

**Summary**

- In recent years, more pension schemes have made use of professional trustees and trusteeship has become increasingly professionalised, as regulatory requirements on trustees have increased and the task of trusteeship has become more complex.
- The industry welcomes new standards for professional trustees, although some hope these will become tougher over time.
- With further tightening of regulatory requirements affecting lay trustees, efforts to provide more support will continue, possibly including more remuneration of lay trustees.
- Other models of scheme governance may be considered in future.
- There are fears within the industry that numbers of lay trustees will continue to fall.

# The weight of responsibility

## David Adams explores the pressure of increasing professionalism within the pensions trustee board structure

The UK has an illustrious history of amateur endeavour, which has created some of the most valuable features of our society, such as the charity/voluntary sector. But as the nature of pension scheme trusteeship has changed over time it has become apparent that this may be one aspect of national life where unpaid lay trustees would benefit from additional support to help them complete their duties. Consequently, in recent years pension schemes of all kinds have made more use of professional trustees, while trusteeship has been forced to become

more professionalised in general, as regulatory demands have increased.

“It’s clear that trustees in pension schemes are operating in a trickier environment than 10 or 20 years ago,” says Pensions and Lifetime Savings Association (PLSA) policy lead for investment and trusteeship, Caroline Escott. “Being a trustee is more complicated than it’s ever been.”

Other trends in pensions have helped raise the stakes for many schemes, particularly for DB schemes, says KPMG pensions advisory director, Claire Whittaker. “We’re moving to a stage

where DB scheme trustees are being asked to make pretty big decisions, like whether or not to go for a buyout,” she explains.

PTL managing director and professional trustee, Richard Butcher, believes multiple factors have driven an increase in the use of professional trustees and in the professionalisation of trusteeship, but he believes the regulator’s drive to improve scheme governance is the most important element. “The regulator also has a preference for professional trustees because they help mitigate conflicts of interest,” he adds.

### **Raising standards**

There was no consistent, objective way to assess the capabilities of professional trustees until February 2019, when the Professional Trustee Standards Working Group (PTSWG), which was established and supported by the regulator and has been developing a set of standards for professional trustees since 2017, published those standards, alongside details of an accreditation process. To hold accreditation, professional trustees will now have to complete an initial application process, including a fit and proper person test. They will also have to complete a minimum of 25 hours of learning and development every year.

The Pensions Regulator executive director for regulatory policy, analysis and advice, David Fairs, suggests the standards should be seen as part of a broader drive on the part of the regulator to improve trusteeship, which has included its 21st century trusteeship campaign.



“We have this overall focus on getting good member outcomes and therefore we want to ensure that trustees are governing pension schemes to the highest possible degree,” says Fairs. “We think professional trustees have a particular role to play, so it’s right they should be held to a higher standard than a lay trustee.”

Dalriada Trustees’ senior trustee representative, Vassou Vassou, who is also a council member at the Association of Professional Pension Trustees (APPT), suggests that one important purpose of the standards will be to discourage those who have merely ‘dabbled’ as professional trustees from continuing to do so.

Butcher is not convinced. “I don’t think they create a high enough bar to entry,” he says. “They’re not particularly difficult to comply with. How can you claim you’ve driven up standards if you leave everyone who was in the market still in the market? It’s a good start, but more work is needed.” Both Vassou and Pensions Management Institute (PMI) technical consultant, Tim Middleton, who were involved in drafting them, confirm that the standards are intended to evolve over time.

Fairs says the regulator also plans to consult on the possible introduction of a benchmark against which member-nominated trustees (MNTs) should demonstrate their knowledge and understanding of issues affecting their schemes, although this benchmark would not be set so high as the accreditation requirements for professional trustees.

But many fear this will add to the already heavy burden of regulation applicable to lay trustees; and will continue to reduce the number of people prepared to act as lay trustees. As the Association of Member-Nominated Trustees (AMNT) committee member, and RBS Group former MNT, Stephen Fallowell, puts it: “Members want their voice to be heard; and there’s a danger that voice will be dampened, or extinguished by the move to

professionalise trustees.”

Some schemes and sponsoring employers are already running programmes to spread awareness among scheme members of the need for effective lay trustees; and to provide constructive feedback and encouragement to individuals who seek to become lay trustees but don't get through the recruitment process.

### Time and money

There is also general agreement about the need to continue to improve training, education and other forms of support for lay trustees. In addition to the regulator's Trustee Toolkit, training and

education is available from multiple sources, including the PMI and AMNT. But Middleton says it appears that many trustees still fail to dedicate much time to it – sometimes because employers fail to allow them enough time to carry out their trusteeship duties. “It would help if employers could be more supportive,” he says. “We do hear from lay trustee group members that they find themselves under pressure from employers not to spend so much time on trusteeship. I think it would be helpful if the DWP could make a statement reminding people of the importance of lay trustees being given time to do the job.”

Some schemes pay MNTs and ENTs to be trustees, as well as reimbursing them for their expenses. Whether or not remunerating trustees is appropriate depends on the specific circumstances of a scheme, says Independent Trustee Services (ITS) director Rachel Croft. “It's such an important role that I don't think people should be doing it off the side of their desk or in their spare time if they've got a full-time job,” she says.

Vassou can also see a good argument for paying lay trustees in some circumstances, particularly in light of the large amounts of money a scheme may be paying to advisers, even though “what they do is sometimes of questionable value to members.” But Middleton worries that if remuneration became standard practice there would be a risk this might attract some people to trusteeship for the wrong reasons.

There is also a theoretical risk that remunerating trustees could lead to them being regarded as professional trustees by the regulator and thus subject to the professional standards – but this should only happen if a trustee is also remunerated by a second, unrelated pension scheme. Fairs says the regulator does not have a view on the rights and wrongs of remunerating trustees in general. He seeks instead to highlight the professional and personal benefits individuals gain from serving as a trustee.

### Sounding board

If it proves impossible to find lay trustees, another possible solution would be for trustee boards or sole trustees to consult an advisory committee on which some scheme members could sit, but which would have no legal status or liability. “We have seen some of these things already,” says Butcher. “Some work well; some work less well.”

Escott says the PLSA has also been considering the merits of a governance model in which a small trustee board is responsible for longer-term strategy, but an executive body, perhaps including (for example) investment advisers, an administration provider, an investment consultant, an actuary and a lawyer would have responsibility for day-to-day running of the scheme.

Whether or not more use of professional trustees and more professionalisation of pension scheme trusteeship eventually alters the nature of scheme governance, both trends do seem set to continue.

“The Pensions Regulator estimates that 25 per cent of DB schemes now have a professional trustee appointed to the board and that's something we would expect to expand,” says Middleton.

Butcher is among those who are concerned about the position of the lay trustee on the board in the longer term. “We need lay trustees – they bring diversification, they bring that link to the employer and to the membership,” he says. “But I'm not sure everyone else agrees. The employer sees the risk of sub-optimal decisions; and I'm not sure regulators and legislators value lay trusteeship as much as we do. They are ramping up the pressure on all trustees – so they are part of the problem when it comes to retaining lay trustees.

“So I'm afraid I'm not optimistic about the future for lay trustees – it's just getting more and more difficult.”

**Written by David Adams, a freelance journalist**