

Consultation on The Pensions Regulator's Trustee Register – Buck Consultants' response

We are pleased to have the opportunity to comment on these proposals. As consultants and advisers across multiple disciplines to a large number of occupational pension schemes and/or their sponsoring employers (including the provision of training services), we are involved on a daily basis with trustees of all abilities. Our primary interest in this consultation therefore is from a perspective of wishing to see our clients' schemes being effectively run, for the ultimate benefit of the members. One important aspect of this is the trustees' ability to work successfully with the scheme's advisers.

The achievement of this objective involves the regulator's qualifying conditions for membership of the trustee register achieving a balance, ensuring the highest standards of competence and practice from those on the register (especially so where they are appointed to a scheme enduring difficult circumstances) without making the qualifying conditions and remuneration prospects so onerous that high calibre potential candidates for the register are deterred from applying.

On the whole, we believe the proposals do achieve that balance, subject to the comments below.

The consultation questions

Do you consider the regulator's proposed view of "significant influence" over the management of the pension trustee work to be reasonable? If not, how would you assess "significant influence" over the management of the pension trustee work?

Our interpretation of the 2005 regulations is that the distinction between an Officer and a Key Person is intended to reflect that the Officer has day-to-day responsibility for the running of individual schemes, whereas the Key Person has a higher-level, more overall management role in respect of the trustee's business, which may include overall management of other staff who fall under the definition of "officer" (although of course they can and often will, also have hands-on responsibility in respect of individual cases).

That being the case, the definition of "significant influence" in the context should focus on influence on particular schemes, as opposed to issues related more to the operation of the corporate trustee's business. We therefore consider that the first and fourth bullets in the list, namely the setting of business targets, and providing instructions to cross-sell relate to the operation of the corporate trustee's business and should not be a test of whether someone is an "Officer".

Do you consider the regulator’s proposed view of who it considers to have “overall management responsibility” to be reasonable? If not, how would you assess who has “overall management responsibility”?

Consistent with the answer to the previous question, the proposed definition of “overall management responsibility”, but with the addition of the two bullets that we suggest in the previous answer should be deleted from the proposed “significant influence” definition.

Is it reasonable for the regulator to require that applicants (who are not individuals) to be able to demonstrate three years’ regular or continuous experience as a trustee? If not, how would you assess it for these applicants?

This question relates to a corporate trustee. As with any corporate body, it can only act through its employees and officers. Therefore it is the experience of the individuals who are responsible for managing the individual cases that is important, although within the corporate entity, it is possible that such an individual may be influenced by the Key Persons. The particular legal structure that is put around these individuals is of less importance in practice. If the present proposal is implemented, it may effectively cut off access to high-calibre, experienced individuals who would be effective representatives of the corporate trustee, but who because of the technicality of the corporate entity employing them, would not be available through the register.

Consequently, we think that the experience qualification should relate to the personal experience of the Officers and Key Persons within the corporate entity. We agree that the proposed three years’ minimum requirement is satisfactory for Officers, as is the proposed five years’ minimum for Key Persons, but that there should be no minimum time requirement in respect of the employing entity itself.

Do you agree that the proposed ICAEW AAF framework is appropriate to use for assessing whether the applicant has “sound administrative and accounting procedures” in place? If not, why not?

This is an appropriate framework to use.

Does the list of control objectives in Appendix D adequately address key areas which would demonstrate that an applicant has “sound administrative and accounting procedures”? If not, what should be changed? If not, please explain why?

The list seems suitably comprehensive. There is no specific reference to business continuity and disaster recovery processes, both of the trustee and of any third party providers. These may be picked up under the AAF 01/06 requirements, but it may also be appropriate to list them separately, to underscore their importance.

Do you agree with the regulator's view as to what is adequate for the purposes of assessing the Indemnity Insurance cover (including the number of years for run-off cover)? If not, how would you assess adequate Indemnity Insurance cover?

As the consultation paper indicates, the assessment of what is an appropriate level of indemnity cover for any business is both an inexact science and subject to the terms imposed by the underwriter. There should be a general requirement for trustees on the register to secure cover at an appropriate level having regard to the need to protect the interests of beneficiaries under the scheme, with a floor below which it is considered that no trustee should operate. We consider that a minimum of £2 million in the current environment is reasonable.

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