

Occupational Pension Schemes: Trustees' Responsibilities

Many employers offer their staff an opportunity to save for their retirement through an occupational (or company) pension scheme.

Those employees who join the scheme need to have confidence that the scheme is being well run.

The role of pension scheme trustees is very important in ensuring that the scheme is run honestly and efficiently and in the best interests of the members.

We outline in this factsheet the main responsibilities of occupational pension scheme trustees.

Background

The Pensions Act 1995 (the Act) brought about a number of major changes to the way occupational pension schemes are run. The 2004 Pensions Act brought about further change and introduced, in April 2005, The Pensions Regulator (TPR) as the UK regulator of work-based pension schemes.

TPR has an important role in the pension sector. Its objectives are to:

- promote the benefits of members of work-based pension schemes
- promote the good administration of work-based pension schemes and
- reduce the risk of situations arising which may lead to claims for compensation from the Pension Protection Fund.

TPR has two core activities that underpin its regulatory approach:

- the gathering of detailed and up to date information about schemes and how they are being run and
- a risk assessment of every pension scheme.

In fulfilling its role, TPR produces important guidance for those involved with pension schemes including trustees as well as auditors and actuaries. This guidance is, or will soon be, available from TPR's website (www.thepensionsregulator.gov.uk).

Pension Scheme Classification

Employers can help promote retirement benefits for their employees in a number of ways including:

- occupational schemes
- group personal pension schemes
- stakeholder schemes.

An occupational pension is an arrangement an employer uses to provide benefits for their employees when they leave or retire.

There are two main types of occupational pension scheme in the UK:

- salary-related schemes
- money purchase schemes.

Whatever the type of scheme, it will usually have trustees.

The Role of Trustees

Most company pension schemes in the UK are set up as trusts. There are two main reasons for this:

- it is necessary in order to gain most of the tax advantages
- it makes sure that the assets of the pension scheme are kept separate from those of the employer.

In fulfilling their role, trustees must be aware of their legal duties and responsibilities. Trustees may have to undertake appropriate training in order to fulfil their role.

Trustees should also keep themselves up to date with changes in legislation that affect pension schemes and about pension issues generally.

Trustees' Duties and Responsibilities

Trustees have a number of very important duties and responsibilities, which include:

- acting in line with the trust deed, scheme rules and the legal framework surrounding pensions
- acting prudently, conscientiously and honestly and in the best interests of scheme beneficiaries.

In addition to these general duties, trustees also have a number of specific duties and tasks that they must carry out. The main tasks are to ensure the following happen.

Contributions

- The employer accurately pays over contributions on time. There are strict rules covering this area.

Financial records and requirements

- The right benefits are paid out on time.
- An annual report is prepared (see annual report below).
- An auditor's statement is obtained confirming details of the payment of contributions to the scheme and, if required, an audit of the scheme accounts is arranged.

Investment

- The pension fund is properly invested in line with the scheme's investment principles and relevant law.

Professional advisers

- Suitable professional advisers are appointed as running a pension scheme is complicated and often specialist advice will be needed.

Pension scheme records

- Full and accurate accounting records are kept, which include records of past and present members, transactions into, and out of, the scheme and written records of trustees' meetings.

Members

- Members and others are provided with information about the scheme and their personal benefits.

Registration and collecting the levy

- TPR is provided with information required by law about the scheme and the annual levy for the scheme is paid.

Related Matters

Reporting to TPR

Where a breach of law takes place and it is likely to be materially significant to TPR, trustees and indeed others involved in running the scheme have a legal duty to report the breach to the regulator. Code of practice 01, 'Reporting breaches of the law' provides guidance on the factors that should be considered when deciding to make a report.

In addition, trustees also have to notify TPR of specified changes in their scheme, for example, a significant reduction in the number of scheme members. These are known as 'notifiable events', also the subject of a code of practice.

The annual report

The trustees of most schemes must make an annual report available within seven months of the scheme year end. The report usually includes:

- a trustees report, containing legal and administrative information about the scheme
- an investment report
- the audited accounts and audit report.

Trustees' Liability

If something does go wrong with the pension scheme, trustees may be held personally liable for any loss caused as a result of a breach of trust. This could happen when, for example:

- a trustee carried out an act which is not authorised under the trust deed and scheme rules
- a trustee fails to do something that should have been done under the trust deed and scheme rules
- a trustee does not perform one or more of their duties under trust law or pension legislation.

The rules of most pension schemes will protect trustees from personal loss caused by an unintentional or negligent breach of trust, unless it was wilful or deliberate. In some cases, the employer will provide indemnity insurance for the trustees.

How We Can Help

We would be pleased to discuss your role as a company pension scheme trustee in more detail. We are also able to advise on the accounting and audit requirements of your scheme.

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