



# Future of trusteeship and governance: consultation on improving the quality of scheme governance

Submission by Prospect to The Pensions Regulator  
consultation on the future of trusteeship and governance.

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[www.prospect.org.uk](http://www.prospect.org.uk)

## Introduction

1. Prospect is an independent trade union that represents over 142,000 working people across the UK. Our members are professionals, managers, technical experts and craftspeople working in a huge range of industries. In the media and entertainment industries our members are part of the BECTU sector of Prospect.
2. One objective of Prospect is to improve the governance arrangements of the schemes to which our members belong.
3. This submission reflects the opinion of Prospect members that changes should be implemented to improve the governance arrangements of pension schemes and a framework for this to take place is welcomed, however this should not be introduced if there will be a detriment to the position of Member Nominated Trustees.

## Prospect's Position

### Professionalisation of trusteeship

4. The position of trustees is clearly vital and they must have a high enough level of trustee knowledge and understanding (TKU) in order to carry out the role. It is important though to not over professionalise being a trustee as lay trustees must not be discouraged from the role. Member nominated trustees (MNT's) are important and offer valuable insight into the sponsoring employer's business, an understanding of the scheme members and bring their own knowledge to the board. Pension scheme members see MNT's as their representatives on the board and look to them to safeguard their retirement savings.
5. Throughout the consultation there has rightly been a concentrated focus on the technical skills of trustees, however the 'soft skills' also play an important role in the efficient running of a trustee board. Skills such as communication and problem solving are vital on a trustee board and this is an area that can be improved on.
6. The focus of the regulator should be on trustee skills and the knowledge that they have and can bring to the board rather than pushing for compulsory professional trustees to sit on boards. Although professional trustees can bring increased knowledge and a different skill set to a board, they are not necessary for all boards.
7. As the consultation states, there are not currently enough professional trustees to cover the amount of schemes that there are so what kind of quality would schemes, particularly small ones which are less attractive to professional trustees, be getting? Even if the requirement to have a professional trustee was implemented with years of notice, this does not seem to be a viable option.
8. Although the skills that professional trustees may bring would be welcome in schemes that need the additional expertise, this should not be at the expense of lay trustees. Recent experience has unfortunately shown that there is an appetite from employers to dilute the number of MNT's on trustee boards and the influence that they have on decision making. If a rule was introduced regarding the requirement to have a professional trustee, it should come with the caveat that this cannot be done in place of a MNT.

### Sole Trustees

9. Part of this consultation is regarding the role of sole trustees. As a general rule we are not in favour of sole trustees as they are not getting the benefit of challenge or diversity.
10. If there are sole trustees, it must be ensured that decisions are peer reviewed or taken in conjunction with colleagues. Perhaps regulations could be introduced in order to make this compulsory. Tighter review of sole trustees is certainly required.
11. With a sole trustee there is an obvious lack of member involvement in the running of the pension scheme. We suggest that schemes with a sole trustee must have a mechanism in place which allows engagement between the trustee and the scheme members.
10. There is a large potential of conflicts of interest with sole trustees as they are appointed by the sponsoring employer who has the power to appoint and remove them. This could lead to the employer having a higher than ideal level of influence on decision making. Although it is hoped that this would not be an issue for vast majority of sole trustees, especially if they are professional trustees, this is a risk that must be managed.

### **Protection of the member nominated trustee (MNT)**

11. As stated, we believe that MNT's are a vital part of any trustee board. Every effort should be made to ensure that those who wish to be a MNT are supported and barriers are not put in place to discourage them from doing so.
12. One problematic area for lay trustees is having the time to attend trustee meetings and also have sufficient time to devote to improving their TKU. Although many employers are supportive of their trustees, this is not always the case and this could lead to poor running of pension schemes. We are therefore suggesting that rules are laid which guarantee trustees the necessary amount of time off work to facilitate this. On top of this, employers should be encouraged to value their employees who take on the duty of being a trustee and take this into account when setting workload and reviewing performance.
13. The introduction of a mandatory level of training is welcomed, as long as this is not excessive or onerous as this could lead to people being discouraged from becoming trustees. The complexity of running of a pension scheme has increased in recent years and so has the knowledge required by trustees to perform this role. This puts huge pressure onto trustees and has the impact of discouraging staff from being MNT's. The stewardship of a pension scheme is a very important role therefore we do not object to the regulator taking steps to support trustees and increase their knowledge, as long as this is introduced alongside measures such as guaranteed time away from work, which means that MNT's have sufficient resource to take on this role.
14. The value of MNT's must be appreciated and not underestimated. MNT's bring diversity of thought, knowledge of the membership as well as an understanding of the employers business. Their role is vital and we believe that when complimented with other expertise on the board, this leads to good member outcomes.
15. When appointing MNT's we have seen some movement from election to selection. Whilst this can be understood as it facilitates the appointment of a person who has sufficient ability and the correct aptitude to gain the relevant TKU required to sit on the board, it is vital that MNT's are truly member nominated and this process should not be diluted to the point where essentially MNT positions on the board are employer selected.

## Consultation questions

1. *Do you agree that the expectations set out in the 21st century trusteeship campaign (see Annex 1 of the consultation) is a good starting point for defining a minimum standard for trustee knowledge in the code? Is there anything else that should be added that would be necessary for all trustees to know?*

Yes. In addition to the points made in the 21st century trusteeship campaign, there should also be a point regarding value for money in the “Advisers and service providers” section. Although value for money has its own section, advisers and service providers are a large expense for the scheme and it should therefore be explicit that they should be reviewed to ensure that they provide value for money.

2. *Should there be legislative change for trustees to demonstrate how they have acquired a minimum level of TKU, for example through training or qualification?*

Potentially, although any minimum level of TKU must be reasonable and there should be oversight by the regulator to ensure trustees have sufficient TKU. Our opinion is that member nominated trustee’s (MNT’s)/director’s (MND’s) are a vital part of a board and these positions need to remain accessible and not be too onerous. There needs to be a careful balance struck between ensuring that the board members have sufficient TKU to undertake the role but alongside this, not making training and development obligations so onerous that it ultimately becomes a barrier to entry. Trustee training very often takes place alongside employment and this should be recognised when setting any minimum level of TKU.

If there is a legislatively set TKU requirement level, this greatly increases the accountability of being a trustee and would ultimately put people off being a MNT.

There could potentially be positives from providing a formal qualification for trustees as once passed, this will lead to the trustees having increased confidence regarding their ability to take on the role.

3. *Should there be a legislative change to introduce a minimum level of ongoing learning for all trustees, for example through CPD-type training? If so, how many hours a year would be suitable?*

Yes, as an ongoing structured education programme for trustees would ensure that they have the required level of TKU on an ongoing basis. Again though, this comes with a caveat that it should not be onerous and be a barrier to individual’s taking on the role. In terms of a minimum level, this is difficult to quantify. If there were to be a legislative change introducing a minimum level of ongoing learning, there should also be guaranteed time off work for trustees at least matching this minimum time requirement.

The Pensions Management Institute offer an Award in Pensions Trusteeship qualification which is designed to give the student sufficient TKU in line with that stated in the Pensions Act 2004. The suggested study time is 60 hours. This qualification is to cover all of the TKU requirements but for ongoing training and development, it may be that less than this is necessary.

The trustee toolkit that the regulator provides has been welcomed and received positive feedback. An expansion of this with built in oversight on its use from the regulator could be an approach to provide and monitor CPD.

4. *Do you agree that we should set higher expectations on levels of TKU held by professional trustees in the code, recognising that they typically act across multiple schemes of various types, size and complexity?*

Yes. As this is their career they should have a greater amount of TKU and be held to a higher standard.

5. *Should we focus more on establishing and setting standards and ensuring all trustees are aware of them, while relying more on industry to have the main role in educating trustees in ways more tailored to their individual needs?*

The education that the regulator provides, such as the Trustee Toolkit, is a vital source of learning. We believe that education is important and that the regulator should continue to provide learning material for trustees.

6. *We would also welcome any thoughts or ideas that you might have more generally about how we can have greater confidence that trustees have the necessary basic knowledge and understanding to carry out their role.*

The Trustee Board should keep training records and details of this could be reported to the regulator on an annual basis.

7. *Should there be a requirement for UK pension schemes to report to the regulator on what actions they are taking to ensure diversity on their boards? Should such a requirement be limited to schemes above a certain size? How should such a report be made to us?*

Yes. We agree that boards should be diverse and the result of this would be more effective boards. It is not necessary to link the diversity with scheme size however a balance must be struck between achieving diversity on a board as well as recruiting the best people to run the pension scheme. If the legal requirement was to report on actions taken to ensure diversity rather than requiring a quota, for example, this should achieve the aim of having diversity on trustee boards. It is important to have cognitive diversity on a board to ensure that there are a range of opinions.

We believe that an annual report to the Regulator on what actions the scheme has taken to achieve diversity on their board would be a suitable mechanism to help achieve this aim.

8. *Should industry play a role in creating tools, guidance and case studies that can help pension schemes attract a more diverse pipeline of lay trustees? How would that work and who should take a lead in making it happen?*

The regulator could provide case studies on how diversity has been achieved in different schemes.

9. *Should it be mandatory, in due course, for each pension scheme board to engage a professional trustee? If not what reasons (other than current capacity) would make such a move undesirable?*

No. There will be plenty of pension schemes that have very good trustee boards with members whose knowledge and experience means that they far exceed the TKU requirements placed on them. There will however be boards that need the additional expertise of an independent trustee and when the board report on how they have met the TKU requirement, if the TPR feel there is insufficient TKU, they should be able to appoint an independent trustee or instruct the scheme to do so.

There is also potential that if independent trustees are appointed the number of MNT's/MND's could be reduced to the minimum (where this is not already the case) to make way for a new appointee and we would strongly oppose this.

Professional trustees do play an important role and should be valued, especially with smaller schemes where there is potentially increased reliance on professional advisors. Due to their level of TKU, professional advisors can be vital in challenging this advice. The issue, especially with smaller schemes could be the funding of a professional trustee.

10. *Do you share our concerns in this area? Do you have any real case examples where you see these conflicts are not managed effectively in the case of sole corporate trustees?*

As previously mentioned in this response, we see diversity as a key component to an effective trustee board and with a sole trustee, diverse thinking is limited, even in where peer review is in place.

11. *Should the governance standards for sole trustees be strengthened, for example by requiring two or more trustees to attend trustee meetings? Are there any circumstances where this would not be appropriate or necessary?*

Yes. There can be situations where sole trustees work well but there should be strict guidelines around this. For example, we would be very concerned if an individual was a sole trustee. What is meant by this is that we would expect a sole trustee to be employed by a company which provides professional trustees so that mechanisms can be put in place which ensures a level of peer review.

12. *How do corporate professional trustee organisations manage potential conflicts of interest in relation to procurement of services?*

No comment.

13. *How do sole professional trustee organisations with preferred suppliers ensure that pension schemes get value for savers? Do they run competitive tenders for services? Are regular performance reviews conducted?*

No comment.

14. *What are the pros and cons of the different types of corporate trustee model that currently operate in the occupational pensions landscape? Are there any certain circumstances where a particular model would not be appropriate?*

No comment.

15. *Do respondents have any other solutions for winding up schemes with guarantees without detriment to savers?*

No comment.

16. *Would it be helpful for TPR to provide guidance on the factors to be considered when winding up schemes with guarantees?*

No comment.

17. *Are there any factors that respondents feel must be considered when winding up schemes with guarantees?*

No comment.

18. *Do respondents have a view as to whether the costs involved in winding up a scheme with guarantees would be affordable for small and micro schemes?*

No comment.

19. *Do respondents have a view regarding the loss of trustee oversight if benefits are assigned to individual savers?*

No comment.