

Version 1.04

Professional Trustee Standards Working Group

Professional Trustee Standards

Consultation response

Introduction

The Professional Trustee Standards Working Group (PTSWG/the group) was established early in 2017 with support from The Pensions Regulator (TPR) and various industry bodies. PTSWG was set up to establish professional standards to be met by individuals who meet TPR's description of a professional trustee.

PTSWG issued a first draft of the standards for consultation in December 2017 and this document summarises the responses and explains how the group has responded to the comments received on the proposed standards and accompanying accreditation system.

After reviewing the comments received, PTSWG met several times over the course of 2018 and extensively reviewed the three schedules.

The group is grateful for the time and effort put in by respondents to the proposals.

The main themes that emerged from the consultation are summarised below:

- General support for having standards for professional trustees.
- A need to distinguish clearly between standards for professional trustees and those that apply to all trustees.
- Little support for an interim 'comply or explain' system and a preference for a straightforward accreditation system instead.
- Standards that are particularly difficult for 'sole trader' trustees to meet should be reconsidered to avoid these trustees leaving the market.

After the consultation it was decided that membership of the group should be widened to ensure sufficient representation from 'sole trader' trustees.

As at 1 December 2018, PTSWG consisted of the following individuals:

Chair:	Andrew Bradshaw	Association of Professional Pension Trustees (APPT)
Secretariat:	Anne Jones	Ross Trustees
	Sarah Booth	Ross Trustees
Members:	Alan Whalley	Pensions Management Institute (PMI)
	Amanda Latham	The Pensions Regulator (TPR)
	Carol Woodley	Woodley Trustees
	Colin Richardson	Pensions and Lifetime Savings Association (PLSA)
	Gordon Blum	APPT
	Jacqueline Woods	APPT
	Louise Sivyver	TPR
Nita Tinn	APPT	

Robert Thomas	APPT
Sarah Smart	SmartCats Consulting
Steve Jones	The Association of Corporate Trustees (TACT)
Tim Middleton	PMI
Vassos Vassou	APPT

Consultation process

PTSWG's consultation ran from 13 December 2017 until 2 March 2018. There were ten questions.

By 2 March 2018, 40 responses had been received. These are summarised below.

Responses

Question 1

To what extent do the proposed standards make clear the higher standards expected of professional trustees?

The majority of respondents agreed that it was appropriate to have standards for professional trustees. However, numerous respondents argued that many of the standards identified in Schedule 1 were applicable to all trustees rather than professional trustees specifically. Others argued that some of the standards were difficult to evidence or were essentially subjective in nature.

There were differing views on the proposal that professional trustees complete a minimum of 25 hours annual continuing professional development (CPD). Some advocated more CPD and others thought there should be specific requirements attached to the type of CPD activities recorded.

Some respondents were concerned that the standards would prove a significant challenge for sole traders and that their adoption would ultimately require all professional trustees to be appointed through firms.

Many respondents were critical of the proposed requirement for professional trustees to maintain Professional Indemnity (PI) cover. Some argued that this was frequently unnecessary as they were either covered by trustee insurance which covered the whole trustee board, indemnified by a scheme employer or covered by the employer's Directors and Officers (D and O) policy.

PTSWG response:

In response to the comments received, PTSWG focused attention on standards applicable to professional trustees. The requirement for PI cover has been removed. PTSWG remains of the view that a formal CPD requirement of 25 hours is appropriate but that CPD logged should be relevant to an individual's role as a professional trustee. This will mean that CPD logged for another professional body may not be relevant for professional trustees.

Question 2

What impact do you expect adherence to the standards will have on improving the quality of professional trustees?

There was some doubt expressed about the importance of the standards in promoting high levels of governance. Some commentators argued that there was a danger that a 'tick box' compliance regime might arise. Many others felt that professional trusteeship was of a general high standard and that the standards would do no more than provide evidence of existing professional practice. There was, however, a view that the standards would be a useful guide to those seeking to appoint a professional trustee.

There was widespread criticism of the proposed 'comply or explain' regime, and many respondents stated a strong preference for a robust accreditation regime.

PTSWG response:

PTSWG has decided to abandon the principle of 'comply or explain.' Accreditation will require professional trustees to comply with the standards in full.

Question 3

What impact do you expect this will have on trusteeship generally?

Respondents were doubtful that the standards would have an impact on lay trustees. Some argued that unless a board had a professional trustee appointed to it, trustees were unlikely to feel influenced. Many pointed out that the more significant problems concerning governance related to small and under-resourced schemes, which were unlikely to appoint a professional trustee and were also unlikely to be influenced by the standards.

Some respondents were concerned that there might be an unintended consequence in that the standards might cause a number of sole traders to exit the market. They argued that reducing the overall number of active professional trustees would have a detrimental impact on governance standards.

PTSWG response:

PTSWG considers the revised standards will affect both individuals who are sole traders and those who work for professional trustee firms, in a similar manner.

Question 4

What are your views on the proposed interim approach for professional trustees to comply or explain against the standards until an accreditation framework is established?

While some respondents were positive about the proposals for an interim 'comply or explain' regime, the majority were critical. It was argued that many of the standards were too subjective to be consistent with 'comply or explain' and also that it wasn't clear where the explaining would take place.

Most respondents favoured the introduction of an accreditation regime from the outset.

PTSWG response:

As has been noted, PTSWG has decided to dispense with 'comply or explain' in favour of a full accreditation system.

Question 5

What is your preferred accreditation structure?

There was no clear consensus around an accreditation structure. Some argued for a firm-level Audit and Assurance Faculty (AAF)-type accreditation, although many noted that that this was not a realistic option for sole traders. Others argued in favour of having members regulated by their existing professional bodies, although this would exclude trustees who did not belong to a relevant professional body.

There was very little enthusiasm for a dedicated qualification along the lines of the Diploma in Pension Trusteeship proposed in 2017.

Some members favoured the idea of appointing a single body to supervise professional trustees on an ongoing basis – a regime broadly comparable with the Statement of Professional Standing system applicable to independent financial advisers.

PTSWG response:

PTSWG has opted for a two-part accreditation regime which will assess professional trustees on their initial application and then monitor continued compliance on a year-to-year basis.

To be accepted as accredited professional trustees, applicants must meet the following requirements:

- *Comply with a 'fit and proper' requirement modelled closely on that required for trustees of master trusts.*
- *Have references from two senior figures within the industry, such as existing accredited professional trustees, pensions lawyers or scheme actuaries.*
- *Have passed PMI's full Awards in Pension Trusteeship (or earlier equivalent).*
- *Have completed an online skills test designed to assess the 'soft skills' associated with professional trusteeship.*

On an ongoing basis, accredited professional trustees must:

- *complete an annual attestation confirming that they remain 'fit and proper', and*
- *complete 25 hours relevant CPD. Trustees' CPD submissions will be subject to a random sample check applied to 10% of the total membership.*

PTSWG has decided that the body appointed to oversee the accreditation process should be the PMI. The PMI has extensive experience as a membership organisation and also has a long-established understanding of trusteeship. The PMI also has extensive experience of providing qualifications for Financial Conduct Authority (FCA)-regulated advisers. The APPT will have an oversight capacity over the standards and the accreditation regime through a dedicated committee with broad membership.

Question 6

What do you think would be appropriate evidence that a professional trustee meets each of the standards in relation to the following:

- *Fitness and propriety.*
- *Integrity.*
- *Expertise and care.*
- *Impartiality and conflicts of interest.*
- *Professional behaviour.*
- *Systems and controls.*

Respondents had mixed views as to how standards might be evidenced. Some felt a simple system of self-certification would be adequate, whilst others saw APPT's annual declaration as a suitable model. Most respondents to this question made a general comment rather than identify the six bullet points separately.

Some respondents argued that some of the headings (such as 'impartiality' and 'systems and controls') were more properly the responsibility of the board as a whole rather than an individual trustee.

One respondent recommended formal endorsement by the chair of the trustee board (where the professional trustee is not the chair) and/or by key scheme advisers, such as the actuary and legal adviser.

Some argued that 'integrity' in particular can only be meaningfully evidenced by its absence.

Many respondents referred to the 'fit and proper' test to be applied to master trust trustees and suggested that this should be adopted for professional trustees.

PTSWG response:

In response to the comments received, some of the above headings have now been removed or reworded. PTSWG has opted for a 'fit and proper' declaration closely modelled on that required for trustees of master trusts (this is consistent with the proposals for similar requirements for trustees of collective defined contribution arrangements). Additionally, applicants will require references from senior industry figures (as explained in the response to Question 5).

Question 7

For professional trustees:

- a. *What impact do you foresee on your business of obtaining and maintaining this accreditation?*

- b. *What do you envisage the costs to your business might be?*

Professional trustees in firms did not see achieving accreditation as a particularly difficult challenge. Neither did they believe that the anticipated costs would prove to be particularly onerous, although this would of course depend on the form that accreditation was ultimately to take. There was more concern expressed by sole traders, some of whom anticipated being forced to leave the market.

PTSWG response:

PTSWG was encouraged by the view that the cost of compliance would be minor for firms. It is not expected that the revised standards will be costly or problematic to implement for sole traders.

Question 8

How effective are the conflicts of interest examples in demonstrating how professional trustees might look to manage any actual or perceived conflicts of interest? What other examples could be included?

Some commented on the importance of identifying conflicts of interest as a particular area for focus in the standards rather than dealing with it by way of example. Others commented that they did not believe there was a case for trustee firms providing additional services and that these types of conflicts should be avoided completely.

PTSWG response:

PTSWG noted the concerns about managing conflicts of interest, and this has led to further clarification in the revised standards, including a strengthening of requirements for firms providing sole trusteeship services.

Question 9

Do you have any further comments on how to improve standards of trusteeship, generally and specifically to professional trustees?

A number of suggested improvements were received as follows:

- Succession planning should be addressed with a view to ensuring that no single individual would remain in post indefinitely.
- High barriers to entry should be set for professional trustees to ensure that intake remained at a suitably high standard.
- The disclosure of professional trustees' remuneration should be mandatory.
- Professional trustees should be subject to a mandatory reappointment process.
- Guidance should be provided to trustees around whistle-blowing.

PTSWG response:

PTSWG noted the above comments and this has led to revisions being made to the standards. These include guidance on succession planning and whistleblowing.

Question 10

Do you have any other comments on the standards?

Some respondents again raised the issue of professional indemnity cover, arguing that they saw this as particularly problematic for sole traders. One was disappointed that sole traders had not been represented on the PTSWG. Some respondents noted that the proposed regime would prove more difficult for sole traders than for firms.

A few respondents felt that the standards were too bureaucratic.

Some respondents suggested that the standards should specifically require the formal separation of trusteeship from the provision of services to the scheme.

PTSWG response:

PTSWG noted the concern that sole traders were not adequately represented. With this in mind, it invited additional trustees to join the Group, who were either from small firms or who were sole traders. This ensured that the full range of business models was represented in preparing the final version of the standards.