



A code of practice for pension scheme trustees

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What is a trustee? This is a very important question to ask, bearing in mind how important pension schemes are and the fact they continue to come under the spotlight. Briefly, a trustee is an individual or company appointed to be responsible for managing a pension scheme in line with the scheme's rules and legal requirements. Why be a trustee? Well, trustees can get a great deal of satisfaction (and even enjoyment!) knowing that they are providing a vital service by looking after their scheme. Colleagues, employers, former colleagues who are now retired and their families will all benefit from a well-run scheme. Trustees are regarded as trusted people and are expected to carry out their responsibilities in a fair and impartial way.

So, you're a trustee of a pension scheme or about to become one. What will be expected of you? This code of practice will help you understand the issues involved. However, non-professional trustees are not expected to be experts – you must have professional advisers, and the schemes officials and staff are also there to help.

Don't worry if there seems to be a lot to take in at first. As you look through the code, you'll realise what's involved. Read it through at your own pace, in easy stages if you prefer, and always keep it handy for reference. Some of the less familiar words are printed in **bold type** and explained in the glossary.

Being a pension scheme trustee requires common sense, time, understanding and effort. You must be honest, committed, willing to learn, prepared to take guidance when appropriate and appreciate what being a trustee involves.

You should receive appropriate training as soon as possible. Reading any of the regular pensions publications is an excellent way of keeping up to date with developments in the law and learning what other schemes are doing. You should also make sure you have been given a copy of Opra's 'A guide for pension scheme trustees'. If you haven't, you can get one free of charge from their helpdesk by calling 01273 627600.

As a member trustee of a large scheme and a member of the Opra lay trustee panel, I know that many people are affected by the decisions made by trustees. The code, which has been produced through the co-operation of a group of trustees and pension professionals, introduces some issues you need to know about and highlights areas where you may need to find out more. Even if you've been a trustee for some time, I'm sure you'll find this a useful reminder of what you need to do to meet your own high standards of conduct throughout your term as a trustee.

*Brian Holden MBE  
Chairman, Trustee Code of Practice Group  
June 2002*

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Some trustees are elected by employees or pensioners, others are appointed by employers. Whatever your background, you must be a responsible person, prepared to make a big commitment to the welfare of the scheme and its members.

### Before you begin

If you are invited to become a trustee, you must make known anything that could prevent you being considered **fit and proper** to be a trustee.

If you are thinking about becoming a trustee, you should find out what the job involves. The **scheme administrator** should provide you with basic information about the scheme, including:

- details of the current trustees;
- how trustees are appointed;
- why there is a vacancy;
- how often meetings are held;
- details of the scheme secretary, manager, administrator and the **appointed advisers**;
- the most recent copies of the **trust deed and rules, members' guide, annual report, and actuarial valuation report** (if any);
- information on any disputes concerning the scheme or reports made to **Opra** about the scheme;
- details of any protection for trustees, including any **indemnity insurance** policy; and
- what arrangements are in place for paying your expenses.

### Getting started

As soon as you become a trustee you should:

- be given the basic information suggested above (along with copies of minutes of recent meetings), if you have not received this information before being appointed;
- receive confirmation that your appointment followed the procedures governing trustee appointments for your scheme and that it was properly recorded;
- know how long you will be in office and any conditions for being reappointed, and of any overlapping terms other trustees are serving;
- sign any required **deed of appointment** (if you haven't signed it before being appointed);
- find out if any **indemnity insurance** will continue to provide you with cover for an appropriate period after you have stopped being a trustee; and
- make sure that you receive trustee training as early as possible during your first year as a trustee.

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## Conflicts of interest

You should:

- understand that it is your duty to act impartially and in line with the scheme's **governing documentation**. This is essential and takes priority over any other duties you may have, for example, your duties as a director of the **sponsoring company** or as a trade union representative;
- recognise possible conflicts of interest and manage these conflicts to your best ability;
- declare any possible conflict of interest at a trustees' meeting so you and your fellow trustees can decide if you should be allowed to make decisions on a particular matter; and
- know about any advice in the scheme's **governing documentation** which tells you what you should do if you have a conflict of interest.

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Trustees usually have to attend a number of meetings, how many depends on the size and structure of the scheme. You may have a large amount of background reading to do for these meetings. You may also deal with general enquiries about the scheme from members and you may have to deal with complaints and appeals.

### Duties, powers and making decisions

You should:

- know, and follow, the duties and obligations of trustees;
- show the same degree of care as any responsible person would when dealing with someone else's property, and you should use any relevant skills and knowledge you have;
- be fully aware of the scheme's **governing documentation** and act within the powers given you by the **trust deed and rules**;
- fully understand any powers given to you by law or the scheme's **governing documentation**, and obtain all relevant facts and information so you use these powers properly and fairly;
- use your power in good faith and for the purpose it was given to you;
- understand when you have to send a report to the **regulator**;
- act in the best interests of people who are receiving scheme benefits and the scheme membership as a whole;
- do your best to make sure that there are resources to meet the benefits promised, taking appropriate professional advice where necessary;
- make sure that the ownership of the pension scheme's **assets** is secure and that you review these arrangements from time to time;
- not delegate duties and powers that you should keep yourself because they are vital to the security of the scheme;
- monitor any duties and powers that you have delegated; and
- tell all the other trustees if you give up office before the end of your term as a trustee.

### Confidentiality

You must:

- keep confidential any information you have received because you are a trustee;
- make sure that you use the information you get to run the scheme properly for that purpose only, and you keep the information securely; and
- be told about the scheme's policy about disclosing trustee business.

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## Trustee meetings

You should:

- hold meetings regularly to carry out your responsibilities;
- know how the chairperson and secretary are appointed and who they are;
- make sure that dates for meetings are planned in advance;
- make sure that enough notice of meetings is given with the agenda and relevant papers, and that formal minutes recording all decisions are prepared and circulated promptly after each meeting;
- make sure that meetings are quorate (enough people are there to make them valid) and you keep to any voting arrangements described in the scheme documentation;
- be satisfied you spend an appropriate amount of time discussing matters;
- make sure that the scheme's **appointed advisers** attend meetings when they need to;
- be aware of any arrangements in the scheme's **governing documentation** for deciding about straightforward business between meetings; and
- if you are a director of a **trustee company**, carry out the duties set out in the company's **Memorandum and Articles of Association**.

## Amending the scheme

You should:

- consider professional advice before you decide to amend the scheme;
- make sure that any amendment you make to the scheme is properly authorised and is in line with the scheme's **governing documentation** and any legal requirements;
- make sure you consider the interests of all **beneficiaries** when you make decisions about the scheme; and
- get legal advice and advice from an **actuary** if you are winding up the scheme to make sure you act in the best interests of the **beneficiaries**.

## Regulation and approval

You should:

- have a general up-to-date knowledge of the role of **Opra**;
- make sure that the scheme continues to meet the requirements of the **Pensions Act 1995**;
- know about any reports about the scheme sent to the **regulator** and you should make sure they are written in line with the regulations;
- be aware of the scheme's procedure to make sure that any fines or penalties are not paid out of the scheme's **assets**;
- make sure that the scheme keeps the **approval** of the Inland Revenue; and
- make sure that the information held by the **Pension Schemes Registry** is accurate and up to date and that the scheme pays the **levy** every year.

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While experts (whether in-house or external) are employed to do the work, you must supervise the running of the scheme and make sure it is in line with regulations.

### Delegating and supervising

You should:

- make sure that you delegate your duties, powers and responsibilities in line with the scheme's **governing documentation** or legislation;
- take care over appointing anyone you are going to delegate duties to;
- supervise the actions of people you have delegated duties to;
- be satisfied that you have reached an agreement with each organisation or individual you have delegated duties to, setting out the full details of the delegation; and
- make sure that the agreement with the delegate protects you against problems caused by the delegate's wilful default, negligence or fraud.

### Documentation

You should:

- make sure that the scheme's **governing documentation** is clear, comprehensive, accurate and consistent and makes clear the balance of powers between the trustees and the employer;
- encourage using 'plain English' in legal documents;
- make sure that literature about the scheme is consistent with the scheme's **governing documentation** and does not mislead **members**;
- make sure that the scheme's documentation is kept up to date and that you review and update the legal **trust deed and rules**, or equivalent, regularly; and
- make sure that a named person is responsible for looking after original scheme documents and that they are keeping to approved procedures.

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## The sponsoring employer

You should:

- take all reasonable steps to maintain and develop good working relationships with the **sponsoring employer** (and other **participating employers**, if appropriate);
- know about any other **participating employers** in the scheme and make sure you regulate their role in line with the scheme's **governing documentation**;
- be satisfied that a capable and efficient structure for administering the scheme is in place; and
- be aware that, where the **trust deed and rules** and legislation provide, the **sponsoring employer** may also be one of the scheme's **beneficiaries**.

## The scheme's appointed advisers

You should:

- understand the type of advice that advisers can provide and the limits of that advice;
- be satisfied that all **appointed advisers** have the knowledge, experience and qualifications necessary to provide the service you have agreed;
- make sure that you clearly define the responsibilities of the **appointed advisers** and agree how you will monitor their performance;
- make sure that you receive any professional advice in writing so you have a clear record of advice you have received;
- make sure that **appointed advisers** attend trustee meetings when they are needed; and
- review the **appointed advisers** from time to time to make sure you are still satisfied with them.

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## Administration

You should:

- make sure that you can clearly identify the **scheme administrator** (whether in-house or external) and that there are:
  - *clear written contracts setting out the responsibilities of the administrator;*
  - *clear definitions of the organisation and responsibilities within the administrator's department or organisation;*
  - *clear lines of reporting within the administrator's department or organisation and between the administrator and the trustees; and*
  - *clearly defined administrative procedures and timetables;*
- make sure that there are procedures in place to hold cash securely, and that all monies due to the scheme are properly received and all monies paid by the scheme are properly authorised;
- make sure that all scheme monies can be identified and separated from those of the **participating employer**;
- make sure that any scheme bank accounts can be used only by the scheme and the trustees have to authorise opening and closing any accounts;
- make sure that you approve all bank mandates (instructions to the bank), and any amendments. You must make sure that your instructions achieve a balance between running the scheme practically and efficiently and keeping cash secure;
- make sure cashflows are properly managed and cash transfers to and from the **fund managers** are properly controlled;
- make sure that **members'** contributions are being calculated and deducted correctly and paid promptly to the scheme;
- make sure that the **scheme administrator** uses appropriate procedures to make sure benefits are correctly calculated, properly authorised and paid only to genuine **beneficiaries**;
- make sure that all the management information you receive is up to date, complete, accurate and relevant;
- make sure you are involved in planning the audit and what will be covered by it, and discussing the results with the auditor; and
- consider the best practices published by other organisations and, where possible, improve the performance standards of your scheme to meet the reasonable expectations of **members**.

Trustees are responsible for deciding about investments and appointing and supervising **fund managers** and all advisers. You can get training for these duties.

You should:

- take as much care as an ordinary sensible person would if they were asked to make an **investment** for the benefit of other people. This includes taking professional advice and acting on it;
- make sure you receive any training you need so you have the relevant level of skills and experience to make decisions about **investment**;
- find out about the **investment** powers available within the scheme's **governing documentation** and, where appropriate, under legislation;
- make sure that the **fund managers** and the **custodians** know the extent of their powers;
- know about anything in the documentation that affects the scheme's **investment** policy;
- understand the nature and scale of the scheme's **liabilities** and when they have to be paid;
- be aware of how much you should risk when investing after considering the scheme's **liabilities**;
- consider the need to invest in different categories or sectors so your investments are not tied up in one area;
- decide how much **employer-related investment**, if any, is appropriate and check that this is allowed by legislation and the trust deed;
- agree with the **fund managers** what their pay for their services will be based on, making sure that everyone understands how it is worked out and how much managing the scheme costs;
- make sure that there are clear agreements or contracts with the **fund managers** explaining how you expect the **investment** to perform and how these aims will be achieved and measured;
- be satisfied that the **fund managers** are qualified for their role;
- be satisfied that arrangements are in place to make sure that **assets** held by the **custodians** are identical to those reported by the **fund managers**;
- make sure that the **custodians** are safeguarding the scheme's **documents of title**; and
- from time to time, take into account any recommended principles for making **investments** and review your responsibilities and practices.

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You have a responsibility to see the members of your scheme are told about its activities.

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### The scheme members

You should:

- make sure you maintain good communications with scheme **members**;
- make sure that **members' guides** and other literature about the scheme is up to date and given to all **members**;
- make sure that you are told about any difficulties in providing information to **members** and possible future **members**, within the time set out in law; and
- be satisfied that any information given to **members** reflects what the scheme will provide, does not mislead **members** and includes information required by law.

### Annual reporting

You should:

- make sure the scheme can produce the information necessary to satisfy the legal requirements for an **annual report** in line with generally accepted accounting practice;
- make sure that the scheme's **annual report** provides information that is relevant to all of the scheme's interested parties, includes clear and reliable information about the scheme's activities and meets legal requirements;
- try to encourage the preparation of a '**summary report**' for all **members** that is produced in a user-friendly manner likely to be understood by the scheme membership as a whole; and
- be satisfied that the information provided in a **summary report** is consistent with that in the formal **annual report**.

A wide range of courses is available to improve your knowledge and skills, and boost your confidence as a trustee.

You should:

- ask the employer for a programme of continuing development and decide what level of training, both formal and informal, is appropriate for your needs;
- consider how that training, especially the formal training, can best be delivered;
- make sure that you regularly review and discuss ongoing development, including training and the way it is delivered, with other trustees;
- try to establish a 'register' of the activities carried out to maintain continuing trustee development; and
- arrange, preferably through the secretary to the trustees, to have access to **Opra's** publications, particularly those specifically relating to trustees' responsibilities.

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The following are words used throughout the code. You should also check your own **governing documentation** for definitions which are specific to your scheme.

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Actuarial valuation report

Actuary

Annual report

Appointed advisers

Approval

Assets

Beneficiaries

Custodian(s)

Deed of appointment

Documents of title

Employer-related investment

Fit and proper

Fund manager(s)

Governing documentation

Indemnity insurance

A report drawn up by the scheme **actuary** showing how the scheme's **liabilities** compare with the scheme's **assets**.

The person who works out what the pension benefits will cost, and what contributions will be necessary to pay for them, taking into account factors like life expectancy, **investment** returns, interest rates and inflation.

The report that the trustees must produce each year about how they have managed the scheme. Regulations set down the content of this report.

Individuals or companies appointed by the trustees to provide professional advice and services.

The process by which the Inland Revenue gives tax relief to a pension scheme.

Everything that the trustees hold for the scheme, such as investments, bonds, cash and insurance policies.

People entitled to benefit under the terms of the scheme.

The organisation which safeguards the scheme's **assets** on behalf of the **fund manager** or the trustees.

A deed by which a new trustee is appointed.

These documents are written proof of who owns the assets.

Any **investment** of the scheme's **assets** in the employer who sponsors the scheme.

To be considered fit and proper a trustee should generally be over 18 years of age and not:

- convicted of an offence involving dishonesty or deception;
- an undischarged bankrupt;
- disqualified from being a company director; or
- disqualified by **Opra** from acting as a trustee.

An individual or company appointed by the trustees to manage the scheme's investments.

The legal documents which set up the scheme and say how it should be run.

Insurance which is provided to compensate trustees for a loss caused by the trustees in specified circumstances.

Investment	The process by which contributions and income are used to buy <b>assets</b> for the scheme. This may include using insurance policies, bonds or the stock market.
Levy	A charge paid every year by schemes registered with the <b>Pension Schemes Registry</b> .
Liabilities	Amounts which the scheme has an obligation to pay now or in the future.
Members	People who have joined the scheme and are entitled to benefits from it. It can include members who are currently making contributions, members who have stopped making contributions and those who are drawing pension benefits.
Members' guide	A booklet given to <b>members</b> to illustrate what the scheme provides.
Memorandum and Articles of Association	The legal documentation regulating how a <b>trustee company</b> is managed.
Opra	The Occupational Pensions Regulatory Authority is the statutory <b>regulator</b> for occupational pension schemes in the UK.
Participating employer(s)	An employer whose employees have the right to join the employer's pension scheme.
Pensions Act 1995	This Act came into force on 6 April 1997 and introduced new legal requirements for occupational pension schemes.
Pension Schemes Registry	A department of <b>Opra</b> which maintains the register of pension schemes, and which also collects the <b>levy</b> .
Regulator	<b>Opra</b> .
Scheme administrator	The person or company responsible for the day-to-day administration of the scheme.
Sponsoring employer	Usually the employer which established the scheme or its successor in business.
Summary report	A simplified version of the scheme's <b>annual report</b> .
Trust deed and rules	The legal document which sets up and governs how the scheme is managed, and the associated rules which give details of what the scheme provides.
Trustee company	A company set up to act as the trustee of a pension scheme.

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