



In Touch technical update

February 2020

Regulator responds on future of trusteeship and governance

- 15 hours of ongoing learning per year recommended for lay trustees (25 hours for professional trustees)
- No requirement to have a professional trustee on every board, for now
- The Regulator will remind employers of their legal duties to give trustees sufficient time off to perform the role and carry out relevant training
- An industry group will be set up to look at improving diversity and inclusion in trustee boards

As part of its continued work around 21st century trusteeship, in July 2019 the Pensions Regulator launched a consultation into the future of trusteeship and governance. Its response has now been published.

The consultation and its response cover three main areas:

TKU skills and ongoing learning and development

The current trustee knowledge and understanding (TKU) concept has been in place for 15-years and the Regulator feels that it is appropriate to review this now. As part of this update it intends to differentiate the requirements in various ways, such as by trustee role type (i.e. chair, professional etc.), by scheme type (i.e. defined benefits, defined contribution etc.) and by public and private sector. This review will take place over 2020 to 2021.

The Regulator has decided not to require lay trustees to obtain relevant qualifications or carry out continuous professional development to demonstrate how their TKU is acquired and maintained. Instead it intends to allow a range of options to demonstrate TKU, recognising that this should reduce barriers for many trustees.

The Regulator suggests 15 hours a year as an indicative baseline for ongoing learning for lay trustees. Professional trustees will be expected to follow the industry-based standards on ongoing learning which are currently set at 25 hours a year.

The Regulator notes the importance of trustees being given sufficient time off to perform their duties. It intends to remind employers of their duties under law such as giving employee trustees the right to paid time off (for both trustee duties as well as undergoing relevant training) and will address other issues such as trustee recruitment.

Governance structures for effective decision-making

In the area of effective decision-making, the Regulator focuses on diversity and inclusion on trustee boards, the proposal for there to be a professional trustee on every trustee board, and the practice of sole trustees.

The Regulator believes that diverse groups make better decisions than non-diverse groups and refers to research that supports this claim. However, it is not going to require schemes to report on the steps they are taking to increase diversity on their boards in the short term. Instead it intends to raise the profile of diversity and inclusion. It will set up, and initially chair, an industry working group to deliver:

- A clear definition of what is meant by diversity and inclusion.
- Good and best practice guidance on board composition and how boards can make the most of the pool of potential trustees they have available to them.
- Practical tools and case studies to promote the recruitment of diverse trustees.
- Inclusive material that can help to promote the benefits of becoming a trustee.
- Engagement with employers to recognise the benefits of the trustee role in personal development of employees.

The Regulator expects that this working group will make available guidance and supporting material to encourage inclusion and diversity.

Whilst the Regulator was keen to require all pension schemes to appoint a professional trustee, it recognises that this is not currently feasible given capacity issues. However, it may revisit this view. It hopes that the Association of Professional Pension Trustee (APPT) standards for professional trustees will bring greater consistency in the quality of professional trustees which in turn will improve confidence in professional trustees.

In the practice of sole trusteeship, the Regulator has concerns about how effective some of the models are at dealing with conflicts of interest and ensuring saver engagement. It intends to commission research on the scale and reach of sole trusteeship to gain a better understanding of the landscape.

In addition, it welcomes the APPT development of an industry code for sole trusteeship. It does not currently propose to change how it regulates schemes that use a sole trusteeship model, but may do so in future, so it will continue to keenly scrutinise such schemes.

DC scheme consolidation and wind up

The Regulator's consultation focussed on the merits of DC consolidation for smaller, less well governed schemes, and the barriers to winding-up faced by DC schemes with guarantees. It felt re-assignment of policies, with guarantees remaining with the existing insurer to be the most affordable option. However, it has concerns over the loss of trustee oversight where wind up involves the re-assignment of policies to individual savers. Instead, its preference is that policies are re-assigned to another trustee as this would be more likely to deliver value for members and drive better member outcomes. The Regulator intends to investigate this route further with the DWP and the insurer market.

The Regulator does not propose to provide wind up guidance for schemes with guarantees in the

immediate future; the expectation is that the DWP will provide statutory guidance following its response to the consultation on *Investment innovation and future consolidation*, and that this will consider how trustees decide whether their scheme is offering value for members and how trustees may go about valuing guarantees.

A number of respondents noted concerns about 'onerous' ongoing governance requirements during the wind-up process and penalties being imposed on schemes that fail to produce certain governance items. The Regulator says that it always aims to take a pragmatic approach when considering enforcement action but where legislation requires a mandatory penalty that would need to be applied.

Next steps

The Regulator has set out its next steps – it intends to:

- Review and update TKU expectations in the code and related guidance.
- Review the Trustee toolkit and identify areas of improvement, subject to budget and resource constraints.
- Consult on changes to TKU code content and provide an update to the Toolkit over the early part of 2021.
- Establish and lead an industry working group to develop guidance and practical tools, amongst other things, to support schemes in taking steps to improve diversity and inclusion on boards.
- Support the APPT in the development of an industry code for sole trusteeship.
- Commission further research to identify drivers for seeking, and the risks of, a sole trustee on schemes.
- Continue to monitor DC consolidation activity and work with both industry and the DWP to find solutions to overcome barriers to consolidation.

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