

UK opposition urges NEST trustees to take legal advice over restrictions

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UK - Trustees of the **National Employment Savings Trust (NEST)** should seek legal advice on challenging the restrictions placed on the state-backed auto-enrolment pensions vehicle, the UK's shadow pensions minister has suggested.

Reiterating his call for the government to lift the limits on contributions and transfers, he dismissed the idea that state aid rules could stop it from doing this.

In a statement, **Gregg McClymont** argued that European Union state aid rules no longer applied to the scheme - a cornerstone of the current auto-enrolment reforms - and that the government "can and should" remove any restrictions placed on the fund.

The Labour MP added: "There are strong grounds for the independent trustees of NEST obtaining their own legal advice."

"The restrictions on NEST reduce the economies of scale it can achieve," he said. "This raises the cost of the administration of pensions to all existing members."

In March, the parliamentary Work and Pensions select committee [called for the restrictions to be lifted](#).

The cap on contributions would make things more complicated for small and medium-sized businesses, with the ban on transfers deemed disruptive for employers and staff wanting to transfer existing pension pots into NEST, it argued.

The committee also said the restrictions might stop NEST addressing the market failure it was meant to resolve.

However, the government [since responded to the committee's recommendations](#) by saying the limits were not necessarily a barrier to enrolment in the NEST product, arguing the restrictions were designed to keep NEST's focus on its target-market.

On the issue of state aid - raised by the committee - the government said it would not be lawful to lift the limits just to increase take up of NEST.

Commenting on the restrictions, NEST's chief executive **Tim Jones** said the limits had played out very much as the policy intended.

"They have focused NEST on creating a product for our target market of people earning up to £35,000 and you can see that in our product design, for example, in the way we use language and in our investment approach," he said.

In that sense, they had been a good thing, he said. But Jones also said there was some evidence that the restrictions were having detrimental effects and unintended consequences - restricting employer choice and prevented members in NEST's target market from having access to the vehicle, he said.

As well as this, the limits did have the effect of increasing the complexity of how the product worked in practice, and therefore increased costs to its members, Jones added.

"Our job is to provide evidence of their impacts on employers and members to government, and then to allow government to take that view," Jones said.

However, it may be too early for NEST's independent trustees to contemplate taking a legal route, according to **Jennie Kreser**, partner at law firm **Silverman Sherliker**.

"I doubt that the Trustees of NEST will be considering any legal action just yet.

"It is still far too early in the process to see just what the take up will be - although opt out rates of up to 40% are being mooted and would not surprise me - and the 2017 review will be the time to take stock," she said.