

The Pensions Regulator

Future of Trusteeship and Governance

Response from The Pensions Management Institute

Website version



Pensions
Management
Institute

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Response from the Pensions Management Institute to TPR's Consultation 'Future of Trusteeship and Governance'

Introduction

PMI is the professional body which supports and develops those who work in the pensions industry. PMI offers a range of qualifications designed to meet the requirements of those who manage workplace pension schemes or who provide professional services to them. Our members (currently some 6,000) include pensions managers, lawyers, actuaries, consultants, administrators and others. Their experience is therefore wide ranging and has contributed to the thinking expressed in this response. Due to the wide range of professional disciplines represented, our members represent a cross-section of the pensions industry as a whole.

PMI is focused on supporting its members to enable them to perform their jobs to the highest professional standards, and thereby benefit members of retirement benefit arrangements for which they are responsible.

In preparing our response for this consultation, we surveyed our members. The survey asked a number of questions: some related to the consultation directly, whilst others addressed themes related to the consultation's principal themes. We received over 150 responses, Our survey will be used for the development of a report which we plan to publish in the near future.

Part 1: Trustee knowledge and understanding, skills, ongoing learning and development.

Question 1: Do you agree that the expectations set out in the 21st century trusteeship campaign (see Annex 1 of the consultation) is a good starting point for defining a minimum standard for trustee knowledge in the code? Is there anything else that should be added that would be necessary for all trustees to know?

Yes	✓
No	

In a survey of our members, over 95% agreed that the Regulator's expectations of trustees as set out in the 21st Century Trusteeship initiative were an appropriate starting point. However, our view is that further work is required and that trustees should be required to provide formal evidence that they are appropriately prepared for their role.

Question 2: Should there be legislative change for trustees to demonstrate how they have acquired a minimum level of TKU, for example through training or qualification?

Yes	✓
No	

Over 62% of respondents believed that trustees should be required to demonstrate adequate TKU, although there was no clear consensus as to the form that this evidence should take. There was however recognition that formal education had a role to play.

Question 3: Should there be a legislative change to introduce a minimum level of ongoing learning for all trustees, for example through CPD-type training? If so, how many hours a year would be suitable?

Yes	✓
No	

Over 68% of respondents believed that trustees should be required to demonstrate ongoing learning. Our view is that the best trustee boards prepare an annual training plan and that this should be encouraged for all trustees. Some years ago, PMI introduced a voluntary CPD scheme for members of its Trustee Group. Boards that use this consistently demonstrate high standards of governance, and we strongly believe that such a scheme would be beneficial to all trustee boards.

Question 4: Do you agree that we should set higher expectations on levels of TKU held by professional trustees in the code, recognising that they typically act across multiple schemes of various types, size and complexity?

Yes	✓
No	

Nearly 90% of respondents agreed with this expectation. This emphatically endorses the work of the Professional Trustee Standards Working Group (PTSWG) and the standards developed by PTSWG. The accreditation requirements for professional trustees require applicants to demonstrate high standards of professional probity and technical knowledge.

Respondents also cited criteria such as a minimum number of years' experience within the pensions industry as well as an expectation that professional trustees will have completed the Trustee Toolkit and/or the Award in Pension Trusteeship.

Question 5: Should we focus more on establishing and setting standards and ensuring all trustees are aware of them, while relying more on industry to have the main role in educating trustees in ways more tailored to their individual needs?

Yes	✓
No	

85% of respondents agreed with this. Our members believe strongly that the Regulator should focus of setting standards and that the pensions industry should take responsibility for creating initiatives which will allow trustees to achieve those standards.

Question 6: We would also welcome any thoughts or ideas that you might have more generally about how we can have greater confidence that trustees have the necessary basic knowledge and understanding to carry out their role.

We believe that the Regulator could play a more proactive role in encouraging trustees to pursue formal education and to demonstrate evidence of ongoing trustee training. This is as applicable to lay trustees as it is to their professional counterparts.

Part 2: Scheme governance structures for effective decision-making

Question 7: Should there be a requirement for UK pension schemes to report to the regulator on what actions they are taking to ensure diversity on their boards? Should such a requirement be limited to schemes above a certain size? How should such a report be made to us?

Yes	
No	✓

62% of respondents disagreed with this proposal. Many were concerned that whilst achieving diversity on a trustee board was a desirable objective, there were many barriers which might make achieving true diversity difficult. Comments from members included the following:

Action may be demonstrated as being taken, but given the known lack of MNT interest, achieving diversity is aspirational in some legacy DB schemes. However, this doesn't diminish the need to try and achieve it, particularly in open DB and DC schemes. Reporting may not do anything to assist.

While TPR is required to promote diversity as a public body, most trustee boards are not. Not all trustee boards have the same degree of control over the recruitment, selection, and appointment of trustees and their role may be limited to influencing their employers and members. Further, as the Regulator acknowledges in the consultation document, it is also appropriate for trustee boards to reflect the membership they represent. We support the goal of more diverse trustee boards, and fully endorse the research showing the impact on improved decision-making, however the Regulator should tread carefully before mandating any requirements in this area. We agree with the Regulator's definition of diversity as including skills and experience, as well as other demographic and social characteristics.

Question 8: Should industry play a role in creating tools, guidance and case studies that can help pension schemes attract a more diverse pipeline of lay trustees? How would that work and who should take a lead in making it happen?

Yes	✓
No	

The Pensions industry has historically devised numerous innovative initiatives to improve governance standards and we believe that it is well placed to help boards achieve diversity in their composition.

Question 9: Should it be mandatory, in due course, for each pension scheme board to engage a professional trustee? If not what reasons (other than current capacity) would make such a move undesirable?

Yes	
No	✓

Overall, 59% of our members did not favour this proposal. 54% of respondents who were professional trustees opposed the suggestion, as did 59% of all other respondents.

There were two principal concerns behind this opposition. Firstly, respondents believed that the imminent introduction of such a requirement would create a ‘capacity crunch’ as the professional trustee sector is currently too small to meet the demand that this requirement would create. Secondly, there was a view that this requirement would encourage a large number of unsuitable entrants to the profession, with the result that overall standards of governance would be compromised.

Others were concerned that smaller schemes – where the need to improve governance standards is most pressing – would find it difficult to afford the services of a professional trustee. We recognise that the Regulator might see this as a driver to increased consolidation within the small scheme sector, but this would represent a longer-term solution.

Question 10: Do you share our concerns in this area? Do you have any real case examples where you see these conflicts are not managed effectively in the case of sole corporate trustees?

Yes	
No	✓

Schedule Three of the standards for professional trustees published by the Professional Trustee Standards Working Group (PTSWG) specifically addresses expectations of those providing sole trusteeship services. We believe that adherence to these standards would ensure that the Regulator's concerns are robustly addressed. Firstly, sole traders should not provide sole trusteeship at all. Firms providing such services should be compliant with AAF02/07. At least two trustee directors should be involved in formal trustee decisions.

We are aware that the Regulator has other concerns about the sole trusteeship model. We do not believe that the issue of a trustee board being under the effective control of the scheme sponsor is unique to sole trusteeship. Neither is the issue of a board dominated by a specific individual.

Our view is that, in many cases, sole trusteeship provides a governance model that provides high standards at a cost effective price. There are many legitimate reasons why it might be the most appropriate model. For example, officers of the scheme sponsor might not have the time or the expertise to serve as trustees themselves. No current employees of the sponsor might be scheme model.

We are satisfied that compliance with Schedule Three of the PTSWG is a suitable safeguard for ensuring that sole trusteeship is an effective governance option.

Question 11: Should the governance standards for sole trustees be strengthened, for example by requiring two or more trustees to attend trustee meetings? Are there any circumstances where this would not be appropriate or necessary?

Yes	✓
No	

As noted in our response to Question Ten, we believe the key standard is Schedule Three of the PTSWG standards. We believe that compliance with these requirements is absolutely necessary for any firm seeking to provide sole trusteeship services. We do not believe that sole traders should provide sole trusteeship.

Question 12: How do corporate professional trustee organisations manage potential conflicts of interest in relation to procurement of services?

We are aware that there are established relationships between certain employee benefit consultancies and professional trustee firms. We do not believe professional trustee firms should offer procurement services as it is contrary to the independence they profess to bring to the table. It is vitally important that a procurement process be conducted in an open and transparent manner and that any potential conflicts of interest be identified at an early stage.

Question 13: How do sole professional trustee organisations with preferred suppliers ensure that pension schemes get value for savers? Do they run competitive tenders for services? Are regular performance reviews conducted?

As noted in our response to Question Twelve, it is vital that any tender process be conducted in an open and transparent manner. We believe that any organisation providing trusteeship or sole trusteeship should not be involved in offering procurement services and definitely not appoint a related organisation to provide other services to the same scheme.

Question 14: What are the pros and cons of the different types of corporate trustee model that currently operate in the occupational pensions landscape? Are there are certain circumstances where a particular model would not be appropriate?

Our view is that corporate structure is of secondary importance to the professional credentials of board members. An effective Chair is crucial, and a diverse board of diligent and talented trustees will provide effective governance no matter how that board is constituted.

Part 3: DC scheme consolidation and barriers to winding-up for schemes with guarantees

Question 15: Do respondents have any other solutions for winding up schemes with guarantees without detriment to savers?

Yes	
No	✓

We have no specific comment to make.

Question 16: Would it be helpful for TPR to provide guidance on the factors to be considered when winding up schemes with guarantees?

Yes	✓
No	

We believe that this would be particularly helpful.

Question 17: Are there any factors that respondents feel must be considered when winding up schemes with guarantees?

Yes	✓
No	

Trustees need to adopt a holistic view in establishing what would serve members' best interests. Whilst Guaranteed Annuity Rates (GARs) are an important benefit, they must be weighed against other considerations. For example, trustees should evaluate the long-term investment performance of the fund concerned. They must consider the quality of the provider's administration and other services. Members' projected fund values at crystallisation are significant: a small fund will always generate a small income regardless of any benefit provided by GARs.

Question 18: Do respondents have a view as to whether the costs involved in winding up a scheme with guarantees would be affordable for small and micro schemes?

Yes	✓
No	

Winding up a pension scheme is almost always a lengthy and therefore expensive process, and this can be as true of small schemes as it is of the largest. A scheme with guarantees has additional complications. Affordability is dependent on the circumstances of the scheme sponsor and has to be assessed on a case-by-case basis.

Question 19: Do respondents have a view regarding the loss of trustee oversight if benefits are assigned to individual savers?

Yes	
No	✓

It should be remembered that on wind up members have the option of transferring accrued benefits to an arrangement of their own choosing as well as the default option of assignment. The loss of trustee oversight would be regrettable, but there is nothing that can be done to prevent it if members so choose.