Sole Trusteeship

The advantages and disadvantages

Capital Cranfield

Independent Trustee Firm Of The Year
Professional Pensions 2018

Introduction

There is a growing trend for trustee boards to move to a sole trustee arrangement as pension schemes move along their journey plan. In this paper we look at what is sole trusteeship and what are some of the advantages and disadvantages to that model.

What is sole trusteeship?

A traditional trustee board is a collection of individuals who together act as a trustee board. Each individual will be a trustee of the scheme and will either be nominated by the members or employer, or be a person or company completely independent of the sponsoring employer who sits alongside the other individuals. A sole trustee is not a board of trustees but instead a single entity (person or company) acting as the sole trustee.

Is sole trusteeship the right model for my scheme?

Sole trusteeship is right for some schemes but not all. When deciding on the structure of your board it is important to consult with your advisers on the options available. Below we outline just some of the advantages and disadvantages to sole trusteeship, your advisers will be able to work with you to determine what other considerations you should have for your particular scheme.

What might be some of the advantages to moving to a sole trustee?

- ***Removes the need to and difficulty of finding both member-nominated and employer-nominated trustees*** – under the Pensions Act 2004 one-third of the individuals on a trustee board must be member nominated. There will, invariably, also be employer nominated trustees on the board. Finding individuals who wish to stand as either a member or employer nominated trustee is becoming increasingly difficult and such exercises can be lengthy and expensive with no guarantee that a vacancy will be filled. The need to have a member nominated trustee is removed where an independent trustee acts as the sole trustee.

- ***Ever-growing complexity of pension issues, solutions and legislative/regulatory frameworks placing additional burdens on the time of lay trustees*** – the Pension Act 2004 places a specific trustee training and knowledge (TKU) requirement on all trustees, be they independent, member or employer nominated. With the UK pensions sector becoming increasingly complicated costs associated to training lay trustees is increasing. A sole trustee will meet the TKU requirements through their membership of industry bodies and the continuous professional development standards which they set. These standards generally go beyond the basic requirements of TKU so we absorb the costs of training as a business and do not pass these onto our clients.

- ***Board members finding it difficult to agree on matters causing delays in the decision-making process*** – whilst there are some extremely effective trustee boards, there are boards where internal tensions inhibit the decision making process. This can lead to delays in making decisions which in turn can lead to increased costs and missed opportunities. One of the key advantages to having a sole trustee is speeding up the decision making process.

  Another important distinction is that for a trustee board the trustee meeting can be the only opportunity to make decisions. A sole trustee can and will be managing the scheme and making decisions outside of the normal meetings cycle. There is still the need for some formal meetings but these become more of a strategic forum with the sponsor looking at the long term strategy of the scheme.

- ***Growing conflicts of interests for trustees who are employed by the sponsor*** – invariably a member nominated or employer nominated trustee will be an individual who works for the sponsor. Whilst there are advantages to having such individuals there is also an inherent conflict where the individual may be a member of the scheme and making decisions which would affect their own benefit entitlement. The individual may also feel conflicted where the scheme is a defined benefit arrangement with a deficit. Such instances require negotiation with the sponsor on how it is to meet the deficit, this can be difficult for lay trustees if negotiations become protracted and potentially require intervention from the Pensions Regulator. One advantage for having a sole trustee is that it will be completely independent from the sponsor so will not have these same conflicts.

- ***A need to free up time of lay trustees to concentrate on the sponsor's business*** – it is important to recognise that the lay trustee plays an important role in a trustee board. However, unless the lay trustee is a retired individual they will also have a "day job" to perform and more often these will be key persons working for the sponsor of the pension scheme. The lay trustees effectively has two jobs and with pensions issues becoming more complicated their time is being stretched. Moving to a sole trustee frees up the time of those key persons to concentrate on the sponsors business.

What might be some of the disadvantages to moving to a sole trustee?

- ***"Understanding what is happening on the shop floor"*** – Whilst a professional trustee adds pensions experience to a board, the lay trustee also adds a very important skill, that is understanding was is happening with the employers business prior to any public announcements or financial results being published.

  Whilst schemes now use advisers to assess the strength of the sponsor's covenant, that assessment is generally based on publically available information, lay trustees should have a better understanding of "what is actually happening on the shop floor". It is therefore important that any sole trustee works with the retiring lay trustees to understand the dynamics of the sponsor's business. It is also important that professional trustees appoint advisers who have the appropriate experience for the needs of the scheme.

- ***Loss of historical scheme information*** – moving from a trustee board to a completely new sole trustee does create the risk of loss of historical scheme information. It is therefore important that any sole trustee works with the existing board and advisers to understand the history of the scheme. Some schemes have opted for a consultative committee of former trustees, for a limited period, to help after the transition of the scheme to sole trusteeship.

- ***Member perception*** – any change in the trustee board needs to be communicated to members. Moving a scheme from a trustee board containing member nominated trustees to a sole independent trustee appointed by the sponsor can, if not communicated properly, cause concern to members, especially as a sole trustee is normally appointed and paid by the sponsor. Questions around the true independence of the sole trustee will be need be addressed. It is important in these situations for the new trustee to have a good communication strategy with members to allay any fears.

Professional Trustee Standards

With effect from 1 July 2019, new standards were introduced for all those individuals and firms who act as a professional pension trustee. With regard to sole trusteeship the standards state:

1. A sole trader should not accept appointments as a sole trustee.

2. Any firm accepting such appointments must be able to evidence that they have:
   - Sufficient resourced and appropriate governance arrangements to mitigate the additional risks and responsibilities
   - An Audit and Assurance Faculty (AAF) 02/07 report
   - Formal written procedures for fraud prevention, maintenance of continuity of service and peer review of key decisions
   - A process to ensure that there are a minimum of two accredited professional trustees directly responsible for each sole trustee appointment.

The standards have changed the sole trustee landscape and it is therefore important that any firm acting as a sole trustee can clearly evidence compliance with these.

What are the expected changes in the future?

21st century trustee – the Pensions Regulator has launched its programme, named "21st century trusteeship" which is aimed at improving the focus of trustees on scheme governance. The programme is not currently looking at introducing new requirements more so clarifying what the standards are that should be expected in the current legislative/regulatory environment. Whilst the Regulator is not yet introducing new requirements, it is likely that some can be expected in the future. Whilst better governance should be applauded and encouraged the review of current structures there will also be a cost for schemes to review current structures which for some schemes may be difficult to meet. Trustees will need to work with their advisers to assess current structures in line with the standards outlined.

Who are we?

Capital Cranfield is the largest professional trustee firm in the UK. We provide professional trusteeship to over 300 occupational pension schemes and are represented by over 40 pension professionals. Our clients are based all over the UK and vary in asset size, from £0.5m to around £50bn.

We also have the largest portfolio of sole trustee clients, with around 85 of our 300 being on that basis. Our sole trustee portfolio ranges in assets size, from £0.25m to £1.3bn. With 26 of our pension professionals acting on our sole trustee appointments we believe that our depth allows us to share knowledge and experiences to ensure that our clients enjoy a streamlined and effective service.

Capital Cranfield's sole trustee offering fully complies with the professional trustee standards.

To further strengthen our offering we also have a dedicated Head of Sole Trusteeship who overviews the offering to our clients as well as a large governance team ensuring that our procedures are robust and best in breed.

Contact us

For further information please contact:

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