

Sole Trusteeship - A solution for many challenges

The role of a Sole Trustee

The legal requirement for trustee boards or corporate trustees is to have at least one third of trustees or trustee directors nominated by the membership. However, there are a limited number of exceptions, including where there is a sole corporate trustee, independent from both the membership and the employer, in other words a professional independent trustee company.

The professional independent trustee company has full responsibility for all trustee decisions which means they can act quickly on all key matters and avoid conflicts of interest inherent for company and member nominated trustees.

The trustee company will need to keep proper records and exercise all powers and discretions in accordance with the trust deed and rules. As part of its governance procedures, it should ensure that all decisions reached by its directors are properly considered and documented.

Why appoint a Sole Trustee?

There are many reasons why a sole trustee is appointed, some examples of which are given below

1. Resolving and avoiding conflicts

The appointment removes any issues of potential conflict from existing trustees and employers, in particular where the trustees are officers of the principal employer

It removes the fear for both member nominated and employer appointed trustees of not wishing to confront their employer during difficult negotiations.

2. Trustee vacancies

Many schemes find it difficult to recruit both member nominated and employer trustee representatives. This is usually due to time pressures, the legal requirements for trustee knowledge and understanding as well as the responsibility for decision making.

A sole trustee appointment avoids this problem by appointing a professional company with the knowledge and expertise to address these issues.

3. Increasing trustee duties and responsibility

The demands on trustees now vary enormously from the responsibility for record keeping and administration through to investment, understanding the employer's balance sheet and agreeing contribution levels. And that's before looking at the ever shifting sands that are pensions technical issues.

With responsibility for all these issues, it is little wonder that many people are put off by the time investment, or simply find the prospect too daunting.

4. Facilitating decision making

Decisions often need to be made quickly and as sole trustee this is a lot easier than having to brief trustee board members and then arrange a meeting to enable a group of people to make urgent decisions.

5. Reducing Costs of Governance

A lot of schemes are closed and the cost legacy often relates to past employees or employees of acquisitions, which in terms of time spent can seem disproportionate with little or no benefit to current employees.

The cost of appointing a sole trustee can be balanced against the time trustees need to spend away from their "day job" on trustee issues and maintaining their trustee knowledge. Some employers strongly prefer for both MNTs and employer representatives to spend their time on the business of the employer and leave the trusteeship issues to a professional trustee.

6. Remoteness from Employer's Business

As members become deferred through scheme closure or leaving the business, the pension scheme and its funding issues are increasingly seen as a liability on the employer's balance sheet rather than an integral part of its pay and reward strategy. As such the value of having member nominated trustees who are in touch with the needs of the membership diminishes.

7. Corporate Transactions

Being entirely independent from the employer can be of additional benefit when part of a business is being sold or re-structured. At these times, a sole Trustee is not affected by the conflict of interest or emotional factors that can arise for trustees connected with the business.

A sole trustee experienced in these matters can help orchestrate the corporate transaction and speed decision making whilst maintaining confidentiality.

What will Independent Trustee Services Ltd (ITS) do as sole trustee?

When acting in a sole capacity, ITS becomes fully responsible for all the duties of the trustees ranging from day to day decisions and discretions through to the quality and costs of service from other scheme advisors.

We take on responsibility for governance, approval of scheme accounts, negotiations with the sponsoring employer and member communications. We will also seek to understand the sponsor's vision for the scheme to deliver a high level strategy, which might include a plan leading to eventual buy out of the benefits and resultant closure.

Existing trustees and indeed employers and members sometimes express concern about losing responsibility and even control. The circumstances of each appointment are different, however, there are a number of possible solutions to maintaining both employer and member involvement in the Scheme where this is required. These may include member forums, meetings with employers and member road shows where scheme changes are being introduced. Whatever the circumstances, we will keep in regular contact with the sponsoring employer in any event.

Why ITS?

At ITS we operate as sole trustee on a number of schemes at various stages in their life-cycles from ongoing appointments through to schemes beginning the winding up process. We also take sole trustee appointments for one-off corporate transactions and to deal with particularly difficult conflicts.

As a sole trustee, the corporate structure and governance of ITS brings extra reassurance with a lead and second director, quasi Trustee Boards, a strength in depth in pensions and management skills and a company highly regarded for its own corporate governance and reputation. We are appointed by the Pensions Regulator to many schemes on a sole trustee basis.

ITS was formed in 1991. We now have six client facing Directors and a 22 strong support team, which enables us to undertake work at a cost effective level. The formal trustee role, and responsibility for all service delivery will always lie with the lead Director.

While we have the backing of our parent company Jardine Lloyd Thompson Group Plc (JLT), we are operationally independent from them. They have no influence on the way that we approach our trustee appointments, and we will not accept an appointment where JLT provide advisory services to the pension scheme.

Further Information and Contact Details:

More detail on ITS and our experienced team can be found at: www.itslimited.co.uk

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