A more tender process

Jack Gray assesses the new investment governance rules for trustees, fiduciary managers and investment consultants, how they will change the role of the trustee, and whether it is one regulatory step too far

New rules for trustees regarding the way they recruit fiduciary managers and strategic objectives for investment consultants came into force earlier this month, in response to The Competition and Market Authority's (CMA) findings on the industries' practices.

The CMA found "significant competition concerns" where trustees were entering into uncompetitive terms or failing to switch providers with a better deal due to difficulties comparing fees and performance.

The CMA's new rules stipulate that trustees must run competitive tender processes to recruit fiduciary managers if their scheme uses them for at least 20 per cent of their funds, which also applies to existing arrangements.

Trustees will also be expected to tender for investment consultancy services.

Furthermore, trustees will now be expected to set strategic objectives for those providing them with investment advice, which will enable trustees to monitor their advisers' performances, and choose investment strategies for their scheme.

Fiduciary managers and investment consultants will also have increased responsibilities regarding reporting charges, fees and performance to make it simpler for trustees to compare providers.

Last month, following a consultation, The Pensions Regulator (TPR) published new guidelines for trustees to meet the new investment governance rules.

"You *[trustees]* have certain duties when working with providers of investment consultancy and fiduciary management services," says the regulator.

"Our guides will help you meet these duties. They will also help you to understand the how these services interact with your scheme's governance model and the impact of these on positive member outcomes."

Barnett Waddingham head of fiduciary management evolution, Peter Daniels, adds: "We are very supportive of TPR's guidance to pension schemes on fiduciary management tender exercises.

"It is a comprehensive document and that in itself demonstrates the importance of trustees taking these exercises seriously."

The regulator's advice may be vital, as trustees, fiduciary managers and investment consultants risk being taken to court if they do not meet the new regulations.

However, there may be concerns about the costs that may be incurred through pension schemes having to tender and re-tender for their fiduciary managers, not only for the schemes but also for the sponsoring employer and responding fiduciary managers.

Furthermore, some may argue that this is further red tape for trustees in an already complex regulatory landscape.

Aegon pensions director, Steven Cameron, adds: "While this may be regarded as good governance, it goes further than existing regulatory requirements and is designed to counterbalance the advantage investment consultants can have if they have an associated fiduciary manager to recommend.

"However, it is a less intrusive approach than one alternative considered, which could have banned a firm from offering both."

Although there may be concerns, CMA investment consultants market investigation chair, John Wotton, says that the changes are "imperative" to improve outcomes for pension scheme members.

"Millions of people rely on pension scheme trustees to invest their savings effectively – which is why it's so important that trustees shop around for the best deal for them," Wotton says.

"Our investigation found that many trustees lack the information needed to assess and compare investment consultants and fiduciary managers, meaning they may not be getting the best value for their members' money.

"By putting the requirements of our investigation into law, we will increase competition and make sure these markets work better for UK pension beneficiaries."

The CMA's investigation and subsequent regulations have given trustees new responsibilities, which CMA and TPR argues is necessary to improve governance in the sector.

TPR adds: "Choosing an appropriate investment governance model is important to ensure you can make timely investment decisions, access appropriate advice and implement your investment strategy efficiently."

Written by Jack Gray