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Pension trustee skills, capability and culture

On 11 July 2023, following the Chancellor of the Exchequer's [Mansion House speech](#), the DWP and HM Treasury published a [call for evidence](#) to help improve the skills and capability of pension trustees and remove barriers to making effective investment decisions. This document is part of a number of documents published by the DWP "all designed to drive better outcomes for pension savers".

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Background

This call for evidence is published on the same day as a large number of other consultations and responses to existing ones. It starts by reminding respondents that "trustees of occupational pension schemes are overall responsible for managing nearly £2 trillion of assets for millions of savers". These savers, the DWP and HM Treasury believe, expect that trustees have the "skills and capability to do this job properly".

The document refers to evidence from a 2022 OECD report and from a 2019 Australian government report that improvements in capabilities and skills as well as a focus on good governance could improve results for members.

The call for evidence looks at three areas: trustee skills and capability, the role of advice and barriers to trustee effectiveness, including duties. There are 25 questions in total, some of which are asked specifically of trustees and others of anyone who can offer "an informed perspective". The closing date is 5 September 2023.

Trustee skills and capability

This first section explores current expectations, how well these are being fulfilled and what could be done to improve this.

Expectations of knowledge and understanding

The standards are set out in primary legislation with guidance provided in a code of practice plus other guidance, including the original scope requirements from 2009.

Evidence from The Pensions Regulator's 2021 DC survey showed that over a third of DC trustees had never read or were not aware of the Regulator's codes of practice. The 2022 DB survey showed that nearly a fifth of DB trustees had never used the codes or were not aware of them.

Current levels of knowledge and understanding

The DWP recognises that there are different requirements depending on the type of scheme, with trustees of master trusts having to meet more rigorous competence requirements.

Improving trustee capability

Trustees are expected to meet the required standards and where they do not have the capacity or capability to do so, the DWP believes they should consider consolidating into a larger scheme.

One of the main areas that the DWP focus on is knowledge of investments that may enable schemes to invest more in assets that “can drive higher returns and promote growth in the economy”.

Registration

The DWP believes it could be beneficial to “mandate all trustees to provide enough information to [the Regulator] for each trustee to be uniquely identified”. This unique identifier would allow the Regulator to cross-check trustees against training and accreditation completion – via the scheme return or a separate return for trustees.

Accreditation and training

Accreditation is currently voluntary although the Regulator would like professional trustees to be accredited. Trustees may complete industry qualifications. The DWP is considering a proposal for a proportion of trustees on each trustee board to be accredited – one, more than 50% or even 100%.

The Regulator provides a free trustee toolkit and there are many different types of training and resources to help trustees identify gaps.

Professional trustees

The Regulator has set out the factors that would mean it considers a trustee to be professional and then applies higher standards and tougher enforcement action to these.

The DWP confirms its long-term vision is to have a smaller number of schemes each with a professional trustee and then considers requiring all professional trustees to be accredited or meet other standards.

The role of (investment) advice

Investment advice for trustees

The DWP reminds respondents of trustee duties in relation to investment governance, the legal requirement for a scheme actuary and a scheme auditor, as well as the role of ancillary professions which have an impact on trustee decision-making, like fund managers, investment consultants and legal advisers.

Of particular interest to the DWP is how trustees use their advisers to identify and calculate risk when investment strategies are formulated and enacted, and the decision-making around investing in unlisted equities.

Market-wide questions

It is recognised that the market already provides support to trustees, but that the complexity and volume of information on appropriate investment opportunities and the difficulties in monitoring investment performance do raise concerns. The DWP is interested in how trustees' abilities to make evidence-based decisions could be enhanced.

Regulatory environment

Without giving any detail, the DWP asks about the other regulatory obligations that influence investment decisions, particularly in relation to unlisted equities.

Investment consultants

Conversely, in relation to investment consultants, the DWP sets out the role that investment consultants have in advising trustees, including the requirements for tendering processes for fiduciary manager appointments and setting objectives for investment consultants that are now set out in DWP legislation. It references the advice provided in relation to strategic asset allocation, the selection of investment managers, and fiduciary management, as well as the guidance to asset managers and how they also interpret guidance and legislation.

Following on from the LDI-related market turbulence, the DWP explains that the next steps on investment consultant regulation are being considered and it wants to take into account the dynamics between trustees and consultants. The focus is on decision-making of trustees in relation to investment in unlisted equities. The DWP cites a [research report](#) published earlier this year that established investment consultants' careers often begin in actuarial roles and that they may have "a lack of familiarity with illiquid asset classes, equities in general, and early-stage investment".

Legal advice

This section concludes with a question about investment legal advice and how legal advice translates into investment decisions, including investment risk and whether there is a culture of 'risk aversion'.

Barriers to trustee effectiveness

Finally, this call for evidence looks at other barriers that may prevent trustees from getting the best long-term outcomes for savers.

Fiduciary duties and long-term factors

The DWP comments on trustees' fiduciary duties, including the duty to invest in the best interests of the members of the scheme. Following the Kay Review, The Law Commission [concluded](#) that "trustees should take into account factors which are financially material to the performance of an investment". The DWP believes that policies to improve the general skills and capability of trustees will enable them to ensure that investment decisions "appropriately factor in the financial opportunities and risks of relevant factors".

Risk aversion and fiduciary duties

The DWP believes that trustees of DC schemes must “move away from a short-term focus on cost to one that focuses on delivering long-term, holistic value for savers” in order to achieve “best possible outcomes” for savers.

The DWP confirms that it recognises the fiduciary duties of trustees but is concerned that the culture of risk aversion and perception that the duty means “capital preservation at all costs” is preventing trustees from considering decisions that could create higher returns for savers in the longer term.

The purpose of the value for money framework is to move the focus from cost to performance and value, with a firm belief in government that consolidating into a scheme of scale with trustees who have the expertise to widen the range of assets in which they invest is in the savers’ best interests.

Time off and employer support for trustee duties and training

The DWP recognises the voluntary role of many trustees, including the important role that member-nominated trustees play in helping provide greater confidence to members that decisions are in their best interests. This section concludes with a question about whether lay trustees have enough time and support to perform their duties effectively. It also asks the question of professional trustees.

Comment

In the Ministerial Foreword to this document, Laura Trott, Minister for Pensions, refers to the other consultations published on the same day, “all designed to improve savers outcomes”. The objective of this call for evidence is to “ensure trustees have the right support, skills, knowledge, and experience to undertake their challenging roles to secure the best outcomes for pension savers”.

However, looking at all the documents published following the Chancellor’s Mansion House speech on 10 July 2023, the balance between increasing returns for pensions savers “leading to better outcomes in retirement” and ensuring that “high-growth business of tomorrow can access the capital they need to start up, scale up and list in the UK” is a challenging one for all concerned.

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