ASLEF's Response to the DWP's Consultation on Security and Sustainability in Defined Benefit Pension Schemes – May 2017

The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 20,000 members in train operating companies and freight companies as well as London Underground and light rail systems.

Virtually all ASLEF members are in Defined Benefit Schemes, predominantly in the various sections of the Railway Pension Scheme or in the TfL scheme. These both have final salary arrangements. There are many misconceptions about defined benefit schemes. We are frequently told that they are gold-plated and all offer huge benefits to members. We are also told they are usually unaffordable and in huge deficit. ASLEF is glad that this consultation clears up some of these myths.

We often hear that DB pensions are too generous. Yet the average DB pension is worth £7,000 a year. When you consider that the average pensioner income is £16,000, this is clearly not excessive. Changes to DB schemes also affect far more people than is often understood. There are 11 million members of such schemes.

ASLEF supports the DWP's conclusion that "the available evidence does not appear to support the view that these pensions are generally 'unaffordable' for employers." For too long DB schemes have been described as unaffordable by employers who in reality, simply want to reduce the cost of employing staff in order to increase profits. The consultation also dismisses the idea that these pensions are somehow spiralling out of control. “Whilst almost all DB schemes currently have a funding deficit, our modelling suggests that these deficits are likely to shrink for the majority of schemes if employers continue to pay into schemes at current/ promised levels.”

The DWP also acknowledge that there is “little evidence that scheme funding deficits are driving companies to insolvency, and it seems clear that the majority of employers should be able to continue to fund their schemes and manage the risk their schemes are running. The single biggest risk to the members of these schemes is the collapse of the sponsoring employer.” In other words, DB pensions do not represent a risk to company’s solvency, it is the other way round with badly managed companies putting pensions at risk.

However, recent high profile cases such as the BHS pension scheme collapse have shown that there are certainly areas within pensions regulation and the scope of the Pensions Regulator that could be improved.

This case must be used as a basis for ensuring employers do not simply overlook their obligations. It must not be used to permit any reductions to member’s benefits without consent. In addition, it must not be used as a way to replace the Trust system that ensures members’ voices are heard, in the name of “professionalism”. Whilst it is essential that experts and those with solid knowledge help with running of schemes, the trust based system ensures transparency of funds.

Are the current valuation measures the right ones for the purposes for which they are used?

ASLEF is concerned that often there is too much prudence being exercised in relation to discount rates. For example, the Railway Pension Scheme has successfully invested in growth assets such as equities and managed to achieve good returns. Of course, past performance must not be used to predict the future, but it does give an idea of the long term patterns of return.

Clearly built in prudence within valuations is essential. Nobody wants a situation where wildly ambitious discount rates lead to contribution rates that are far too low and therefore underfunded schemes that are unable to pay out promised benefits. However, over prudence also can be bad news for scheme members. Most UK schemes are balance of costs which means small increases in contributions are often met by the employer. However large increases could lead to members having to increase contributions or reduce benefits. The Railway Pension Scheme is a shared cost scheme. Any increase in contributions is split 60/40 between the employer and employee respectively. This means our members will feel the effect of changes to contribution rates at every valuation in which the change. Should contributions rates increase too much, there is a risk that members will stop contributing to the scheme. This has a negative effect on the individual member’s future income, but also can change the nature of the scheme with less contributions and possibly making the scheme more mature and less able to invest in growth assets.

ASLEF therefore believes that more should be done to encourage discount rates to reflect the assets actually held by schemes, rather than arbitrarily using gilts or other low return assets which may be overly prudent.

It may be sensible to introduce shorter valuation cycles for schemes that are higher risk, but ASLEF feels priority should be given to continuous monitoring of schemes that look like they are heading into serious or unrecoverable deficits.

Do members need to understand the funding position of their scheme, and if so what information would be helpful?

There are already many rules and regulations around sending members information about their pension scheme and deficits. Pensions are often a daunting and complicated subject for many. Sometimes a small amount of information can be more problematic than no information as without full explanation, it can create even more misunderstanding. For this reason, ASLEF believes that we do not need more communication about funding levels than currently exists but that perhaps more government guidance in how schemes communicate funding levels so that members are given a clearer picture. In other words, not more information, but better information.

Do members need further protection, and should this be delivered by a stronger and more proactive Regulator, and/or trustees with enhances powers?

The notorious collapse of the BHS pension fund shows how there are times when the Pensions Regulator picks up on issues too late. The scheme went from a surplus of £28 million to a deficit of £345 million in just 12 years. The deficit recovery plan put in place by BHS was clearly insufficient, but by the time it was picked up on, it was too late to deal with it in the normal manner. Philip Green was also able to conceal the true extent of the deficit from the RAL who went on to acquire BHS.

ASLEF believes we must consider the findings of the House of Commons Work and Pensions Committee inquiry into BHS which said “The Pensions Regulator (TPR) is reactive and can be slow-moving. Its first response to the 23 year recovery plan came in January 2014, four months after it was submitted and six months after it was due. TPR could also, at times, have shown more urgency in engaging with BHS and the pension scheme trustees regarding the various incarnations of Thor. TPR will increasingly be called upon to make decisions crucial for thousands of employees and pensioners in a fast-moving and uncertain environment. It is essential that it has the powers, resources, leadership and commercial acumen to act decisively."

ASLEF therefore believes that there is a strong case for a new regime for stressed schemes where the employer is at risk of failure. The regulatory regime at present is too reactive and not proactive enough. There is a case for earlier action to deliver better outcomes for members which might include detailed scrutiny of the scheme by the Pensions Regulator.

As demonstrated by the BHS case, mergers and acquisitions can be a critical period for pension schemes. For this reason, ASLEF believes that there should be increased rights of disclosure to trustees and trade union representatives at times of corporate merger or acquisition. There is a great lack of transparency in the course of transactions that increases the chances of poor outcomes for pension scheme members. This could be improved if trustees were given greater rights to demand information about how a scheme is affected by a transaction and greater obligations on making information available to trade union representatives.

ASLEF would also support moving towards 50% of trustees being member nominated to put greater emphasis on and insight from those most affected by pension funds.

ASLEF therefore feels that that the vast majority of schemes, even though they may be in deficit, they are well run and affordable and do not face the danger of being unable to pay out promised benefits, or going into the PPF. Therefore, there is no reason for any major reforms in how they are regulated. However, the Pensions Regulator is currently too reactive in dealing with schemes that face the real possibility of not fulfilling their obligations and having to turn to the PPF. Regulations must be proactive as soon as real risk is acknowledged. The very nature of pensions schemes means that someone always have to take on risk. In defined benefit schemes, it is both the employer and the employee. By targeting schemes that are struggling early on, we can reduce the risk and improve outcomes for all involved.

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