2018 (the Regulations) introduced authorisation and supervision of master trusts by The Pensions Regulator (TPR).

We set out in our Code of Practice 15: authorisation and supervision of master trusts (the code) and related guidance how trustees can satisfy us, and continue to satisfy us, that their master trust meets the authorisation criteria.

Master trusts remain subject to other relevant legislation and codes of practice including, but not limited to, the Pension Schemes Act 2004 (the 2004 Act) and the Pensions Act 1995 (the 1995 Act).

## 1.2 Purpose of this document and our aims

Our 'TPR Future' initiative is driving a shift in the way we work to a more proactive oversight of defined contribution (DC), defined benefit (DB), mixed benefit and public service pension schemes. This policy takes account of this new approach and defines how we will respond to the requirement for us to supervise master trusts as a result of the Pension Schemes Act 2017.

This document has been developed and should be read in conjunction with other relevant policies and guidance applicable to DC and hybrid schemes, including master trusts, which continue to apply. This document focuses particularly on the new powers under the 2017 Act.

Master trusts are required to be authorised in order to operate. In order to be authorised master trusts operating in the market must have the right people, systems and processes, continuity plans and financial support in place to safeguard and protect members.

The 2017 Act also requires us to supervise authorised master trusts. This policy sets out our supervision and enforcement approach for master trusts once they are authorised.

## **Supervision**

Supervision is covered in section 2 of this document. Supervision aims to:

- ▶ ensure we remain satisfied that, over time, the master trust continues to meet the authorisation criteria
- ▶ ensure master trusts also meet the wider range of obligations to which they are subject, including other relevant legislation and codes of practice
- ▶ ensure our broader over-arching objective to improve the way that workplace pension schemes are run is met, and
- ▶ ensure the early identification and management of material risks and issues, intervening where necessary

## **Enforcement and withdrawal of authorisation**

Enforcement is covered in sections 3 and 4 of this document. Enforcement aims to:

- ▶ compel actions required from master trusts
- ▶ deter and remedy non-compliance of master trusts, and
- ▶ in appropriate cases, penalise those persons that are non-compliant through exercising a range of powers

Where we are no longer satisfied that the master trust meets the authorisation criteria or its wider obligations, we may use our powers, which include withdrawing authorisation.

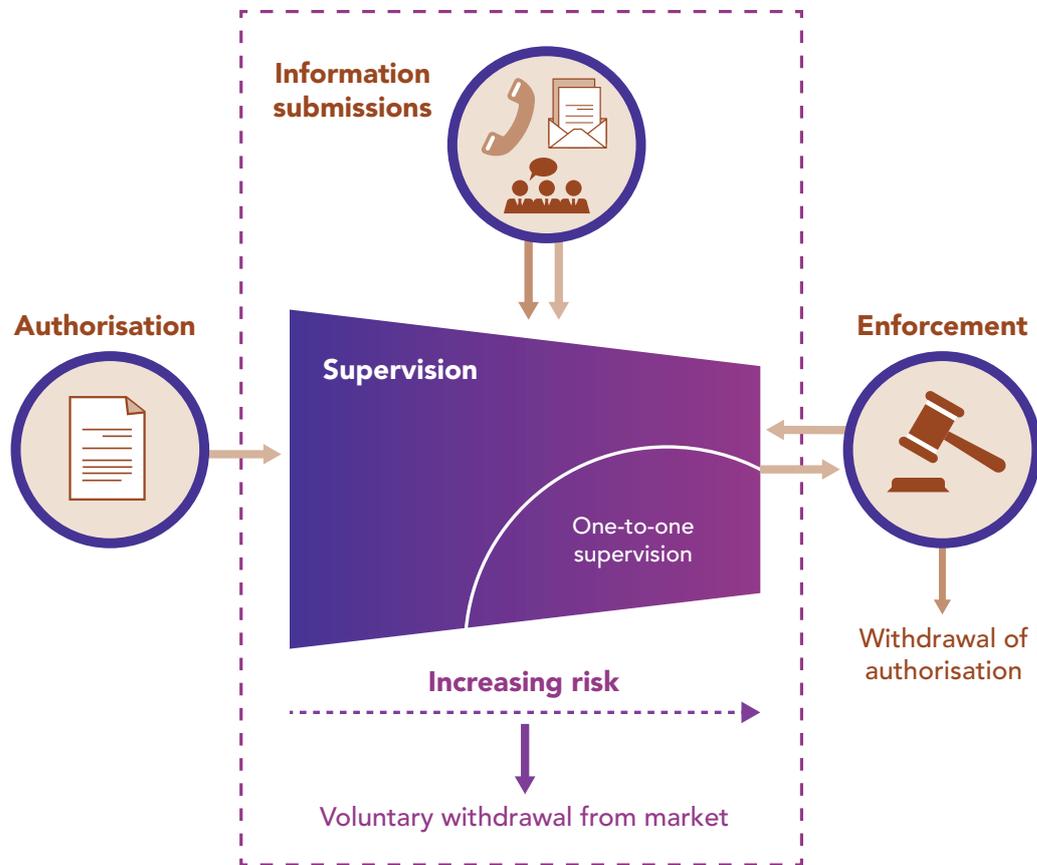
## **Reviewing our approach to supervision and enforcement**

We will review and revise this policy, our approach and related guidance as necessary, incorporating lessons learned over time.

## 2. Supervision

Below is a graphic representing the master trust authorisation, supervision and enforcement regime.

**Figure 1: Master trust regime including supervision and enforcement**



## 2.1 Our principles for supervision

To deliver on our aims for supervision, set out in section 1.2, we have identified five key operating principles we will adopt in our supervision of master trusts. We will be:

- ▶ **Engaged and responsive:** seeking to understand the issues faced by master trusts
- ▶ **Proactive and forward looking:** taking action early to prevent member detriment, including taking enforcement action
- ▶ **Strategic and targeted:** taking appropriate regulatory action to address any systemic risks and issues we identify in the wider master trust landscape
- ▶ **Proportionate and risk-based:** focusing primarily on master trusts with the highest risk (ie likelihood and impact of master trusts failing to meet their obligations) and
- ▶ **Consistent:** acting in line with the approach we have communicated, and dealing with similar scenarios in a consistent way

## 2.2 Our expectations from master trusts

Master trusts are expected to interact with members of our team, including a range of experts.

We expect those responsible for running master trusts to:

- ▶ be open, honest and transparent in their interactions with us, responding promptly to information requests
- ▶ proactively liaise with us and volunteer information about material developments, risks and issues in their master trust, which may affect the scheme's ability to continue to meet the authorisation criteria and other obligations
- ▶ satisfy us that they continue to meet their obligations and that there is a low risk of them failing to meet their obligations going forward, including by providing relevant evidence
- ▶ be proactive in identifying and monitoring risks, and
- ▶ be proactive in rectifying any issues that may arise and affect the scheme's ability to continue to meet the authorisation criteria or other obligations

## 2.3 What master trusts can expect from us

### Overview

Supervision is the process by which we will seek to remain satisfied that master trusts:

- ▶ meet, and will continue to meet, the authorisation criteria set out in the 2017 Act
- ▶ meet, and will continue to meet, the wider range of obligations to which they are subject including other relevant legislation and codes of practice applicable to DC and hybrid schemes

We will take a risk based approach to supervision. Section 2.4 of this policy sets out how we will supervise all authorised master trusts. The intensity of supervision will vary in line with our assessment of the risks posed by individual master trusts, taking into account a wide variety of factors including:

- ▶ the current and anticipated risks of the master trust, including the scale and complexity of the master trust
- ▶ information gathered during authorisation, supervision and any enforcement activity, the master trust's track record in meeting their obligations, as well as member and employer experience
- ▶ the level of openness, honesty and proactivity demonstrated by the master trust, and
- ▶ industry and market developments, including changes in legislation and product innovation

Throughout the course of a master trust's life, we will need to be satisfied that:

- ▶ individuals involved in running the master trust continue to meet the standards of honesty, integrity, financial soundness, competence and conduct appropriate to their role
- ▶ the systems and processes for running the master trust are efficient, robust and contribute to the effective running and governance of the master trust
- ▶ there is sufficient continuity planning in place so members will be protected where the risk of a master trust failure is increased, for example in the case of a triggering event
- ▶ any scheme funder continues to be able to financially support the master trust, and
- ▶ the master trust has access to a prudent level of finance to enable it to operate on a day-to-day basis and to cover the costs arising from a triggering event

We will also monitor the master trust industry as a whole, with the aim of identifying:

- ▶ key risks relating to master trusts and defining our approach towards managing and/or mitigating such risks
- ▶ master trusts operating contrary to their legal and regulatory obligations, and
- ▶ master trusts operating unlawfully without authorisation

### Monitoring risks and issues

We will monitor the risks and issues associated with each master trust. This will include seeking to understand the likelihood and impact these risks and issues would have on the wider market, and will:

- ▶ inform our assessment of the master trust's ability to continue to meet its obligations
- ▶ help us identify and subsequently address any concerns we may have, and
- ▶ help us decide on the intensity of supervision for each master trust

We will consider the full range of both potential and crystallised strategic and operational risks in evaluating master trusts, including:

- ▶ external factors impacting master trusts, eg the socio-economic environment, political and legal environment and competitive landscape
- ▶ quality of management and governance
- ▶ the business model and strategy
- ▶ financial sustainability
- ▶ systems and processes
- ▶ information technology and infrastructure
- ▶ control functions eg risk management and internal audit
- ▶ member and employer experience, eg complaints

The information we gather during authorisation will provide us with an initial understanding of master trusts' particular levels of risk, and we will update this using the information we obtain through supervision and any enforcement activity.

We will seek and share information to help carry out our master trust functions as appropriate with other regulators and public bodies such as the Department for Work and Pensions, the Pension Protection Fund, the Pensions Ombudsman, Financial Conduct Authority, the Bank of England (including the Bank's Prudential Regulation Authority), HMRC and other law enforcement agencies eg Serious Fraud Office.

## 2.4. Supervision: the supervisory process

We will undertake a range of supervisory activities with master trusts after they are authorised. This will involve engagement with trustees, strategist, and funder as well as any other relevant persons, including the scheme administrator.

The frequency and intensity of our interactions with master trusts will be driven by the risks and issues associated with them, and we will prioritise resources accordingly when seeking to satisfy ourselves that master trusts continue to meet the authorisation criteria and their wider obligations. Master trusts subject to the most intensive supervision will be assigned a named lead supervisor (one-to-one supervision).

Supervisory activities for all master trusts will include:

- ▶ periodic scheme evaluations, including our assessment of whether the authorisation criteria continue to be met
- ▶ proactive monitoring of specific concerns we have about a particular master trust, key sector risks we identify, or other areas we want to understand further, eg via thematic reviews
- ▶ reviewing regular and ad-hoc data submissions such as the supervisory return, scheme return, and scheme report and accounts (as outlined in section 2.5)
- ▶ a range of interactions such as face-to-face meetings, visits and, as a minimum, telephone calls, and
- ▶ reviewing significant event and triggering event notifications

Where appropriate, we will consider the use of our powers as part of supervision or enforcement, eg information requests and improvement notices. Ultimately, if those operating a master trust do not actively co-operate and engage with us, it will be difficult to satisfy ourselves that the master trust continues to meet the criteria and its wider obligations. In such circumstances, we may use our enforcement and regulatory powers, which includes an ability to withdraw authorisation.

### **Evaluating master trusts**

For all master trusts, the intensity of supervision will be kept under review. The intensity of supervision, ie the frequency and detail covered by supervision will be determined primarily by our assessment of the master trust's level of risk.

We will periodically summarise and communicate directly to the scheme trustees our evaluation of the scheme, intended supervisory intensity, the key risks and actions we expect master trusts to take, and our planned engagement timetable. Master trusts should consider whether it is appropriate to share this with their auditors. For some of the more intensively supervised schemes this may occur on an annual basis. The first of these evaluations will be communicated post-authorisation. Any material changes to our evaluation, eg new risks and actions or changes to our engagement timetable, will be communicated to the scheme separately as and when they occur.

In the first year of the authorisation regime, the intensity of supervision will be primarily driven by the potential impact of the master trust's failure on the market, including the number of members in the scheme. As we further develop our understanding of the risks and issues associated with master trusts through supervision and any enforcement, we will, in subsequent years, increasingly factor in the likelihood of risks crystallising in determining the intensity of supervision for master trusts.

New master trusts can expect to receive a higher intensity of supervision than those who are more established because they will not have an operational track record. Higher intensity supervision will give these master trusts the opportunity to demonstrate that they continue to meet the authorisation criteria.

### **Face-to-face meetings/scheme visits**

Master trusts subject to more intensive supervision will usually be asked to attend face-to-face meetings with us to provide information and allow a mutual understanding to develop around the risks and issues facing the master trust.

Face-to-face meetings will be more common for the master trusts we perceive as being higher risk. We may request a series of meetings with master trusts. We will give advance notice, specify an agenda and may request attendance from particular individuals. During the normal course of supervision, face-to-face meetings may take place between once and twice a year, but some smaller master trusts without any material issues may have an annual conference call instead.

These meetings may become more frequent if material concerns are raised or we are conducting thematic work on specific risks. We will keep our own records of interactions and master trusts are free to do likewise, including engaging their own note-taker if they wish. Any material issues or decisions arising from our discussions will be communicated to individual master trusts after these meetings.

We may ask master trusts to provide us with specific information and documentation ahead of such meetings. This will enable us to use the meetings to gain a more detailed understanding of a master trust's risks and issues as well as how the master trust is meeting its obligations.

If information is not provided, we can compel provision of specific information or documents under section 72(1) of the 2004 Act. We can also issue a notice under 72(1A) of that Act requiring certain individuals, which may include the trustees, professional advisers, employers or any other person likely to hold relevant information, to attend a meeting, for the purpose of explaining and verifying information or documents.

### **Periodic calls**

Master trusts can expect to have periodic calls with us. This will enable the master trust to provide updates and address any specific concerns we may have. The frequency of these calls will primarily be determined by the risks and issues associated with the master trust and the steps being taken to resolve these issues. Master trusts subject to more intensive supervision will likely have more scheduled calls. We may call particular trustees, scheme strategists, scheme funders or others involved in running the master trust as appropriate.

### **One-to-one supervision**

Master trusts subject to the most intensive supervision will be allocated a named supervisor. We will inform the master trust of this and advise them of any changes. We aim to ensure that we have a detailed understanding of the risks and issues facing all master trusts, especially those that are higher risk. Assigning a supervisor will promote the effectiveness and efficiency of supervision, and will support:

- ▶ the development of open and honest interactions between us
- ▶ early identification and mitigation of risks
- ▶ master trusts managing issues of strategic significance, and
- ▶ the application of our powers

Other master trusts will be supervised on a more flexible basis and may have contact with different supervisors.

## 2.5. Requesting information

Master trusts will be expected to interact with us and provide a variety of information to enable us to supervise them, as follows:

- ▶ **Required submissions:** These are documents master trusts must provide in line with deadlines fixed in legislation (eg annual report and accounts).
- ▶ **Event notifications:** This is information master trusts provide informing us of particular events, including triggering events, significant events, breaches of law and whistleblowing (eg changes of trustee, revisions to the business plan).
- ▶ **Information requests:** This is information master trusts provide in response to a specific request from us, such as the scheme and supervisory returns or in response to information required under section 72 of the 2004 Act. It also covers information that we may ask you to provide on a voluntary basis.

### Required submissions

#### Submissions with deadlines fixed by legislation

There are a number of additional documents master trusts are legally required, subject to exemptions, to provide to us, as set out in the 2017 Act:

- ▶ scheme report and accounts<sup>1</sup> including chair statement (7 months after scheme year end)
- ▶ scheme funder accounts<sup>2</sup>

### Event notifications

Details of what constitutes a significant event and triggering event, as well as what schemes should do to notify us of such events, are set out in legislation<sup>3</sup> and the code. Please see our website for further guidance. Additional information on reporting breaches of law and whistleblowing is covered in Section 3.3.

1 Section 14 of the Pensions Schemes Act 2017

2 Section 14 of the Pension Schemes Act 2017 and regulation 9 of the Occupational Pension Schemes (Master Trusts) Regulations 2018

3 See section 15 of the Pension Schemes Act 2017 for supervisory returns and sections 21 and 22 of the 2017 Act for triggering events

### Information requests

Master trusts will need to complete their scheme return on request from us<sup>4</sup>. In addition to the scheme return, all master trusts must, if requested by us, complete a supervisory return<sup>5</sup> no more than once each year. Please see our website for further guidance on the content and timing of the supervisory return. We will use the supervisory return to:

- ▶ validate and collect key data to provide assurance that individual schemes continue to meet the authorisation criteria or other wider obligations
- ▶ understand future plans for master trusts, and
- ▶ build a wider view of the master trust market as a whole

We may also request information on a regular or ad hoc basis to enable us to supervise individual master trusts as well as the market as a whole, including verifying or addressing specific risks in the market. These information requests may include:

- ▶ trustee board minutes
- ▶ investment reports and advice on changes to the default strategy, and
- ▶ administration reports

Information requests to master trusts as part of supervision will primarily be to:

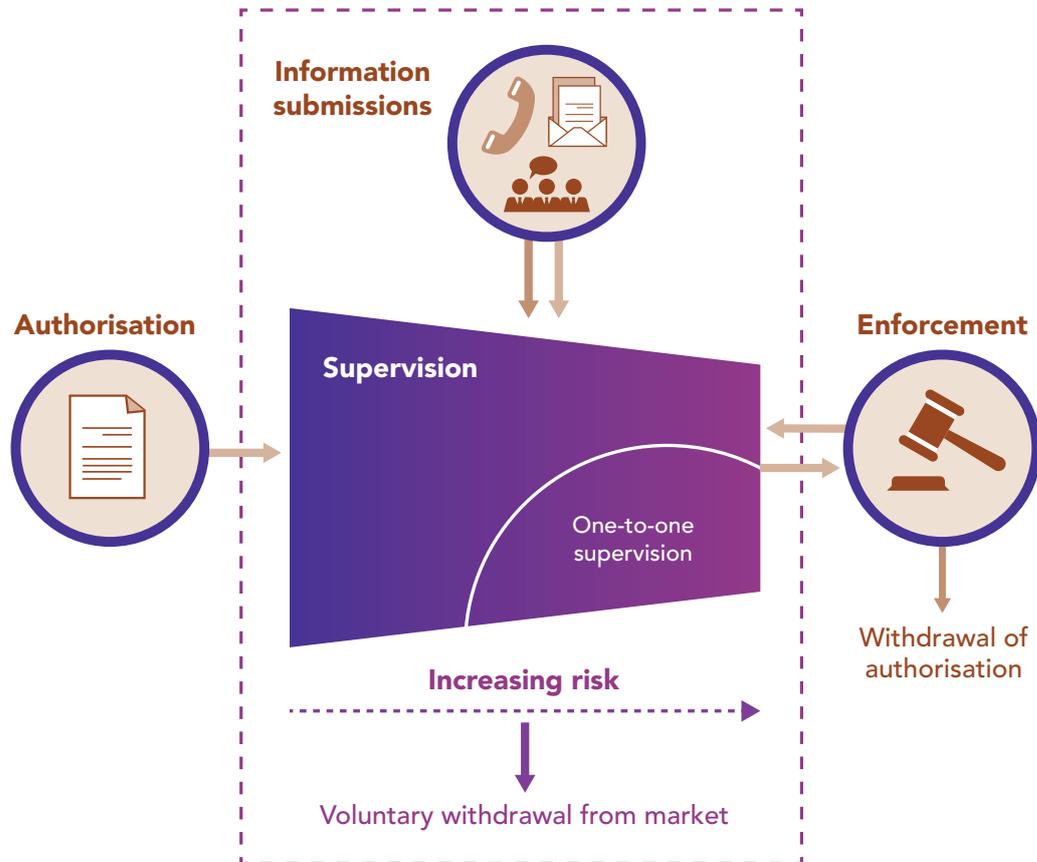
- ▶ enable us to monitor master trusts in more detail, particularly where they are subject to more intensive supervision, and
- ▶ more carefully monitor master trusts where specific concerns or issues exist

4 Section 64 of the Pensions Act 2004

5 Section 15 of the Pension Schemes Act 2017

### 3. Enforcement

Figure 2: Master trust regime including supervision and enforcement



### 3.1. Introduction

Our aim is that through supervision we will liaise collaboratively with master trusts with a view to understanding risks and issues identified by the master trust or by us. We intend that risks and issues should be managed by master trusts and master trusts should proactively resolve our concerns without us using our powers. However, if during ongoing supervision we identify a particular concern, breach of pensions legislation, or take the view that a master trust no longer satisfies us that they continue to meet the authorisation criteria or their wider obligations, we may use one or more of our powers, taking into account all circumstances of the case. The action could be taken against the trustees, scheme funder, scheme strategist or any other relevant third party or persons depending on the nature of the breach.

The aim of enforcement is set out in section 1.2. In deciding whether to use our enforcement powers, we will take into account relevant aggravating and mitigating factors, focusing particularly on our statutory objectives and the outcome that the action will deliver.

Aggravating and mitigating factors include but are not limited to the following:

- ▶ the frequency, severity and actual or potential impact of a master trust's failures to meet its obligations, including the authorisation criteria.
- ▶ the risk of a master trust not being able to continue to meet its obligations.
- ▶ the intention and behaviour of those involved in running the master trust, including the transparency of the master trust and any remedial action already taken.

### 3.2. Statutory powers: gathering information

We expect those involved in the running of a master trust to work and interact with the supervision team in an open, honest and co-operative way. It is also important that we are able to obtain accurate and up-to-date information to enable us to supervise effectively.

While we will usually engage in a dialogue with schemes on a voluntary basis in the first instance, we may also request information or documents to be provided to us under section 72 of the 2004 Act. We can also require relevant individuals to attend a meeting with us at a specified time and place to explain the requested information or documents. Failure to provide relevant information under an information request may also mean that we cannot be satisfied that the scheme continues to meet the authorisation criteria, which is more likely to lead to fixed and escalating penalties and may ultimately lead to the withdrawal of authorisation.

#### Fixed penalty notice (FPN)

Where we have not been provided with information following a statutory request, we will usually issue an FPN under section 17 of the 2017 Act. The FPN is for a fixed amount of money (£500), which needs to be paid by a specified date at least 28 days after the notice is issued. The underlying request for information should also be complied with.

#### Escalating penalty notice (EPN)

Where we have not been provided with information following a statutory request, and information is still outstanding after the deadline set out in the FPN, we will usually issue an EPN under section 18 of the 2017 Act.

Escalating penalties accrue at a daily rate set out in the table below. In the first column of the table, day 1 is the day specified in the EPN as being the date from which the escalating penalty is payable, and subsequent days are numbered accordingly.

The amount payable is the total of the daily rate for that day and any unpaid penalties due in respect of previous days at the relevant daily rates.

Day	Daily rate
1	£1,000
2	£2,000
3	£3,000
4	£4,000
5	£5,000
6	£6,000
7	£7,000
8	£8,000
9	£9,000
10	£10,000
Each subsequent day	£10,000

#### Criminal prosecution

In certain cases, we may pursue a criminal prosecution<sup>6</sup>. An offence is committed where without reasonable excuse, a person neglects or refuses to comply with a request for information or documents made under section 72 of the 2004 Act. An offence is also committed if a person alters, hides or destroys a document requested under section 72<sup>7</sup>.

We will assess which cases should be subject to criminal prosecution in accordance with our separate prosecution policy: [www.tpr.gov.uk/en/document-library/regulatory-and-enforcement-policies/prosecution-policy](http://www.tpr.gov.uk/en/document-library/regulatory-and-enforcement-policies/prosecution-policy)

<sup>6</sup> Section 77 of the Pensions Act 2004

<sup>7</sup> Section 77(5) of the Pensions Act 2004

### 3.3. Breaches of law and whistleblowing/s10 penalties

Whistleblowing is a key way that we can identify breaches of law:

- ▶ The 2004 Act requires trustees and others, including auditors and actuaries, to report breaches of the law to us where they consider them to be materially significant to the exercise of our functions<sup>8</sup>
- ▶ The 2017 Act introduces additional notifiable breaches of law applicable only to master trusts and extends the duty to report breaches to additional individuals (the scheme funder and scheme strategist)

Breaches of law should be identified and reported in line with our Code of Practice no. 1 and accompanying guidance. Our monetary penalties policy outlines the factors we will take into account when considering whether to impose penalties for breaches of pensions law.

### 3.4. Other enforcement powers

In addition to the powers referred to above, there is a range of powers we may exercise under other pensions legislation which apply to, but are not specific to, master trusts:

- ▶ **Issuing an improvement notice:**<sup>9</sup> If systems and processes fall below our expected standards for authorisation, we may serve an improvement notice specifying a timeframe over which we expect specified improvements to be made.
- ▶ **Third party notice:**<sup>10</sup> If we are satisfied that a third party has contributed materially to the trustees' failure to comply with any regulatory requirements, we may intervene directly to impose requirements upon the third party.
- ▶ **Appointing an independent trustee:**<sup>11</sup> If trustees fall below our expected standards, including the fitness and propriety authorisation criteria, we may decide to appoint an independent trustee to oversee the required improvements to the running of the scheme.

8 Section 70 of the Pensions Act 2004

9 Section 13 of the Pensions Act 2004

10 Section 14 of the Pensions Act 2004

11 Section 23 of the 1995 Pensions Act

### 3.5. Pause orders

A pause order is a direction given to a scheme to limit the range of activity that a scheme can undertake during the period the order is in effect. We can issue a pause order<sup>12</sup> during a triggering event period if we are satisfied that:

- ▶ it will help trustees carry out their implementation strategy
- ▶ there is an immediate risk to members' interests or scheme assets, and/or
- ▶ issuing the order is necessary to protect members' benefits.

We can also issue a pause order while a master trust is awaiting a decision on authorisation on similar grounds. If we issue a pause order, it will specify the effective period, which will not be more than three months. However, we may decide to extend this period for a further three months on more than one occasion. For example, we may consider that additional time is required to resolve data issues, or that further contributions during that period would compound existing issues that led to a triggering event.

We may give the following directions to a master trust in the pause order:

- ▶ preventing new members (or specified classes of members) joining
- ▶ stopping the receipt of contributions or payments to the scheme by or on behalf of members, or ceasing the payment of any (or specified) benefits
- ▶ refunding contributions or deductions from earnings, and
- ▶ stopping any transfers, transfer payments or other steps to discharge any liability of the scheme

We will monitor compliance with a pause order using a number of channels, including periodic reports submitted by the master trust and HMRC Real Time Information data.

### 3.6. Determinations Panel decisions

The Determinations Panel is responsible for deciding upon authorisation applications from existing master trusts. The procedure that is followed in making these decisions can be found at: <https://www.tpr.gov.uk/en/master-trust-pension-schemes/authorisation-of-master-trust-schemes>. The Determinations Panel is also responsible for decisions to withdraw authorisation, issuing section 10 penalties and pause orders. The Determinations Panel procedure for making such decisions and determinations can be found at: [www.tpr.gov.uk/procedures](http://www.tpr.gov.uk/procedures).

The procedures describe how decisions and determinations on cases are made, when and how master trusts can make representations to the Determinations Panel and when and how they can be referred to the appropriate tribunal.

12 Section 31 Pension Schemes Act 2017

## 3.7. Review and appeals process

### Breaches of law (s10)

Our monetary penalties policy ([www.tpr.gov.uk/monetary-penalties-policy](http://www.tpr.gov.uk/monetary-penalties-policy)) explains how penalties for breaches of law are decided and imposed, Determination Panel procedures, and when and how there can be a referral to the tribunal. This can be found at: [www.tpr.gov.uk/procedures](http://www.tpr.gov.uk/procedures).

### Information requests

Those subject to a FPN or EPN can apply for a review of the penalty within 28 days of notice being issued. The effect of the notice is suspended during the time the notice is being reviewed.

Where a request for review has been made we will appoint a reviewing officer (this is a person who will not have been previously involved with the decision to issue the notice) and will review the notice, taking into account any representations made by the applicant. The reviewing officer will communicate the decision to the applicant for review.

The outcome of the review will be one of the following. We may confirm the notice and uphold the original decision to issue it. The notice must then be complied with, or we may:

- ▶ vary the notice and revise the original notice, providing a new deadline, or
- ▶ substitute a different notice that must be complied with, or
- ▶ revoke the notice, so that it no longer has to be complied with

If the applicant for review disagrees with the outcome of a review, there is a right of appeal to the Tribunal. We will issue further guidance and templates on how to apply for a review of an FPN or EPN and refer matters to the Tribunal in due course.

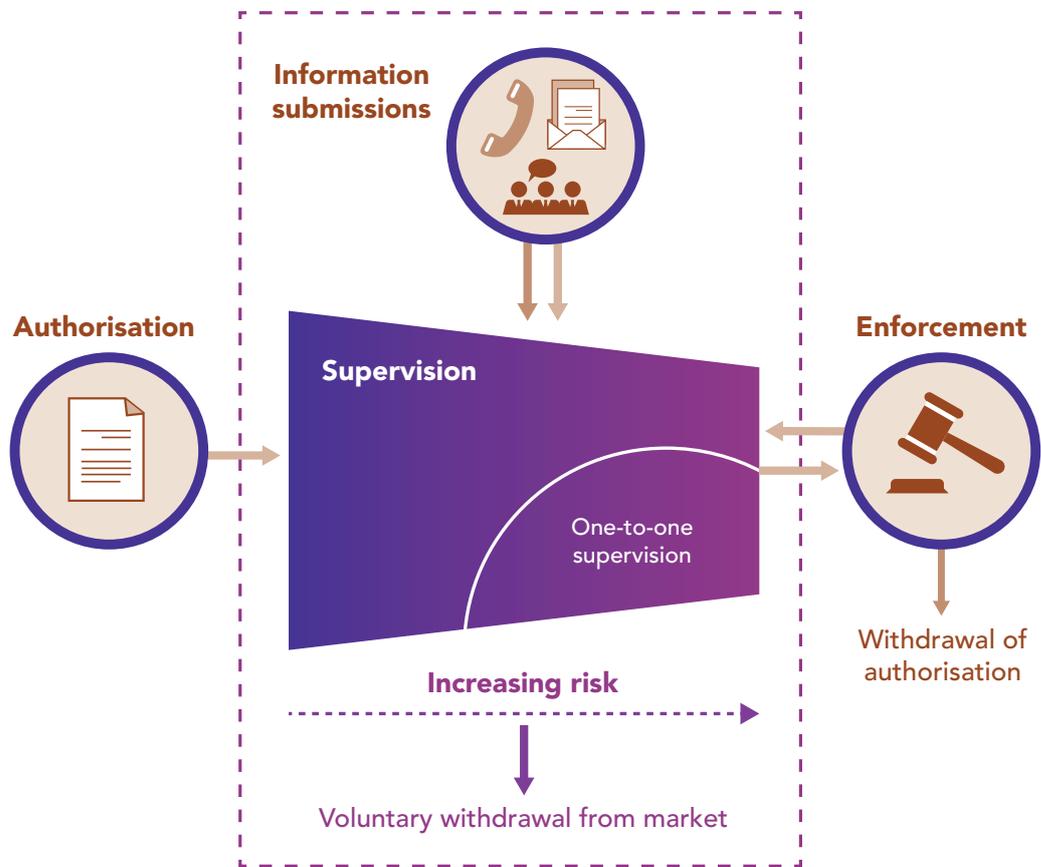
## 3.8. Publication of reports

We may publish reports of our regulatory activities in order to further the education and awareness of regulated entities and members, and to serve as a deterrent. A decision to publish a report (under section 89 of the 2004 Act) will be taken on a case-by-case basis in line with our publication policy: [www.tpr.gov.uk/essential-guide-publish-information-cases](http://www.tpr.gov.uk/essential-guide-publish-information-cases).

Publishing the outcomes of our regulatory activities is an important way of encouraging improved standards and practices, particularly during these early stages of the new master trust regulatory regime. Publication also raises awareness of the risks to the good governance and administration of schemes and should assist others in avoiding problems. Publication also enables third parties to understand how their actions may have an impact on schemes. We put great emphasis on preventing problems from occurring and providing guidance to build good practice in collaboration with the regulated community.

## 4. Withdrawal of authorisation

Figure 3: Master trust regime including supervision and enforcement



## 4.1 Overview

We need to continue to be satisfied that a master trust meets all of the authorisation criteria as part of supervision. If we are no longer satisfied that a master trust continues to meet the authorisation criteria, we will consider using our regulatory powers, including withdrawal of authorisation.

## 4.2 Decision to withdraw authorisation

As set out in the introduction to enforcement section, in considering whether a master trust should remain authorised, we will consider:

- ▶ the frequency, severity and actual or potential impact of a master trust's failures to meet their obligations
- ▶ the risk of a master trust not being able to continue to meet its obligations, and
- ▶ the intention and behaviour of those involved in running the master trust, including the transparency of the master trust, and any remedial action already taken

The decision to withdraw authorisation from a master trust is taken by the Determinations Panel.

There are two ways in which authorisation of a master trust can be withdrawn:

1. Under the standard procedure, which includes issuing a warning notice.
2. Under the special procedure, where there is, or is likely to be an immediate risk to members' interests or scheme assets. The persons directly affected by the decision would not be informed of the procedure until after the Determinations Panel makes a determination and issues a Determination Notice and Order, if required. This is followed by a Compulsory Review of the determination, involving the directly affected persons. The Determinations Panel then makes a final determination in a Final Notice.

The special procedure can only be used if the statutory criteria are met. We anticipate that, in most cases, the standard procedure will be used where we seek to withdraw authorisation, though there may be some cases where the special procedure is used.

Both procedures allow for the Determinations Panel's decision to be appealed to the Upper Tribunal. Where an appeal is successful, the authorisation withdrawal notice ceases to have effect from the date the appeal is finally disposed of. Where an appeal – or any further appeal – is unsuccessful, the decision of the Determinations Panel to withdraw authorisation will stand.

The process for challenging a determination and making a reference to the Tribunal can be found at: [www.tpr.gov.uk/procedures](http://www.tpr.gov.uk/procedures).

### **4.3 Implications of a withdrawal of authorisation notice**

If the standard procedure is used, the issue of the Warning Notice will constitute a triggering event, and once the withdrawal decision and any appeals are finalised, the trustees will be required to transfer out any remaining members in accordance with the legislative requirements and wind up the scheme.

If the special procedure is used, the Determination Panel's Determination Notice will constitute a triggering event, meaning that once the decision to withdraw and any appeals are finalised, the trustees must follow continuity option 1 (transfer of all members and winding up of the master trust) and proceed to transfer out any remaining members in accordance with the legislative requirements and wind up the scheme.

## Changes since the last version

In January 2019, we made some small changes to the text in sections 3.5, 3.6 and 4.2, in order to clarify the role of the Determinations Panel in this policy.

## How to contact us

[www.tpr.gov.uk](http://www.tpr.gov.uk)

[www.trusteetoolkit.com](http://www.trusteetoolkit.com)

Free online learning for trustees

[www.pensionseducationportal.com](http://www.pensionseducationportal.com)

Free online learning for those running public service schemes

Master trust authorisation

### **Supervision and enforcement policy**

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