



Summary

- Half of pension professionals believe that having a professional trustee should be a requirement for all pension schemes.
- Some argue that this could lead to an influx of sub-standard professional trustees on scheme boards, potentially leading to below par outcomes for members.
- Higher standards are expected by most in the industry, with improved accreditation regimes in the pipeline, but this may be unachievable if professional trustees on scheme boards becomes a requirement.
- However, as the market moves towards consolidation it may become more viable in the future.

Less is more

With the ongoing calls for a professional trustee on every pension board persisting, Jack Gray investigates whether this could be unachievable and unnecessary presently, and why ensuring a better standard of professional trustee may be more desirable than simply one on every board

Talk of making it a legal requirement to have a professional trustee on each pension scheme board never seems to go away. Despite all the noise, nothing has been done to make it a reality and industry opinion on the topic remains divided.

Research from the Pensions Management Institute (PMI) in September 2019 revealed that 50 per cent of pension professionals think that The Pensions Regulator (TPR) should introduce a requirement for all schemes to have a professional trustee.

However, the same study shows the scepticism amongst the industry for the idea's viability, with 77 per cent believing that the industry does not have the capacity to cope with the extra demand and 80 per cent stating it would increase costs.

The PMI also revealed an industry

appetite for professional trustees to be held to a higher standard, with 85 per cent of respondents believing that the introduction of standards would improve overall quality and 50 per cent thinking that a requirement for professional trustees should be introduced within five years.

The PMI, alongside the Association of Professional Trustees, has been working on a professional trustee accreditation process, which is expected to be launched early this year.

One on every board

“Should there be a professional trustee on every board? No,” begins PTL managing director, Richard Butcher. “I think there’s a number of different reasons for that.

“One is that it’s probably not necessary. There are some really well-run trustee boards that operate perfectly well without a professional trustee.

“Secondly, there isn’t the supply of professional trustees to put one on every board and if you force demand then the supply side will swell to meet that demand. That means that you also drive down quality.

“The third reason is that it would not be consistent with the aims of having greater board diversity.”

Concerns have been cited that an increase in the number of professional trustees, an inevitability if one is required on every scheme board, then the increase will consist mainly of those who already fit the professional trustee stereotype – older, white men.

However, as the PMI study proves, the industry is split on the necessity of professional trustees. Speaking on whether they should be a requirement on trustee boards, Smart Pension director of policy and communications, Darren Philp, says: “In theory yes, for the vast majority of trustee boards. Professional trustees should bring an expertise and experience in decision-making that lay trustees may not have.

“The pros include the experience, expertise and familiarity with the vast array of rules and regulations that schemes need to follow, which should lead to better board decision-making and a better-run scheme.”

He notes, however, that the changes should be “phased in over time”, as introducing a requirement straight away “could lead to capacity issues”.

PMI president, Lesley Carline, agrees that, if it were to become a requirement, phasing would be the most viable option, as future consolidation may lead to an overabundance of professional trustees.

“Say in 10 years’ time we have market consolidation, then you will go from having a shortage of professional trustees to having an overload of professional trustees because there won’t be enough schemes,” she explains. “We might set about training and creating the profession for them and then find out that with scheme consolidation you’ll have an oversupply of professional trustees.”

XPS Pensions Group head of governance, Rob Wallace, believes that it may not be a “practical proposal at the moment”, but that there may be an increase in demand.

He adds: “Over time, it would seem likely that the number of schemes with a professional trustee on the board will grow. In particular for legacy DB schemes, where appointing a professional trustee, whilst increasing immediate costs, might be seen as likely to lead to an overall cost saving through increased trustee effectiveness.”

Regulatory powers

One of the arguments presented against having mandatory professional trustees is that TPR already has the ability to identify schemes that are under-performing and attempt to rectify its issues by appointing a professional trustee to the board.

Wallace adds that, if the regulator has concerns about the standard of

trusteeship on scheme boards where a professional trustee may be necessary, then it can “consider using that power more widely”.

He continues: “An alternative compromise approach could be for TPR to introduce a ‘comply or explain’ approach to professional trusteeship, where trustees without a professional trustee on the board could be required to explain to TPR why they are confident that the current trustee board is sufficiently knowledgeable and effective without a professional trustee.”

Higher standards

As the PMI study shows, there is significant appetite for professional trustees to be held to higher standards. A common argument is that, as they should be bringing expertise and knowledge to their role, they should have more responsibility and be held to a better standard.

“Whilst all trustees still have a duty and responsibility under the law and their scheme rules, the professional trustee is being hired, and likely remunerated, to bring additional specialist expertise and experience to improve trustee effectiveness and scheme governance,” says Wallace. “As such there should be higher expectations on the role they can play and the improvement they can make to the overall standard of the trustee board compared to a lay trustee who has a different day job.”

Philp agrees, saying that, as they are experts and charge for their services, “it is only right” that they are held to higher standards.

“What is also important is that professional trustees are holding themselves up as specialists in what they do,” adds Carline. “They are not like a lay trustee. A lay trustee board will have skillsets but they won’t necessarily have the depth and breadth of knowledge that a professional trustee will have.”

Although they do need to be more

accountable, they are already held to higher standards than other trustees, according to Butcher. He says: “The regulator has already created a distinction between professional and lay trustees, and professional trustees are subject to a higher level of fine.”

However, driving up standards will inevitably lead to a reduction in the number of professional trustees. If consolidation is on the horizon then this may not be an issue, as the number of schemes will decrease too. But it seems unachievable for professional trustees to be mandatory and to drive up standards in the current environment.

Accreditation

The most commonly-cited strategy to improving standards is to introduce a mandatory accreditation system, which would see professional trustees required to prove they can operate at a certain standard.

“All trustees should need to demonstrate that they are fit and proper and have the competence to effectively undertake the important role of a trustee, but the increasing reliance on professional trustees means this sector should be more strongly regulated to ensure standards are maintained,” says Philp.

This is reportedly in the pipeline, although it may not be mandatory. The process may follow a similar path to defined contribution master trusts, where it begins as a voluntary accreditation before becoming mandatory.

Most experts agree that this will drive up standards, but that it could cause issues. Wallace states: “We support this approach and believe it is achievable if constructed in a pragmatic way. The accreditation provides a level of assurance for schemes hiring a professional trustee and also a framework by which to assess their performance.

“Mandating an accreditation could cause practical issues, for example

around whether individuals fall within the regulator’s definition of a professional trustee, or long-standing appointments where the individual does not achieve the accreditation in time.”

Butcher argues that the proposed standards for professional trustees may not go far enough. He explains: “There is this process of describing a framework for professional trustee standards and that is designed to raise the bar for professional trustees. It will be a voluntary standard, and I think they’ve set the bar far too low, but I agree with the principle and we should be held to a higher degree of accountability, but I would argue that some of that has started to come through the system.

“In my mind, a set of professional standards have got to cause people to leave the market because otherwise you’re not driving up standards. And what they were not describing wouldn’t have caused anyone to leave the market.

“There are some glaring obvious missing components from it, the most obvious one is that there was no capital adequacy requirement.”

Cost

A common perceived downside of having a professional trustee on a scheme board is the extra costs that will be incurred. “We have seen many trustee boards run effectively without a professional trustee, so introducing one could bring an unnecessary layer of costs,” says Wallace.

Despite this, he argues, the costs can be outweighed by the service they provide: “Professional trustees

can improve trustee effectiveness and scheme governance, allowing focus on key strategic issues and meetings and decision-making to run efficiently.

“Ultimately this should lead to better outcomes for schemes and reduced costs over the longer term, or at the very least the avoidance of costs arising from poor governance.”

Butcher supports this theory, saying that, in his experience, professional trustees have “always mitigated” their costs “to some extent” by improving efficiency.

He explains: “[Professional trustees] can provide a more accurate allocation of resources. There have been many situations when their costs have been lower than the total amount they’ve saved their clients.”

Written by Jack Gray

