

# FYI<sup>®</sup> Alert

## For Your Information<sup>®</sup>

### Next steps - Pension trustee skills, capability and culture

On 22 November 2023, following the Chancellor of the Exchequer's Autumn Statement 2023, the DWP and HM Treasury published the outcome to the call for evidence (Pension trustee skills, capability and culture) that was published following the Mansion House speech in July.

This document is part of a number of documents published by the DWP designed to “continue to ensure that trustees and those who advise them continue to work to produce the best possible outcome for pension savers”.

Volume 2023

Issue 25

29 November 2023

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#### Background

This government response to the call for evidence was published on the same day as other calls for evidence and responses to those that followed the Mansion House speech.

Our FYI dated 14 July 2023 (Pension trustee skills, capability and culture) explains the proposals put forward by the DWP and HM Treasury.

In the Ministerial Foreword to the response, new Minister for Pensions, Paul Maynard (who replaced outgoing Minister, Laura Trott, days before the Autumn Statement), and Bim Afolami, Economic Secretary to the Treasury, confirm they are “pleased to see responses ... confirm that the majority of trustees are well-supported, knowledgeable, and hard-working”.

81 responses were received to the call for evidence which focused on three areas: trustee skills and capability, the role of advice and barriers to trustee effectiveness, including duties.

## **Trustee skills and capability**

### **Levels of knowledge and understanding**

In this section, respondents agreed that “most trustees meet the requirements expected of them”. While “knowledge and training can be less consistent amongst lay trustees” respondents “did not report that professional trustees are better than lay trustees”. Additionally, the overall effectiveness of scheme governance is dependent “on having a diverse board with a range of skills, experience, and expertise”.

### **Improving trustee capability**

Respondents confirmed that the main barrier is capacity. “There is a significant time commitment for trustees to review information and prepare for meetings and have the necessary access to advisors.”

### **The role of advice and barriers to trustee effectiveness**

The call for evidence asked respondents many questions on the role of advice and barriers to trustee effectiveness, particularly in relation to fiduciary duties, risk aversion and the role of investment advice.

Although further guidance and information on some aspects are seen as helpful, the consensus is that “fiduciary duties are a well-established and well-understood concept”, “current regulations and guidance are generally fit for purpose, and that trustees are not prevented from making investment decisions which seek higher returns for members”.

Respondents confirmed that “investment consultants, legal advisors and actuaries play an important role in advising trustees to ensure effective decisions are made on a wide range of investments”.

Respondents suggested, however, that there is “insufficient learning material” available to trustees on alternative assets and that they’d also welcome additional guidance from the Regulator on this and investment decisions generally.

Reasons for “barriers to investment consultants supporting investment in unlisted equities” in the DC market were considered to be due to “a limited or fixed budget that does not allow for supporting difficult investment decisions”.

### **Time off and employer support**

Many respondents who are lay trustees confirm that “they did not have sufficient time or the desired time to undertake the duties required of them”. Some want the government to “legislate to require employers to grant lay trustees reasonable time off from to work to undertake training and fulfil their pension scheme duties in addition to board meeting attendance”.

It is also acknowledged that a “strong chair can help trustees prepare for meetings and provide focus on the necessary governance requirements at the right time and challenge the employer on behalf of members where appropriate”.

## Next steps

Immediate actions will be taken to address issues raised. These include:

- Supporting The Pensions Regulator (TPR) to put in place a trustee register
- Accreditation of professional trustees
- Updates to TPR’s investment guidance and trustee understanding of alternative investments
- Engaging with employers selecting a pension scheme

### A trustee register

The call for evidence asked respondents whether “the government should require all trustees to provide information to enable TPR to keep a register of all trustees”.

Respondents (according to the government response document) believe that a register “would improve oversight, accountability and allow for more focused and targeted communications to trustees, especially for less engaged schemes”.

The register would also be used to “track and monitor compliance of TPR’s knowledge and understanding requirements”.

The DWP will work with the Regulator to develop this proposal. There are no timescales for this in the response.

### Accreditation of professional trustees

The majority of respondents were “strongly opposed to mandating a certain proportion of accredited trustees”.

In the response, the government confirms “our long-term vision is to have a smaller number of schemes, each with a professional trustee” and that the “DWP strongly encourages all those acting as a professional trustee to gain accreditation”. Mandating accreditation in legislation is not being ruled out.

In the meantime, the new general code “once laid, will set accreditation for professional trustees as an expectation”.

### Updates to investment guidance and trustee understanding of alternative investments

The government confirms that the Regulator is reviewing the trustee toolkit and encourages “all trustees to complete it on an annual basis to ensure their baseline understanding remains up to date”.

The government “strongly encourage[s] those who provide trustee training, resources, and accreditation to consider expanding their provision of material to ensure it thoroughly covers the full range of assets which trustees are able to invest in”. A “minimum level of understanding of all asset types” is essential but “not every trustee needs to be an expert in all matters”.

### Engaging with employers selecting a pension scheme

This final immediate action covers the government’s intention to challenge the “known emphasis on low costs and fees” as these result in “long term sub-optimal outcomes for pension savers”.

The DWP intends to work with the Regulator to provide information to employers on how to select a pension scheme. It also intends to work with industry, suggesting that steps may include “how to shift employer incentives away from low fees towards long-term pension investment performance and better outcomes for their employees”.

## Comment

This response confirms the good work that the majority of lay trustees are already doing in a complex environment with support from their advisers (who are confirmed as playing a vital role). However, it is clear there is more to be done.

Setting up a trustee register should not be difficult for the Regulator to put in place using the existing scheme return framework within Exchange.

Although mandating accreditation of professional trustees is not being ruled out, it is expected that the majority of professional trustees would be accredited on a voluntary basis.

One take away from this document is confirmation that the Regulator's trustee toolkit is being updated. The DWP encourages all trustees to complete it on an annual basis, but it does need to be reviewed and improved on a regular basis for this to be worthwhile.

The general code, still expected but not yet laid before Parliament, is also eagerly awaited by trustees and advisers alike. This timescale for this is still unknown.

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