

Scramble to hire professional trustees as Regulator says independent trustees should chair pension trustee board

- **Regulator to intervene and remove conflicted trustees of pension funds**

A surge in the use of professional pension fund trustees is expected as new guidelines from the Pensions Regulator state that pension trustee boards should be chaired by independent trustees says Trustee GAAPS, the trustee search and selection firm.

According to Trustee GAAPS, only a small minority of pension schemes currently have truly independent trustees chairing the trustee board.

The Pensions Regulator's guide on conflicts of interest published on October 1 2008 follows a consultation launched earlier this year (April 2008), and is designed to help pension schemes manage conflicts of interest and raise standards of governance on trustee boards.

There has been a growing awareness of the difficulties that a pension fund trustee, who is also a director of the company that is funding the pension scheme, has in balancing their duties to the pension fund members and to the shareholders of the company they work for. For example, conflicts of interest can be created during negotiations over funding levels paid by the company to the pension scheme.

With companies facing more economic stress the temptation to try and reduce payments to pension schemes increases.

According to Trustee GAAPS, this is the first time that the Pensions Regulator has taken such a robust stance against conflicts of interest by explicitly recommending schemes appoint independent trustees to chair trustee boards. The Regulator also drew attention to its determination to intervene and remove trustees where conflicts of interest are not being managed appropriately.

The Pensions Regulator has also stated that smaller schemes that do not have sufficient resources to hire full-time independent trustee should appoint them on a contract basis, for example during a particular decision-making process.

David Johnson, Consulting Director at Trustee GAAPS comments: "This is a huge step forward and raises the standards of governance and protection for pension schemes closer to the level that pension fund holders deserve. The Regulator has clearly called for pension schemes to up their game and it will expect trustee boards to step into line."

“The Regulator is becoming increasingly determined to clamp down on conflicts of interest. Schemes that don’t have a single independent trustee are likely to come under much greater scrutiny.”

“For the first time the Regulator has formally stated that the chair of trustee boards should be independent. At the moment only a small minority of schemes have truly independent chairs, so this is likely to precipitate a scramble for professional trustees. In fact a lot of schemes still have a director of the sponsoring company chairing the trustee board, which in view of the Regulator’s threat to remove trustees, is bound to cause discomfort.”

“One of the key responsibilities of the chair is to manage conflicts of interest. It is therefore vitally important that the person in that role is to a large degree independent and not conflicted.”

Adds David Johnson: “Even small schemes, which have up until now been under the Regulator’s radar to a large extent, are now firmly in its sights. By endorsing the use of independent trustees on a contract basis, the Regulator is making every effort to pre-empt the usual reasons small schemes have for not using independent trustees.”