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privatepensions.trusteeshipgovernanceconsult@DWP.GOV.UK

Department of Work and Pensions
Caxton House
Tothill Street
London
SW1H 9NA

BESTrustees Limited

1 Cornhill
London
EC3V 3ND
020 7332 4100

enquiries@bestrustees.co.uk
www.bestrustees.co.uk

Introductory comments

We are pleased to respond to the Department for Work and Pensions' consultation regarding trust-based pension scheme trusteeship and governance.

BESTrustees is one of the longest established professional trustee companies operating in the pensions arena. We currently have 35 professional trustees and over 200 client schemes.

Our response is, of course, in the context of our business as a firm of professional trustees which focuses on a "pure" governance model. We have a broad range of experience, and we use it to the benefit of our clients. Our commercial interest is also different to other trustee firms as we are employee owned. This means our commercial drivers do not require us to extend our service proposition into other areas and provide a dividend flow to meet an external shareholder's return requirements. In our model, the distinction between impartial trusteeship and independent advice can never be compromised.

It is important to state at the outset that our overall view is that the current trustee framework for the governance of the majority of UK pension schemes and the oversight arrangements for professional trustees operate well and, whilst there may have been occasions where these have fallen short, in the broad generality the model is robust.

As you rightly recognise, the pensions marketplace is evolving rapidly, with consolidation, arrangements for the use of scheme surplus and multi-employer Collective Defined Contribution schemes being just three examples of substantive change. You also rightly recognise the diversity of the marketplace, both in terms of the size and benefit structure of schemes, but also the trustees themselves who are both professionals and lay trustees.

We also fully support your vision for highly skilled trustees operating independently, applying good governance and focused on delivering the best outcome for members without conflicts of interest.

The next steps for the development of the trustee market must, therefore, recognise the diversity of the marketplace – there is no "one size fits all". We believe this goes

further than just the approach to trusteeship - proportionate and pragmatic solutions should also be possible in some situations to reduce the regulatory burden where the cost and time involved results in little (if any) change to member outcomes. The situations we are contemplating include those resulting from the small size of a scheme or the stage of maturity it has reached in its life cycle.

We also consider it essential to recognise that there have been recent developments that should support a framework of enhanced governance. These include the General Code and the Association of Professional Trustees (APPT) Code of Practice for Professional Corporate Sole Trustees. It is, we suggest, still too early to assess the overall impact these are having, but, once known, this should inform decisions about any further governance or regulatory changes that may or may not be required.

In this context and to support non regulatory/legislative initiatives, we would ask for the formal recognition of the APPT and similar professional organisations and a requirement for professional trustees to be accredited. This will give the organisations such as the APPT more authority when issuing guidance and codes and so provide a stronger framework supporting good governance. We also think that, together with the inclusion of a body such as the Association of Member Nominated Trustees, the professional organisations could provide appropriate oversight of matters such as conflicts and changes to trustees such that there is much greater transparency and accountability. An escalation route to the Pensions Regulator should remain part of such a framework, but the approach we envisage would minimise the additional burden on the Pensions Regulator so that its resources are focused on the situations that present the greatest concern or risk for members.

We also acknowledge that there are many conflicts in existence throughout the pensions industry and the trustee, whilst a decision maker, is not usually active in a role where the greatest economic return can be achieved by industry participants. The focus of debates around independence should not, therefore, be limited to just the trustee marketplace.

Of course, in this whole process, we must not forget that the fundamental role of the trustee is that of a decision maker, not a technical resource in addition to the advisers. All trustees need to have a base level of technical knowledge, but the more valuable role of a professional trustee is their expertise in enabling effective decision-making. Decision-making in the trustee environment is all about experience, impartiality, inclusion of opinions, and the receipt and challenge of expert independent professional advice where required. The accreditation of professional trustees should be focussed on these skills.

In our detailed responses we comment further on these points.

We look forward to further engagement in developments as these unfold.

A handwritten signature in black ink, appearing to read 'Bob Hymas', written in a cursive style.

Bob Hymas
Director, BESTrustees Limited

Responses to consultation questions raised

Chapter One: Good Governance

Q1. What do you think works well in the current trusteeship and governance system?

Our broad view is that the current trustee-based and broader governance system has functioned effectively for some time – albeit there have been isolated cases where matters have fallen short. Isolated cases should not, however, be the basis on which decisions to expand regulation are based in the absence of systemic risks being identified.

The governance arrangements for trusteeship – including a combination of trust-based law, statutory frameworks, regulation and professional codes of practice are comprehensive and set high standards. We raise further comments in this response around the development of both codification and trustee standards (including mandatory CPD).

A valuable feature of the trusteeship-based model is the essential ability to take independent decisions, drawing upon expert advice, in the best interests of scheme members, mindful of the needs of other beneficiaries. Subject to comments raised elsewhere in this response, this feature extends to making appropriate decisions free from undue sponsor influence.

We consider that the combination of professional and lay trustees is a strength, combining deep professional experience and technical expertise with insight into, for example, the employer's outlook or the views of the scheme membership. As raised elsewhere in this response, sole trusteeship is also an appropriate approach in some situations.

Q2. What are the barriers to good trusteeship?

Ultimately, we consider that good trusteeship derives from having the right skills and experience; operating in a professional manner, using independent expert advice where appropriate; acting free from undue conflicts of interest; or having effectiveness diluted by operating with excess time pressures from other roles.

Against this backdrop, barriers to good trusteeship include:

- (i) Operating with conflicts of interest – for example, where the use of in-house services compromises independence (see also answer to Question 5 below).
- (ii) Limited governance budgets, time constraints, and lack of executive support, particularly in smaller schemes.
- (iii) Regulatory overload, with significant projects (which may deliver little value to members), disclosures and reporting detracting from activities that deliver real impact.

- (iv) Skills gaps or limited engagement among some employer-appointed or member-nominated trustees.
- (v) Needing to operate in a constantly changing environment of increasing complexity alongside fast-paced regulatory change.

Q3. Looking ahead to 2030 and beyond, what further support will trustees need to ensure effective scheme governance?

As stated above, our broad view is that the current trustee governance model has functioned effectively for some time – albeit that there have been isolated cases where matters have fallen short. Isolated cases should not, however, be the basis on which decisions to expand regulation are based in the absence of systemic risks being identified.

Nonetheless, we recognise that the pensions market is in a rapid state of evolution – including emerging issues such as consolidation; CDC and release of surplus arrangements - and that it is therefore right to look forward and consider what further support might be needed.

Against this backdrop, we consider that:

- (i) Independence requirements in relation to the boundaries between professional trusteeship and areas where genuinely independent advice is needed – free from conflicts of interest – will be important to maintain standards and ensure effective scheme governance. It is essential to acknowledge that the perceived risk of conflict must be seen to be mitigated.
- (ii) Professional bodies such as the APPT should be given formal recognition and anyone that presents themselves as a professional trustee should be required to be a member of such a professional body. A better defined and statutory role for professional bodies will give them greater ability to maintain professional standards and for their disciplinary processes to have meaningful sanctions. There must also be a recognition that the role of a lay trustee, whilst meeting a basic standard, is likely to be outside such standards. We consider this further in our response to Question 19.

Greater co-operation between formally recognised professional bodies and organisations such as the Association of Member Nominated Trustees could provide a basis for maintaining standards across the whole trustee marketplace. Such a forum with representation from the professional and lay trustee communities could be an effective body to monitor conflicts (see Question 6) and concerns over trustee appointments (see Question 10).

- (iii) Support to ensure that lay trustees maintain their knowledge reflecting technical developments and updated market developments through a CPD-based framework, including completing the Pension Regulator's Trustee Toolkit and Fit and Proper Assessments will be essential given the change and complexity in the market.

- (iv) Without damaging what is usually a constructive and appropriate relationship, consideration should be given to the ways in which the risk of undue sponsor pressures on trustees in their decision-making can be mitigated.

In respect to all of the above, there is clearly a tension between the cost and burden of any requirements applicable to trustees of very large, complex schemes and those applicable to smaller, less complex, well-run and well-funded schemes. We consider that a proportionate balance needs to be found to ensure that any additional regulatory support is appropriately targeted with reduced regulatory burdens where the risk is obviously low: it is important that trustees are unfettered in the ability to determine how resources are deployed in order to facilitate effective governance. As well as supporting good outcomes to savers, such an approach reduces the financial strain on sponsors and so gives them the chance to invest more in their own business for the benefit of the UK economy.

Q4. Does effective scheme governance in a Megafunds require additional support or any specific changes in regulatory approach?

The scale, complexity and concentration of power relating to Megafunds clearly heightens the crucial importance both of trustee competence and trustee independence.

Issues of scale and numbers of participants also emphasise that sufficient capacity should be available to ensure appropriate engagement with stakeholders.

There is already regulation relating to Master Trusts which we consider to be comprehensive, and which limits any case for further Megafund regulation - absent evidence-based issues emerging which specifically need further regulation.

It will be extremely important that trustees are able to operate independently, free of undue provider influence or pressure and, therefore, considering guardrails which could ensure that this is the case may be appropriate if evidence of undue pressure emerges.

Q5. Can you describe any potential or actual conflicts of interest that stem from the provision of further services within professional trustee firms and other third-party providers? How are these conflicts managed now? What is the scale of residual risk in the market?

It is in the nature of trustee oversight that trustees need to be objectively and independently advised about certain matters to facilitate effective decision-making free from commercial or other conflicts.

Areas where independent advice is required is set out in legislation, but there are other essential areas including risk transfer, covenant and legal advice where independence is important.

If a professional trustee firm is providing any such advice to schemes where it is appointed as a trustee, then there is clearly a conflict of interest. We also recognise

that the perception of conflict has an equal risk of undermining confidence in the UK pensions system as actual conflicts.

We do, however, recognise that there are limited exceptions where further non-advisory services are less of an issue. These are where aspects of scheme governance administration (such as facilitating the implementation of trustee decisions), support services (including maintenance and management of scheme documentation), secretariat services and ad-hoc support in the interpretation of independent advice are provided. These must be obvious non-advisory services, and the fees proportionate compared to the core trustee services.

We acknowledge that some large schemes (including industry wide schemes with non-associated employers) employ in-house teams that provide services such as investment management and legal support to the trustees, who are, effectively, the employer. These services are not provided on a commercial basis with a profit intent and, therefore, any conflicts which may exist are different. Such arrangements are, therefore, excluded from the comments we have made above.

The conflicts that exist elsewhere, whilst not necessarily impacting directly on this consultation should not be ignored. Indeed, the value of the services provided outside of trusteeship, but within the pensions eco-system is usually considerably greater than the fees paid to professional trustees and a broader review of all of the conflicts that exist should be considered.

We are not in a position to comment on the scale of any residual risk or how these conflicts are managed by a firm of professional trustees now as we solely provide independent trustee services and some limited governance support.

Q6. Are additional safeguards needed to effectively manage these risks, given the need to balance members' interests with effective scheme management?

One option would be specifically to limit the nature of services provided to professional trustees by their own firms or related entities. Any advice which must be independent by law and services such as brokering risk transfer transactions, independent, legal, covenant and investment advice could be explicitly prohibited.

For other non-advisory services as defined in Question 5, we consider that appropriate guardrails need to be implemented to limit "cross-selling" by trustee firms. There are multiple reasons for well-defined guardrails – including perception, the absence of diversity of thought, actual commercial conflicts and how any liability for negligent advice would be managed. The basis of the guardrails includes the service being clearly non advisory and the fees being proportionate compared to the core governance services.

In the event that DWP is inclined to accept that either more significant non-advisory services or advisory services can be provided, then this must only be in very limited circumstances where there are demonstrable benefits of professional trustee firms providing, either through their own entity or a related entity, such services to themselves in a "joined up" way. In these circumstances, there must be robust and transparent mitigation of the obvious conflict and proper contracts with clear liability

for the quality of those services. Even then, we would hope that such advisory services are the exception, ad-hoc and the fees small compared to the core governance services being provided.

Specifically, trustees should be able to evidence why advisory services or significant non-advisory services were resourced from their firms/related entities, the mitigation to real and perceived conflicts and that genuine third-party alternatives were considered. A body, possibly constituted to include the trustee organisations referred to in our response to Question 3, could be made responsible for monitoring firms' compliance with the necessary processes to maintain confidence in trusteeship.

Full disclosure of costs and the rationales for appointments could also be made to members where there are a conflict or co-trustees if for any reason they are not normally provided with such information.

If transparency along these lines cannot be demonstrated, then the relevant services should not be provided from within trustee firms.

Q7. Should there be restrictions placed on individuals acting as professional trustees, such as the number of trustee appointments they can hold, to ensure individuals have the appropriate capacity to manage schemes?

As a matter of principle, professional trustees – acting professionally – should not hold more appointments than they can properly satisfy, albeit that there should be some allowance for some “surge capacity” to be ready to deal with matters requiring an intense commitment of time. Such allowance must, however, not be of such a level that it unduly affects the business models of trustee firms and is disproportionate to the identified risk. We also recognise that the risk of insufficient capacity extends to the availability of advisers.

Equally, individual professional trustees must have sufficient clients to enable them to be familiar with industry issues and best practice so that they remain competent and up to date – factors considered elsewhere in this consultation response.

Given the diversity of the market for professional trustees, we consider that this obligation should be defined by clear principles and measured by those whom trustees serve or work with, rather than through notional fixed limits. For example, a numerical limit of “X” schemes could, for one trustee, be absorbed by simple, small, well-funded schemes with limited requirements for intervention, leaving considerable surplus time available. Conversely, another trustee might have a number of schemes even less than “X” which, given their complexity and circumstances, might create overwhelming demands on the trustee and limit their effectiveness.

Whilst The Pensions Regulator might choose to raise queries around an individual's number of appointments based on an annual return (see Question 15), other effective means of ensuring that trustees have sufficient capacity to serve their schemes well can include periodic governance and Board effectiveness reviews and firm-level reviews and controls – all subject to an overall code requirement that professional trustees should not take on more appointments than they can properly and professionally satisfy. To support such an approach, individual trustees could be

required to confirm the number of trustee meetings they were unable to attend due a client clash, or where they substituted a colleague.

Finally, all trustees should clearly consider their position if they feel that they are no longer adding value, maintaining good outcomes for members, sufficiently motivated, knowledgeable or committed to provide a high standard of trusteeship to a scheme. We consider this further in Question 12.

Q8. Are there situations where PCST model is more or less appropriate and why? Should there be any restrictions or suitability guidelines on PCST appointments?

In our experience, PCST appointments are particularly suitable where lay trustees are unavailable or disengaged; schemes are small or sponsor-constrained; or specialist projects (such as a buy-in or wind-up) are underway. That is not to say that PCST appointments are not appropriate in other circumstances – they very well may be.

We understand that evidence suggests PCSTs often improve governance in schemes most in need.

In terms of suitability for PCST appointments, a broad range of factors need to be considered “in the round”, rather than setting defined boundaries.

One matter that inevitably requires care in PCST appointments is the ability to operate free from undue sponsor influence. This emphasises the importance of sole trustees having access to robust, independent professional advice. There are clearly potential risks of a PCST appointment lacking independence, or the firm developing excess financial reliance on a client if significant fees are also being generated from extensive “in house” advisory services in critical areas.

Q9. If the Government introduced an enhanced code of practice for sole trustees what specifically would you like to see included? Do you think existing codes of practice already cover some or all of this?

It is our view that existing codes for trustees (including the Pension Regulator’s General Code and the APPT PCST Code) are sufficient and comprehensive.

However, as referred to above, codes issued by Professional Bodies could be made more robust by recognising such professional bodies in statute.

Subject to any specific issues which need to be addressed on an evidential basis, both are relatively new and should be allowed to be embedded before further consideration is given to alternatives or development of those codes. Any further expansion or enhancement of codes should be driven off evidential-based needs so as to avoid undue “tinkering”.

Chapter 2: Trustees and Their Appointment

Q10. Given the future landscape for pensions, are any further controls or safeguards needed on the appointment of trustees to ensure that decisions are made in members' interests?

Trustees clearly already operate under significant legal and regulatory obligations and all trustees, whether lay or professional trustees, member or employer-nominated, have identical fiduciary duties.

Nonetheless, we do see a case for enhancing CPD and similar arrangements for lay trustees to ensure that they maintain currency and competence in a fast-moving and complex environment. We discuss this – including the regular completion of the Pension Regulator's Trustee Toolkit - further in our response to Question 19.

There may be a case for mechanisms to be introduced to ensure that trustee appointment and termination decisions are taken free from undue sponsor pressures. Any such measures should be in accordance with the Trust Deed and Rules to avoid changes to the fundamental balance of powers, be evidence-based and seek not to undermine the many healthy and respectful relationships between sponsors and trustees which exist across the landscape of schemes. Specifically, departing professional trustees should provide structured handover statements – both to facilitate an orderly transition but also to highlight any areas of concern.

Where a retiring trustee or trustee board identifies a concern, it should be subject to impartial consideration by a body, such as that suggested in Question 3, which has representatives of both the Professional Trustee community and the AMNT. This would be before a referral is made to the Pensions Regulator so that there is a suitable route for escalations and the avoidance of undue work being passed to the Pensions Regulator.

Q11. What role can government and regulators play in helping schemes to attract a diverse and talented pool of individuals to trusteeship?

We recognise the value that diverse views can bring to Trustee boards so as to avoid “group think” and other limiting behaviours. We also strongly support the recruitment of talented individuals from a range of backgrounds and disciplines into trusteeship.

Nonetheless, we consider that, whilst diversity should be encouraged – and note that professional trustee companies are well placed to offer diverse talent pools – diversity must not override trustee suitability, competence and experience. Specifically, building target trustee board composition based on demographic comparisons can result in poor outcomes as the comparator should be the profile of the scheme and/or the sponsor and its industry.

Finally, given the skills, experience and judgement required to be an effective trustee, we believe that any “fast-tracking” of inexperienced individuals into professional trustee roles presents material risks to schemes. Putting to one side the question of whether they may have the requisite technical knowledge, the ability to participate in meetings and facilitate decision making are skills learnt through experience.

In this context, it is helpful to compare the process for individuals achieving senior roles in other professions including the actuarial and legal professions. An individual only becomes a partner once they have obtained significant experience as a leader and decision maker over many years.

Q12. Should there be any limits on length of trustee appointment, or should they be limited in number of repeat appointments to the same trust?

For many trustees, a long tenure can offer scheme experience and knowledge alongside well-established stakeholder relationships and trust.

It follows that imposing finite limits on trustee appointments can, for the generality of schemes, lead to sub-optimal outcomes if it results in highly competent and engaged trustees being forced to leave their posts.

We acknowledge that some schemes may experience a professional trustee who lacks motivation or competence. A trustee who exhibits these behaviours after a number of years in a post is just as likely to exhibit these behaviours after perhaps only 1 or 2 years in the role. We strongly suggest that the focus be on behaviour, rather than arbitrary rules based on assumptions which we believe will be incorrect for the majority of the profession. For example, we consider that ensuring motivation and competence can be addressed through robust governance and TKU processes including Board effectiveness reviews and mandatory CPD requirements. In addition, we would recommend the Pensions Regulator, or indeed, the professional bodies, place reliance on the professional trustee firms internal processes which would be expected to monitor behaviour in the same way that the advisory firms monitor the behaviour and competence of their staff.

An exception to this general view is in relation to Master Trusts and large-scale CDC schemes where periodic Trustee Board refreshment is already a requirement to mitigate any risk of over-familiarity with providers.

Finally, all trustees should clearly consider their position if they feel that they are no longer adding value, maintaining good outcomes for members, sufficiently motivated, knowledgeable or committed to provide a high standard of trusteeship to a scheme. We have commented on other aspects of this in Question 7.

Q13. Would it be appropriate to introduce a new public trustee who could be appointed by the Pensions Regulator? If so, in what circumstances would a public trustee appointment be preferable to a professional trustee from TPR's independent trustee register? And why?

We consider that there might be limited circumstances where a public trustee could provide a helpful intervention – including cases where there are proven concerns over trustee independence or undue provider / sponsor pressures. This would need to be evidence-based.

The appointment would be designed to correct any concerns as precursor to a new professional trustee being appointed on a longer-term basis.

The detail of how any appointments would work; the evidence required to support any intervention; and succession arrangements upon the departure of the public trustee would need to be carefully considered as part of policy formulation.

The public trustee would probably need to be drawn from a pool separate to that normally used for appointments to ensure full independence. This needs to be balanced against the need for specific skill sets which may only be gained by having previously worked in similar situations.

Q14. Are there any reasons why TPR's powers of intervention regarding trustees should be modified and if so in what way should they be modified?

Subject to our response to Question 13 regarding a possible public trustee, we do not consider that fundamental reforms are required to TPR's powers of intervention.

Given TPR's own finite resources, and the generally well-functioning scheme and trustee landscape, it will be important for TPR's powers of intervention to remain risk-based and proportionate.

However, it is equally important that stakeholders – including scheme members and trustees – continue to have clear bases upon which they can transparently raise any concerns with TPR for review and consideration.

Q15. How can TPR ensure it has the information it needs for the directory without creating greater administrative requirement for schemes?

We see a number of options – clearly with an overarching proviso of personal data security.

One option might be to add required fields to Scheme Returns provided required personal information is limited. Even if the personal information provided is limited, this approach would require very careful consideration to ensure the rights and freedoms of trustees are not put at risk from a data protection perspective. For this reason, this is probably the least optimal approach that could have unintended consequences. The Scheme Return can, for example, be used for many purposes which do not require the personal information.

Another might be a portal-type arrangement – similar to a number of professional bodies – where a broad range of required information, including CPD details, could be submitted by trustees direct to TPR.

We also note that Companies House has recently undertaken an exercise to provide directors with individual identity codes and a similar structure could be adopted.

Chapter 3: Skills and Knowledge

Q16. What skills will trustees of trust-based pension schemes need in order to be an effective and efficient trustee board? For example, areas such as leadership experience, negotiation skills, investment management, (including sustainability-related investment management), communications, financial planning? What other areas should trustees have proficiency in?

The nature of trusteeship involves using a range of skills and experience, drawing on expert independent advice, to make sound impartial decisions.

Whilst trustees may be drawn from a range of professional backgrounds (such as actuarial, legal, investment, accountancy, HR and pensions management) they are not required to be deep specialists in all areas – rather, they provide the skill sets required to be impartial decision-makers operating within a robust legal and regulatory framework and taking account of expert independent advice received.

The emphasis of skills needed may vary from scheme to scheme and over time: for example, a scheme's situation may benefit from a trustee with relevant sectoral knowledge to facilitate an understanding of covenant dynamics; particular investment knowledge; or de-risking. The requirements will be scheme and situation specific.

Against this backdrop, the core skills trustees need include:

- Judgement
- Communication skills
- Negotiation skills
- Appropriate governance and oversight skills
- Relationship management
- An understanding of pensions, financial and commercial matters

As a point of detail, investment management is usually delegated – albeit that understanding investment-related matters and strategy is clearly essential.

It is a reasonable expectation that a professional trustee can bring a broader range of skills to a board, but this should not undermine collective decision making by a board. As we explained in Question 11, a professional trustee should be able to demonstrate the experience they have which supports the skills that are required to be an effective trustee.

Q17. Would it be appropriate for TPR to set statutory higher standards for professional trustees? What should these standards look like?

We agree that professional trustees must deliver a professional standard of service.

This is largely through a contractual obligation and professional standards. This must, however, not undermine the fundamental principle that trustees' decisions are a collective Board responsibility. All of our professional trustees are accredited members of the APPT which has issued professional standards which we apply to the work that we perform. We know that this cannot be said of all professional trustees, and we believe standards can be improved by the profession itself with limited intervention by the Pensions Regulator.

Building on the Pensions Regulator's General Code of Practice, we consider that there is a clear role for relevant governing bodies, such as the APPT, to set appropriate standards for professional trusteeship. As we have explained in Question 3, the Pensions Regulator should recognise that bodies such as APPT are able to set appropriate standards and monitor these (see UK regulated professions and their regulators - GOV.UK). This would involve the continuation of both accreditation and CPD requirements for professional trustees through such bodies.

However, although accreditation and CPD are important, any requirements should recognise the nature of collective board responsibility, albeit that professional trustee(s) can help drive effective decision-making and involve the whole of the Board in reaching decisions. There is a risk that the dynamic of a board and collective decision making are impaired as a result of different trustees being held to different standards in the decision-making process.

This is separate to a debate about the skill sets that a professional trustee can bring to a board (see Question 3)

Any CPD and accreditation arrangements need to recognise the need for experience to develop over time; and that "soft skills" and judgement can be as important as technical knowledge.

Q18. We are moving towards models of trusteeship that do not include as many lay trustees as now, what important benefits or skills of lay trustees should we try to replicate in consolidated structures? And how should it be achieved?

In our experience, lay trustees do provide valuable insight around sponsors and membership views; they can provide a practical challenge in decision-making; and they can provide insight from a non-technical perspective.

How these skills and contributions can be replicated within consolidated structures will need careful consideration but might include, for example, structured stakeholder engagement mechanisms. Clearly, the position will vary as between DC and DB based structures:

- The risks that DC members carry and the decisions they are required to make are important issues for DC

- In DB, for example, there may be greater importance of understanding the sponsor's financial position and outlook, although this is perhaps less significant in well-funded schemes that will shortly be buying out.

Q19. What support/continuing professional development (CPD) would you like to see put in place for lay trustees? Should all trustees be accredited? Would it lead to a trustee shortage? Who would you pay for it including time as well as any L&D costs?

In the complex and fast-moving pensions arena, maintaining technical competence, market awareness and "soft skills" is clearly essential. But it should also be clear that trustee decisions are made on a collective basis after the receipt of independent advice and that all trustees, regardless of their route to appointment, have identical responsibilities to the beneficiaries/membership.

We believe that, notwithstanding the TKU provisions of the General Code, there is a powerful case in relation to lay trustees for mandatory completion of the Trustee Toolkit and updates; and a minimum level – say, 10 hours – of additional CPD (focussed on areas of greatest relevance). The reasonable costs of this should be borne by the schemes themselves or the sponsors.

Given the existing regulatory framework, and subject to the above, mandatory accreditation seems to us to be a "step too far" and may well deter otherwise capable people from becoming lay trustees.

Chapter 4: Member Voice

Q20. How can we ensure trustee boards take into account the perspectives of members in their decision making?

Member voice can be valuable in a range of areas such as administration experience and the effectiveness of communications. It seems less appropriate around technical areas such as DB funding or investment strategy as members are likely to lack the skills needed to input effectively.

The need for member voice is far more important in DC. Member voice/experience can help shape administration processes, communication and investment strategies. We should recognise that master trusts, in particular, where there are no MNTs, need to consider how they access member voice.

Where the member voice is important, and in particularly in DC settings, we believe that it should be heard from across the membership – not just from individuals of particular constituencies. As such, forums and surveys are preferable to incidental individual engagement if a balanced range of views is to be sought.

We also believe that the Chair and wider trustee board should encourage feedback from members as any member may have important insights to share. However, this should be done in a way that is proportionate to the resources of the Scheme with a view to the value to be added by such an exercise and to ensure member expectations are managed.

For example, we believe it would be inappropriate to ask members whether they wished the trustees to enter into a buy in contract with insurer A as opposed to insurer B as this is not an area that the membership could be expected to fully understand based on limited information and no training.

However, asking members about whether the DC fund choice is too long or not long enough is likely to be very valuable as a means of gathering additional data prior to embarking on a strategy review.

Trustees must also be cognisant of the potential for learnings that can come from individual feedback, whether through a formal complaints process or otherwise.

Q21. Can you give any examples of best practice in the UK or internationally that demonstrate schemes taking appropriate account of their members' views?

Pension trustees show best practice by using multiple channels to gather, act and report back on members views.

Examples of gathering information include member surveys, focus groups and post call-centre contact feedback surveys. They provide an opportunity to gauge member satisfaction, understand retirement goals and determine preferences regarding investment strategies in DC schemes (such as ESG factors). In addition, analysing data particularly member complaint information, is important so that systemic issues are identified and acted upon to enhance member experience for all.

Chapter 5: Administration

Q22. What benefits and challenges do you foresee if mandatory minimum standards were introduced for scheme administrators and/or wider administration services such as Integrated Service Providers?

High quality administration is essential to the proper function of the pensions industry and the delivery of suitable member experiences. We therefore support in principle measures – regulation or industry-led – to enforce good standard of pensions administration, whether stand-alone or as part of broader offerings.

However, given current capacity constraints and the existing pace of industry change, we consider that the development and enforcement of minimum standards would need great care, both to ensure that the intended benefits were delivered in a cost-effective manner (bearing in mind that, ultimately, costs will need to be met by schemes and, in a DC setting, members); and without undue consequences (such as precipitating provider failure or disorderly market exit).

This area seems to be one where careful analysis and industry consultation will be essential so as to ensure a workable and value-added outcome.

Q23. Should TPR have the same levels of regulatory oversight as the FCA regarding administrators and/or wider administrative services, and why?

As stated in our answer to Question 22, high quality administration is essential to the proper function of the pensions industry and the delivery of suitable member experiences.

Clearly, regulatory oversight of administration would add a layer of protection and guardrails to prevent schemes being unduly exposed to systemic underperformance – and the sanction of deregistration (see below) or other mechanisms such as fines would likely act as a strong deterrent to providers systemically failing to meet required standards.

However, notwithstanding the potential benefits, such regulation would not be without cost and so any mechanisms implemented would need to be appropriately targeted.

Q24. Should administrators have to be registered with TPR to be involved in administering a scheme? If so should TPR be able to deregister an administrator? (A model similar to that in Ireland)

As stated in our answer to Question 23, similar to regulatory oversight, mandatory registration of administrators would add a layer of protection and guardrails to prevent schemes being unduly exposed to systemic underperformance – and the sanction of deregistration would likely act as a strong deterrent to providers systemically failing to meet required standards.

However, notwithstanding the potential benefits, registration and its associated regulation would not be without cost and so any mechanisms implemented would need to be appropriately targeted; and the consequences of deregistration properly planned

for in terms of succession and standby providers (see also our response to Question 26 below).

Q25. What risks if any, does increased levels of consolidation activity in the DC sector pose to administration service providers? How can these risks be mitigated to ensure an orderly transition to Megafunds?

As scheme consolidation and change accelerates, a number of risks need to be considered. These include concentration risks around one or more administration provider being used by the same Megafund with consequences for service standards if administrator capacity proves insufficient; and risks arising from the process of transferring members' data from one provider to another – whether connected with capacity or data security / cyber issues.

It follows that there is a potential risk of systemic “overload” unless capacity constraints are clearly identified and managed. There are a variety of ways in which these risks might be managed – ranging from industry-level initiatives and standards to further regulatory oversight. This seems to be a complex issue which would require extensive further analysis and industry consultation prior to prescribing any specific mitigations.

Q26. What role should TPR take in reducing the risk and impact of a disorderly market exit by an administration provider?

We fully acknowledge that a disorderly market exit by an administration provider could, depending on how it unfolds, have detrimental impacts on scheme members.

In an environment of stretched capacity in the administration market, there is clearly a challenge in determining what an effective standby response would be.

Nonetheless, we do see value in TPR undertaking resilience assessments of administration providers to identify areas of particular vulnerability; and considering standby provider arrangements – subject to proportionality in relation to costs.

Clearly, there are likely to be issues of confidentiality and so the mechanisms for engaging a standby provider in the case of any disorderly exit will need careful consideration as part of policy formulation.

Q27. To help us better understand the trustee landscape and the potential impacts of any changes emerging from the consultation, we would welcome some information regarding the scheme or provider you are answering on behalf of in the table below:

BESTrustees was founded in 1992 and is a leading provider of professional trusteeship of occupational pension schemes in the UK market.

Our current portfolio includes 204 scheme appointments, broken down below by size, role and benefit structure:

£0 - £100m	112	Chair of Trustees	104	DB	144
£100m - £499m	37	Co-trustee	60	DC	25
£500m - £999m	29	Sole Trustee	40	Hybrid	35
£1bn+	26				