

The regulator's trustee focus

Matthew Swynnerton looks at TPR's response to its discussion paper on the modern trustee and scheme governance

In 2016, The Pensions Regulator (TPR) published its discussion paper on 21st century trusteeship and governance to stimulate a dialogue about raising standards of trustee competence and improving the governance and administration of pension schemes. In this article we report on TPR's response to the discussion paper, in particular highlighting what TPR intends to do next.

TPR states that it is not seeking to impose new standards of governance and administration but it expects trustees who are not meeting the standards to start doing so. TPR's research and case experience has shown that the quality of governance and administration is "patchy" and TPR states that it is "not prepared to stand by as a compromised, second class membership emerges". TPR is determined to drive up standards, including through more targeted education and tools (with an education campaign expected to start in the spring) and tougher enforcement against trustees who fail to meet the required standards.

Areas of focus

TPR will focus on the fundamentals of good governance and the building blocks to ensure effective management of the scheme such as: board competence; clear roles, responsibilities and accountabilities of key scheme participants; effective governance structures and decision-making processes; and effective business planning.

TPR will also focus on key areas

that it thinks are vital for good member outcomes but which trustees are finding challenging or where engagement is insufficient. This includes investment governance (in respect of which TPR will publish guidance in the first part of 2017), conflicts of interest, administration and record-keeping.

Qualifications and barriers to entry

Issues raised by the discussion paper included whether there should be barriers to entry (such as qualifications or registration) for professional trustees, whether there should be minimum qualifications for chairs of trustee boards and how trustees can demonstrate they have the minimum level of competence required to fulfil their role. The response reports that while many respondents supported some form of barriers to entry for professional trustees, few thought that mandatory qualifications would be appropriate for lay trustees or chairs. Many respondents who were in favour of greater regulation of professional trustees recognised the challenge of defining a minimum standard and many thought that formal qualifications were not necessarily appropriate.

TPR's next steps include setting out clearly the standards that it expects in practice of professional trustees and the specific qualities and skills that it expects chairs to bring to trustee boards. In the first part of 2017, TPR also intends to clarify its definition of professional trustees.

In a section of the response looking

ahead to the longer term, TPR notes that many respondents thought that mandatory qualifications are not the best way of ensuring board competence, and states that it thinks a more holistic approach is needed. In the first instance, TPR will provide greater clarity about its expectations around board competence and good governance, supported by greater targeted enforcement. It will then consider the evidence from the drive to improve standards as to whether a 'fit and proper' regime, including barriers to entry, may help.

Streamlined guidance

Noting responses about the volume and accessibility of material on its website, in 2017 TPR will start to make changes to streamline its guidance. In particular, TPR intends to consolidate some of its guidance into key overarching pieces of guidance about principles or issues common to all pension schemes.

TPR will also create further practical tools and products – such as checklists, templates, best practice examples and case studies – to help trustees apply TPR's messages to their own circumstances and take action.

Comment

Whilst TPR states that it is not seeking to impose new standards, the publication of this response document provides a useful reminder for trustees to consider their governance and administration processes and whether any improvements are needed. It will also be useful for trustees to consider their scheme in light of guidance issued as part of TPR's upcoming education campaign.



Written by Matthew Swynnerton, partner in the pensions practice, DLA Piper

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