

✦ Summary

- Trustees are adapting to regulatory changes, technical complexity, and a more sophisticated generation of investment products. Therefore trustee meetings are becoming more frequent, and the background reading more onerous.
- Independent trustees are particularly hard hit by these increasing pressures as demands on their time grow.
- The increasing pressures on trustees may see a decline of the member-nominated trustee.
- Trustee boards are urged to be concise in their documentation and efficient in their archive and filing retrieval. Cloud-based repository systems can help with this.

Under pressure

✦ Trustees are facing an increasing number of challenges, due to increasingly onerous regulations, new investment products to understand and growing scrutiny of their role. Louise Farrand looks at how trustees are managing this pressure

Trustee boards are under pressure. The collapse of BHS’ pension scheme prompted renewed scepticism and distrust in pensions among the public and politicians. Trusteeship is under the microscope, as regulators seek to stamp out bad practice and enforce good behaviour.

“There is pressure not to make mistakes,” says the Association of Member-Nominated Trustees (AMNT) co-chair David Weeks.

Trustees are still adapting to enormous regulatory changes like freedom and choice. Simultaneously, they are grappling with technical complexity,

confronting a more sophisticated new generation of investment products.

“Training requirements are rising to enable knowledge levels to be adequate to navigate the technical challenges. For instance, liability-driven investment needs a lot of training groundwork to enable decisions to be taken that everyone understands,” explains PAN Trustees chief executive Steve Delo.

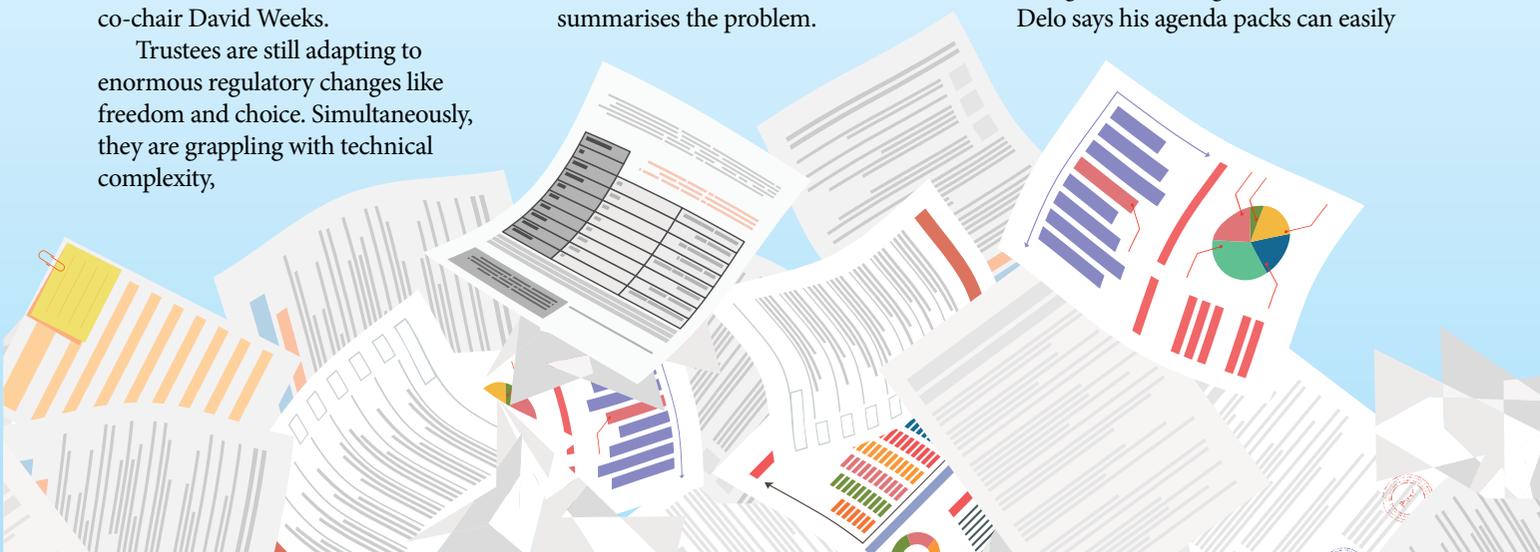
PTL chief executive of independent trustee firm Richard Butcher summarises the problem.

“Things haven’t changed fundamentally for donkey’s years, in terms of the core things we are supposed to be doing. What has changed is the amount of regulation around what we do and the sophistication of investment options that are available to us. Certainly, in the context of DB, corporates are waking up to the fact that it is a big pressure on their balance sheet and they need to manage that.”

Delo agrees. “Not only is there a lot more to do than a decade ago, the way in which trustees do things is under the microscope ... Trustees not only need to be doing things well, they need to be able to demonstrate and prove they are doing them well. Plus, given we are now seeing so many decisions from yesteryear being revisited and unpicked, trustees are nervously ensuring that things are robustly documented. This has to ratchet up the pressure. And given most trustees are lay individuals, this is a big ask for a voluntary role.”

Fellow independent trustee Sally Bridgeland agrees that the regulatory burden is becoming more onerous. “There is a lot of regulatory change and guidance coming out, which trustees must take note of. If you are a trustee across several boards, some reading spreads across your roles, but some does not.”

Both Bridgeland and Delo mention the fact that trustee meetings are becoming more frequent, and the background reading more onerous. Delo says his agenda packs can easily



run to 200 pages or more. Meanwhile, Bridgeland has an upcoming trustee meeting with a 300-page agenda pack – “And that is one with an effective trustee board and executive.”

Trustees aren't the only people who have noticed the regulatory onslaught. A February 2017 report by law firm Pinsent Masons called for the government to curb “excessive and complicated” UK pensions regulation.

The report, *Pensions and Chocolate: The State of Pensions Regulation*, observed: “Failings of the system over the years (the Maxwell Affair, the Equitable Life case, personal pensions mis-selling, pensions liberation) have understandably led to calls for more rules to prevent such scandals being repeated. But, rather like chocolate, while rules might indeed be a good thing, too much might be bad for us; and the field is replete with instances indicating the limits to, and anomalies of, regulation. Whilst the regulator fines decent trustees for failing to sign forms, it is unable to do anything other than issue brochures in relation to the tens, if not hundreds, of millions being stolen through pensions liberation.”

Whilst all trustees are affected by this growth in regulation, independent trustees are particularly hard hit as demands on their time grow, says law firm Squire Patton Boggs partner and pensions practice group head Catherine McKenna. “There has been an increasing demand for independent trustees. We seem to have moved beyond the ‘it costs too much’ argument towards, ‘we think this gives the board real value.’”

The secrets of success

Independent trustees have developed a variety of ways to cope with the increasing demands on their time. Terrifyingly on top of his inbox, Butcher claims to be “the swan, paddling madly under the surface. I have no magic secrets, I work hard, I start at the top of the pile and keep going until I reach the bottom.”

He adds: “I do a lot of exercise and

that keeps me fit. It sounds like a vaguely trite point but it's not, because it means I stay awake in the afternoon and keep going, and when I get to bed I am exhausted and I go to sleep!” he laughs.

Butcher also urges the boards he sits on to be concise and to the point in their documentation, a point that is echoed by Delo and Bridgeland. Delo describes excellent organisation, filing and archive retrieval as “the key to keeping one's sanity.” He mentions Eshare, a cloud-based repository designed for pension schemes.

Quality professional advice is key, says Bridgeland. “If advisers are producing bad quality stuff, which means you are having to rework, rethink and work harder at it, then sort them out! Have a word! But some people don't.”

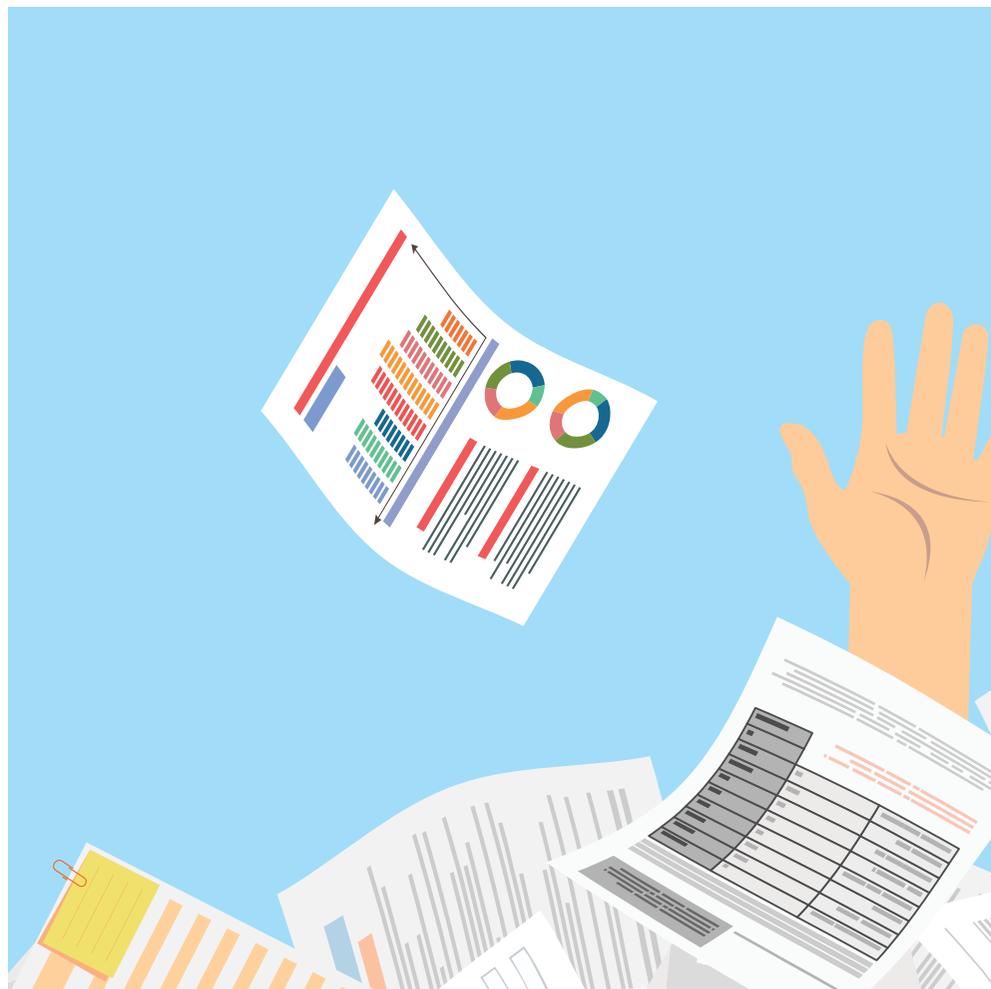
Trustee boards should consider

outsourcing to a secretariat if they don't already, counsels McKenna. Rather than adding cost, it may be a smarter use of resources, she says. “It might be different money spent in a different way, as opposed to more money. Schemes could contract for very well run secretarial services, but the cost of providing that might be slightly lower than the cost of relatively more expensive hourly rates for a very experienced trustee.”

Shouldering the burden

With so much pressure being put on trustees, could a situation arise where prospective independent trustees – who are often experienced professionals looking to slow down a gear or two – decide that independent trusteeship is just too demanding?

Delo is keen to debunk the image



of independent trusteeship as a relaxed option. “There is no doubt that independent trusteeship has become a serious and demanding business in recent years. It is not just a retirement income top up role for pensions professionals winding down. Arguably, in some areas, it has become a more difficult role than being an adviser, because of the leadership and decision-making pressures, managing conflicting priorities, et cetera. It is also a competitive market, and a successful independent trustee needs to be able to sell themselves to the market and win pitches, given ever-more appointments are won through competitive tender.”

Despite all its pressures, the independent trustee pipeline remains healthy, says McKenna. “I am seeing people from a variety of backgrounds

becoming independent trustees. It is attractive: you can see how it beats five or more days a week nailed to your desk.”

The future could be less bright for member-nominated trustees (MNTs). Bridgeland says: “A decline in MNTs is kind of inevitable, but it’s not desirable. It would be a real shame to lose that completely. The thing independent trustees don’t and can’t get is it is very hard to tap into the culture of the company, how you press the buttons, how it works. Different companies work differently and you only really understand the politics if you’re there every day.”

MNTs are faced with similar pressures, but must often juggle their role with a full-time job. As Bridgeland says: “For people who have the time, it is great to get experience of being on a

board. If you do it while you are doing a day job, it is going to be a struggle unless your line manager is really positive about it. In the old days when everyone was a member of the fund, including your boss, that was easier. Now you don’t have that same empathy and understanding from those around you, necessarily. That means when you sit on a trustee board, you see the stresses that MNTs can be under, because really, they should be in a meeting or doing a day job somewhere else.

“In addition, many are not paid for their time. Weeks reports: “Certainly most of the member-nominated trustees, based on our AMNT members, are not remunerated for their work. When we surveyed them last year, we found that about two thirds aren’t remunerated. With duties and responsibilities becoming more onerous, there may be a mismatch between that and the amount of effort that is involved.”

A new era

In response to the growing challenges of trusteeship, The Pensions Regulator is developing its thinking on what constitutes an effective twenty-first century trustee, publishing a series of discussion papers.

Butcher welcomes the regulator’s initiative, with an important caveat. He explains: “Rather than saying, ‘You have to fill in this 32-page colour-coded report’, if the regulator and legislators are focused on outputs rather than inputs, it would be much easier for trustees to do the job.

“The second tangible policy input would be to stress the importance of collective responsibility. We can’t know everything, we can’t do everything, we have to work as part of a team. If one trustee doesn’t know the ins and outs of European legislation, so be it, as long as there is someone around the table who does. No trustee should be expected to be a superhuman being.”

Written by Louise Farrand, a freelance journalist



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