

How an Independent Trustee can assist the Business Issues of Corporate Pension Schemes

What's the problem?

It is essentially one of **financial control**. Many company pension schemes are a major business issue for companies. This is for two main reasons:

1. If it is a final salary scheme, there is likely to be a “black hole”, which is impacting on the company’s performance, profit & loss account and balance sheet
2. There are often uncontrolled cash flow demands to fund a final salary scheme. Even if it is a money purchase scheme, the need for regular monthly ongoing company contributions can cause cash flow issues.

In addition, if it is an insured scheme there may be concerns over its security or future investment returns and possible impact on company liabilities.

This can raise major issues regarding the trading position of a company.

If it is intended that the company be sold, a pension scheme with a big hole that is seemingly out of control can be a barrier to the sale of the business – witness what happened at W H Smith and Marks & Spencer.

This equally applies to MBO, succession planning and also to company acquisition.

In short, there are no areas of corporate activity which are not affected by the pension scheme.

The Role of the Trustees

Trustees have very onerous responsibilities. Under Trust Law they have a prime and over-riding duty of care for the members. They are responsible for the investment of the assets of the scheme, often many million of pounds, whilst they delegate the day to day management of the funds, by appointing investment strategists and managers. The investment performance impacts directly on the funding level of the scheme and hence the contributions required by the company.

They also have to tackle complex actuarial and legal issues. Even with the help of expensive consultants and advisers, this can be a daunting responsibility.

Why appoint an Independent Trustee

Given the issues that face pension schemes in the 21st Century, who would voluntarily actually want to be a trustee of a pension scheme? The issues and numbers are so large. Yet it is a vitally important job, given the impact it has on a business – and of course there is the duty to the members to ensure the scheme will be able to meet its liabilities i.e. pay them their pensions throughout their retirement.

We believe that many companies should consider appointing an Independent Trustee as an **additional trustee**, to work with the existing trustees, who have significant and important knowledge about the scheme and its history.

The role of the Independent Trustee would be to work with both the other trustees and the company in “managing” the scheme. Over a period, the aim would be that the scheme is brought under control, particularly financially. After all, it is in everyone’s best interest (not least the members’) to be in a position whereby the company can actually afford the contributions that are required to be paid to the scheme.

Pragmatism and practicality are prime drivers – fortunately the authorities, both OPRA and the Inland Revenue, are fully supportive of such an approach to trusteeship. If a company cannot, for example, afford the contributions recommended by the actuary; is it right that the trustees force the issue, which may lead to the employer going into Receivership or Liquidation, with the result that members lose their jobs as well as their pensions?

We believe that other avenues should be considered first in such circumstances – pragmatism rather than the sledge-hammer.

<p>What about costs?</p> <p>Whilst lay trustees generally perform their role and duties “free of charge”, a professional Independent Trustee will charge fees. On the other hand, our experience is that where an additional Independent Trustee is appointed:</p> <ol style="list-style-type: none"> 1. Trustee work, including meetings, tends to be more focused on the crucial issues. 2. Because of the experience of the professional Independent Trustee, better and more controlled use is made of professional advisers, thereby reducing their fees. 3. If the Independent Trustee “drives” the management of the Scheme, it leads to better liaison and co-ordination between all the interested parties – employer, members and trustees. This has the benefit of ensuring there is cohesion, with everyone working together. 4. If there is a need to change the pension arrangements, the process of change and its communication is better and more cost-effectively managed. 	<p>Why MW Pensions?</p> <p>We offer Independent Trustee services through our subsidiary company, Moores Williams Trustees Limited.</p> <p>The advantages we offer are:</p> <ol style="list-style-type: none"> 1. Experienced staff who have spent many years in pensions, recently as trustees and previously as consultants and actuaries to trustee bodies. 2. Our fees are wholly transparent and are much lower than many other Independent Trustees – we are not based on London nor are we linked in any way with a large professional practice. 3. The same senior team deals consistently with the same client, ensuring continuity 4. We place great emphasis on communication and management which leads to prompt, cost effective completion of projects.
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