

Living for the future:

TPR's consultation response on the future of trusteeship and governance

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In early February 2020, The Pensions Regulator (TPR) published its highly anticipated response to its consultation on the future of trusteeship and governance - in doing so it brought some much-needed cheer in the immediate aftermath of Storm Ciara.

TPR's goal is simple: to ensure the general population has access to "well-run schemes, with the right governance structures in place to support effective decision-making".

The consultation launched last summer, setting out TPR's aspirations to:

- further reform standards of trusteeship and governance
- ensure these standards continue to be appropriate for addressing current risks, and
- protect savers' interests moving forward.

The call

By way of reminder, TPR's search for evidence and proposals fell into three key areas:

Trustee knowledge and understanding (TKU): TPR wanted to explore ways of ensuring that those managing schemes have the knowledge, the understanding and the appropriate skills to do what they need to do. Thought was also given to how, once met, standards could be kept up-to-date.

Scheme governance structures for effective decision-

making: TPR wanted to shine a spotlight on how trustee boards could become more diverse, inclusive and able to demonstrate that they have the right mix of skills, knowledge and understanding for running the scheme. TPR also floated the idea of requiring an accredited professional trustee on every board.

Driving Defined Contribution (DC) scheme consolidation:

TPR suggested that, where schemes can't meet required standards of trusteeship and governance, they must either improve, face enforcement action, or be actively encouraged to wind up. As such, it invited ideas on how to remove barriers to DC consolidation and ensure more savers have access to well run schemes.

Key findings

The consultation excited interest, drawing over 100 written responses. TPR's key conclusions can be distilled as follows:

- *The TKU Code of practice and Trustee toolkit will be reviewed and updated.*

The nature of what trustees need to know and understand has changed since TKU was introduced 15 years ago. Updating both its Code and toolkit will ensure they "remain appropriate for safeguarding the interests of savers", and in turn should drive up standards of trusteeship.

TPR has also promised to simplify how it sets out its expectations, differentiating by the type of trustee as well as by the type of scheme (DB, DC and public service).

Once the updates are in place, TPR plans to run a 'regulatory initiative' to test TKU levels, and consider appropriate action where these levels fall below its expectations.



- *An industry working group will be established to find ways of supporting schemes to make trustee diversity improvements.* TPR will lead this group and produce additional guidance to 'push the industry in the right direction'. Whilst the response itself does not define the term, a later TPR blogpost launching the working group looked a little further at the diversity and inclusivity issues it will explore.

Right now, there won't be a requirement for schemes to report on the steps they are taking to increase diversity, but this may yet be brought in if evidence suggests a firmer approach is needed.

- *Governance standards for sole trustees will remain unchanged, but TPR supports the development of an industry code for professional trusteeship.*
 - TPR will **not** – for the time being at least - require every pension scheme board to engage a professional trustee. Instead, TPR stated in its response, that it supports the Association of Professional Pension Trustees' (APPT's) standards, and the upcoming industry accreditation framework for professional trustees. It has also expressed support for the Pensions Management Institute's (PMI's) subsequent launch of its own alternative accreditation framework. It is hoped that these will bring greater consistency in quality and, in turn, increased confidence that accredited trustees meet TPR's expectations. However, TPR may revisit the mandatory professional trustee idea once the impact of industry standards on scheme governance and trusteeship has been assessed.
 - TPR will continue to 'keenly scrutinise' schemes using sole trustees, but will not take any action for now. However, TPR is keen for the industry to develop a code for sole

trusteeship, and so, again, changes further down the line are possible.

- The evidence had also suggested trustees often find it difficult to devote the necessary time to their duties. TPR aims to combat this by reminding employers of their duty to provide employees with paid time off for performing trustee duties, including training.
- *DC consolidation activity will be monitored and TPR will work with both industry and the DWP to find solutions to overcome barriers to consolidation.*

TPR was keen to stress that it isn't going as far as suggesting a 'blanket approach' to consolidation. If you're a well run scheme offering value for members, then you can keep on keeping on: TPR won't push such trustees to consider consolidation.

Furthermore, with statutory guidance from the DWP expected in the not-too-distant future to support regulations aimed at encouraging further consolidation, TPR has kept its powder dry for the time being.

Next steps

TPR's new single web-based code (which is now expected to be published for consultation during the 'first half' of this year) will form the foundation for its TKU project. It hopes to consult specifically on revisions to TKU in the early part of 2021.

Watch this space.