

The Trustee toolkit downloadable

Pensions law

Scenario two

In this scenario you meet Charlotte, an independent professional trustee who has joined the board and discuss two member complaints relating to taxation and the state pension and one member who is threatening to go to the Pensions Ombudsman.

As you work through this scenario you will be tested on your knowledge at decision points. Here you will have the option to work through a related technical tutorial before returning to the scenario or you can skip the tutorial. You can always work through the tutorial separately later if you would prefer.

This scenario includes two tutorials:

- ▶ Tax and the state pension
- ▶ Internal dispute resolution procedure

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

A new trustee

The minutes of the last meeting have been read. The board is establishing that there are no matters arising when Charlotte arrives. It is time for Paul to introduce the new trustee.



Paul says: "Well, it's my great pleasure now to formally introduce Charlotte Ryder of Able Trustees Ltd, our new independent professional trustee. As you all know, Charlotte has been invited to join the board as a replacement for Meryl, who's on maternity leave. I'm sure her experience will be immensely valuable to us. Charlotte, as you're our first professional trustee, perhaps I can ask you to say a few words about how you see your role?"

Charlotte says: "Thanks Paul, and thank you everyone for your warm welcome. I'm looking forward to working with you. How do I see my role? Well, it's basically the same as yours, but as an independent professional trustee I possibly have a slightly easier time in that I don't get pulled in different directions when things get a bit difficult, as many trustees find they do. On the other hand, I am expected to be up to speed with all the latest developments in pensions.

Also, as a professional trustee, I spend all my time dealing with pensions rather than having an alternative 'day job'. So I can accumulate experience from several boards of trustees and pass on good practice."

Paul says: "Welcome Charlotte. Let's swiftly move on to the next item on the agenda, complaints from members. The first is from Mr Squires. Edmund, could you please read his letter to the trustees?"

Edmund reads the letter: "Dear Trustees, I have recently reached my 65th birthday. I started to get a state pension and I felt much better off. Then my monthly pension cheque arrived and it has gone down. What has happened to my pension and how much tax will I have to pay now? Yours sincerely, John Squires."

Tony says: "The rules are quite clear. In this scheme, the benefit is reduced when the state pension kicks in."

Charlotte says: "It may be stated clearly in the rules but I don't think it's sufficiently explained in the scheme booklet."

Alicia says: "What Mr Squires also needs to know is that his state pension, his pension from the scheme and any other income he has will be added together and taxed in the normal way. Theoretically, he should pay the same amount of tax as before."

Paul says: "The only tax break you get is on the lump sum. I guess that Mr Squires took a lump sum because most people do!"



Decision point: What action should we take?

Which three of the following courses of action should the trustees take?

1. Check that all members approaching pension age know the position when they receive a state pension.
2. Check the explanation of this rule in the scheme booklet and amend it if necessary.
3. Explain in the scheme booklet that the only tax relief on pensions is the tax free lump sum.
4. Make sure that the scheme booklet explains the tax position including the fact that pension benefits from the scheme are taxable.
5. Update the scheme booklet to make sure members know that they can contribute as much as they like each year and still attract tax relief.

[Answers at the back](#)



Need help with this question? Read the [Tutorial 'Tax and the state pension'](#)

A dispute to resolve

The trustees have agreed the actions to take for Mr Squires, so Paul moves on to the second complaint, from Mr Tucker. Paul says: "This complaint is from a Mr Tucker, on behalf of his mother. His father, Ray Tucker, worked for us and died four months ago.

Mr Tucker is complaining about the length of time it's taken to settle his mother's widow's pension. Apparently she still hasn't received notification of it, let alone any payment.

I'm concerned about Mr Tucker as he's threatening to approach The Pensions Advisory Service (TPAS) and the Pensions Ombudsman. Perhaps we need to do something about it?"



Decision point: The widow's complaint

As well as sorting out Mrs Tucker's pension, the board needs to deal with the Tucker complaint. What is the best course of action?

1. Report the complaint to TPAS.
2. Report the complaint to the Pensions Ombudsman Service.
3. Report the complaint to TPR.
4. Refer to their own written internal disputes resolution procedure (IDRP) and follow it closely.

Answers at the back



Need help with this question? Read the [Tutorial 'Internal dispute resolution procedure'](#)

Election

The trustees ask Tony to follow the IDRP in investigating Mr Tucker's complaint. The final item on agenda is the election of the chair. Paul, the interim chair, initiates a discussion before the formal vote is taken.

Edmund says: "In this scheme the chair has the deciding vote. If you're a director like me, you can find yourself in conflict quite a lot of the time. So if you're chair and you have the deciding vote, that would be even more difficult."

Alicia says: "No one should be asked to have the deciding vote when they might have a conflict of interest. So that leaves us with member-nominated trustees (MNTs) and Charlotte."

Charlotte comments: "I'm not sure I agree that MNTs are less conflicted. For example, Alicia, union reps want to look after their members, so it may be difficult to avoid favouring them. I am happy to put my name forward for chair."

Rodney says: "I agree with Charlotte, I'm not sure whether we're any less conflicted, but I really don't wish to be chair at this time."

Rounding up

The trustees take a vote and Charlotte is elected the new chair. In the next module 'An introduction to investment', the trustees devote a whole meeting to discussing the investment aspects of the scheme.

Now that you have completed this scenario we would recommend that you begin to work through the 'Check your scheme' worksheet for this module.

Answers

Decision point: What action should we take?

The first, second and fourth options are correct.

For most scheme members there is tax relief on all contributions, whether the employer makes them or the member and there are further tax advantages once the contributions are paid into investment funds, so the third action is not correct.

There is a limit on the amount that can be contributed annually to a pension scheme and still attract tax relief, so the fourth action is not correct either.

Decision point: The widow's complaint

The fourth option is correct. The trustees should refer to their own dispute resolution procedure first and follow that through. Once the trustees have made a decision, Mr Tucker can refer this to TPAS or the Ombudsman to investigate further if he is unhappy with the decision.

The trustees do not need to report this to TPR at this stage. However, if this is an example of a wider problem then the trustees can use the traffic light analysis to decide whether this is a breach that should be reported.