

Response to Consultation

Minimum Quality Standard in Workplace Pension Schemes

Introduction

As a firm of independent professional trustees ITS welcomes the increased focus on independence for those responsible for governance of DC pension schemes, as well as the fact that many of the features of good trustee governance are being replicated for IGCs. However, we have some issues with the prescriptive nature of some of the proposals and have concerns that the concentration of effort on how trustee boards and IGCs operate might distract from what they are seeking to achieve in terms of member outcomes. Overall we believe these changes are positive and will hopefully drive the right behaviours amongst those responsible for governance of our DC pension arrangements.

Administration

1. We share the views expressed in earlier consultation that legislation is a blunt tool to achieve improved standards in administration and see voluntary accreditation as a preferable approach. It is not clear how the new proposed legislative responsibility on trustees for ensuring and reporting on how financial transactions are processed differs from their current responsibility for the overall administration of the scheme. Ultimately trustees are reliant on those charged with the administration of the Schemes, and have to rely on a combination of self reporting by the administrators, third party audits and their own inspections/questioning to gain comfort that the scheme is being administered correctly. It is unclear what additional benefit this new responsibility is seeking to achieve, nor what trustees are expected to undertake in addition to meet this new requirement.
2. We have no other suggestions at this time.

Mastertrusts

3. As a corporate trustee of a vertically integrated provider mastertrust run for profit we recognise the potential for conflicts of interest and have put in place a series of strategies, including a conflicts management plan and dispute resolution procedure, to manage such conflicts. Whilst we have no issue with mastertrusts being subject to the same independence standards as contract based schemes, the proposals in the consultation go beyond this, in particular the suggestion that there should be a minimum of seven trustees, a number put forward without any explanation or

justification¹ We agree that the majority, including the Chair, should be independent, and also support the proposal that there should be a method of communicating with members, whether this is via a website, annual meetings or member forum, however, whilst we accept this as a principle we do not believe the method should be prescribed. We would also suggest that for vertically integrated provider master trusts a key feature is independent advice, particularly where the majority of the funds provided are managed by the provider. If trustees are not advised independently on the suitability and performance of those funds they should be able to justify their rationale for relying on the information available from the provider, an example being where the funds are passively managed and an independent report on performance might add little value.

4. Overall we find the definition helpful as it may avoid the situation where previous employees or advisers, quite commonly senior managers of the business, remain as so called “independent” pension trustees. Whilst these individuals may have much to offer through their knowledge of the business concerned, and may indeed remain as non-independent trustees, this group alone does not bring in the independence and diversity of thought needed to get the best results for the Scheme and its members. The list of excluded persons in the first bullet appears to be absolute and we would suggest allowing exception for these if they can be justified in certain limited, prescribed circumstances, as we would not want to see a paring down of the principle of independence. We particularly support the requirements surrounding appointments of independent trustees/IGC members as this should further help avoid the perception (and reality?) of cronyism that surrounds these appointments which are seldom publicly advertised, as well as opening the field to a potentially larger pool of talent.
5. The definition of independence is based around individual conflicts and does not work easily when applied to corporate trustees. We would suggest that where a corporate trustee is appointed the definition should apply to all directors and those involved in the provision of trustee services to the mastertrust, rather than to each employee of the trustee company. Where a corporate independent trustee is appointed as trustee of a mastertrust we do not think it is helpful or relevant to specify a minimum number of trustees, provided that the corporate independent trustee is the Chair and is either the sole trustee or has the majority vote on the trustee board, either in its own right or alongside other independent trustees (whether corporate or individuals).

Trust-based Governance

6. We are concerned that, so soon after the introduction of the Pension Regulator’s Code of Practice and Guidance, it is considered necessary to impose these standards by Regulation. Trustees are only beginning to get to grips with the new Code and guidance, governance reporting template and Governance statements.

¹ When asked to choose a number between 1 and 10 most people chose 7

Whilst we fully support the Government's aim to improve standards in DC governance, and through that route improve outcome for DC members, we believe there is a real danger that trustees will spend so much time focusing on the 'how' that they will lose sight of the 'what' and the 'why'. In particular we have concerns with the requirement for the Chair to provide an annual report covering how the quality standards are met, and are unclear how this fits with the current Governance Statements. Whilst all of these standards are already captured in some form within the 31 DC Quality Features, by making compliance with the quality standards a legal requirement for trustees we risk making the barrier to entry for member nominated trustees too high. At a time when member outcomes should be at the forefront of trustees' minds it is essential that occupational trust based DC schemes or governance committees are able to attract and retain active scheme members with diversity of approach and real insight into the members' likely risk profiles. An effective trustee board requires a mix of professionalism and those with knowledge/understanding of the membership and their needs.

7. We believe we have largely covered this above. As standards we support these but question the need to enshrine them in Regulation. We would welcome some consolidation between the 31 Quality Features, the Quality Standards and the standards which the FCA will be consulting upon later this year in respect of IGCs. Whilst these will hopefully all move in the same direction a single, clear set of standards to be applied equally across contact and trust based schemes would be welcome.
8. The simple answer is that we do not see how a trustee board can function effectively without a chair. However, we are concerned at the suggestion that this should be enshrined in Regulation as it appear to be coupled with placing additional duties and responsibilities on the chair which is contrary to the concept of trust law. We would suggest this standard is dropped and that any reporting requirements are on the board of trustees, although naturally we would expect the chair to sign on behalf of the trustees.
9. As already stated above, whilst laudable in its intentions, there is a risk that the reporting requirements, already undertaken by many trustees on a voluntary basis following introduction of the Governance statements, will overshadow getting on with the task in hand. The probability is that larger schemes will simply employ consultants to help them complete these statements. This is perfectly acceptable if it results in a plan of action for improvement, however the smaller schemes are likely to be swamped by the detail required, which will divert attention from activities which actually add value for the members. A further concern is who is going to read/review and audit the accuracy of these statements? No Chair of Trustees is going to admit to members that their scheme is sub-standard. What enforcement powers will Government or the Regulator have in relation to these statements and will there be a resource available to police them?

Transparency

10. There is a risk that we will overcomplicate this issue by including line by line details of all costs which will not ultimately benefit any of the potential audiences listed, therefore we support the view that headline information should be provided to members and prospective members with more detailed information in the annual report. In unbundled arrangements the requirements to disclose are only relevant where these charges are borne by the member. In many trust based occupational DC schemes the employer pays the costs of administration and running the trustee board, which includes adviser's fees and trustee expenses. This generally leads to better outcome for members as there is a bigger proportion of their overall contribution invested. Where charges are borne by the trustees they will generally be disclosed in the report and accounts. These are not normally deducted directly from individual member accounts but a percentage of the contributions from either the employer or the employee may be allocated to meet these expenses. Provided that the member is given a breakdown of the percentage of contributions allocated to these expenses, and has access to the accounts to ensure that contributions are being allocated to properly incurred costs, we do not believe further disclosure is necessary. In the case of mastertrusts where the provider generally pays the expenses of the trustee these can be disclosed as a percentage of the AMC charges with further breakdown available to members and employers in the trustees' accounts.

11. We fail to see any benefit on imposing any further regulation on DB schemes where sponsoring employers ultimately bear the costs of these schemes and are generally responsible for appointing the trustee bodies managing their pension schemes. As such they are able to call the trustees to account in respect of scheme costs and can apply similar processes to those adopted within their own businesses.

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