

## **What the Pensions Board expects of trustees**

### **Presentation by Brendan Kennedy to IAPF Trustee Forum, 21 January 2010**

The essential job of trustees is to look after money on behalf of others. They are responsible for over €70 billion of pension savings. Trustees are essential to the operation of the Irish pensions system.

Pension schemes depend on trustees: without them, the system will not function. However, in order for the system to work, trustees must be able to work effectively. The Pensions Board is well aware that if the trustees' job becomes unworkable, the system becomes unworkable. This means that we have to strike the right balance between ensuring that trustees are effective in overseeing and investing the pension scheme, and what obligations we impose on trustees.

Before describing what the Pensions Board expects of trustees, it may be useful to set out what we do not expect:

- ✗ Trustees are not expected to be full-time
- ✗ Trustees are not expected to be pension professionals
- ✗ Trustees are not expected to be infallible.

Nonetheless, trustees are looking after money on behalf of other people. Therefore there are minimum standards they must satisfy:

- ✗ They must have certain basic knowledge
- ✗ They must engage
- ✗ They must act reasonably
- ✗ They must have process
- Although we are certainly not expecting trustees to be pension professionals, you cannot act as a trustee without certain basic knowledge of the Irish pension system. Acquiring this knowledge involves a certain level of commitment.
- If you are a trustee, you have responsibilities, and you must exercise them. It is not possible to act as a trustee in a purely reactive capacity: there are certain actions that must be taken from time to time. There can be no such thing as a passive or disengaged trustee.
- In many circumstances, there is no single right answer, certainly not without hindsight. Therefore, all that can be expected of trustees is that they make a reasonable effort. This means as a trustee, you should gather the appropriate

information, and where relevant, get appropriate advice. Once you have done this, you have to make a decision based on the information before you. The test will be whether it was reasonable to make that decision at that time, not whether it turned out to be right.

- The Pensions Board expects trustees to be organised and to have process. This means formal recorded meetings, proper agendas which deal with all important issues and records of decisions. As well as being important and useful in itself, this process is the best means for trustees to demonstrate that they have been reasonable.

Where trustees do not have the knowledge themselves, they will engage professionals. The main areas are administration, investment, communication and, for DB schemes, funding.

By definition, these experts will be talking about matters that the trustees are not familiar with. Nonetheless, it is the trustees' job to question them, to push back, and not to accept answers that they don't understand or do not feel to be right. This is probably the most challenging aspect of being a trustee. The trustees' must recognise that it is their responsibility to make decisions, and their options should be set out for them clearly by the professional advisers. It is important that trustees identify the decisions that they are making, and that they have set out the alternatives among which they are deciding.

I want to say a few brief words about each of the trustees' areas of responsibility:

- Investment used to be the most interesting part of trusteeship. However, the last few years have shown that a lot more thought should have gone into investment. For both defined benefit and defined contribution schemes, trustees should always think about risk when they consider investment. For defined benefit schemes, all discussion of investment must specifically take into account the liabilities of the pension scheme.
- Administration is an area of trustee responsibility that does not get as much attention as you would expect. Although there are good administrators, there are also a number of very poor ones. Trustees need to think consciously and regularly about the quality of administration, because result of poor administration may be that members do not receive the benefits or the information to which they are entitled. Although in the short term, trustees would not be liable for an error by their administrators, it is going to be harder to use this defence where there has been a history of poor administration which the trustees have tolerated or ignored. I would like to see more trustees engage with administration, and, where necessary, replace their administrators.
- For defined benefit schemes, funding decisions are the most challenging. However, it is important to distinguish between the complexity of the actuarial issues and the difficulty of the decision. Trustees must always ensure that their actuaries present

the issues, the decisions to be made and the options available in a manner that the trustees clearly understand– that does not mean that the decisions are easy.

- For defined contribution schemes, the communication to members of their investment choices is very important. It is the responsibility of trustees to satisfy themselves that the communication is relevant and understandable. This is an area where the trustees are very well placed to make decisions: they will know whether the materials are likely to be understood by their members. If they believe that they will not be understood, it is the responsibility of the trustees to ensure that the communication is improved.

Many trustees of defined contribution schemes do not seem to pay enough attention to costs. There are too many DC schemes where high costs are eating into the savings of members. Costs are an item that trustees can directly control, and it is much easier to improve member returns by reducing costs than by making changes to investment. I do not see how trustees that ignore the issue of costs can be acting in the best interests of members.

From time to time, things will go wrong, unfortunately. The result may be a breach of the Pensions Act and/or members not receiving what they were entitled to. The Pensions Board does not prosecute in every case where there has been a breach of the Pensions Act, especially where the breach is inadvertent, and not the result of negligence by trustees.

Where there is a problem, trustees should inform the Pensions Board. What the Board wants to see is

- ✗ Prompt notification by trustees – there should be no effort to conceal the problem
- ✗ A full description of what happened, why, and what effect it had on members
- ✗ What is being done to rectify the problem
- ✗ What is being done to ensure it will not happen again

Trustees should remember that administrators are now regulated. This is an important additional protection for trustees. Where trustees believe that administrators are not doing their job, the Pensions Board would welcome them informing us. This does not remove the obligation on the trustees to resolve their own issues, but it will help the Pensions Board to improve standards.

The Pensions Board is not just a regulator: it is also a resource for trustees. The Board's website, [pensionsboard.ie](http://pensionsboard.ie), is a valuable source of information, and includes an email alert system for updates. The latest edition of the trustee handbook is available free online, and should be a regular reference for all trustees. The Board's e-learning system is a free source of training for trustees. The Board also operates an enquiry service on (01) 613-1900 or at [info@pensionsboard.ie](mailto:info@pensionsboard.ie). Further initiatives to support trustees are planned for 2010.