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64% of companies still experiencing potential conflicts of interest from trustee boards

- **Smaller schemes less likely to have independent trustees**
- **Over 3,700 defined benefit schemes with directors as trustees**

New research reveals just 36% of workplace pension schemes have no directors from sponsoring companies on the trustee board, according to Trustee GAAPS, the trustee search and selection firm: so there is still a huge amount of work to be done to remove conflicts of interest from trustee boards.

According to Trustee GAAPS, the annual survey of 310 schemes carried out by the National Association of Pension Funds shows just how surprisingly slow the majority of schemes have been to remove potential conflicts of interest for the benefit of scheme members.

Based on figures from the Pension Protection Fund (PPF), this would suggest there are over 4,900 defined benefit schemes that still have Company directors acting as trustees.

Trustee GAAPS says that directors are increasingly at risk of being sued for breach of trust if they allow their legal responsibilities towards their shareholders to conflict with their obligations as fund trustee, as the tide moves inexorably towards fully independent trustees.

David Johnson, Consulting Director, Trustee GAAPS, comments: "It's striking that such a small percentage of schemes have completely eradicated potential conflicts of interest on trustee boards despite the growing recognition of how much of a problem this is."

"The Pensions Act of 2004 introduced the requirement that trustees identify and manage **potential** and actual conflicts of interest, but there is a concern as to whether schemes need to be more proactive in upholding that requirement."

David Johnson adds: "As the issue of conflicts of interest becomes more contentious, there is an increasing risk of law suits against trustees with dual obligations to both the sponsoring organisation and scheme members."

The figures also reveal that Finance Directors are acting as trustees of 30% of workplace pension schemes. They are the single category of director most likely still to sit on trustee boards. Finance Directors are trustees of 39% of schemes with assets of less than £100 million.

Trustee GAAPS says that the issue of conflicts of interest is potentially more acute for Finance Directors than other directors on trustee boards because they are likely to be more conscious how decisions to direct more money to pension schemes may affect shareholder value.

David Johnson explains: “It’s a concern that Finance Directors are still seen as the natural choice for the trustee board when their fiduciary duty to shareholders and responsibility for corporate finance activity has the potential to put them into such direct conflict with scheme members.”

“Any number of activities that a Finance Director might pursue in the interest of shareholders, such as pursuing a large M&A transaction or increasing a company’s debt burden, can conflict with the interests of pension scheme members.”

“Most directors do their level best to manage these conflicts but it is becoming an increasingly precarious balancing act. Phrases like “Chinese Walls of the Mind” lay the problem bare.”

However, David Johnson says that where Finance Directors exit trustee boards they need to recruit successors who have similar expertise in financial and accounting issues.

ENDS

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