Information contained in this document is accurate as of June 2020.

Group Life
Trustees Responsibilities

This quick guide gives you an overview of the role of a trustee of a stand-alone Group Life scheme.

Trustees of a stand-alone Group Life scheme manage death benefits for a group of employees.

Trustee's responsibilities

Trustees must always act honestly and prudently and, at all times, with the utmost good faith. Trustees must not make any personal profit at the expense of the scheme or its members (although professional trustees may charge the Employer for any agreed services). Trustees must take all reasonable care when dealing with the payment of benefits and always act in the best interests of the beneficiaries.

Trust Deed

The scheme has a Trust Deed, which details how the scheme is run, and all those involved with the running of the scheme should be familiar with its contents.

The trustees must act in accordance with the Trust Deed at all times and ensure they are kept up to date. It is important to keep the literature issued to members updated to maintain consistency in the information given about the scheme.

The liabilities of the scheme are generally covered by a Group Life Insurance policy.

The Pensions Regulator provides guidance for trustees of registered schemes on their website: www.thepensionsregulator.gov.uk/trustees/

Who is the trustee?

Normally, the Principal Employer will act as the trustee (known as a corporate trustee and each director acts as a trustee). When executing their powers under the scheme at least two people must sign on behalf of the Principal Employer. This should include one director and either another director or the Company Secretary.

The Principal Employer can appoint a specialist company to act as a corporate trustee of the scheme with all the associated powers.

Anyone who is capable of being the legal owner of property can be a trustee. However, there are some categories of people who are specifically excluded, such as:

- Anyone convicted of dishonesty, deception or any kind of fraud
- Un-discharged bankrupts
- Anyone disqualified from acting as a company director
- Anyone who has been disqualified from acting as a trustee

Member-nominated trustees and member-nominated directors

A Group Life scheme is not required to have member-nominated trustees or member-nominated directors.

Liability as a trustee

Trustees have 'joint and several liability' resulting from any breach of trust. A breach of trust can happen when a trustee takes an action not authorised under the Trust Deed or fails to act as they require, and also if duties are not performed with sufficient care.

The scheme may protect trustees from personal liability for a breach of trust, except where it is due to actual fraud.

Knowledge and training

The Pensions Act 2004 (sections 247-249) requires trustees of occupational pension schemes to have knowledge and understanding of the law relating to pensions and trusts and the principles relating to the funding of occupational schemes and the investment of scheme assets. Trustees are also required to be conversant with their own scheme's policy documents.

This requirement does not apply to trustees of a Group Life scheme, though the trustees must have appropriate knowledge for them to properly exercise their functions as a trustee.

Identifying and paying beneficiaries

Trustees have discretion over who receives the death benefit. In executing this responsibility, and in order to ensure that benefits are paid out to appropriate beneficiaries, the trustees must obtain all relevant information about the deceased's dependants and then determine who should receive benefits. The decision and the information/factors taken into account, must be recorded in trustee minutes.

The trustees should have regard to the wishes expressed in writing by the member but they are not bound by these wishes.

Where the trustees are of the opinion that the beneficiary is incapable (either mentally or physically) of dealing with his/her affairs, the Trust Deed typically allows the trustees to pay out the benefit to a relative or other person acting on behalf of the beneficiary.

Trustee's bank account

Though the trustees of a Group Life scheme are not required to have a trustee's bank account, as required for occupational pension schemes, establishing one would be both practical and good governance. This can be set up when the first benefit becomes payable.

A trustee's bank account demonstrates a clear control over payment of benefits. Premiums can also be drawn from this account, if not already paid directly by the Principal Employer. The bank will need evidence of the trustees' appointment and a copy of the Trust Deed should be sufficient in this respect.

Trustee meetings

Written records must be kept of trustee meetings and especially any decisions made. It is possible that any particular decision may be challenged or referred to The Pensions Advisory Service (TPAS) if a beneficiary is not happy with the trustees' decision.

At the beginning of each trustee meeting, a Chairperson must be elected. If there are equal votes in the election of a Chairperson, the trustee to take the Chair could be chosen by lot.

Decisions should be made by a majority of the trustees not just by those present. Where there are an equal number of votes on each side of those trustees present, the Chairperson will have a casting vote. A resolution in writing signed by a majority of the trustees is as valid as if it had been passed at a full meeting of the trustees.

Typically the Trust Deed will allow the trustees to delegate their powers - less typically, this may include their discretionary powers. When powers are delegated, the trustees remain responsible for the actions taken.

Appointment, resignation and removal of trustees

The number of individual trustees should not be less than three at any one time.

The Principal Employer has the power to appoint and/or remove trustees by deed.

Any trustee can resign from office by giving notice in writing to the Principal Employer.

The Principal Employer can call on a trustee to resign by serving notice to that effect. At the end of the notice period, the trustee will be deemed to have retired as a trustee.

Appointment of professional advisers

The trustees can appoint professional advisers such as accountants, financial advisers and solicitors. Appointments of this kind can only be made with the agreement of the Principal Employer, as they will have to pay any fees payable.

The Pensions Regulator

A Group Life scheme is not required to register or make reports of any events to the Pensions Regulator.

Finance Act 2004 & Pension Schemes Act 2004

Stand-alone Group Life schemes are capable of being registered with HMRC and enjoying tax advantaged treatment, being valid occupational pension schemes under the Finance Act 2004.

However, they are not regarded as an occupational pension scheme under the Pensions Act 2004, so not subject to the additional requirements of this and associated legislation.

Taxes and Lifetime Allowance Charge

For a Registered scheme its scheme administrator has responsibility for all tax charges, interest and penalties for the registered scheme in addition to being the person who is responsible for registering a new scheme.

The scheme administrator is not responsible for payment of a Lifetime Allowance Charge when a lump sum death benefit is paid following a member's death. Any Lifetime Allowance Charge falls solely on the recipient(s) of the lump sum payment(s). The scheme administrator pays any lump sum death benefit in full, without any regard to any Lifetime Allowance Charge that may potentially be due. The personal representatives of the member are responsible for ascertaining whether a chargeable amount arose following the payment of a relevant lump sum death benefit.

If the lump sum benefit is paid more than two years after the member's death, the Lifetime Allowance Charge does not apply. Instead the beneficiaries pay income tax on the lump sum benefit.

IHT on non-registered schemes

The employer takes out excepted policies and links them to a discretionary trust they have set up.

The trust is subject to the Inheritance Tax (IHT) rules with exit and periodic charges, which the trustees are responsible for reporting and paying.

Internal dispute resolution

Though the trustees of a Group Life scheme are not required to have a set procedure for resolving disputes, as required for occupational pension schemes, establishing one would be good governance.

The trustees can establish an Internal Disputes Resolution Procedure so that relatives or other financial dependants of the deceased can formally question decisions made by the trustees.

If a dispute cannot be resolved using the Internal Disputes Resolution Procedure, the trustees should direct the complainant to The Pension Advisory Service (TPAS).

This specimen wording describes a procedure which shows someone how to make a complaint and what action will then take place and when.

Specimen wording

Members can write to the trustees if unhappy with anything to do with the Plan.

Widow(er)s and surviving dependants of deceased members and prospective members, can write to the trustees. You can also get someone else to deal with it for you.

When writing give your full name, address, date of birth and National Insurance number. If you aren't the member, give the same details for the member and your relationship to them. If someone is dealing on your behalf, give their full name and address and say if all correspondence should go to them. Detail what you are unhappy about and why. Finally, sign the letter.

The trustees will reply with a decision within two months or say when they expect to reply and why there is a delay. The decision will refer to any relevant law, trust provision and discretions used in the trust. It will also say you can ask for the matter to be reconsidered within six months.

If you wish the trustees to reconsider, you must provide the same details as before, send a copy of their decision and explain why you are unhappy with that decision.

The trustees will reply with a decision within two months or say when they expect to reply and why there is a delay. They will either confirm the decision or advise a new decision. You will be given details of The Pensions Advisory Service (TPAS) and their address, to help when the matter cannot be resolved with the trustees. Also the Pensions Ombudsman can investigate and give decisions on complaints or disputes (unless formal legal proceedings have already started).

The Pensions Ombudsman

10 South Colonnade, Canary Wharf, E14 4PU

Local: **0800 917 4487**
Overseas: **+44 (0) 207 630 2200**

www.pensions-ombudsman.org.uk

The Pensions Advisory Service

120 Holborn, London, EC1N 2TD

Pensions Helpline: **0800 011 3797**
Overseas helpline: **+44 (0) 207 932 5780**

www.pensionsadvisoryservice.org.uk

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