

Campaign Overview

Earlier this year, we conducted a survey to assess how confident trustees and corporate sponsors felt about 10 fundamental areas of pensions risk. We focussed on areas not directly covered by the Integrated Risk Management Framework, and asked respondents to rank the risks in order of their “stay awake” factor. We have now produced a series of 10 factsheets, each one commenting on one of the survey risks. Our red risk flags highlight some key warning signs, and our mitigation tips are designed to supplement existing areas of risk mitigation. Each factsheet assumes there is an established risk management system on which additional measures can be built.

Risk 6 : Relationship Challenges Between Sponsor and Trustees

Survey Result

This was the sixth highest-ranked risk in our survey. It is recorded on the risk register of 69% of our trustee respondents and 100% of our corporate sponsor respondents – although the trustee respondents ranked the risk more highly than the corporates.

Comment

Many trustees depend on their sponsoring employer not only for funding purposes (although that is often a significant dependency), but also for secretariat and other practical support. The interests of trustees and sponsors in ensuring a well-managed scheme should be aligned, but working relationships can come under strain, often through sitting on opposite sides of the negotiation table for scheme funding and employer covenant discussions. This can make other areas of working together more difficult, even though both parties would agree that collaboration and open lines of communication are highly desirable.

Obvious conflicts of interest can arise for employer-sponsored trustees and, although such conflicts are increasingly well understood and documented, they still need to be managed carefully. Lines can be blurred when individuals, such as pensions managers, are employed by the corporate sponsor but have a close working relationship with the trustees. Pensions managers are often the link between advisers and trustees, but if they are routinely copied into trustees’ professional advice, this could be problematic if a dispute arises between the sponsoring company and the trustees, perhaps resulting in loss of legal privilege for the trustees so that key advice has to be disclosed to the employer.

Red Risk Flags

- Trustees’ designated employer point of contact does not have delegated authority to make decisions on behalf of the sponsor.
- Trustees and corporate sponsor contacts struggle to get timely engagement with each other.
- Conflicts of interest protocols are not understood or adhered to.
- Advisers blur the lines between trustee and corporate sponsor contacts when providing advice.

Mitigation Tips

- Encourage an open flow of communication – this makes it easier for both parties to identify and address any problems.
- Ensure that conflicts of interest are considered as part of the decision-making process and seek legal advice where there is any doubt.
- Consider putting in place a privilege protocol with key advisers.
- Consider whether the trustees could benefit from resources and expertise within the corporate sponsor (such as data or web specialists). This may save on costs and help the working relationship. However, appropriate contingency arrangements should be in place for any support provided by the sponsor that is withdrawn (perhaps due to a dispute or insolvency).

A Word from The Pensions Regulator

“As a 21st century trustee, you must be aware of possible conflicts within your scheme. Whilst conflicts of interest aren’t uncommon, you’re legally obliged to have adequate internal controls in place, this includes having a process to identify and manage any conflicts of interest among those involved in running your scheme, including trustees, service providers and advisers.”

(From 21st Century Trusteeship)

