

Trustee Knowledge and Understanding

Background

The Pensions Act 2004 introduced a requirement for trustees to be conversant with key documents relating to their scheme and to have knowledge and understanding of pensions and trust law and of the principles of scheme funding and investment. The Pensions Regulator ('the Regulator') published a Code of Practice and associated scope guidance documents to help trustees meet these requirements. The Regulator has recently completed a review of the Code of Practice and the consultation period has now ended, revealing widespread support for the trustee knowledge and understanding regime.

Existing Requirements

The original Code of Practice sets out the following high-level principles with which the trustees should be familiar:

1. The law relating to trusts
2. The law relating to pensions
3. Investment for defined benefit and defined contribution schemes
4. Funding for defined benefit schemes
5. Contributions for defined benefit schemes
6. Strategic asset allocation for defined benefit schemes
7. Funding for defined contribution schemes
8. Investment choices for defined contribution schemes
9. Fund management for defined benefit and defined contribution

Further details on the scope of each of these items are provided in the scope guidance, providing a substantial syllabus for trustee knowledge and understanding (TKU).

The guidance also lists the scheme documents with which the trustees should be familiar and to which they should have access at all times.

1. The scheme trust deed and rules
2. The statement of investment principles
3. The statement of funding principles (defined benefit schemes only)
4. Other relevant documents such as the scheme booklet, member communications, actuarial valuation and advice, minutes of meetings, annual report and accounts or any other documents on trustee policy 'relating to the administration of the scheme generally'.

Meeting the TKU Requirements

The Regulator expects trustees to carry out a training needs analysis to identify any gaps in their knowledge and understanding. It is important for trustees to consider the breadth and depth of knowledge required in relation to their individual role on the trustee board. This can be achieved by using the scope guidance as checklist or completing a relevant questionnaire. Areas commonly identified for additional training are investments and scheme funding matters.

Once training needs have been identified, trustees should draw up an appropriate training plan and review this on an annual basis. Although there is not a requirement for trustees to undertake formal

qualifications, they must take active steps to fill gaps in their knowledge. Training can take a variety of forms, such as attendance at formal training sessions or seminars, informal reading, completion of the online Regulator's Trustee Toolkit or attendance at pension conferences.

The Code of Practice stresses the importance of keeping up to date in the following areas:

- Changes in legislation
- Changes in trustee role, for example joining the investment sub-committee
- Changes in the circumstances of the scheme, for example closing to future accrual
- Changes in employer circumstances, for example a merger or acquisition

New trustees have six months to obtain the appropriate level of knowledge and understanding and are expected to study the Trustee Toolkit. Professional trustees are expected to comply with the requirements from date of appointment, and must be able to demonstrate they are appropriately qualified.

Changes to Code of Practice and scope guidance

In 2008 the Regulator carried out a review of the existing Code of Practice and scope guidance to ensure that the TKU framework remains relevant for trustees. The main proposed changes to the Code of Practice are to:

- Include references to the Trustee Toolkit
- Strengthen the importance given to delivering effective learning of the correct standard to trustees
- Include how the Regulator will check trustees' knowledge and understanding

Following the first revision in 2008, the scope guidance was updated to:

- Refer to the forthcoming Personal Accounts regime
- Refer to recent developments in investments
- Emphasise the importance of good administration
- Emphasise the importance of employer covenant and trustees' understanding of their powers
- Refer to buyout issues, including scheme abandonment and inducement
- Place new emphasis on the importance of recognising the possibility of wind-up and of taking appropriate preparatory steps

A second draft of the revised Code of Practice was then published followed by a 12 week consultation period which finished in July 2009. Despite initial concerns of increased expectations on trustees the overall feedback during the consultation period has been favourable, with much of the revised Code and scope remaining the same.

The draft revised Code also provides 'slimmed down' guidance for trustees of very small defined contribution schemes (12-99 members) in recognition of their unique requirements.

The draft revised Code will now be laid before parliament and it is expected to come into effect later in 2009. Once finalised, trustees will need to review their own knowledge and understanding to ensure that it remains up to date.

The information in this note should not be relied upon or taken as an authoritative statement of the law.