

## DUTIES, POWERS AND RESPONSIBILITIES OF TRUSTEE DIRECTORS

### 1. Duties of a Trustee Director

The Trustee Directors act separately from the Scheme's sponsoring employer and manage a trust, which holds assets for the members and beneficiaries of the Scheme. The role of the trustee of the Scheme has always been an important one. A Trustee Director is responsible for, amongst other things:

- Looking after the interests of all members and their beneficiaries;
- Ensuring that the Scheme is well managed with proper records being maintained;
- Ensuring that benefits under the Scheme are paid when due;
- Specifying the investment strategy to the managers of the Scheme's assets;
- Complying with relevant pensions legislation; and
- Making decisions on the payment of certain benefits.

All Trustee Directors have the same powers and duties. As a Trustee Director, you must always act in the best interests of the Scheme's beneficiaries. This means exercising reasonable care when using your powers and carrying out your duties. Higher standards of care and expertise are expected from professional trustees who are paid for their services. You have legal duties to act prudently, conscientiously and honestly.

You must act in good faith and not make any personal profit at the expense of the Scheme. If you are a member of the Scheme, you can still be a Trustee Director and benefit personally from a decision you and the other Trustee Directors have taken, as long as they will benefit members generally or a specific class of members. However, always remember that a Trustee Director's obligation is to the Scheme as a whole and you should act with the best interests of all the beneficiaries in mind. In doing so, you must serve all the different classes of beneficiary fairly, and it is not your role to represent the interests of any particular group or individual.

The duty to act prudently is particularly important when dealing with the Scheme's investments. It means acting in the way that a prudent person would in his or her own affairs, for example, by:

- Considering the risks involved; and
- Getting and acting upon appropriate professional advice.

The Scheme has a set of legal documents, which set up the trust and the rules of the Scheme. A fundamental duty of a Trustee Director is to administer the Scheme in line with the trust deed and rules. It is essential that you are conversant with the rules and can understand the terminology used. These documents give you many of your trustee powers and details of when and how you can use these powers.

The trust deed includes the power to:

- Decide the investment strategy and invest the assets of the Scheme;
- Amend the rules of the Scheme;
- Amend members' benefits; and
- Wind up the Scheme.

As well as reading the trust deed and rules, you may also need to familiarise yourself with other documents governing the Scheme, for example:

- Amending documents;
- Announcements to members about changes in the Scheme benefits;
- Trustee resolutions or decisions made at trustee meetings; and
- Legislation which can override the provisions of the trust deed and rules if they say something different, or place an extra requirement on the Scheme.

## **2. Trustee Director training**

Pensions is a complex area. The ideal candidate would have some knowledge and understanding of pensions and all candidates would need to be able to commit to attend meetings and the necessary training to comply with the Pension Regulator's Trustee Knowledge and Understanding ("TKU") requirements.

The TKU requirements require all pension scheme trustees to be conversant with their own scheme documents and have a knowledge and understanding of:

- Trusts and pensions law;
- Principles of funding and investment; and
- Any other prescribed matters.

The legislation requires new Trustee Directors to take steps to satisfy this requirement within six months of their appointment. As a minimum, this would require you to complete the 'e-learning' (trustee toolkit) available on the Pensions Regulator's website which covers topics such as pensions law, investment and scheme funding.

The Scheme has implemented a training programme for new and existing Trustee Directors, including supporting Trustees with industry recognised qualifications.

## **3. Trustee Director Protections**

In the absence of any fraud, dishonesty or personal conscious bad faith, a Trustee Director benefits from a number of protections, including:

- Indemnification from the Society for liabilities arising in connection with the trusteeship of the Scheme;
- Generally reduced scope for any personal liability under a corporate trustee structure; and
- Statutory discharges and exoneration.

## **4. Further Information**

Further information on the role of a trustee generally is available on the Pensions Regulator's website:

**[www.thepensionsregulator.gov.uk/trustees.aspx](http://www.thepensionsregulator.gov.uk/trustees.aspx)**

The Pensions Regulator also provides an online training course for trustees which may give you more of a flavour of the trustee's role, and any new MNDs would be expected to complete the course as soon as possible after being appointed: **[www.trusteetoolkit.com](http://www.trusteetoolkit.com)**