

**Faced with new legislation and responsibility, are trustees strong enough to survive? Bob Scott Lane Clark & Peacock, certainly hopes so**

**T**welve months ago, those who studied the Pensions Regulator's (TPR's) scope guidance (the syllabus for knowledge and understanding requirements) knew that even experienced trustees would have a lot of new material to absorb by April 2006. First time trustees faced a substantial training commitment to prepare themselves for the responsibilities they would assume under the Pensions Act 2004.

Have trustees managed to commit sufficient time to training? And what should they do now to avoid falling foul of TPR with the new regime in place?

#### **Anxious times**

It has been a busy 12 months in pensions with scarcely a day going by without them hitting the headlines. Trustees have had to deal with a wide range of new issues.

Although bond yields looked low in early 2005, they fell further as trustees agreed to lend money to the government for 50 years at yields of less than 0.5% a year above inflation. Falling yields (and

## An ENDANGERED SPECIES?

updated mortality tables) mean higher funding targets and despite another good year for equity markets and increased contribution levels deficits in pension funds rose in 2005.

The Pension Protection Fund (PPF) opened for business in 2005 and published its proposals for calculating the risk based levy. Anxious trustees and their advisers have been trying to make sense of their employers' Dun & Bradstreet ratings, decide whether to commission a Section 179 valuation and make sure that the special contributions paid in 2005 will be taken into account.

Some companies have reacted to the

increasing pensions burden by modifying or even terminating their pension scheme for existing members and trustees of those schemes have had some difficult decisions to make.

There are new challenges too, final details of the scheme funding regime were eventually published in mid-December, later than originally envisaged. Trustees who go through a valuation under the new regime will find that they have to consider upwards of 120 different items to comply fully with the code of practice. The so called pension tax simplification of has turned out to be anything but simple.

### Tackling training

Despite their workload, many trustees have tackled their training requirements conscientiously and have built up their knowledge and understanding by attending:

- general courses – run by organisations like the National Association of Pension Funds and open to trustees from any pension scheme
- scheme specific courses – delivered to the trustee board as a whole by the scheme's advisers or other professional firms
- specialist courses – for those with added responsibilities such as members of the investment sub-committee
- on the job training – provided as part of the regular trustee meetings by the advisers or investment managers.

Even well trained trustees will need to get to grips with the new scheme funding requirements, investment regulations and other new material as it emerges from TPR. So how do new trustees and not so new trustees who have not yet managed to attend training courses get up to speed and avoid having TPR issue an "improvement notice"?

### Risk control

The first step should be for the trustee to assess their individual training needs. TPR's scope guidance sets out nine different areas of general training (ranging from trusts and pensions law to funding and investment) as well as four areas of scheme specific training (including the scheme's trust deed and rules, statement of investment principles (SIP) and statement of funding principles).

Many trustees, particularly those who have served for a number of years, will have a good general grasp of pensions law, will have been through an actuarial valuation and may be familiar with the SIP.

But will their knowledge extend to the intricacies of the Finance Act 2004? Will they know how to carry out a valuation under the new regime? Could they describe the risk controls that are in place in relation to their investment strategy, as required under the new investment regulations?

Many trustees will find it difficult to identify their training needs from reading

TPR's guidance. They may simply conclude that they need a general update on training in all areas. But this could lead to trustees spending their time less effectively than if they could identify specific areas on which they need focused training.

### Behavioural questions

One way to assess training needs is self assessment. In less than half an hour trustees can complete an online multiple choice questionnaire designed to highlight their learning needs and pinpoint the areas where training is required. The questions vary from quite basic questions such as: "What is the PPF?" to more detailed questions like: "Which of these factors would you not take into account when determining your scheme's investment strategy?" They would also include behavioural questions such as: "A member approaches you and requests information about ill health retirement options. What do you do?"

### Logging on

Time is a precious commodity and some trustees, even those with the best intentions, may not have found time to analyse their learning needs and attend courses. They may have been busy dealing with complex issues affecting their schemes and sponsoring employers.

Structured training courses are the best way to gain the necessary knowledge and understanding. The alternative is trying to read hundreds of pages of regulatory material in your spare time.

Online training is one option for the busy trustee. TPR is building a programme of online training courses, designed to give trustees a feel for the role and prepare them for undertaking this important job. It is not the complete solution but a good start for many.

### Prove it!

As well as acquiring the necessary knowledge and understanding, trustees must be able to demonstrate that they have done so. This would be particularly important if their actions were called into question TPR (or the courts) would not look favourably on untrained trustees taking

important decisions and getting them wrong. Initially, the penalties may not be too severe. TPR may do no more than issue an improvement notice but in due course, trustees must be able to give evidence that they are up to the job.

A training log of courses attended is an important part of the documentary evidence of compliance but simply attending a course is no guarantee that the individual understood or listened to all that was said. Some form of trustee assessment seems likely to emerge as the most appropriate way for them to prove they know what they are doing. In the same way that training needs analysis with a number of multiple choice questions can help to identify gaps in a trustee's knowledge, so a longer multiple choice assessment can show their level of awareness once they have completed the course. An online multiple choice assessment can quickly confirm whether or not the individual makes the grade as a trustee.

### Survival of the fittest

Some are concerned that trustees will become an endangered species. Schemes may not be able to fill their quota of no less than one third member nominated trustees when it becomes a requirement. Trustees have had a busy time recently and it is inevitable that some will fall by the wayside over the coming months. For the rest the knowledge and understanding requirements are a reality and all trustees will have to find some way to satisfy the new laws.

E-learning and short focused training courses are all likely to play their part in trustees' education. Assessment will surely become the norm as they seek not only to comply with the new requirements but to demonstrate that they have complied.

Hopefully the pensions world will sail into calmer waters in the years ahead and people will not be put off becoming trustees by the weight of responsibility and commitment required. Those who approach their task with enthusiasm may even find that being a trustee in 2006 is stimulating and ultimately satisfying. **PW**

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