

Raising the standards in trusteeship

With a general election on the horizon, and our membership of the European Union a leading topic for debate, it is worth noting that many of the UK pensions legislative developments which have been introduced this century stem from the European Commission.

For example, the Commission's Occupational Retirement Provision (IORP) requirements were introduced via the Pensions Act 2004, and included the need for trustees to have sufficient Trustee Knowledge and Understanding (TKU). Ever since, Trustees have given the Pensions Regulator's Trustee Toolkit a place on their internet favourites toolbar.

The Commission will be sparking further change again with the introduction of IORP II. Likely to be finalised by mid-2015, the terms of IORP II need to be implemented by Member States by 31 December 2016.

IORP II develops the scheme governance and disclosure aspects of the original directive with considerably more detail. The directive has had a number of drafts so far, and has seen a number of aspects softened or, in the case of most of the funding requirements, removed altogether.

In the UK, at the time most of these revisions took place, the industry was focused on the flexibility developments for defined contribution pension schemes. However, it would be a mistake to underestimate the impact that the remaining articles of IORP II will have on UK pension legislation in years to come. IORP II will introduce a number of new disclosure requirements, including a standard format for Pension Benefit Statements across all member states.

The UK Government is already setting the scene for the new governance requirements via the DWP's Command Paper 'Better Workplace Pensions – Putting Savers' Interests First' published in October 2014. The Chairman's Statement which will be required for defined contribution schemes will set the governance minimum at a higher level than ever.

Now there is obviously much to commend in the European Union, including efforts to raise the quality standards of work-based pension schemes across the continent; and who could argue against the overall intention of enhancing standards for the ultimate benefit of scheme members?

However, care has to be taken that certain aspects of EU directives do not have unintended

consequences. Lay trustees are a peculiarity of the UK, where much of our work-based pension provision is still managed under trusts. In an increasingly litigious society, it is already becoming more and more difficult to fill trustee boards, and in particular to find willing Member Nominated Trustees (MNTs). In the quest to further enhance standards, are we in danger of driving away the knowledge and experience which lay trustees bring to the table, and of losing the valuable contribution which they can provide in the management of occupational pension schemes?

Initially (in March 2014) IORP II included a requirement that all trustees would need to have sufficient professional qualifications, knowledge or experience to undertake their role. However, on the fourth draft of the directive the 'each and every' aspect has been diluted to, what I would argue, is a more sensible requirement for a board of trustees to collectively demonstrate these attributes.

Lay trustees are essential to many trustee boards, as they often provide insights which the professional trustee may not have. They may, for example, know specific family circumstances of deceased members, which can be of real value at a time when sensitive information is not easily sourced. Lay trustees, and in particular MNTs, can be invaluable as on-the-ground points of contact for Member queries, ensuring that members feel engaged and represented. The lay trustee will also come to the table with a valuable understanding of the thinking and decision-making processes of the company behind the pension scheme.

It is therefore vital that the benefits of the lay trustee are not lost in amongst the current efforts to professionalise trustee boards, and raise overall standards. ■



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