

Briefing

# Future of trusteeship and governance

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In its consultation document, Future of trusteeship and governance, which was launched in July 2019, The Pensions Regulator (TPR) stated that it wanted “to ensure all savers participate in well-run schemes, with the right governance structures in place to support effective decision-making”.

TPR sought the industry’s views on three areas that it considered key in meeting its aspirations for further reform of the standards of trusteeship and governance. Its aim was to ensure these standards remain appropriate for addressing current risks and protecting the interests of savers in the future.

## These key areas were:

### TRUSTEE KNOWLEDGE AND UNDERSTANDING

TPR wanted trustees and those managing schemes to have the right knowledge, understanding and skills, and to keep these up-to-date.

### SCHEME GOVERNANCE STRUCTURES FOR EFFECTIVE DECISION-MAKING

TPR wanted to look at how trustee boards can become more diverse and inclusive and be able to demonstrate the right mix of skills, knowledge and understanding. TPR also stated an aspiration for all trustee boards to have an accredited professional trustee.

### DRIVING DC SCHEME CONSOLIDATION

TPR wanted those schemes that do not meet its standards to improve or be actively encouraged to wind up.

On 10 February 2020, TPR published its response to the consultation. From this, it is clear that TPR intends for any changes to happen over a period of time. It is not calling for immediate action, but this does not mean that trustees should ignore TPR’s aims.

Trustee boards should understand the direction of travel and bear this in mind when reviewing existing procedures as part of their normal governance programme.

The main conclusions from the consultation and TPR's plan of action are:

### Trustee Knowledge and Understanding (TKU)

- TPR will review and update its Code of Practice on TKU, starting with the expectations it established in the 21st Century Trusteeship campaign. The new TKU Code will vary the requirements by scheme type and trustee role (for example board members of public service schemes, professional trustees, chairs, lay trustees). TPR hopes to consult on the proposed new TKU content in early 2021. A separate consultation is expected in early 2020 concerning the consolidation of all 15 Codes of Practice into a single web-based Code.
- TPR will monitor ongoing TKU compliance by making enquiries with a large number of schemes by operating a "regulatory initiative". Schemes will have a "reasonable period" to make the necessary changes after the new TKU requirements are in place.
- The Trustee Toolkit will be reviewed, in consultation with the industry, to determine whether any improvements are needed. This review will take place over 2020/2021.
- TPR will run a targeted employer campaign during 2020 and beyond. This will include a reminder to employers of their duty under law to provide paid time off for trustee duties (where the employee is a trustee of the employer's pension scheme).

### Qualifications and CPD

TPR is not planning to require qualifications but will continue to explore whether to set formal learning expectations for trustees. It is expected that lay trustees will be required to undergo 15 hours of appropriate learning per year. The expectation for professional trustees is to follow the industry-based standards for ongoing learning issued by the Association of Professional Pension Trustees (APPT), which is currently set at 25 hours per year.

### Scheme governance structures

- TPR currently has no plans to introduce any requirements for schemes to report on actions being taken to increase diversity in trustee boards. It will, however, be establishing an industry working group to consider this in more detail.
- As it has previously acknowledged, TPR has confirmed that there is currently insufficient capacity to require a professional trustee to sit on the board of every pension scheme. This is something TPR may revisit in the future but, in the meantime, it hopes that the APPT standards for professional trustees (and the accompanying accreditation process) will provide reassurance about quality and experience to those appointing accredited professional trustees.

- TPR has voiced some concerns on the issue of sole trustees, particularly around conflicts of interest. TPR intends to commission research to better understand this landscape. At present, TPR has no plans to change the way schemes with a sole trustee are regulated and it welcomes the APPT work on developing an industry code for sole trustees.

### DC scheme consolidation

- TPR has made it clear that there will be no "blanket approach" as far as consolidation is concerned. Well-run schemes that can demonstrate that they are offering value for members will not be pushed towards consolidation.
- TPR does not propose to offer guidance on winding-up DC schemes that offer guarantees. However, such schemes are likely to be specifically referenced in upcoming guidance from the Department for Work and Pensions (DWP) (following the consultation "Investment Innovation and Future Consolidation"), to help trustees establish whether their schemes are offering value for members and whether they should consider making improvements or consolidating.
- TPR will continue to monitor DC consolidation activity and will work with both industry and the DWP to help overcome barriers to consolidation.

## What can trustees do now?

Although there are no mandatory changes included in the response, trustees do still have an overarching duty to ensure that their schemes are well governed. "This is the way we have always done it" is unlikely to be an appropriate response if TPR ask questions in the future, and schemes should regularly review the effectiveness of the running of their scheme. It is sensible to take account of likely future changes as you assess governance. Some things trustees could consider now include:

- a review of your existing governance structure and documents
- a trustee board effectiveness review
- looking at existing TKU policies and training plans including budgets and recording of training activity
- sourcing learning and networking opportunities outside of routine trustee meetings
- completing a skills and diversity matrix ahead of your next trustee appointment.

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Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively get in touch via the following:

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