Occupational Welfare in the United Kingdom: from skill retention tool to social protection only for legitimate social risks

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Introduction

With the notable exception of its National Health Service (NHS), the British welfare state has typically offered very modest statutory cash and in-kind benefits to protect individuals affected by social risks such as loss of income due to unemployment, disability, maternity/paternity or old age. Given the meagreness of state benefits, one could expect Occupational Welfare (OW) to play an important role in British social provision. OW was indeed well entrenched in the United Kingdom (UK) throughout the post-war period before – as has also been the case of state provision – experiencing a decline due to deindustrialisation and institutional changes introduced during the Thatcher era. Recent years have seen interest in OW grow somewhat. This is, firstly, because the reach of OW has extended beyond traditional social risks – such as disability, unemployment or old age – to also cover new social risks, e.g. childcare. Secondly, in some policy areas, policymakers are increasingly realising that the combination of statutory and private benefits is generally inadequate and that this inadequacy may result in excessive poverty. Yet what is striking is that, despite the similarly low level of statutory benefits for most social risks, the development of OW varies dramatically across these risks.

This paper investigates this variation by examining OW for two traditional social risks, namely loss of income due to old age and unemployment. In the case of unemployment compensation, the focus is more specifically on contractual redundancy pay and short-time working arrangements. The paper presents the historical evolution, current institutional traits and coverage of OW for these two risks. Occupational pensions and unemployment compensation were originally used by employers as skill retention tools. Since World War II, they have helped workers to top up relatively meagre statutory benefits. Their coverage has always been unequal across different sectors and occupational groups due to the UK’s highly decentralised system of industrial relations. However, as the Thatcher government challenged OW’s skill retention function in a new era of labour market mobility and flexibility, occupational arrangements have played increasingly different roles in the broader systems of retirement and unemployment provision. After experiencing a significant decline both in terms of coverage and generosity since the 1980s, occupational pensions – now again seen by policymakers as a key element of social protection – are set to expand with the introduction of auto-enrolment of all UK workers in workplace pension schemes. By contrast, OW’s – but also the state’s – role in protecting the unemployed has been increasingly marginal and policymakers have been reluctant to
introduce regulations that could reverse this trend. With OW’s function as a skill retention tool having become less legitimate, its distribution across different social risks now seems to be increasingly correlated with the public’s and policymakers’ perceptions of the deservingness of different needy groups.

The rest of this chapter is structured as follows: Section 1 offers a broad overview of OW in the UK. Section 2 focuses on occupational pensions. Section 3 presents the OW landscape in the field of unemployment compensation. Section 4 concludes and discusses the challenges that UK trade unions and employers will have to address in order to improve OW in the coming years.

1. **Uneven development of Occupational Welfare across different social risks**

The UK is an archetypical example of the liberal world of welfare where the state typically offers relatively basic social protection arrangements and individuals are expected to provide for themselves, largely through work and their own savings (Esping-Andersen 1990). In this context, social policy scholars have for long recognised the significance of OW in the UK’s social policy framework (Titmuss 1958). Yet there has been surprisingly little comprehensive research on this issue, in particular on OW coverage and generosity (for a partial exception, see Farnsworth 2004). An examination of OECD SOCX data on private social expenditure gives a first indication of the importance of OW in the UK (OECD 2013). About 1% of British GDP – i.e. exactly equal to the OECD average – was spent on mandatory private social expenditure (related to statutory provision) in 2011. Most of this represented employer-provided incapacity-related benefits, such as sickness and disability benefits, or benefits related to occupational injury.

Alongside this, voluntary private expenditure covered 5.3% of British GDP (OECD average: 2.2% of GDP) in 2011, although such expenditure reached as much as 6.9% in 2000 (OECD average: 2.0% of GDP; OECD 2013). On the face of it, this comparatively high voluntary private social expenditure in the UK can be explained by the limited role of public provision. Yet there are significant differences in the importance of private spending across social risks. Private pension benefits have traditionally constituted the vast majority (4.5% of GDP in 2011; 5.2% in 2000) of the UK’s voluntary private social expenditure (OECD 2013; see also Pearson and Martin 2005: 8). Expenditure on other risks is much less developed, though some of it relates to extra-statutory maternity pay, private medical insurance and voluntary top-ups of incapacity-related public and/or mandatory benefits (with extra-statutory payments for sickness representing 0.3% of GDP in 2000 – cf. Farnsworth 2004: 446), as well as extra-statutory

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1. See Wim van Oorschot’s (2006) work that shows that the rationing of social spending on different needy groups may reflect different deservingness perceptions. Van Oorschot finds that, across European countries and social groups, the public sees the elderly as most deserving, closely followed by the sick and the disabled; the unemployed are seen as less deserving, while immigrants are perceived as the least deserving of all.
redundancy payments (0.3% of GDP in 2000 – *ibid.*). In the mid-1990s, around 30% of public sector employers offered extra-statutory maternity pay compared with equivalent figures of 7% for the private sector (Farnsworth 2004: 451), but it would be reasonable to assume that these proportions have increased since then (See also Fleckenstein and Seeleib-Kaiser 2009). Throughout the 2000s, around 10% of the UK population were covered by private medical insurance (PMI), with around 40-45% of covered individuals receiving PMI from their employer (Feyertag and Seeleib-Kaiser 2013: 11). Coverage of employer-provided PMI is highly skewed in favour of professionals and managers, being negligible among low-skilled workers (see also Farnsworth 2004: 452).

OW has a long history in the UK. Its first forms emerged in the nineteenth century with the development of friendly societies (see e.g. Harris 2004: 79-87). These voluntary non-profit mutual aid organisations were run by the insured (and sometimes nascent trade unions) and provided entitlements mainly to sickness, accident and death benefits, but also increasingly basic medical care, old age and unemployment. Nonetheless, they tended to exclude the weakest elements of the labour force as they developed mainly among workers who were better- and regularly paid and therefore able to make weekly contributions to a fund (Thane 2006). From the late 19th century onwards, friendly societies were increasingly challenged by the rise of state-controlled social insurance schemes, industrial assurance companies and employer-provided OW. After World War I, industrial assurance companies (e.g. the Prudential) became one of the main managers of employer-provided pension schemes (Hannah 1986: 31-45). Large employers created OW mainly in order to retain skilled staff and pacify labour relations.

Since the beginning of the 20th century, British OW has expanded mainly as a result of unilateral management decisions. Unions have traditionally played a more reactive role, i.e. negotiating over OW once proposed to them or, more recently, when a scheme’s existence is threatened. Their capacity to set the agenda is weaker because of a traditionally decentralised system of collective bargaining (Howell 2005). In the area of pensions, the one where OW is most developed, unions have tried to compensate this weakness in industrial relations by seeking legislative changes that would help make coverage of workplace pension schemes mandatory. Union campaigns were a crucial factor pushing the Blair and Brown governments to propose the introduction of auto-enrolment of workers in workplace pension schemes through the Pensions Act 2008 (see next section of this report; Naczyk and Seeleib-Kaiser 2015). The state plays a key role in promoting or hindering the development of OW by setting the level of tax incentives for occupational schemes and by regulating them (Brunsdon and May 2012). Contributions to workplace pension schemes, income protection for sickness, childcare voucher schemes, free in-house lunches and redundancy payments have benefited from tax exemptions (on income tax and/or national insurance contributions), but many other fringe benefits – including private health insurance

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2. Corporate childcare facilities are also on the rise. About 4% of UK employees had access to workplace-supported childcare provision by the end of the 1990s (Farnsworth 2004: 451). By 2004, this number was about 5.5% (Fleckenstein and Seeleib-Kaiser 2009: 748).
and company cars – are taxed on their ‘cash equivalent’ – i.e. the cost to the employer of providing the benefit – for employees earning at least £8,500 (€9,908) a year.

In recent years, coverage of top-up statutory sick pay, enhanced leave arrangements and childcare voucher schemes is believed to have expanded (Brundson and May 2012: 222-224), but, since the financial crisis, the number of employers offering fringe benefits such as company cars, petrol or subscriptions has dropped significantly (OTS 2013: 28). There is also a gradual shift away from fixed to more flexible occupational provision: employees are indeed increasingly being encouraged to choose when and how to take up benefits (Brundson and May 2012: 223). A major change is the introduction of auto-enrolment of workplace pension schemes. This is expected to significantly increase coverage of such schemes. There are also debates about the potential for simplifying the framework for the tax treatment of different fringe benefits (OTS 2013).

2. From paternalist to individualised – but quasi-mandatory – workplace pension provision

Before discussing the role of occupational pension provision in the UK, it is important to settle some definitional issues. For the UK’s Office for National Statistics, the term ‘occupational pensions’ refers to schemes that are set up under trust, i.e. a legal arrangement under which pension assets are held in a trust fund for the sole benefit of a scheme’s members and their dependents. But, in addition to such trust-based schemes, employers can also sponsor pension provision for their employees through ‘group personal’ or ‘group stakeholder’ schemes. Traditionally, ‘personal’ pensions are schemes where there is a contract between an individual and a financial institution. ‘Stakeholder’ pensions are quite similar to personal pensions, but are subject to more stringent regulations, for example regarding the charges that scheme members have to pay. Under such schemes, the contract is still signed between an individual and a financial institution, but the employer facilitates it. Occupational, group personal and group stakeholder pensions all fall under the broader category of ‘workplace’ or ‘work-based’ pension schemes. ‘Individual personal’ pensions do not fall under this category because participation is fully dependent on an individual’s decision and it is the individual who formally pays contributions.

This section will thus focus on the role of broader ‘workplace’ pension provision. It firstly looks at the origins of occupational/workplace pensions in the UK. It then examines workplace pension schemes’ key institutional traits in terms of their regulation, administration and funding. The third subsection presents information on coverage. The last subsection looks at recent reforms in this field.

3. The Pound endured volatile trading on prospect of a hard Brexit at the time of writing this chapters (February 2017). Amounts in Euro are therefore indicative; they have been calculated with Yahoo Currency Converter https://uk.finance.yahoo.com/currencies/converter/#from=GBP;to=EUR;amt=1.5
2.1 Origins

Occupational retirement provision emerged in the UK in the 18th century with the creation of a pension plan for customs officials, but it was the Civil Service pension plan of 1859 that provided a template for employer-provided plans as they started expanding from the end of the 19th century onwards in the railway, gas and financial industries (Hannah 1986: 10-18; see also Sass 2006: 79-80; Thane 2006). The Civil Service scheme paid 1.67% of salary for each year of service, up to two-thirds of final salary for a 40-year career. State employees who left early only had a vested right to their own contributions without interest. As would be the case with many pension schemes created by ‘paternalist’ employers, the scheme functioned as an incentive for employees to remain with their employer – here the Civil Service – and to rise in the ranks. In private-sector firms, final-salary schemes covered almost exclusively management and clerical staff, though some employers also subsidised blue-collar workers’ membership of friendly societies.

An important development took place in 1900 when mustard maker Colmans created the first trust-based occupational scheme in the UK (Hannah 1986: 18). While many schemes had until then operated on a pay-as-you-go basis, the choice of trusts as a legal vehicle meant that occupational pensions became increasingly fully funded. In addition, with the passing of the Finance Act 1921, trust-based pension schemes were exempt not only from income tax on employers’ and employees’ contributions to the fund, but also from tax on its investment income (Hannah 1986: 19-20). Income tax was paid on pensions only when these were paid out and, unlike for the friendly societies, there was no statutory limit on the size of benefits.

Occupational schemes pre-dated statutory pension provision. When the 1925 Pensions Act introduced a flat-rate contributory pension for manual workers and those earning less than £250 (€291) a year (i.e. in total about two-thirds of the population), employers mainly adjusted their existing schemes to supplement the ten shillings a week provided by the state pension (Hannah 1986: 24). As the tax incentives introduced in the interwar period were maintained after the creation of the Basic State Pension – i.e. a contributory flat-rate pension that still constitutes the UK’s main state retirement benefit – in 1945, occupational pension provision expanded considerably during the post-WWII period. But, by the end of the 1950s, the famous social policy scholar, Richard Titmuss, denounced the existence of ‘two nations in old age’ and the institutionalisation of a dualism between those who had access to OW and those who did not (Titmuss 1958: 74). This dualism was addressed through the creation of a State Earnings-Related Pension Scheme (SERPS) in 1974: Those who did not have an occupational pension would be covered by SERPS; those who had an occupational pension could continue being covered and ‘contract out’ of SERPS, provided that their occupational scheme offered higher benefits. Nevertheless, occupational provision started being challenged with the introduction of ‘personal pensions’ by the Thatcher government in the mid-1980s and the imposition of more stringent regulations (e.g. on vesting, portability, etc.).
2.2 Institutional traits: regulation, administration and funding

The regulatory framework of occupational/workplace pension schemes has evolved significantly over the past three decades (Bridgen and Meyer 2011). Traditionally, occupational schemes were introduced mainly through unilateral management initiatives and not due to pressure from trade unions. Although occupational schemes benefited from tax relief from the inter-war period onwards, the state was initially barely involved in regulating the schemes. Until the 1970s, the lack of statutory rights on vesting and portability of employer contributions ensured that the skilled workers whom employers wanted to retain would have the best benefits: when all workers of a company were covered by a scheme, ‘early leavers’ (typically workers who were made redundant) effectively subsidised the final-salary pensions of permanent white-collar workers. Pressure for more regulation grew during the post-war period when the manufacturing crisis led to growing unemployment. The Social Security Act 1973 introduced the first statutory vesting rights for early leavers, allowing for vesting after 5 years of service and including both employee and employer contributions. For less than 5 years’ service, scheme members were entitled to a refund of employee contributions. The rights accrued by workers in occupational schemes were made portable across company schemes by the Social Security Act 1985.

The logic and governance of private pension provision in the UK started changing dramatically with the creation of personal pensions by the Thatcher government in 1988 following the enactment of the Social Security Act 1986. This Act gave workers the possibility to opt out of SERPS or their employer-provided pension plan and to sign contracts with other private providers such as insurance companies, unit trusts, banks or building societies (Pierson 1994; Bonoli 2000).

Both occupational and personal pension provision were nonetheless directly affected by major scandals in the early 1990s, leading to greater state regulation. From late 1991, occupational schemes were in the spotlight after it emerged that media magnate Robert Maxwell had tried to save a failing company of his – the Mirror Group – by ‘self-investing’ – and therefore plundering – this company’s pension fund. A second scandal that emerged in 1992 was the ‘mis-selling’ of personal pensions by the insurance industry. With the help of generous national insurance contribution rebates introduced by the Thatcher government and backed by massive promotional campaigns spearheaded by private insurance companies, hundreds of thousands of people were convinced by commission-driven salesmen to transfer into relatively risky personal pensions even though they would have done better to stay in their defined-benefit occupational scheme or in SERPS (Jacobs and Teles 2007: 170).

Both the Maxwell affair and the mis-selling scandal dealt a severe blow to the system of self-regulation with statutory backing to which the UK financial industry had been subject since the mid-1980s (Moran 2003). The cases revealed that the regulatory bodies which watched over pension fund managers and life insurers had very limited administrative capacities and that, while they were generally effective at enforcing clearly written rules, they were much weaker at sanctioning perhaps less well defined unethical behaviour. In addition, the Maxwell scandal highlighted the deficiencies of a
trust, the institution which had governed company pension schemes since the 1920s. Pension fund trustees had in principle a legal obligation to act in the best interests of scheme beneficiaries and to invest assets in a ‘prudent’ way. However, the dominance of pension fund boards by trustees appointed by company managements created important conflicts of interest and gave corporate executives excessive discretion over the administration of the funds.

To address the issues raised by the two affairs, the state updated the regulatory framework of funded pensions. The pensions mis-selling scandal was addressed by the imposition of fines on the pension providers that were to blame and by the reinforcement of state supervision over the insurance industry through the creation of the Financial Services Authority in 1997 (Jacobs and Teles 2007). In addition, Tony Blair’s Labour government created ‘stakeholder’ pension schemes through the Welfare Reform and Pensions Act 1999. Like personal pensions, these schemes were also based on a contract signed between an individual and a financial institution, but a scheme would have to meet a number of minimum requirements (e.g. a cap on annual management charges, representation of the scheme either through trustees or stakeholder managers) in order to qualify as a ‘stakeholder’ plan.

The Maxwell affair was addressed by the Pensions Act 1995 (Schulze and Moran 2006: 74-76), which introduced important changes in the regulation and governance of occupational pension schemes. Among other things, it improved the accountability of pension fund boards by requiring that at least one third of trustees be elected by scheme members. It also strengthened state supervision of pension funds by replacing the existing Occupational Pensions Board – established in the 1970s – with a new Occupational Pensions Regulatory Authority and a Pensions Ombudsman. In addition, the government introduced a minimum funding requirement whereby at least 90% of a defined-benefit scheme’s liabilities would have to be asset-covered. Further major regulatory changes were introduced through the Pensions Act 2004, which replaced the Occupational Pensions Regulatory Authority with The Pensions Regulator with enhanced powers and created the Pension Protection Fund, which protects occupational defined-benefit schemes against insolvency.

Due to the decentralised nature of UK collective bargaining, the large majority of workplace pension schemes are offered at company level. The main exceptions to this pattern have been sector-wide public sector schemes – i.e. Civil Service Pension arrangements, the NHS Pension Scheme, the Teachers’ Pension Scheme - England and Wales, the Local Government Pension Scheme, the Police Pension Scheme, the Armed Forces Pension Scheme, the Firefighters’ Pension Scheme, as well as the Universities Superannuation Scheme and the Mineworkers’ Pension Scheme (which has been closed to new entrants since 1994).

In terms of funding, workplace pension schemes are typically financed through a combination of employer and employee contributions. Employer contributions generally represent a larger slice of total labour costs than employee contributions. For example, in 2013, average employee contributions into private sector occupational defined contribution pension schemes were 2.9% of salary, while average employer
contributions were 6.1% of salary (HM Treasury 2015: 10). Official data on the cost of registered pension scheme tax relief confirm this assessment: In 2012-2013, income tax relief on occupational pension scheme contributions amounted to £4.2 billion (£4.9 billion) for employee contributions while it reached £18.4 billion (£21.4 billion) for employer contributions (HM Revenue & Customs 2015a). According to the same data, income tax relief on personal pension scheme contributions (comprising here both individual and group personal pensions) was £1.7 billion (£2 billion) for employee contributions in 2012-2013 and £3 billion (£3.5 billion) for employer contributions. The policy of ‘auto-enrolment’ legislated through the Pensions Act 2008 stipulates that, from 2018 at the latest (depending on firm size), all employers will have a duty to auto-enrol their workers in workplace pension schemes financed through contributions of at least 8% of employees’ gross wages with at least 4% paid by the employee, 3% by the employer and 1% by the state (through a rebate in national insurance contributions).

All workplace schemes for private-sector workers are, by law, fully funded. Until the early 2000s, many schemes covering them were still defined-benefit, but were closed to new entrants and often – though not systematically – replaced with defined-contribution schemes (Bridgen and Meyer 2005). In the public sector, about 80% of workers are still covered by defined-benefit schemes, but, after a major reform introduced through the Public Service Pensions Act 2013, all occupational pension rights earned after April 2015 (2014 for the Local Government Pension Scheme) are earned in career average schemes instead of the hitherto prevalent final salary schemes. With the exception of the Local Government Pension Scheme which is fully-funded, all other main public sector (i.e. Civil Service, NHS, Teachers’, Firefighters’, Armed Forces and Police) pension schemes operate on a pay-as-you-go basis.

2.3 Access and benefits

While overall membership of workplace pension schemes in the UK was 59% in 2014 (ONS 2015), data contained in the ONS’s Annual Survey of Hours and Earnings show that coverage and generosity of benefits vary according to many different factors such as a worker’s economic sector, occupational group and firm size. With the gradual introduction of auto-enrolment, one should see coverage inequalities becoming less significant, though inequalities in the generosity of benefits are likely to remain high.

A first major factor affecting access to workplace pension schemes is the public- / private-sector divide (Figure 1). In 2014, 87% of public-sector employees were members of a workplace pension scheme, up from 83% in 2012, while just 49% of private-sector employees belonged to such schemes, up from 32% in 2012 (ONS 2013 and 2015). Not only are public-sector workers more likely to be covered, but they also have significantly more generous pension schemes. Most public-sector workers (more than 80%) are still covered by defined-benefit schemes (although no longer final salary, but career average) while only 10% of private-sector workers still have access to such plans. Private-sector workers are now mostly covered by defined-contribution plans where the level of benefits is not guaranteed and where the level of contributions
– and therefore benefits – is generally lower. ONS data show indeed that an overwhelming majority of public-sector workers are in schemes with employee contributions above 5% and employer contributions above 12% (see Naczyk 2016: 29-30). By contrast, private sector workers are more likely to have employer contributions below 8%, while their employee contribution rates vary. Note that public-sector workers are now much more likely to pay employee contributions above 7% than they were before 2010. This a result of the Public Service Pensions Act 2013, under which employer contributions in public-sector schemes are capped and deficits are to be covered with increases in employee contributions.

Figure 1 Employees with workplace pensions: percentages by sector and by type of pension, 2002, 2006, 2010 and 2014

Source: Annual Survey of Hours and Earnings, Office for National Statistics.
Coverage also varies across specific industries (Figure 2). Coverage of occupational (i.e. trust-based) defined-benefit schemes is highest in public administration and defence, education, human health and social work, as well as some types of utilities (electricity, gas, steam and air conditioning). Coverage of workplace pension schemes is also quite significant (above 50%) in financial and insurance activities, mining and quarrying, other types of utilities (water supply, sewerage, waste management), transportation and storage, information and communication, manufacturing, real estate activities as well as professional, scientific and technical industries. These are all industries that typically employ workers with high general or with specific skills. However, these sectors now primarily offer defined-contribution schemes. All other industries have coverage below 50%, with the lowest levels found in agriculture, forestry and fishing as well as accommodation and food service activities. Companies in these industries are also much less likely to offer defined-benefit schemes.

Figure 2  **Employees with workplace pensions: percentages by specific industry and by type of pension, 2014**

Source: Annual Survey of Hours and Earnings, Office for National Statistics.
If one looks at different occupations (see Figure 3), there seems to be a correlation between the level of coverage and the level of formal (primary, secondary, tertiary) education. Occupations typically requiring higher education (professional occupational, associate professional and technical or managers, directors and senior officials) have the highest coverage. By contrast, those in elementary occupations – i.e. involving the performance of mostly routine tasks, often requiring some physical effort – are least likely to have a pension, 39.4% in 2014. But with the introduction of auto-enrolment, employees in process, plant and machine operative occupations have had the largest jump in workplace pension membership: from 34% in 2013 to 52% in 2014.

Finally, coverage also varies by firm size, although this variable only applies to the private sector (Figure 4). Coverage is indeed lower in small firms than in large firms. The gradual introduction of automatic enrolment between 2012 and 2018 (starting with large firms and ending with smaller firms) seems nonetheless to be contributing to a reduction in inequalities in this respect: for example, Figure 4 suggests that, most likely as a result of automatic enrolment, there has been significant increase in coverage in private-sector firms employing more than 100 workers between 2011 and 2014.
2.4 Recent reforms

The recent decade has seen three crucial changes affecting UK workplace pension provision. The first was the introduction of ‘auto-enrolment’ as a result of the enactment of the Pensions Act 2008 (see Bridgen and Meyer 2011; Meyer and Bridgen 2012; Naczyk and Seeleib-Kaiser 2015) and amendments to the 2011 and 2014 Pensions Acts. By 2018, all employees aged between 22 years and the statutory retirement age and earning more than £10,000 (€11,532.27) a year are to be automatically enrolled in a qualifying workplace pension scheme. To be considered as such a scheme, scheme participants will eventually have to make minimum contributions of 8% of gross wages. Workers can opt out of their employer’s scheme but, if they are still eligible, they are re-enrolled after a three-year period. Automatic enrolment is being introduced in stages, based on the size of a firm’s workforce. Automatic enrolment started in October 2012 for employers with over 120,000 employees, with a staged roll-out to all employers by 2018.

A second crucial change was the Cameron government’s decision to create a new single-tier state pension for future pensioners from 6 April 2016. This provides a flat-rate benefit slightly above the basic level of means-tested support (i.e. £155.65
The United Kingdom: social protection only for legitimate social risks

Occupational Welfare in Europe

Eligibility for the full amount is based on 35 qualifying years.

A final crucial change happened when, very unexpectedly, David Cameron’s conservative-liberal coalition government announced in its 2014 Budget that, from April 2015, it would grant individuals aged 55 years or more ‘freedom and choice’ and no longer force them to annuitise at least 75% of their defined-contribution pension benefits (with up to 25% allowed to be drawn as a tax-free lump sum) as was previously the case. Individuals are now able to access their defined contribution pension savings as they wish, subject to their marginal rate of income tax (rather than a 55% charge for full withdrawal as was the case in the past). This was described as one of ‘the most radical changes to pensions in almost a hundred years’ by Chancellor of the Exchequer, George Osborne (HM Treasury 2014a: 3) and poses real questions about the future of the legislative framework for the taxation of pensions: the new flexibilities create for example the danger that individuals could use them to ‘avoid tax on their current earnings by diverting their salary into their pension with tax relief, and then immediately withdrawing 25% tax-free’ (HM Treasury 2014a: 6). The government has thus announced its intention to create a new tax framework for retirement and is even contemplating the idea of moving from an EET (tax exemption on contributions, tax exemption on investment income and capital gains of the pension institution, taxation of benefits) towards a TTE (Taxation of contributions, Taxation of investment income and capital gains of pension institution, tax Exemption on benefits) system (HM Treasury 2015). These debates over the future of pension tax relief happened after relatively important changes were introduced in the fiscal framework governing private pensions, with the introduction of lifetime allowance of £1.5 million (€1.75 million) and annual allowance of £215,000 (€250,500) in 2006 and their reduction by the Cameron government to £1.25 million (€1.46 million) and £40,000 (€46,620) respectively by 2014-2015. Tax relief will thus be a very important issue to follow in the coming years.

3. Stagnant occupational unemployment-related provision

With very meagre statutory unemployment benefits (the contributory – but flat-rate – Jobseekers’ Allowance4 and the means-tested Universal Credit) and relatively limited statutory redundancy pay5, one could expect that there would be some supplementary provision through OW. Such occupational provision does indeed exist in the UK. The

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4. The Jobseekers’ Allowance provided a flat-rate benefit of up to £73.10 (€84.3) per week for individuals aged 25 years or more and up to £57.90 (€66.77) for those aged 18-24 in 2015-16. Its duration was set at maximum 26 weeks. It is available to workers who have paid enough National Insurance contributions in the two years preceding the benefit claim.

5. Workers are entitled to statutory redundancy pay if they have worked for their current employer for 2 years or more. Benefit levels depend on a worker’s age. Workers who are made redundant get half a week’s pay for each full year they were under 22. They receive one week’s pay for each full year they were 22 or older, but less than 41. And they get one and half week’s pay for each full year they were 41 or older. Length of service is capped at 20 years and weekly pay was capped at £464 (€535.1) in 2015-2016. The maximum amount of statutory redundancy pay was £13,920 (€16,053) that year.
The main type of scheme is contractual (or ‘enhanced’) redundancy pay (see also Clasen and Koslowski 2013). These are lump-sum payments offered by an employer in addition to statutory redundancy pay when a worker is made redundant. Redundancies are dismissals that are made when a worker’s work is no longer needed due to economic circumstances such as a business becoming insolvent or failing, when a new line of business no longer requires an employee’s skills, or when a business moves to another area or is taken over. While statutory redundancy pay is available to employees with a service of two years or more and offers a proportion of weeks’ pay for each full year they were employed, contractual redundancy payments can: a) include workers with less than 2 years of service; b) increase the number of weeks’ pay an employee gets for each year of employment; c) increase the maximum amount for a week’s pay. Apart from extra-statutory redundancy pay, employers have also sometimes used short-time working arrangements – with or without compensation for lost earnings – and retraining when they have temporarily not had enough business for their workforce. Such arrangements help employers to maintain employment and potentially allow workers to move into higher skilled positions.

Despite the undeniable existence of OW protecting against the risk of unemployment, such as contractual redundancy payments, it is important to note at the beginning of this section that, contrary to the situation with workplace pensions, available data on occupational unemployment compensation is scarce and of very poor quality. Despite very thorough research, it has not been possible to identify a single official source of information about the overall number of claimants of occupational unemployment-related benefits. Nor has it been possible to identify recent surveys with representative samples or, alternatively, administrative data, which would allow us to draw inferences on the level of coverage and generosity of these schemes in the UK (for old data, see Booth, 1987). In a recent report on the taxation of various employee benefits, HM Treasury’s Office of Tax Simplification explicitly stated that ‘knowledge gaps still remain (...) We [do not] know how many people receive statutory redundancy payments compared to non-statutory payments’ (OTS 2014: 5). The same applies to short-time working arrangements and retraining.

The rest of this section looks first at the origins of OW protecting against the risk of unemployment in the UK. It then examines the schemes’ key institutional traits in terms of their regulation, administration and funding. Third, the section presents the results of recent – but largely unreliable – surveys on coverage and benefits levels. Finally, it discusses the schemes’ evolution since the early 2000s.

### 3.1 Origins

OW for the risk of unemployment has a fairly long tradition in the UK. The provision of contractual redundancy pay gradually developed during the first half of the 20th century (Bridgen 2000). Not long before statutory redundancy payments were introduced by the Redundancy Payments Act 1965, about 17% of the UK workforce was covered by redundancy arrangements derived from unilateral management
practices or collective agreements, primarily in manufacturing and the public sector (Deakin and Wilkinson 1999: 70). The implementation of the Act led to the transformation of many of these pre-existing private arrangements into schemes that offered redundancy compensation above the statutory maximum. The development of contractual redundancy pay continued to be encouraged because a tax regime for such payments introduced through the Finance Act 1960 – which exempted redundancy payments from income tax and national insurance contributions up to a ceiling of £5,000 (€5,766) – was maintained even after 1965. The ceiling of £5,000 – periodically revised to reach £30,000 (€34,596.82) by 1988 – now encompassed both statutory and contractual redundancy payments (OTS 2014: 37).

Short-time working arrangements also have a long tradition and were quite widespread before World War II (particularly during the Great Depression). The introduction of statutory unemployment benefits through the National Insurance Act 1909, extended by the Unemployment Insurance Act 1921, made it possible for firms to compel their workers to work part-time during periods of recession and to potentially – but not systematically – ensure that workers would receive statutory unemployment benefits while working part-time (Whiteside and Gillespie 1991). Management typically imposed short-time work on their employees unilaterally, but unions were also often involved in negotiating better conditions for workers (Bowden et al. 2006: 101).

Short-time working was encouraged more explicitly by the state for a 5-year period via the Temporary Short-Time Working Compensation Scheme (TSTW), which operated between 1979 and 1984 (cf. Deakin and Wilkinson 1999: 59). The scheme was introduced on a discretionary basis – i.e. not by statute – by the Department of Employment and allowed employers who withdrew a notice of redundancy to receive short-time working compensation in respect of the employees whose jobs were thereby maintained. Workers on short time would receive 75% of their normal pay from their employer who was reimbursed from the TSTW fund. During the five years the scheme ran, ‘the pay of around three million employees was subsidised and around one million jobs threatened with redundancy were maintained, nearly all in manufacturing industry’ (Deakin and Wilkinson 1999: 59). Such explicit state subsidisation of earnings lost through short-time working has not been reintroduced ever since, with the exception of the ProAct programme run by the Welsh Assembly Government (WAG) in 2009-2010 in response to the Great Recession of the late 2000s.

3.2 Institutional traits: regulation, administration and funding

Unemployment-related OW has been very often created through unilateral management decisions, but its shape has also frequently been influenced through collective bargaining. However, the schemes’ functioning is embedded in a broader set of regulations regarding redundancies and workforce reductions. These regulations – the first of which was the Redundancy Payments Act 1965 and has now been replaced
by the Employment Rights Act 1996 – determine eligibility not only for statutory rights, but also for contractual schemes, since they provide the legal definition of who is affected by a redundancy or short-time work (Deakin and Wilkinson 1999; see also Naczyk 2016, fn. 9 and 10).

Employers have a legal duty to consult individual employees on redundancies, and, under the Trade Union and Labour Relations (Consolidation) Act 1992, they also have to consult employee representatives if they propose to make 20 or more workers redundant over a period of 90 days or less; the consultation needs to be about ways of avoiding dismissals, reducing the number of employees to be dismissed and mitigating the consequences of the dismissals (LRD 2013: 16-17). These provisions have often served as a means for trade unions to negotiate over contractual redundancy pay or short-time work. But trade unions such as the public-sector union UNISON advise their representatives to ‘develop a strong negotiating position and agree on an enhanced redundancy pay policy with your employer … before redundancies are announced’ (UNISON 2014: 23).

As is the case with workplace pension schemes, OW for the risk of unemployment, in particular contractual redundancy payments and short-time working arrangements, is overwhelmingly created at company level. The main exception to this decentralised nature of British OW and industrial relations can be found in the public sector (HM Treasury 2014b). Indeed, civil servants have access to a Civil Service Compensation Scheme (CSCS), which sets out UK-wide rules on the level of enhanced redundancy payments in different Government departments (Cabinet Office 2010). Similar UK-wide arrangements exist for the armed forces and the police. But it should be noted that many civil servants, as well as all members of the armed forces and the police, are considered as ‘crown servants’ who serve ‘at the pleasure of the Crown’, and do not therefore benefit from many of the statutory protections – including statutory redundancy pay – normally available to private-sector employees.

Most other public-sector employees have a different status and can combine statutory and contractual redundancy pay. This is for example the case with NHS employees who are covered by sector-wide enhanced redundancy payment schemes with terms collectively agreed with trade unions at the NHS Staff Council. But different terms can be negotiated for the different nations – cf. England, Northern Ireland, Scotland and Wales – of the UK and in private GP practices or other private-sector providers of NHS services. The situation is again different for local authority employees (including teachers in schools maintained by local authorities): councils determine their own redundancy arrangements within a framework set by regulation, which was last modified in 2006. Firefighters can also have access to enhanced redundancy pay through local arrangements although they are not part of the abovementioned regulatory framework for local authorities.

The financing of unemployment-related OW, in particular of redundancy pay, is generally directly borne by employers. The benefits are financed as redundancies occur. Effectively, this is a form of pay-as-you-go financing. But employers are allowed to make tax-deductible ‘provisions’ – i.e. liabilities that are of uncertain timing or
amount – in their balance sheets for redundancy payments if, at the reporting date, an obligating event has taken place (HM Revenue and Customs 2015b). Employer financing would also apply to any benefits created by employers to compensate workers for lost earnings due to short-time work. However, during the Great Recession of the late 2000s, many Welsh firms received wage subsidies for workers on short-time work as part of the ProAct programme run by the Welsh Assembly Government (WAG) in 2009-2010.

Since the introduction of the Finance Act 1960 and of the Redundancy Payments Act 1965, contractual redundancy payments and statutory redundancy payments are exempt from income tax and national insurance contributions up to a ceiling set at £30,000 (£34,596.82) in 1988 and left unchanged ever since. While no systematic estimates of these exemptions are published, HM Revenue & Customs estimated that, in 2012-13, the total cost of this £30,000 (£34,596.82) tax exemption was £800 million (£922.58 million). However, no estimate of the cost of the exemption from national insurance contributions exists (OTS 2013).

3.3 Access and benefits

No surveys with representative samples have been carried out in recent decades on unemployment-related OW. It is thus not possible to provide a systematic account of variation of coverage and benefits by different sectors, firm size, gender, age, etc. However, surveys carried out by a few trade bodies can provide us with a rough idea of the types of contractual redundancy payment arrangements – not short-time working arrangements – that are offered in the economy (for more qualitative examples of contractual redundancy pay and short-time working arrangements in the public, automotive and retail sectors, see Naczyk 2016: 47-50).

In 2008, a survey carried out by the Chartered Institute of Personnel and Development (CIPD) among its members, i.e. an unrepresentative sample, found that 50% of the organisations surveyed offered redundancy payments above the statutory minimum (KPMG/CIPD 2008: 17-18), but 49% of the organisations surveyed preferred not to give a response when asked to report the exact amount of their average contractual redundancy payments. 25% of organisations stated that their average contractual redundancy payment was under £5,000 (£5,766), although this was less common among public-sector organisations than those in the private or voluntary/not-for-profit sectors. The survey showed a general trend of higher payments in the public sector (with an average of £17,926 (£20,672.75)) compared with the private sector (average of £8,981 (£10,357.13)) and the voluntary sector (average of £7,629 (£8,798)).

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6. In total, 12,000 questionnaires were sent out to a range of CIPD members, and 721 (406 paper and 315 online) usable returns were obtained – a response rate of 16%. Respondents answered a series of questions on employment issues relating in the main to September 2008.
In 2009, a survey carried out by the Confederation of British Industry (CBI) among its members, i.e. probably a somewhat more representative sample than the CIPD’s⁷, found that the average cost of (statutory and contractual) redundancy payments per employee was about £12,100 (€13,954). But average amounts varied by sector, region and size of employer. The highest average redundancy payments were found in banking, finance and insurance (£21,300 (€24,563.74)), in professional services, energy and water and retail (all £12,500 (€14,415.34)). Higher redundancy payment averages were also found in organisations with more than 5,000 staff (£23,700 (€27,331.5)) and in multinational companies (£21,200 (€24,448.42)). The lowest average redundancy payments were found in the construction (£5,700 (€6,573.4)) and other services (£3,900 (€4,497.58)) sectors, and in the smallest organisations (£5,200 (€5,996.78)) (CBI/Harvey Nash 2009: 9). The survey also found that nine in ten employers had maintained the value of their redundancy packages, despite the economic downturn. ‘Of those who had made changes, 6% had reduced the average value and 2% respectively had either increased the value of the package or restructured it’ (CBI/Harvey Nash 2009: 9).

3.4 Recent debates

In the years following the global financial crisis of 2008, social unemployment protection through schemes such as redundancy pay and short-time working arrangements was high on the political agenda on account of pressure from both trade unions and employers’ associations. When the crisis broke out, trade unions campaigned not only for an increase in the level of the statutory unemployment benefit⁸, but also for major changes in the regulations governing contractual redundancy payments. Thus, in 2008 and 2009, the Trades Union Congress (TUC) called on Gordon Brown’s Labour government to introduce three major changes (e.g. Barber 2008; Financial Times 2009):

— Allowing workers to qualify for statutory redundancy payments after only one year – instead of two years – of service with an employer;
— Increasing the weekly limit on statutory redundancy pay from £330 (€380.56) to £500 (€576.6) because more than half of the working population earned more than the existing limit; this had lagged well behind the growth in average earnings since its introduction in 1965 (with the maximum payment cap being 203% of average weekly earnings in 1965 compared with 56% by 2008).

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7. The survey, conducted in April and May 2009, covered a cross-section of employers ‘in all industry sectors, all regions, and all sizes of organization’ with an overrepresentation of large businesses and underrepresentation of public sector employers (CBI/Harvey Nash 2009: 7).

8. Unions demanded an increase in the level of the Jobseeker’s Allowance (JSA) from £60.50 (€69.77) to £75 (€86.5) to compensate for the JSA not keeping up with changes in average earnings over the previous decade (Daily Telegraph 2008).
The measures were opposed by employers’ associations such as the CBI and the Engineering Employers’ Federation (EEF) on the grounds that they would impose significant additional costs on employers and put more jobs at risk at a critical time (Financial Times 2009). Neither the Brown government (2007-2010), nor David Cameron’s conservative-liberal coalition government decided to change the minimum qualifying period for statutory redundancy pay or to increase the £30,000 (€34,596.82) ceiling. However, since 2008, the weekly limit has been gradually increased to reach £475 (€547.78) by 2015. The maximum amount of statutory redundancy pay is now £14,250 (€16,433.49).

While unions campaigned for improved redundancy pay, another major issue on the agenda was the introduction of short-time working schemes. When the economic crisis started being felt in 2008, many UK manufacturers, particularly automotive companies, started putting their workers on short-time working (with reduced wages), allowing them to retain their skilled staff. From early 2009, the TUC, but also some segments of business, started pressing the government to introduce wage subsidies in order to encourage more employers and employees to accept short-time working as an alternative to cutting jobs (TUC 2009a). In April 2009, the TUC, the EEF, the British Chambers of Commerce, the Federation of Small Businesses and The Work Foundation joined forces to call on the Government to introduce a temporary short-time working scheme across the UK in the 2010 Budget (TUC 2009b). But the UK’s largest employer federation, the CBI, opposed the idea on the grounds that evidence showed that the effect of such schemes was ‘to delay – rather than avert – redundancies’ (CBI 2009: 18).

Instead, the CBI put forward an ‘Alternative to Redundancy’ scheme whereby, instead of being made redundant or receiving wage subsidies, workers could stay at home for up to six months and receive about £130 (€150) a week, paid equally by the state and the employer (The Times 2009). Trade unions strongly opposed the proposal. The TUC’s general secretary, Brendan Barber, argued that ‘it is also better to keep people in work and training with their employer, even if on short-term working, rather than sitting at home, which is why unions and other employer groups are campaigning for the kind of wage subsidies that are now common in the rest of Europe’ (The Times 2009). As the standoff between the TUC, different business groups and the CBI continued, the Brown and Cameron governments made no changes in that area, leaving the UK as one of the few European countries not to introduce state compensation at the national level for short-time working during the Great Recession (Cahuc and Carcillo 2011).

However, one exception to this lack of UK state support for short-time working came from Wales. Between January 2009 and June 2010, the Welsh Government ran a scheme – called ProAct – that enabled companies which had taken the decision to make workers redundant to apply for a grant of £4,000 (€4,613) per employee in order to put
them on short-time working and let them receive training during the days of stand-
down. For each employee, companies received a wage subsidy of £2,000 (€2,306.45)
and £2,000 to pay for staff training. To qualify for ProAct support, companies had to
show that they were financially viable before the economic downturn, and to introduce
short-time working (with a reduction of at least one day a week) for approximately
40 days over a 12-month period (Eurofound 2010: 8). Implementation started in
January 2009 with a £1 million pilot in the automotive sector. But, the same month, the
Welsh Assembly Government pledged a further £47 million (€54.2017 million) of
funding to other – mainly manufacturing – industries with implementation starting in
April 2009. £30 million (€34,596.82 million) of the £48 million (€55,354.9 million) were
to be funded by the European Social Fund (South Wales Argus 2009). By the time the
scheme ended in June 2010, 250 companies and 10,635 workers had received support
with a total funding of £27,168,394 (€31,331,339.52) (O'Toole 2011: 11).

Conclusion

In the liberal UK welfare system, policymakers’ long-time assumption was that
employees should complement relatively meagre state benefits with their own savings
or through occupational provision. With a relatively generous fiscal framework,
occupational pension schemes expanded quite significantly during the post-war period
and covered more than half of the UK workforce in the 1960s and 1970s. Occupational
provision for the risk of unemployment – mainly through contractual redundancy
payments – also benefited from tax incentives, but never became as widespread as
occupational pensions. Paradoxically, when the state started cutting public pensions
and unemployment benefits in the 1980s, occupational provision did not expand, but
instead contracted. This was due to the Thatcher government’s direct attack on
employer-provided final salary schemes with the creation of defined-contribution
‘personal pensions’. The Thatcher government, and its successors also indirectly
limited the role of contractual redundancy payments by making their tax framework
less generous. Throughout the 1990s and early 2000s, state and occupational
provision in the two fields were marked by a parallel decline.

Since the late 2000s, policymakers have agreed to set a new course for pensions
policy, making the basic state pension more generous and making coverage of
workplace pension schemes automatic and quasi-compulsory for all workers. No such
change has been agreed in the field of unemployment protection. The value of state
unemployment benefits remains very low. The £30,000 (€34,596.82) tax exemption
on statutory and contractual redundancy payments has remained untouched since the
late 1980s. Following the global financial crisis, no nationwide subsidies were
introduced for short-time working arrangements despite widespread use of such
schemes in other European countries. Only the value of statutory redundancy
payments has been increased since 2008.

Today, the challenges facing OW – but also more generally state provision – in the
areas of unemployment compensation and old-age pensions are very different. It is
difficult to see how occupational unemployment-related benefits can expand at all without a major change in the perception of the unemployed in UK political discourse. Conservative politicians and the media refer to claimants of unemployment benefits as ‘skivers’ or ‘scroungers’ as opposed to hard-working ‘strivers’ (e.g. Financial Times 2012; Toynbee 2012). This negative perception of the unemployed is largely due to the nature of statutory unemployment benefits: regardless of their contributory (cf. JSA) or means-tested (cf. Universal Credit) character, such benefits are flat-rate and considered as a safety net protecting individuals against poverty instead of a form of social insurance that helps workers to find jobs matching their skills. Despite the political costs, policymakers should try to improve the legitimacy of – statutory and occupational – unemployment compensation by promoting the creation of earnings-related state benefits.

Addressing the situation of the elderly has been typically seen as a much more legitimate task for politicians. The generosity of state benefits has been improved in recent years while auto-enrolment in workplace schemes will significantly increase their coverage. The key task ahead is to improve the quality of workplace schemes, firstly, by legislating a higher minimum contribution rate (e.g. 12% instead of 8% of gross wage) required as part of auto-enrolment and, secondly, by reducing the fees charged by private pension providers. While the creation of lost-cost public pension provider NEST (National Employment Savings Trust) with the Pensions Act 2008 can incentivise other providers to lower their fees, a consensus has emerged among policymakers that workplace pension schemes should be amalgamated to create economies of scale (Pitt-Watson 2010; NAPF 2012; Pitt-Watson and Mann 2012; Johnson 2013; Tarrant and McClymont 2013). Yet, this consensus – combined with the idea of creating ‘collective defined-contribution’ schemes that could lead to greater risk-sharing between the insured – has not translated into any significant changes so far. Empowering the Pensions Regulator to merge single-employer schemes into multi-employer schemes could perhaps trigger some much-needed change?

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