

21st Century trusteeship and governance

Alert | 26 July 2016



Introduction

As part of its work to examine how trustee boards can meet the challenge of scheme governance in the 21st century, on 22 July 2016, TPR published a [discussion paper](#) setting out what it is doing to educate and support trustees of both DC and DB schemes. Drawing on the findings of its research in a number of key areas, TPR is also looking at what more it and the wider pensions industry can do to raise standards of trusteeship.

Key points

- TPR asks a number of questions through which it seeks to inform its work. Among other things, they cover the role of the chair of trustees, awareness and understanding of the TKU framework, and whether professional trustees should be required to be qualified or registered by a professional body.
- In a bid to streamline the amount of material it produces, TPR aims to produce key pieces of overarching guidance on principles or issues common to all schemes, plus separate guidance on issues which are specific to particular types of schemes.
- TPR's primary focus remains on educating and supporting trustees. But it will continue to take enforcement action where appropriate.
- Written responses to the discussion paper are requested by 9 September 2016.

Improving standards of governance

As TPR explains, “effective trusteeship and governance are key underpinning factors in achieving good member outcomes”, making it “essential that those who are responsible for running pension schemes and are entrusted with members’ savings are the right people with the appropriate knowledge and skills, and have the right scheme management processes in place”.

TPR acknowledges that there is not one single solution to delivering good pension scheme governance and it is not looking to impose new standards or to add to the burden on trustees. Rather, in line with its statutory objective to promote and improve understanding of the good administration of work-based pension schemes, it plans to focus over the next year on better supporting trustees through a more targeted communication and education strategy.

Diversity and balance

TPR recognises that to be effective, trustee boards need a diverse mix of trustees who bring a balance of skills and experiences, professional backgrounds and interests. It considers that all trustees, whether lay or professional, have something valuable to offer.

However, the increased focus in recent years on pension scheme governance, and growing complexity in all areas for those running pension schemes, has led to a rise in the number of professional trustees on pension scheme boards. As there are currently no barriers to entry into the market or independent body regulating standards, TPR is considering whether greater scrutiny and safeguards are required.

Acknowledging initiatives such as those from the APPT and the PMI (who are looking to introduce a new “Diploma in Pension Trusteeship”), TPR queries whether all professional trustees should be qualified or registered by a professional body.

The role of the chair

Standards of governance in workplace DC schemes have improved recently as a result of increased legislative and regulatory scrutiny. Changes include a more formal role for DC scheme chairs. Among other things, the trustee chair:

- provides support to the other trustees on its board so they have appropriate knowledge and skills to enable them to fulfil their role
- coordinates and leads the work of trustees to ensure that effective processes are in place to deal with conflicts of interest, administration, record-keeping and investment.

In this context, TPR asks whether DB schemes could benefit from a similar regime. It also asks whether standards of trustee chairmanship need to be developed generally, for example through minimum qualifications or experience, or a requirement that trustee chairs should belong to a professional body.

Meeting the TKU standard

Research carried out by TPR indicates that almost one in five schemes were either not familiar with the [TKU code](#) or did not know whether their non-professional trustees have the level of TKU to meet the standards set out in the code. TPR is therefore looking to do more to explain what it expects of trustees and how they can meet the standard in practice.

Options it is considering include:

- making it mandatory for trustees to pass all relevant modules of the [“Trustee toolkit”](#) within six months of appointment
- a six-month probationary period for new trustees, with appointments being formalised once sufficient TKU has been demonstrated.

Although TPR does not expect all trustees to be professionals, it does expect all trustees to behave professionally. Feedback from some trustees and stakeholders suggests that all trustees, not just professionals and chairs, should be able to demonstrate a minimum level of competence. The discussion paper therefore asks how trustees can best demonstrate that they have the level of competence needed to fulfil their role, including whether relevant qualifications would be appropriate.

Recognising that the pace of change is one of the key challenges faced by trustees in maintaining levels of

TKU, TPR also asks whether a more formal approach to training and development, such as a Continuous Professional Development (CPD) framework, could help ensure that training forms a core part of schemes' governance plans.

Conflicts of interest

Citing research findings, such as the fact that one in ten newly appointed MNTs had been co-opted or volunteered by management and that over half of trustee chairs are selected by the employer, TPR believes that conflicts continue to be a challenging area for both lay and professional trustees. It therefore intends to take a fresh look at the best way to prevent adverse impacts from conflicts. Suggestions include the use of robust processes for managing or preventing conflicts, or improving the framework within which schemes operate.

Board engagement

TPR recognises that there is a wide range in both the frequency and degree of formality of board interactions and the amount of time spent on various areas of governance. The key is that time spent on trustee duties should be proportionate to the complexity and risk profile of the scheme.

TPR also recognises that it is reasonable to expect trustees' primary focus to be on strategic issues, whilst the detailed operational day-to-day management is left to third parties. However, it has found that some boards, generally those of smaller and medium-sized schemes, are less closely involved with their scheme's administration and record-keeping processes and also investment governance.

In order to help trustees get the most out of their relationships with third party providers and advisers, TPR is looking at a number of options, such as revising its online tool to help DC trustees assess themselves against the standards of conduct and practice set out in the new [DC code](#) (due in force on 28 July 2016 alongside the new ["how to" guides](#)). TPR also points to its existing [integrated risk management guidance](#) for DB trustees, which is designed to give practical help on what a proportionate and integrated approach to risk management might look like.

Next steps

In tandem with its renewed focus on education and training, TPR also plans to consider what else can be done to help trustees meet the expected standards of trusteeship and governance. Among other things, TPR plans to introduce:

- further educational material to help trustees identify training needs
- guidance on setting an investment strategy, to help trustees understand and manage investment risk and engage critically with investment providers
- tools to assist chairs and trustees get the most out of their advisers, including checklists and questions.

It also notes that changes to the legislative framework and the consolidation of sub-standard schemes could be on the cards.

Sacker & Partners LLP
20 Gresham Street
London EC2V 7JE
T +44 (0)20 7329 6699
E enquiries@sackers.com
www.sackers.com

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should speak to your usual Sackers contact. © Sacker & Partners LLP July 2016