

# Pension trustee skills, capability, and culture: a call for evidence

## Contents

Introduction .....	2
About this call for evidence .....	2
Purpose of the call for evidence .....	2
Scope .....	2
Duration .....	3
How to respond to this call for evidence .....	3
Government response .....	3
How we gather evidence .....	3
Feedback on the call for evidence process .....	3
Freedom of information.....	3
Ministerial Foreword .....	5
Background .....	7
Chapter 1: Trustee skills and capability .....	9
Chapter 2: The role of advice.....	14
Chapter 3: Barriers to trustee effectiveness.....	17
Annex A: List of Questions .....	21

## **Introduction**

This call for evidence has been launched by the Department for Work and Pensions (DWP) and HM Treasury (HMT) to support the development of policy options for improving the skills and capability of pension trustees and removing barriers to trustees' ability to make effective investment decisions.

## **About this call for evidence**

Who is this call for evidence aimed at?

We welcome input from:

- Pension scheme trustees
- Pension scheme providers, other industry bodies and professionals
- Members of the advisory community
- Any other interested stakeholders

## **Purpose of the call for evidence**

DWP and HMT are issuing this call for evidence to deepen the evidence base around trustee capability and other barriers to trustees doing their job in a way which is effective and results in the best outcomes for savers. It is focused on three areas: trustee skills and capability, the role of advice, and other barriers to trustee effectiveness. We are particularly interested in whether trustees have the right knowledge and skills to consider investment in the full breadth of investment opportunities.

We are interested in trustee capability for Defined Contribution (DC), Defined Benefit (DB), and Collective Defined Contribution (CDC) schemes, as well as hybrid schemes, although some areas in this call for evidence may focus more on one type of scheme than the other.

We want to hear from the pensions industry, including trustees and those who advise them, as well as other stakeholders who can offer an informed perspective on trustee capability and barriers to trustee effectiveness.

The responses to this call for evidence and other stakeholder engagement will inform DWP and HMT's understanding of these issues and, if necessary, will help inform the development of future policies in these areas.

## **Scope**

This call for evidence applies to Great Britain.

## **Duration**

This call for evidence will run for 8 weeks, starting on 11 July 2023, and ending on 5 September 2023. Please ensure your response reaches us by that date as any replies received later may not be taken into account.

## **How to respond to this call for evidence**

Please send your responses by email to:  
[CaxtonHouse.pensiontrustees@dwp.gov.uk](mailto:CaxtonHouse.pensiontrustees@dwp.gov.uk)

All responses to this call for evidence will be shared with both HMT and DWP.

Please use the response template to structure your response, where possible.

Note: When responding please indicate whether you are responding as an individual or representing the views of an organisation; whether you are content for your response to be quoted in a future response the government issues; and whether you would prefer this to be anonymous.

We are happy to keep responses confidential where requested, subject to the Freedom of Information principles below, recognising that some respondents may prefer their response to not be public.

## **Government response**

We will publish our response to this call for evidence on the GOV.UK website in line with normal government practice.

## **How we gather evidence**

### **Feedback on the call for evidence process**

We value your feedback on how well we seek evidence. If you have any comments on the process of this call for evidence (as opposed to comments about the issues which are the subject of the call for evidence), please address them to:

DWP Consultation Co-ordinator: [caxtonhouse.legislation@dwp.gov.uk](mailto:caxtonhouse.legislation@dwp.gov.uk)

## **Freedom of information**

The information you send us may need to be passed to colleagues within the DWP, published in a summary of responses received and referred to in the published government response.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information

Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of freedom of information and how it is applied within DWP, please contact the Central Freedom of Information team: [freedom-of-information-request@dpw.gov.uk](mailto:freedom-of-information-request@dpw.gov.uk)

The Central Freedom of Information team cannot advise on a specific call for evidence exercise, only on freedom of information issues. Read more information about the [Freedom of Information Act](#).

## Ministerial Foreword

Together, we believe in a future pension system which upholds three key pillars: fairness, adequacy, and predictability. Our intentions are ambitious and are all designed to improve saver outcomes. Key planned policy changes include the transformative Value for Money framework, the extension of Collective Defined Contribution pension scheme provision, bringing forward a regulatory regime for consolidators of defined benefit schemes, setting out a decumulation framework that provides support for members, and a solution to address the long standing and costly problem of deferred small pots.

The trustees of pension schemes will need to operate in an evolving and more complex regulatory environment for these policies to work and deliver for savers. We recognise that the role of a trustee is not an easy one, and it comes with significant responsibility. We must ensure trustees are properly equipped and supported to meet the demands of the role.

We need trustees to have the right skills to consider investment in a full range of assets that could provide higher returns for savers and give them a comfortable retirement.

We are delighted to launch this call for evidence. We need to ensure trustees have the right support, skills, knowledge, and experience to undertake their challenging roles to secure the best outcomes for pension savers. Trustees do not work in a vacuum, and to deliver significant change, we cannot only target one part of the investment supply chain. That is why this call for evidence is being undertaken jointly by both our departments, with DWP looking at the role of trustees, and HMT looking at advisors in the investment decision-making process. Building the evidence base on the way trustees make decisions and use advice will enable government to develop a holistic and informed approach to future policy decisions.

At the heart of our ambition is ensuring that the retirement savings of all hard-working savers are properly looked after and helped to grow. Automatic enrolment has been a great success, but we must make sure that we get the maximum value for every penny saved. As we look to the future and the Defined Contribution sector grows along with savers' expectations, we need to ensure trustees are equipped with the skills and support needed for the challenges ahead.

The DWP has published a number of documents today, all designed to drive better outcomes for pension savers. These are all part of a wider government agenda to improve opportunity for investment in alternative assets including in high growth businesses and improve saver outcomes. We believe that a higher-allocation to high-growth businesses, as part of a balanced portfolio, can increase overall returns for pensions savers leading to better outcomes in retirement.

In addition, we want to ensure that our high-growth businesses of tomorrow can access the capital they need to start up, scale up and list in the UK. DWP have been working closely with HMT on this wider package which was set out by the Chancellor in his Mansion House speech.

Laura Trott MP  
Minister for Pensions

Andrew Griffith MP  
Economic Secretary to the Treasury



Research into this area, including by the Pensions Policy Institute, suggests that better outcomes for savers can come through improved governance.<sup>3</sup>

8. Trustees have an obligation to provide for the best potential outcomes for their members. Currently UK trustees are not investing in high-growth companies, to the same extent their international counterparts are. At the same time, on their current trajectory, some defined contribution schemes may not provide the returns their pension fund holders expect and DB pension schemes could be missing out on the additional security higher returns would provide.
9. We know that alongside capability, there may be other barriers preventing trustees from acting effectively.
10. This Call for Evidence therefore seeks evidence on the following three areas:
  - a. **Trustee skills and capability:** Chapter 1 seeks views on the current state of trustee capability as well as gathering evidence to inform potential policy options around trustee registration, accreditation requirements, and professionalism.
  - b. **The role of advice:** Trustees take advice to help them decide how to invest assets. Investment choices are complicated, and many trustees are not investment specialists. As well as ensuring that trustees are able to understand and, if necessary, challenge, the advice they receive, we are keen to ensure that advice is of good quality and enables trustees to make informed decisions. Chapter 2 therefore focuses on the role of investment consultants and others in advising trustees.
  - c. **Barriers to trustee effectiveness, including duties:** We recognise that trustees may encounter other difficulties in fulfilling their role. Chapter 3 seeks evidence on whether the current framework and guidance on fiduciary duty is sufficient to help trustees make decisions in the best long-term interest of savers. It also covers whether trustees have sufficient time and support to fulfil their duties.

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<sup>3</sup> <https://www.pensionspolicyinstitute.org.uk/media/2671/20171108-the-impact-of-dc-asset-pooling-international-evidence.pdf>



## Chapter 1: Trustee skills and capability

11. We expect those responsible for pension savers' money to meet their legal duties and be equipped with the right skills and knowledge to deliver the best outcomes for savers.
12. This chapter looks at current expectations for trustees, how well these are being fulfilled, and what could be done to improve the current state of trustee capability.

### Expectations of knowledge and understanding

13. Trustees are currently required to meet certain standards of knowledge and understanding. The Pensions Act 2004 (sections 247-249) requires trustees to have knowledge and understanding of the law relating to pensions and trusts and the principles relating to the funding of occupational schemes and the investment of scheme assets. Trustees are also required to be conversant with their own scheme's governing documentation.
14. The Pensions Regulator (TPR) provides guidance both within a code of practice, and elsewhere, on Trustee Knowledge and Understanding which is designed to help trustees by setting out what is meant by knowledge and understanding in the legislation and the scope of the knowledge and understanding requirements.
15. However, recent evidence suggests that many trustees may not even be aware of these requirements. TPR's 2021 Defined Contribution (DC) survey showed that over a third of DC trustees had never read or were not aware of TPR's codes of practice.<sup>4</sup> TPR's 2022 Defined Benefit (DB) survey showed that nearly a fifth of DB trustees had never used or were not aware of TPR's codes of practice<sup>5</sup>. Similarly, research by TPR in 2019 with trustees found that one in five felt the trustee board either didn't have or didn't have access to the knowledge needed to run the scheme.<sup>6</sup>

**Question 1:** Do trustees know what the knowledge and understanding standards expected of them are?

### Current levels of knowledge and understanding

16. We recognise that trustee knowledge and understanding varies across schemes. Different requirements are in place depending on the type of scheme. For instance, Master Trust trustees must meet more rigorous

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<sup>4</sup> <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/dc-trust-based-pension-schemes-research-report-2021.ashx>

<sup>5</sup> <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/defined-benefit-schemes-survey-research-report-2021.ashx>

<sup>6</sup> <https://webarchive.nationalarchives.gov.uk/ukgwa/20191028122301/https://www.thepensionsregulator.gov.uk/en/document-library/consultations/future-of-trusteeship-and-governance-consultation>

competence requirements and demonstrate that the overall board of trustees has a sufficient balance of skills and experience.<sup>7</sup>

17. We are keen to understand in more detail whether trustees currently meet the knowledge and understanding requirements expected of them.

**Question 2:** Do trustees currently meet the knowledge and understanding requirements expected of them? Are some types of trustee better than others?

### **Improving trustee capability**

18. Trustees can and should improve their knowledge and understanding where it is not meeting the required standards. If the trustees of a scheme do not have the capacity or capability to do this, they should consider consolidating into a larger scheme that meets the required governance standards.

19. Research<sup>8</sup> from the Institute and Faculty of Actuaries suggests there is evidence of clear variability in decision-making quality of trustees, with professional trustees being better than member or employer-nominated trustees. The presence of this variance indicated that there is potential for improving trustee decision-making capability. We recognise that having a diverse range of trustees on a board (including employer- and member-nominated trustees) can help improve outcomes. However, we want to make sure that all kinds of trustee are equipped with the right knowledge and skills to achieve good outcomes.

20. We believe that as well as improving governance and ensuring that pension savers assets are properly looked after, trustee capability improvements could also drive better returns for savers. There is evidence from several sources that there is not enough widespread knowledge in pension schemes to engage effectively with alternative assets.<sup>9</sup> Alternative assets include illiquid assets, which are those of a type that cannot be easily sold for cash in normal market conditions. Examples of such assets include property, infrastructure, private equity, and private debt. Trustees who have a better understanding and knowledge of investments may enable schemes to invest more in assets that can both drive higher returns and promote growth in the economy.

21. We are keen to understand further what barriers prevent trustees from improving their capability, and whether trustees currently have the right knowledge to invest in a wide range of assets.

22. We understand that many trustees use advisors to provide information and guidance to help them make decisions. We are interested in understanding

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<sup>7</sup> [Master trusts code of practice | The Pensions Regulator](#)

<sup>8</sup> [Pension Trustee Decision Making Research Report 0.pdf \(actuaries.org.uk\)](#)

<sup>9</sup> [2023-03-09 What role could alternative assets play in DC investment strategies in the future? | Pensions Policy Institute](#) and [Pensions and growth \(plsa.co.uk\)](#)

whether trustees are able to understand and, where appropriate, challenge the advice that they receive in relation to investment. This is covered in further detail in Chapter 2.

**Question 3:** What are the barriers to improving trustee capability? What do you think government should do to ensure that all trustees meet the standards expected of them? Does trustee liability put off potential trustees?

**Question 4:** Do trustees (including Master Trust trustees) have the right knowledge and understanding to invest in the full breadth of investment opportunities? If not, what can be done to improve this?

**Question 5:** Is there enough understanding of advice around the consolidation of schemes?

### **Registration**

23. In other sectors, such as the charity sector, those who act as trustees must be registered. For example, the Charities Commission keeps a register of charity information up to date which contains the legal name and other details for all their trustees.

24. TPR does keep an Independent Trustee Register. This is used by TPR to appoint independent trustees to schemes under sections 22 and 23 of the Pensions Act 1995.

25. Trustees are not currently required to be on this register.

26. In order to properly regulate and enforce any potential requirements around trustee capability, we believe it could be beneficial to mandate all trustees to provide enough information to TPR for each trustee to be uniquely identified. Assigning each trustee, a unique identifier would allow TPR to cross-check trustees against training and accreditation completion, enable easy communication with trustees, and enable checks to ensure that all trustees are complying with requirements.

27. This could be done by asking for more detailed information about all scheme trustees to be included in the scheme return, or through a separate return for pension trustees. This would require enough information for TPR to be able to individually identify which trustees are acting on behalf of which schemes.

**Question 6:** Do you think that the government should require all trustees to provide information to enable TPR to keep a register of all trustees?

**Question 7:** If the government were to require this information, would it be best achieved through the scheme return or through a separate trustee return?

## Accreditation and training

28. There are many different types of training that pension trustees can undertake. TPR provide a free Trustee Toolkit, which has core modules covering many of the expectations listed in TPR's trustee knowledge and understanding guidance. TPR requires that new trustees are able to demonstrate a basic level of knowledge and understanding within six months of appointment. TPR strongly recommend that trustees review their knowledge and understanding at least annually. Free resources are provided to help trustees identify gaps.
29. Trustees can also complete additional industry qualifications and undergo accreditation. This is voluntary, although TPR does set a desire for professional trustees to be accredited. Lay trustees can also become accredited.
30. We understand that some boards already require all trustees to attain accreditation or undergo equivalent quality training. However, overall numbers of accredited trustees remain low.
31. We think there could be benefits to requiring a wider range of trustees to obtain accreditation. Wider take-up of accreditation could result in trustees being more equipped to fulfil their roles, ensure trustees can fully consider a wide range of investment options and act as informed consumers of investment advice, and ultimately lead to better outcomes for scheme members.
32. We are considering proposals, including whether every trustee board should be required to have a certain proportion of accredited trustees, whether that is one trustee, more than fifty percent of trustees on a board, or if all trustees should be accredited.

**Question 8:** Do current accreditation frameworks provide a high enough bar to equip trustees who become accredited to properly fulfil their role, including in making investment decisions?

**Question 9:** What proportion of your trustee board are accredited trustees?

**Question 10:** If we required each scheme to have a certain proportion of accredited trustees, where should this bar be set? Should Master Trusts be required to have a greater proportion of accredited trustees than single-employer schemes?

## Professional trustees

33. TPR consider a professional trustee to be a person whose business includes trusteeship.<sup>10</sup> TPR sets out various factors that are likely to mean a person's

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<sup>10</sup> [Professional pension trustee standards | The Pensions Regulator](#)

business includes trusteeship. For example, an individual who represents themselves to trustees of unrelated schemes as having expertise in trustee matters would be considered to be a person whose business includes trusteeship.

34. TPR apply higher standards and tougher enforcement action to those who fit this definition of a professional trustee.
35. In 2019, TPR consulted on proposals which included mandating having a professional trustee on every trustee board. The responses to this consultation made it clear that currently this might not be the simplest or most practical means of improving standards of governance, and TPR has instead taken forward other proposals, including ongoing work to update the Trustee Toolkit.
36. We are aware that the same challenges remain. For instance, the current supply of professional trustees would not be sufficient to provide coverage on the board of every scheme. However, we do believe that in a more consolidated market, having a professional trustee on each board could be an effective way forward. Our long-term vision is to have a smaller number of schemes, each with a professional trustee.
37. In order to ensure that such a requirement would not be open to misuse, we are considering whether there first need to be more rigorous requirements for those acting in the capacity of a professional trustee.
38. TPR sets out that they desire professional trustees to gain accreditation to show that they meet the standards. However, there is no strict requirement to do so.
39. If we decided to require all professional trustees to be accredited or meet other standards, a definition of professional trustee would need to be used to determine who would have to comply with the requirements.

**Question 11:** Should there be more rigorous requirements for those acting in the capacity of a professional trustee? What sort of requirements/standards should professional trustees be meeting? Should there be mandatory accreditation?

**Question 12:** How would you define a professional trustee for the purposes of legislating for all professional trustees to be accredited?

## Chapter 2: The role of advice

### Investment Advice for Trustees

40. Trustees are required to create a set of investment principles and monitor performance against those principles as part of their investment governance. For trustees to enact their investment governance effectively and in accordance with their trustee and fiduciary duties, they are required by the Pensions Act 1995 to be supported by ancillary professions such as the scheme actuary and scheme auditor. Trustees may also call upon the advice of a fund managers, investment consultants or legal advisors. Trustees of most occupational pension schemes which include investments are required to appoint a fund manager. These ancillary professions have a significant impact on trustee decision-making, as reflected in research<sup>11</sup> from TPR (2015) which found that it was rare that the trustee board disagreed with its external advisors. Across all the advisor types, the majority of schemes indicated that they rarely (58%) or never (24%) disagreed with this advisor (with 14% sometimes disagreeing and 1% always disagreeing).
41. We are interested in understanding how trustees use advisors to identify and calculate risk when their investment strategies are formulated and enacted. In particular, the government is seeking insight into whether and how the advice and support provided to trustees impacts deciding whether to invest in unlisted equities. We welcome evidence from all pension market professionals including trustees or former trustees.

### Market-wide Questions

42. The market provides a variety of support services for trustees as they operate their investment governance. Some concerns have been raised about the complexity and volume of information provided to trustees on appropriate investment opportunities and the ongoing difficulty in monitoring investment performance. Pension schemes need to represent the best interests of their members and will try to reflect the long-term nature of investments in their subsequent investment strategies. Trustees will seek different kinds of advice depending on the type of scheme, including whether the scheme is DB, DC, or hybrid.
43. In addition to the scheme advisors legally required in the Pensions Act 1995, trustees may obtain independent and impartial support on how to best allocate assets held by the pension scheme to achieve their investment aims. Any potential proposals will need to recognise the support that the market already provides trustees and enhance trustees' abilities to make evidence-

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<sup>11</sup>

<https://webarchive.nationalarchives.gov.uk/ukgwa/20170712122409/http://www.thepensionsregulator.gov.uk/docs/trustee-landscape-quantitative-research-2015.pdf>

based decisions. We are therefore requesting views on the current support provided and where we could target appropriate action.

## **Regulatory Environment**

44. In addition to the support trustees receive, we are also keen to understand some of the wider regulatory factors that impact trustee decision making on investments. Beyond support services from advisor, trustees will have a variety of other regulatory obligations that influence investment decisions. The government is keen to understand from trustees what these other factors may be.

**Question 13:** What are your observations on the external support trustees are given to make investment decisions, particularly in relation to unlisted equities?

**Question 14:** What changes could be made, including to the regulatory environment, to improve trustee support in relation to unlisted equities?

## **Investment Consultants**

45. Investment consultants provide advice in relation to strategic asset allocation, the selection of investment managers, and fiduciary management. Their advice helps trustees to formulate their investment principles. They also provide appropriate guidance to asset managers in the allocation of pension scheme assets. Advice factors in the pension scheme's risk appetite and the requirements of its members. They may also interpret guidance and legislation. The use of such services by pension funds has recently been subject to a number of reforms. In 2017, the Competition and Markets Authority (CMA) undertook an investigation into the investment consultancy market which included the services they provide to pension schemes. It proposed that a periodic tendering process be enforced when trustees are making the appointment of fiduciary managers and that investment consultants should be set objectives by trustees. These measures were to improve competition and transparency in the market and thus ultimately benefiting pension scheme beneficiaries. DWP laid their legislation in June 2022 which came into force in October 2022, bringing these duties for trustees into pensions law and the regulatory authority into the remit of TPR.

46. The CMA also proposed that HMT bring investment consultants into the FCA's regulatory perimeter, to help address the issues they had identified regarding competition in the market. Following the LDI-related market turbulence last year, this proposal has been echoed by others, albeit with a different focus centred on the quality of advice provided rather than on competition. The government is working through its next steps on investment consultant regulation, taking into account also that the case for regulation is influenced by questions of capability and skills among trustees. The objective of this call for evidence is to understand the dynamics between trustees and consultants in more detail, focusing in particular on how this influences decision-making of trustees in relation to investment in unlisted equities.

47. The government has received representations from industry that it is difficult for trustees to assess the advice they have received; this can be for several reasons. Some businesses that operate as investment consultants also provide additional benefits to clients in the form of legal or actuarial services. In some schemes, trustees are required to procure advice to develop their investment strategies and this may limit the scope to deviate from that advice. Having the ability to critically assess advice is important for trustees to evaluate their investment options. The City of London Research Report “Powerful Pensions” (2023)<sup>12</sup>, established that investment consultants’ careers often begin in actuarial roles and, therefore, they may have limited experience with private assets such as financial and professional service tech. This could include a lack of familiarity with illiquid asset classes, equities in general, and early-stage investment.

48. Investment consultants also provide guidance to asset managers who will provide day-to-day supervision of pension scheme assets. We also wish to invite evidence from asset managers on how investment consultant advice impacts on their profession.

**Question 15:** To trustees: To what extent do trustees use investment consultants to support decisions around allocations to unlisted equities? Did they subsequently increase? Is there a deficiency of knowledge or expertise by investment consultants of these types of investments?

**Question 16:** What changes could be made to investment management to support pension scheme investment decision-making?

### **Legal Advice**

49. Pensions lawyers advise on the creation, structuring and funding of pension schemes, their management, the resolving of any associated disputes and advice on trustee duties, including fiduciary duties. Where trustees seek investment legal advice, each independent legal entity, including the organisation providing the investment advice to the scheme has a separate legal advisor. Legislation requires that where a scheme seeks legal advice it cannot, by law, obtain it from anyone who is not properly appointed to the scheme. It is important to understand how legal advice has translated into decisions on investment and how much risk are trustees willing to accommodate.

**Question 17:** to trustees: How does legal advice impact on your investment decisions? What is an acceptable level of tolerance for investment risk? Is there a culture of ‘risk aversion’?

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<sup>12</sup> [Powerful Pensions: unlocking DC capital for UK tech growth - City of London](#)



## Chapter 3: Barriers to trustee effectiveness

50. As well as ensuring that trustees are sufficiently skilled and the advice they receive is of good quality, we recognise that there may be other barriers preventing trustees from getting the best long-term outcomes for savers.

### Fiduciary duties and long-term factors

51. Fiduciary duties in this context, apply to a person who is acting for or on behalf of another in a matter in circumstances which give rise to a relationship of trust and confidence. Pension trustees are fiduciaries by virtue of the fact they look after pension savings on behalf of the beneficiaries of a scheme.

52. Pension scheme trustees have several fiduciary duties. In this context, the most relevant is the duty of trustees to invest in the best interests of the members of the scheme.

53. The Law Commission reported in 2014 and 2017 on fiduciary duty. This provided a clear view of how trustees should be making investment decisions, based on the current legal framework, concluding that trustees should take into account factors which are financially material to the performance of an investment.<sup>13</sup>

54. However, since then, some trustees have indicated that there is a lack of clarity around how they should make investment decisions in practice.<sup>14</sup>

55. In addition to any potential actions from government, we believe that policies to improve the general skills and capability of trustees will also enable them to ensure they are making investment decisions which appropriately factor in the financial opportunities and risks of relevant factors.

**Question 18:** Is fiduciary duty a well-understood concept? Do current regulations and guidance support trustees to make investment decisions which seek higher returns for members? If not, what changes would be useful?

### Risk aversion and fiduciary duties

56. We recognise that it is now several years since the Law Commission reported on the issue of fiduciary duty, and since then the pension landscape has changed significantly in the UK. The DC sector will continue to grow substantially over the coming years. To meet this challenge and to ensure that savers get the best possible outcomes, it's important that trustees in DC schemes move away from a short-term focus on cost to one that focuses on delivering long-term, holistic value for savers.

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<sup>13</sup> [Fiduciary Duties of Investment Intermediaries - Law Commission](#)

<sup>14</sup> [UK: Integrating sustainability goals across the investment industry | Thought leadership | PRI \(unpri.org\)](#)

57. This is not just a DC issue. Defined Benefit (DB) schemes, Superfunds and capital-backed journey plans all have the potential and headroom to increase their investment in productive finance asset classes. Investing in a wider range of assets and maintaining a diversified portfolio, even at the point of significant maturity, could improve a schemes funding position which is both good for DB members and helps to alleviate the pressure on sponsoring employers.
58. Some evidence suggests that the way in which trustees are exercising or interpreting their fiduciary duties could be holding them back from exploring a broader range of investments, including in less liquid assets, which as well as offering diversification benefits also have the potential to deliver higher returns for savers. The Pension Charges survey shows that in the current level of take-up of, or allocation to, illiquid assets by DC schemes, two-thirds of providers had no direct investment in illiquid assets within their default arrangements.<sup>15</sup>
59. Ultimately investment decisions are a matter for trustees in line with their fiduciary duty to manage “risk and reward” in their members’ best interests. This includes whether an investment in their assessment is expected to lead to additional value that outweighs the expected costs to members. Whilst we recognise that the primary purpose of fiduciary duty is to protect the interest of savers, we are concerned that there may be a risk averse culture in the application of this duty, or even a perception that fiduciary duty means capital preservation at all costs. This may be preventing trustees from considering investment decisions which could potentially create higher returns for savers in the longer term. We are interested to learn more about what factors trustees are currently taking into consideration when they make their investment decisions.
60. As part of their duties, trustees should consider investing across a wide range of assets that can deliver enhanced returns for savers. Failing to consider the full range of investment options, where this is appropriate, is a failure of governance and a failure to fulfil fiduciary duty. Our Value for Money proposal is designed to shift the industry’s focus from cost to performance and value and we have been clear that if schemes don’t have the scale or expertise to take advantage of the full range of investment opportunities then they should consider consolidating into a scheme that can, where this is in savers’ best interests. In addition to our work on Value for Money we are also interested in hearing views as to whether the advice for trustees provided by regulators via training and guidance supports our objective to shift the focus from cost to value.
61. We are also interested in any other barriers you are aware of which are preventing trustees from fulfilling their roles effectively, particularly in the context of making investment decisions.

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<sup>15</sup> [Pension charges survey 2020: charges in defined contribution pension schemes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444444/pension-charges-survey-2020-charges-in-defined-contribution-pension-schemes.pdf)

**Question 19:** Do trustees currently make investment decisions in the long-term interests of pension savers? If not, what barriers are there to trustees making investment decisions in the long-term interests of savers?

**Question 20:** How do trustees balance investment returns, costs and charges, and services when making decisions in the long-term interests of savers?

**Question 21:** Do trustees' fiduciary duties discourage investment in alternative asset classes? If so, please explain with examples.

**Question 22:** Is the way in which trustees exercise their fiduciary duties preventing trustees from seeking the best returns for pension savers? If so, what is causing this?

**Question 23:** Do those actors who have most influence on advice to trustees on long-term investment decisions experience any challenges or barriers in provision of their advice on illiquid assets? If so, what would unblock this?

**Question 24:** Would trustees find it helpful if they received more direction from regulators when assessing their investment decision making? In addition to our work on Value for Money we are also interested in whether the advice for trustees provided by regulators via training and guidance supports our objective to shift the focus from cost to value?

### **Time off and employer support for trustee duties and training**

62. Many trustees perform their role in a voluntary capacity, in addition to full-time employment or retirement.

63. Some research suggests that capacity is an area which needs further work to improve trustee decision-making. Trustees struggle with the amount of information to review and prepare for meetings.<sup>16</sup>

64. We note the Association of Member Nominated Trustees' recent report into the future of pensions trusteeship, which sets out the continuing importance of the role of the member-nominated trustee.<sup>17</sup> We recognise the role that member-nominated trustees play in helping to provide greater confidence that decisions are being taken in the best interests of scheme members.

65. We also recognise that many lay trustees are interested in and willing to improve their capability and want to be as effective as they can be. If requirements around accreditation were to be introduced, we would want to ensure that all types of trustee are able to comply. We note that this may also require employer and/or scheme support in terms of both time and financial cost.

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<sup>16</sup> [Pension Trustee Decision Making Research Report 0.pdf \(actuaries.org.uk\)](#)

<sup>17</sup> [AMNT617—Pensions-Trusteeship-Report\\_22-May.pdf](#)

66. Section 58 of the Employment Rights Act 1996<sup>18</sup> outlines that employers shall permit employees who are pension scheme trustees to reasonable time off during working hours in order to perform duties or training related to being a trustee. This only applies to trustees who are performing these duties in relation to the scheme of the employer in question.

**Question 25:** Do lay trustees have enough time and support to perform their duties effectively? Do professional trustees? If not, what changes would support this?

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<sup>18</sup> [Employment Rights Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/42/section/58)

## **Annex A: List of Questions**

- 1.** Do trustees know what the knowledge and understanding standards expected of them are?
- 2.** Do trustees currently meet the knowledge and understanding requirements expected of them? Are some types of trustee better than others?
- 3.** What are the barriers to improving trustee capability? What do you think government should do to ensure that all trustees meet the standards expected of them? Does trustee liability put off potential trustees?
- 4.** Do trustees (including Master Trust trustees) have the right knowledge and understanding to invest in the full breadth of investment opportunities? If not, what can be done to improve this?
- 5.** Is there enough understanding of advice around the consolidation of schemes?
- 6.** Do you think that the government should require all trustees to provide information to enable TPR to keep a register of all trustees?
- 7.** If the government were to require this information, would it be best achieved through the scheme return or through a separate trustee return?
- 8.** Do current accreditation frameworks provide a high enough bar to equip trustees who become accredited to properly fulfil their role, including in making investment decisions?
- 9.** What proportion of your trustee board are accredited trustees?
- 10.** If we required each scheme to have a certain proportion of accredited trustees, where should this bar be set? Should Master Trusts be required to have a greater proportion of accredited trustees than single-employer schemes?
- 11.** Should there be more rigorous requirements for those acting in the capacity of a professional trustee? What sort of requirements/standards should professional trustees be meeting? Should there be mandatory accreditation?
- 12.** How would you define a professional trustee for the purposes of legislating for all professional trustees to be accredited?
- 13.** What are your observations on the external support trustees are given to make investment decisions, particularly in relation to unlisted equities?

- 14.** What changes could be made, including to the regulatory environment, to improve trustee support in relation to unlisted equities?
- 15.** To trustees: To what extent do trustees use investment consultants to support decisions around allocations to unlisted equities? Did they subsequently increase? Is there a deficiency of knowledge or expertise by investment consultants of these types of investments?
- 16.** What changes could be made to investment management to support pension scheme investment decision-making?
- 17.** To trustees: How does legal advice impact on your investment decisions? What is an acceptable level of tolerance for investment risk? Is there a culture of 'risk aversion'?
- 18.** Is fiduciary duty a well-understood concept? Do current regulations and guidance support trustees to make investment decisions which seek higher returns for members? If not, what changes would be useful?
- 19.** Do trustees currently make investment decisions in the long-term interests of pension savers? If not, what barriers are there to trustees making investment decisions in the long-term interests of savers?
- 20.** How do trustees balance investment returns, costs and charges, and services when making decisions in the long-term interests of savers?
- 21.** Do trustees' fiduciary duties discourage investment in alternative asset classes? If so, please explain with examples.
- 22.** Is the way in which trustees exercise their fiduciary duties preventing trustees from seeking the best returns for pension savers? If so, what is causing this?
- 23.** Do those actors who have most influence on advice to trustees on long-term investment decisions experience any cultural challenges or barriers in provision of their advice on illiquid assets? If so, what would unblock this?
- 24.** Would trustees find it helpful if they received more direction from regulators when assessing their investment decision making? In addition to our work on Value for Money we are also interested in whether the advice for trustees provided by regulators via training and guidance supports our objective to shift the focus from cost to value?
- 25.** Do lay trustees have enough time and support to perform their duties effectively? Do professional trustees? If not, what changes would support this?