

Regulator to Look closer at Pension Trustees

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Monday, 4 February 2013

As part of its campaign to introduce better standards of practice to the pensions industry, the Pensions Regulator introduced a framework in early 2013, to ensure employers deliver the best possible retirement savings options to employees. In an effort to take an active role in valuations, the Regulator is now contacting pension schemes which, it believes, require additional scrutiny. One of the most frequent issues raised with scheme trustees, is the potential for conflicts of interest.

"Increased scrutiny"...

The governance of pensions is complicated and demanding, and trustees constantly find themselves under immense pressure to satisfy all members of the scheme, while remaining impartial and fulfilling all legal obligations. The duty to act impartially can be difficult, especially in contentious situations. One of the biggest threats to impartiality comes when members of a trust's sponsor company also sit on the trustee board - and place disproportionate value on sponsor interests.

Separating sponsor interests from the interests of trust beneficiaries isn't easy, and many trustee boards opt to seek professional support to resolve the problems after the prospect of increased scrutiny from the Pensions Regulator.

"We have seen some increased scrutiny on things like valuations," said Fraser Sparks, partner at Stephenson Harwood, "with that increased scrutiny has I think, come a perception among trustee boards that it would just be a lot easier to have an independent trustee on board."

While TPR was not using its powers to compel scheme trustees to find professional help, Sparks said, there was a sense that it was being "more expressive" in its advice to consider that option as a way of "ticking the boxes" of pension governance.

An examples given by Sparks involved a pension scheme in the cosmetics industry, worth £25 million which found benefits had not been distributed correctly . When it was decided efforts to correct the mistake would not be sufficient, the board, along with TPR, agreed to find an independent trustee to sort out the problem.

Working through the danger...

The Regulator (<http://www.pensionsclarity.co.uk/glossary/pensions-regulator-definition/>)'s preference would, it seems to Sparks, be that any at-risk pension schemes would have an independent, professional trustee (<http://www.dalriadatrustees.co.uk/>) to help work through the danger. The reassurance would ease the pressure on the Regulator - and have a knock-on effect of shoring up the pensions industry in a wider sense. Maria Stimpson, Allen & Overy partner, pointed out that TPR's flexing is nothing new:

"It has powers to appoint trustees when appropriate," Stimpson said "but it's probably fair to say it is more direct in saying it's appropriate that conflicts are managed in a different way, rather than actually step in and appoint its own trustees".

When TPR steps in to manage conflicts of interest, sensitivities can be high - along with the potential for disagreement. A spokesman for the Regulator confirmed this perception, emphasising the importance of scheme trustees "recognizing and managing conflicts of interest" themselves, at every level of the trust

agreements:

"Our focus is on educating and enabling trustees" he said, "it is obviously preferable if trustees seek advice and take appropriate action themselves rather than the regulator having to resort to make use of our powers".