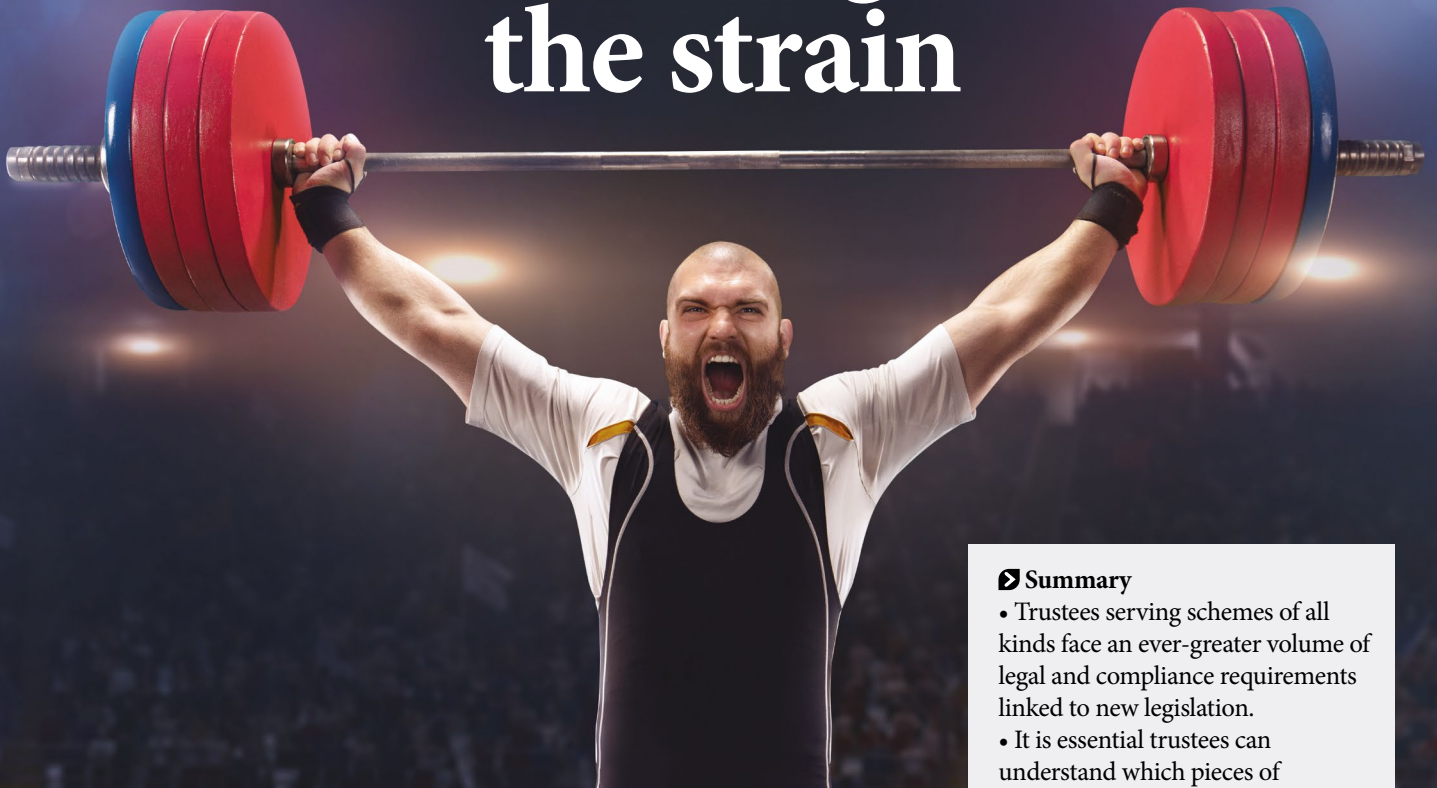


Taking the strain



As the scale and variety of legislation affecting trustees continues to grow, so too do the compliance and complexity risks they face. David Adams considers how trustees can develop approaches to ensure compliance and manage those risks

While pension scheme trusteeship has never been easy, the range of new legislation affecting trustees is remarkably broad, and still growing.

Pensions Management Institute (PMI) chief strategy officer, Helen Forrest Hall, says trustees are telling the PMI that the challenge “isn’t any single reform – it is the cumulative load”. In addition to measures in the Pension Schemes Bill, that load includes work on Guaranteed Minimum Payment (GMP)

equalisation, Own Risk Assessments, preparations for dashboards, value for money (VFM) assessments, and development of guided retirement defaults, as well as multiple other issues affecting different types of schemes.

Trustees need to be able to pick out which of these and other tasks are of greatest and most urgent relevance to their scheme, then “manage the balance between process-driven compliance and member-focused decision-making,” says Forrest Hall. “Because the worst outcome is if the trustee is so focused on

Summary

- Trustees serving schemes of all kinds face an ever-greater volume of legal and compliance requirements linked to new legislation.
- It is essential trustees can understand which pieces of legislation are most relevant to the scheme and prioritise efforts to ensure compliance – but also to manage complexity risks linked to interlocking requirements.
- Some new legislation will require a rethink of schemes’ longer term strategies.
- The support of expert advisers, administrators and other service providers can play a crucial role in supporting advisers. Professional trustees may also play an important role in supporting some schemes.

... [compliance] that they’re not actively considering the impact on members.”

Every trust-based scheme is unique, in terms of type, scale, maturity, membership profile and sponsors. But the endless stream of new legislation makes a focus on long-term objectives and a clear strategic plan, refined and

guided by trustees, absolutely vital.

“For boards that are already having strategy planning days and have a full business plan for the scheme, this is just an extension of what they would be doing anyway,” says Barnett Waddingham partner and head of pensions governance and secretariat, Lucy Cresswell. “But some trustee boards are not necessarily working strategically: They’re more focused on day-to-day issues.”

Even if a board does have a proactive approach to strategic planning, it is still difficult to prioritise compliance work and to minimise risks. One possible starting point is the government’s roadmap for pensions-related legislation, but Forrest Hall believes the order in which the roadmap lists key events and requirements could itself create problems.

“Trustees need clarity, they need proportionality and they need coherent sequencing,” she says. “We think better sequencing might reduce the risks associated with trustees trying to implement too many things at once.”

“At present, key reforms are scheduled to land before the wider ecosystem they depend on. The example we’ve talked about most often is trying to put defaults and guided retirement options in place before you’ve done small pots or dashboards. One sensible thing we think the government and policymakers could do would be to move the guided retirement requirements to the other end of the roadmap.”

Without that change, she suggests, there is a risk that some smaller DC schemes may end up committing significant resources to changes that are not ultimately necessary, because the scheme will be consolidated into a larger vehicle within the next few years anyway.

Different routes to good governance

Trustees of DB schemes will need to consider other elements within the

Pension Schemes Bill, such as the options for sharing scheme surpluses, or for consolidating the scheme into a superfund.

“The surplus rules are something we’re talking about a lot with our clients,” says Burges Salmon director, Helen Woodford. A number of industry organisations, including Pensions UK and the Pensions Policy Institute (PPI), are dedicating significant resources to considering how trustees and sponsoring employers can be supported as they plot a way forward for individual schemes.

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Another priority for trustees linked to the bill is the proposal to mandate investment in UK assets. Concerns have been increased because this is ‘framework’ or ‘skeleton’ legislation, which creates reserve powers that might be used in unforeseen ways by a future government, including, in theory, overriding trustees’ fiduciary duty to scheme members. The government has promised provision of statutory guidance for trustees.

This should mean that “if you’ve done everything in good faith, and checked it with your lawyers, you shouldn’t have to worry about being sued,” says Association of Member-Nominated Trustees (AMNT) co-chair, Maggie Rodger. But this issue will continue to occupy trustees’ attention for some time.

The government has also been running a consultation on trustees and governance of trust-based pension schemes, open between December 2025 and immediately after this magazine went to press. Many of the organisations consulted for this article were compiling responses to the consultation at the time of writing.

Pensions UK policy lead, Krista D’Alessandro, is among those who says that at the heart of her organisation’s consultation response will be an emphasis on the need for legislative or regulatory burdens to be “proportionate to the type of scheme” in question, and “outcomes-focused”.

But even if this is the case, trustees will still need to combine a focus on managing business as usual requirements alongside consideration of longer term strategic questions. Pi Partnership professional trustee, Sarah Marshall, who serves as a trustee for several different schemes, says it is possible to run trustee meetings to facilitate this.

We have a big strategic segment within our meetings, then we move onto looking at things happening now, around data, administration, member communications,” she says. “We separate the strategic and operational. That allows us to focus on each of those areas and give them the attention they need.”

D’Alessandro stresses the importance of a strong chair of trustees, but also of expert advisers that deliver effective input.

She suggests schemes need: “A strong chair ... able to ensure that the right expertise is being called upon at the right moment; and that the right advisers are providing information in a clear way that allows trustees to see and understand what is happening.”

Sackers partner, Andy Lewis, highlights the value in delegating work on certain issues to scheme sub-committees or advisers, enabling the board to dedicate more time and effort



to considering strategy.

Hymans Robertson partner and head of pension policy innovation, Calum Cooper, agrees that trustees must be able to filter out the noise to identify which legislation is of greatest relevant to the scheme in order to plan how best to address and prioritise those issues. But, he says, “that’s not a trustee challenge, that’s an adviser challenge”.

“It’s a team game,” says Cooper. “What really good advisory looks like is asking, what are the objectives of the scheme and how can we help you to meet those objectives?”

“If [*trustees*] have a clear focus on the scheme’s objectives they can challenge advisers and ask if the advice they are receiving is really strategic – and therefore whether the scheme is getting value for money from those advisers.” This also applies to key service providers, particularly administrators.

Professional help

The need to comply with the ever-widening range of legislative requirements will prompt some trustee boards, or scheme sponsors, to hire a professional trustee to provide additional support to an existing board – or perhaps to replace it, in the form of a sole professional trustee.

Professional trustees can bring the benefit of any experiences they may have helping other schemes to comply with evolving legislative requirements. But the other side of that coin, Forrest Hall suggests, is that some individual professional or sole trustees may have very large workloads across multiple schemes, or perhaps in other non-executive roles they also hold. This could have a negative impact, or restrict the support they can offer a scheme in the event of a crisis.

“Professional trustees can bring

benefits – it’s about trying to balance that with the benefits of having lay trustees on the board as well, who know the scheme membership and the employer well,” says Cresswell.

In the end, all trustees, whoever they are, need all the help they can get, from advisers, experts, service providers and ongoing training, as they strain to understand and respond to interlocking and ever-changing compliance requirements.

“It’s massively challenging,” says Pi Partnership governance consultant and scheme secretary, Laura Johns. “We have constant legislation, consultations and it’s all entwined. I guess it’s about keeping a heads-up approach and anticipating change.”

 **Written by Dave Adams,**
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