

Equipping your trustee board to deal with changing circumstances

➤ **To look after member benefits, pension trustee boards need to stay on top of changing circumstances and be ready to address unexpected challenges. Vidett's Chris Halewood identifies some changes faced by two hypothetical trustee boards and suggests how to deal with them**



1. A trustee becomes incapacitated
Boards rely on their trustees to function properly. If a trustee becomes incapacitated unexpectedly, difficulties can arise.

This is especially true for schemes with small boards. Imagine, a board with one employer appointed trustee (EAT) and one member nominated trustee (MNT), an approach that is not uncommon for small scheme trustee boards. This is fine if both trustees can perform their role.

However, scheme rules often contain wording like: "A body corporate may act as sole trustee but otherwise the minimum number of trustees is two."

Here, a change in circumstance could create issues. If either trustee becomes incapacitated in any way, such as through illness or injury, the board becomes unable to act under the scheme's rules. This would be problematic if there's time-sensitive business the trustees need to complete, like a triennial valuation or if investment or discretionary death benefit decisions need to be made.

Even if a scheme's rules allow a trustee board to act when one trustee is incapacitated, the remaining trustee(s) may not have the skills to do so due to an over-reliance on the incapacitated trustee. Known as key-person risk, this can happen when an individual trustee handles most of the related business and doesn't pass their expertise onto the

wider board. To avoid situations where trustee boards feel unable to act, they need to have contingency plans for when circumstances change.

So, returning to our example, how can our trustee board move forward?

Most rules allow for the appointment of a professional corporate trustee (PCT). Here, a good PCT would bring crucial knowledge and experience, enabling the trustee board and its work to continue. A PCT brings the added benefit that, should the individual(s) representing that firm be incapacitated, the company as an entity can seamlessly replace them.

With MNTs becoming more difficult to find (especially for small schemes) and EATs often trying to juggle the increased demands of trusteeship alongside senior management responsibilities within their 'day-job' that can raise conflicting priorities, appointing a PCT could provide some much-needed consistency and continuity should the worst happen.

2. Changing trustee board size clashes with scheme rules

An incapacitated trustee can cause issues with a scheme's rules. But so can changes to a trustee board's structure. For example, our second trustee board is downsizing from three EATs and two MNTs to two EATs and one MNT. However, the scheme's rules mandate trustee board meetings must be attended

by: "A minimum of two trustees, at least one of whom shall be a trustee appointed under the MNT arrangements."

With this change and only one MNT now on the trustee board, a problem arises. If the MNT is unavailable for any reason, trustee meetings can't take place and actions can't be taken.

In this scenario, our trustee board may want to amend the scheme rules to better suit the new trustee board and stop this issue from arising. If the original intention of having an MNT present was to help reassure members their interests were properly represented at trustee meetings, the appointment of a PCT may be an appropriate solution given their independence from the sponsoring employer. This would allow the 'MNT present' requirement to be amended to 'MNT or PCT present'.

Whilst these two scenarios are hypothetical, they contain lessons for all trustee boards. It's important to remember circumstances can change unexpectedly and for trustees to consider if their board is well-equipped to deal with changes. If they aren't, decisions can be taken that turn out to be ineffective, causing complication and cost later on.



➤ **Written by Vidett client director, Chris Halewood**

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