

The Trustee toolkit downloadable

Running a scheme

Tutorial five: Appointing advisers and service providers

By the end of this tutorial you will better understand:

- ▶ key stages in selecting and appointing advisers and service providers

This tutorial is part of **Scenario two**.

Glossary

A detailed glossary of technical terms can be downloaded from the Resources tab when you log in at www.trusteetoolkit.com

The Pensions
Regulator

Appointing advisers and service providers

For this tutorial we will use the term 'advisers' to include both advisers and service providers, unless the context dictates otherwise. Scheme advisers play a key role in trustees' ability to manage their scheme effectively.

Approaching appointment

There are a number of ways in which trustees might approach the appointment of advisers. The most common are:

- ▶ recommendations from the scheme's other advisers
- ▶ previous experience of working with the adviser
- ▶ use of a specialist service provider
- ▶ knowledge of the pensions industry

Whatever approach is used, trustees need to set up a documented process for appointing advisers and reviewing their quality and suitability. Trustees must have a clear understanding of the selection criteria that prospective advisers will need to fulfil in order to be eligible for consideration for their role and, in general, should consider a range of options.

Managing commercial relationships

It's important to remember that trustees need to retain sufficient oversight of the tasks they delegate to others but remain accountable for and, therefore, must fully understand the scope of roles and responsibilities being delegated.

The ability to effectively manage commercial relationships is a key skill that The Pensions Regulator expects trustees to have.

DC schemes – scheme rules override

Trustees of DC schemes, or other relevant schemes in respect of money purchase benefits provided by such a scheme only, should be aware that legislation contains an override of anything in the scheme rules that restricts their choice of adviser. This ensures that trustees are not restricted in who they can choose to appoint as an adviser regardless of what the scheme rules say.

The ground work

There is a lot of work to do before considering any appointment.

Requirements

Before considering any appointment, it is good practice for the scheme's trustees to set out in writing their requirements of the organisations wishing to be considered for appointment. Ensuring that the requirements are well-defined is a very important part of the process and trustees may want to seek professional assistance with this process.

Expectations

The trustees will want to ensure that prospective advisers are aware of the trustees' expectations, including:

- ▶ the extent to which the trustees' functions are delegated to the adviser
- ▶ the services to be provided and the related costs
- ▶ any timescales to which the adviser must adhere
- ▶ capability of any technology used by the adviser
- ▶ data protection procedures
- ▶ details of the staff who will supply the services, including a named person or department as a point of contact
- ▶ relevant qualifications of those staff
- ▶ staff continuity
- ▶ the way in which professional knowledge is maintained and developed
- ▶ key relationships and lines of communication between the trustees and the adviser
- ▶ business continuity procedures
- ▶ procedures in the event of failure to provide the services in accordance with the agreed terms and compensation arrangements for members and/or the trustees in that eventuality
- ▶ the adviser's liability limit (if any – not all advisers will ask for liability caps to be in place)
- ▶ length of the appointment if relevant, and how the appointment may be terminated
- ▶ handover processes on termination of the appointment

Controls

Trustees should examine the procedures and controls that the prospective advisers have in place to ensure that the quality and accuracy of the service that they can provide is suitable. In particular trustees should find out:

- ▶ what professional indemnity cover they have
- ▶ what qualifications and accreditations they have and how they keep their professional knowledge up to date
- ▶ any conflicts of interest that they may have (such as providing services to the sponsoring employer) and how they will address any conflicts of interest that do arise
- ▶ whether they have other pensions' clients with schemes of a similar size and type to their scheme (trustees could ask for references from other clients)
- ▶ whether they limit their liability for their advice, and if so, at what level

The appointment process

There is no set process for appointing advisers and service providers, however there are generally four stages.



1. Proposals

Trustees should arrange for potential advisers to the scheme to submit a written proposal for the provision of the services required.

2. The shortlist

Most appointment processes will entail the trustees drawing up a shortlist of possible advisers. For each proposal trustees should review the extent to which the proposals they have received match the criteria that they have specified for the role.

Having done so, they may draw up a shortlist of candidates, as well as preparing a list of further questions to put to each of the candidates.

3. Interview

The trustees will almost certainly wish to interview the shortlisted candidates, which is sometimes called a 'beauty parade'. Whatever form this interview takes, the objective must be for the trustees to assure themselves that:

- ▶ they are comfortable with the initial information already provided by the prospective adviser
- ▶ they obtain clarification on any contentious points in the initial information provided
- ▶ they know exactly who would be working for them, and that the trustees are going to be comfortable working with them
- ▶ the adviser has taken the trouble to find out about the scheme
- ▶ the adviser will be able to explain matters to them in a manner and at a pace that they are happy with
- ▶ the trustees will be comfortable challenging the adviser
- ▶ the prospective adviser has had the opportunity to ask questions of the trustees

4. Negotiation

Trustees should be aware that they can continue to negotiate with 'bidding providers' on both the costs and the services during this process. The trustees may be able to achieve a 'better deal' than the one that was originally offered.

In DC schemes, where the costs are to be borne by members, trustees should bear in mind the need to ensure good value for those costs.

Contracts

Once trustees have decided who they wish to appoint, they will need to draw up a contract that will specify the terms of the appointment.

The basis of the contract

The contract will incorporate all the requirements of the role identified by the trustees, and any other matters that have been agreed between the trustees and the provider. The contract should also consider the way in which the adviser would provide and charge for any additional work that is beyond the agreed scope of the contract.

What if the adviser has a standard contract?

Many advisers have standard contracts that they will use as a starting point for all appointments. Trustees may find that the terms of these contracts can and need to be renegotiated to align with the agreements reached as part of the appointment process.

What about a service level agreement?

Most service contracts will include a service level agreement (SLA), setting out the standards of service that are to apply under the contract. Trustees need to be sure that they understand the terms of the SLA, in particular:

- ▶ the way in which any timescales and quality standards set out in the SLA will be measured
- ▶ that the terms are reasonable and meet the scheme's needs
- ▶ ensure that they have in place effective controls to monitor the extent to which the SLA is being met

Trustees should make sure that the information to be provided to them by their adviser will be sufficient to ensure that the trustees are able to meet their own legal obligations. For example, making sure that all core financial transactions are processed promptly and accurately in a DC scheme.

View an example checklist for reviewing contracts at www.tpr.gov.uk/skills.

Although this guide is linked to the DC code, the guidance set out is relevant for all scheme types.