

One Member Executive Pension Schemes

Trustee Training Booklet



Contents

Why do I need this Trustee Training Booklet?	1
How can this Trustee Training Booklet help me?	1
Types of Company Pension Schemes	3
Establishment of Company Pension Schemes	4
General Duties of Trustees	5
Specific Duties of Trustees	6
Legislation Affecting Trustees Other Than The Pensions Act	10
Declaration of Completion of Zurich Life's Trustee Training Booklet	13

Disclaimer

Whilst every care has been taken to ensure that this Trustee Training Booklet meets the standard of 'appropriate' training under section 59AA of the Pensions Act, no responsibility or liability is accepted for errors or omissions howsoever arising.

Why do I need this Trustee Training Booklet?

With effect from 1st February 2010 all pension scheme trustees are legally required to undergo appropriate trustee training.

For **new trustees** (appointed after 1st February 2010), the initial training needs to be completed within six months of their appointment as trustees.

For **existing trustees** (appointed before 1st February 2010), the initial training will need to be completed within a two year period (from 1st February 2010).

All trustees are required to repeat their training every two years and the employer must arrange for all trustees to receive appropriate training.

Failure to comply with this obligation may result in an on-the-spot fine of €2,000 per trustee as well as having to undergo appropriate trustee training.

How can this Trustee Training Booklet help me?

This Trustee Training Booklet has been prepared by Zurich Life Assurance plc ("Zurich Life") to assist the trustees of one member executive pension schemes issued by Zurich Life in complying with the requirement that they be appropriately trained.

One member executive pension schemes are pension schemes which are established for one person only and that one person will, generally, be the only member and has discretion as to how the resources of the scheme are invested.

The employer acts as trustee for many of the one member executive pension schemes issued by Zurich Life. When the employer is acting as trustee, it is necessary for all directors of that employer to undergo trustee training.

The Pensions Board has accepted the booklet approach to trustee training for trustees of one member executive pension schemes. The Pensions Board is the statutory body set up under the Pensions Act to monitor and supervise the operation of the Pensions Act and pension developments generally.

This Trustee Training Booklet takes into account that the duties and responsibilities of trustees of one member executive pension arrangements are not necessarily as demanding as those of group pension schemes. In addition, Zurich Life assists trustees in carrying out many of the duties that are the responsibility of a trustee as part of its insured service e.g. provision of information, investment of contributions, payment of benefits etc.

It is the responsibility of trustees to ensure that up-to-date records are kept in relation to the training undertaken by them. When you have read and understood the contents of this Trustee Training Booklet, please sign and date the declaration on page 13 of this booklet and keep it safe in your files as the Pensions Board may audit your scheme and require proof that you have carried out appropriate trustee training.

A smiling man in a blue striped shirt is using a laptop. The background is a blurred office environment with other people.

Additional Information

Trustee training is only one small part of the overall duties and responsibilities of a pension scheme trustee. You can obtain additional information on all your duties and responsibilities as a trustee of a pension scheme by visiting the Pensions Board website (www.pensionsboard.ie). This site has a number of Guides and Booklets available for download such as the Trustee Handbook (currently 3rd edition) and a booklet entitled 'So You're a Pension Scheme Trustee'.

The Pensions Board has also developed an e-learning facility for trustee training which is free of charge and can be accessed through the Pensions Board website.

Types of Company Pension Schemes

There are two main types of pension scheme – Defined Benefit (DB) and Defined Contribution (DC). A ‘hybrid’ pension scheme is a pension scheme which is part DB and part DC.

Individuals may also make Additional Voluntary Contributions (AVCs) to increase their retirement benefits. If the rules of a particular pension scheme do not permit AVCs to be made then a Standard Personal Retirement Savings Account (PRSA) must be offered by the employer for the purpose of making AVCs by salary deduction.

A DB pension scheme is an arrangement where the pension and other benefits which will be paid to the member and/or the member’s dependants are clearly stated in the rules of the pension scheme. Where the benefits are based on a future salary, e.g. at retirement, it is known as a Final Salary Scheme.

A DC pension scheme is an arrangement where the rate of contribution (employer and/or member) is defined and where the individual member’s pension is determined by reference to the contributions (and transfer values) paid into the scheme, how long those contributions are invested, the investment return earned on those contributions, the contract charges and the annuity rate at the time of retirement.

Sometimes social welfare retirement benefits are taken into account for pension schemes (principally DB schemes) in determining the overall benefit structure. A pension scheme that takes into account social welfare entitlements is said to be “integrated” with State benefits. The employer decides the overall retirement benefit (including the social welfare pension deduction) that is to be promised to employees. The social welfare pension provides part of that benefit and the pension scheme meets the balance. The reason for the difference in treatment of the State pension is that DB pension schemes target a particular level of retirement income, whereas DC pension schemes have no comparable target.

All one member executive pension schemes issued by Zurich Life are DC pension schemes and there are no guarantees on the retirement benefit levels the schemes may provide.

Establishment of Company Pension Schemes

Pension schemes are almost without exception regulated by trust law. This is because the Revenue Commissioners give certain tax reliefs to pension schemes established under trust.

A **trust** is an arrangement whereby a person or persons hold and take care of assets on behalf of others. The person or persons who hold and take care of the assets are called the **trustees**, the assets are called a **trust fund** and the person or persons on whose behalf the trust fund is held are called **beneficiaries**.

In relation to the one member/individual pension schemes issued by Zurich Life, the trust documentation is contained in the "Confirmation of Trust" or the "Letter of Exchange" completed by the employer and the member at the time the pension scheme is established.

In the "Confirmation of Trust" or "Letter of Exchange", the employer appoints a trustee to hold the assets of the scheme in accordance with the scheme rules and relevant legislation for the benefit of the beneficiaries of the trust.

One of the main advantages for members of the pension scheme being arranged as a trust is that the pension scheme's assets are kept legally separate from the employer's business assets.

The Pensions Act provides that the following persons may not act as trustees of occupational pension schemes:

- An undischarged bankrupt.
- Persons who have made arrangements with creditors and have not fulfilled their obligations under those arrangements.
- Persons convicted of an offence involving fraud or dishonesty.
- Persons who are restricted, under Section 150 of the Companies Act 1990 (as amended), from being involved in the formation or promotion of a company for a defined period of time.
- A company any of whose directors would be prohibited from acting as trustee based on the provisions referred to above.

General Duties of Trustees

Trustees are subject to a number of duties under general trust law including the following:

- Trustees should ensure that they are familiar with the trust deed and rules which set out when and how benefits can be paid to the member or his/her dependents, how contributions are to be invested and the trustees' powers in relation to the administration of the scheme.
- Some trustee powers may allow the trustees to exercise discretion, for example, in relation to the payment of death benefits.
- Trustees must act in good faith and in the best interests of beneficiaries and must act fairly as between beneficiaries.
- Trustees are required to act prudently and the exercise of prudence arises particularly in relation to the trustees' duty to invest the assets of the pension scheme. Acting prudently in the context of trusteeship means that the trustees should take the same care as ordinary prudent persons would take in managing the affairs of other people for whom they feel morally bound to provide.
- Trustees should seek professional advice where required to carry out their duties. It is not expected that all trustees will bring with them an expert knowledge of trust law, pensions administration, actuarial and investment matters. All trustees will need to take expert advice at some time or another.
- Trustees should keep any information which they have acquired in their capacity as trustees confidential and should not disclose any matters relating to the business and affairs of the employers and members which they become aware of by reason of their position as trustees. Trustees should also ensure that sensitive information is held securely.
- Trustees should be aware of possible conflicts of interest between their own personal interests and their duties as trustees.
- If trustees of a company pension scheme do not act in accordance with the trust deed and rules or trust law, a breach of trust may arise and the trustees may be open to prosecution by the Pensions Board as well as legal action by the beneficiaries.
- A mere error of judgement does not automatically constitute a breach of trust because trustees are presumed to have acted honestly and properly until the contrary is shown. The rules governing the pension scheme may provide that the employer indemnifies the trustees where they have acted in good faith and are not involved in fraud or wilful neglect.



Specific Duties of Trustees

The Pensions Act sets out the specific duties of pension scheme trustees including the following:

- Administration and Record Keeping
- Provision of Information
- Information to be provided to members on leaving service, death or retirement
- Contributions and Investments
- Payment of Benefits
- Trustee Training
- Equal Pension Treatment
- Internal Dispute Resolution (IDR) Procedure
- Whistle Blowing



Administration and Record Keeping

Trustees must ensure that the scheme is approved by the Revenue Commissioners and registered with the Pensions Board (and that the annual Pensions Board fee, if applicable, is paid). Zurich Life automatically ensures this takes place on behalf of the trustees of all of its one member executive pension schemes once the contract is issued.

With effect from 1st November 2008 the trustees of pension schemes are obliged to appoint a registered administrator to provide various services to their schemes (known as 'core administration functions'). The 'core administration functions' include the preparation of annual reports and annual benefit statements and the keeping of accurate and sufficient records of members and their entitlements to enable them to do so. The Pensions Board is empowered to visit the offices of a registered administrator to check on its ability to provide the services to the expected standard and to check on processes followed. Zurich Life acts as registered administrator for its one member executive pension schemes.

The Pensions Act specifies that the trustees shall ensure that proper membership and financial records of the scheme are kept. Typically, member records will include the member's name, gender, date of birth, date of joining the company and date of joining the pension scheme, marital status, salary details, contributions and AVCs. The type and amount of information kept will depend on the scheme and the types of benefit provided. Zurich Life provides this record keeping service on behalf of the trustees of its one member executive pension schemes.

Provision of Information

Trustees must provide members and other specified persons with certain documents and information in relation to the pension scheme to include the following:

Scheme documents: A copy of the trust deed and rules should be made available for inspection on request within four weeks of the request being made.

Explanatory booklets: Every person who becomes a member of a scheme must receive specified information about the scheme and details of the benefits provided within two months of being admitted to membership of the pension scheme. If there are any material changes to the terms and conditions of the pension scheme, members must be notified within four weeks of the change.

Information to be provided to members on leaving service, death or retirement:

Details of a member's rights and options must be provided when members leave, die or retire.

Annual Benefit Statements: Annual Benefit Statements must be provided to active members at least once in every scheme year. The specified date of the statement can be any date within the scheme year. The statements must be issued within six months of the specified date. The Annual Benefit Statement must include a **Statement of Reasonable Projection (SORP)** which estimates the benefits payable on retirement. For DC pension schemes, the projection of benefits should be based on a continuation of contributions at a specified level e.g. percentage of salary. Additional projections will be required where a transfer payment has been received.

Pension Adjustment Orders (PAOs): Trustees are required to provide certain information regarding a PAO to the non-member spouse within two months of notice of the PAO.

Winding Up: Where a decision is taken to wind up a scheme, the trustees must notify the Pensions Board, the members and any authorised trade union of the decision as soon as possible, but within twelve weeks in any event.

Zurich Life will provide the relevant information on the trustees' behalf as required and when notified of the relevant event. It is important that you advise Zurich Life when a member leaves employment, retires, dies, etc., so that it can issue the required documentation on your behalf.

Contributions and Investments

Trustees are required to ensure, in so far as is reasonable, that employer and employee contributions are paid and received when they are due. The trustees should ensure that the employer pays over to Zurich Life (acting on the trustees' behalf) any employer/employee contributions within 21 days of the end of the month in which the contributions were due to be paid or deducted. The employer is obliged to provide the member and the trustees with a statement on a monthly basis showing

the contributions deducted or payable in the previous month (e.g. on their payslips).

Trustees must ensure that contributions are invested in accordance with the scheme rules and relevant legislation. Contributions to one member executive pension schemes issued by Zurich Life may be invested in a Zurich Life unit linked policy, which is an allowable investment under the scheme rules. Employer/employee contributions must be invested within ten days of the date they should have been received by Zurich Life. All employer/employee contributions to one member executive pension schemes issued by Zurich Life are invested on the date of receipt of same by Zurich Life.

Where the member chooses his/her own investment fund(s), trustees generally have a statutory indemnity in relation to fund performance provided that the scheme rules allow for member choice and subject to the member being provided with adequate information to allow them to make an informed decision. A default investment strategy must also be provided.

Where trustees themselves do not possess the qualifications and experience appropriate and relevant to the investment of the pension scheme resources they must appoint an investment manager to invest the pension scheme's assets. An investment management agreement should be signed between the trustees and the investment manager. Following the appointment of an investment manager the trustees should meet with the manager as required, but at least once a year. The manager's performance should be monitored on an ongoing basis having regard to the objectives set. Such monitoring should include, not only the actual investment return achieved by the manager, but also the investment strategy which was pursued on behalf of the scheme.

Payment of Benefits

The trustees must make sure that arrangements are made for an early leaver of the scheme to have his or her benefits preserved, revalued or transferred to another pension plan. Zurich Life will do this on the trustees' behalf.

Trustees are also obliged to make arrangements for the timely payment of benefits as they become due. Zurich Life arranges, on the trustees' behalf, for the payment of benefits when notified that they are due and on receipt of all relevant information.

The scheme rules may allow the trustee to exercise their discretion with regard to the payment of lump sum death benefits. Before paying out lump sum death benefits, the trustees should check whether the deceased member completed a form of nomination of dependants, often known as a "wishes letter". Such a letter or expression of wishes cannot bind the trustees but they would normally try to give effect to the deceased member's wishes. They must not do so, where the member's wishes are in conflict with the provisions of the trust deed and rules.

If a company goes into liquidation, the liquidator may have to undertake certain tasks in relation to the pension scheme to enable it to be wound up and to enable the former employees to access the benefits to which they are entitled.

Trustee Training

For newly appointed trustees, from 1st February 2010 employers must arrange for appropriate training to take place within 6 months from their date of appointment as trustee and every 2 years thereafter. For trustees in place prior to that date, employers must arrange for appropriate trustee training to take place by 1st February 2012 and every 2 years thereafter.

Equal Pension Treatment

Trustees of pension schemes must ensure that their scheme complies with the principle of equal treatment. Discrimination on any of the following nine grounds is not permitted:- gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community. The principle of equal treatment applies in relation to various matters to include access to the scheme, contributions to the scheme, entitlement and calculation of benefits, retirement ages and dependants' benefits. However, it is not a breach of equal pension treatment if schemes set an age for admission to the scheme or for entitlement to benefits, provided that this does not result in discrimination on grounds of gender.



Internal Dispute Resolution (IDR) Procedure

Trustees are required to ensure that an IDR procedure is in place for dealing with complaints from (potential) beneficiaries in relation to the administration of the pension scheme. In circumstances where the (potential) beneficiary is not satisfied with the outcome of the IDR procedure, they may refer their complaint to the Pensions Ombudsman – the Pensions Ombudsman investigates complaints of financial loss due to maladministration and disputes of fact or law in relation to occupational pension schemes and Personal Retirement Savings Accounts (PRSAs). A complaints handling procedure is in place within Zurich Life to handle any complaint a member of a one member executive pension scheme may have. **For more information regarding the Pensions Ombudsman, go to www.pensionsombudsman.ie.**

Whistle Blowing

Where a relevant person (including a trustee) has reason to believe that material misappropriation or fraudulent conversion of a pension scheme's resources has occurred, is occurring, or is to be attempted, that person is required to give a report in writing to the Pensions Board of the particulars of the misappropriation or conversion, as the case may be. Zurich Life has procedures in place to ensure the Pensions Board is notified of, for example, the non-payment of premiums.

Legislation Affecting Trustees Other Than The Pensions Act

In addition to the Pensions Act there is other legislation that impacts on the operation of pension schemes including the legislation referred to below. Clearly, if it becomes necessary, trustees will need to seek professional legal advice in relation to these matters.

Employment law generally

Pension schemes are set up in the context of an employer/employee relationship. The particulars of employees' pension benefits could, for example, be included in their contracts of employment or in the staff handbook and therefore, trustees must bear in mind that employment law issues may arise where, for example, the employer wishes to reduce pension contributions against employees' wishes.

The Protection of Employees (Part-Time Work) Act 2001

The Protection of Employees (Part-Time Work) Act 2001 provides that employers may not treat part-time employees less favourably than a comparable full-time employee in respect of any condition of employment. A part-time employee is someone who works fewer hours than a comparable full-time employee doing the same type of work. An exemption exists where there is an objective justification for the less favourable treatment and, in relation to pensions only, where the part-time employee works less than 20% of the normal hours of work of the comparable full-time employee. Trustees should be aware of this legislation, the implications for the employer and how the employer's compliance with it may impact on the pension scheme. For further information you should refer to the Pensions Board's Trustee Handbook.

The Protection of Employees (Fixed-Term Work) Act 2003

The Protection of Employees (Fixed-Term Work) Act 2003 places an obligation on employers not to treat fixed-term employees less favourably than a comparable permanent employee. A fixed-term employee is someone who is employed under a contract which contains a specific start and end date or who is employed to carry out a specific task or project or the continuity of whose contract is contingent on a particular event such as the availability of continued funding from an external source. An exemption exists where there is an objective

justification for the less favourable treatment and, in relation to pensions only, where the fixed-term employee works less than 20% of the normal hours of work of the comparable permanent employee. Trustees should be aware of this legislation, the implications for the employer and how the employer's compliance with it may impact on the pension scheme. For further information you should refer to the Pensions Board's Trustee Handbook.

The Family Law Act 1995 and the Family Law (Divorce) Act 1996

The Family Law Act 1995 and the Family Law (Divorce) Act 1996 deal with pension benefits in the context of judicial separations or divorces. This legislation provides that pension rights may be taken into account where, after a judicial separation or divorce, the parties apply to court for a relevant financial settlement. This legislation also gives the courts the power to direct trustees to pay out benefits (usually arising from a court order called a Pension Adjustment Order). A Pension Adjustment Order can result in all or part of the member's retirement/contingent benefits being directed to his or her spouse. This legislation does not apply to separation agreements not involving the court. For further information you should refer to the Pensions Board Trustee Handbook and a booklet entitled 'A Brief Guide to the Pensions Provisions of the Family Law Acts'. These publications can be downloaded from the Pensions Board website (www.pensionsboard.ie).

Tax legislation

To qualify for the tax treatment afforded to company pension schemes, approval for the pension scheme must be obtained from the Revenue Commissioners. The requirements for approval are governed by the Taxes Consolidation Act 1997 and the Revenue Pensions Manual. Approval for tax purposes will normally be granted, if the Revenue Commissioners is satisfied that the pension scheme is properly administered as a trust, contributions and benefits thereunder are within Revenue maxima, and the pension scheme is to be administered in accordance with the Revenue Pensions Manual. The Revenue Pensions Manual is available for download from the Revenue's website (www.revenue.ie), then site search for "Pensions Manual". Zurich Life applies for approval of all its one member executive pension schemes.

Institutions for Occupational Retirement Provision (IORPs) Directive

The IORPs Directive requires that certain pensions related issues be enshrined in domestic law. It established a common basis for the operation and supervision of pension funds within EU member states and sets out provisions for the establishment of 'cross-border pension schemes'. If a pension scheme wishes to engage in cross-border activity the authorisation and approval forms may be downloaded from the Pensions Board's website. The Pensions Board's "Guidelines for Cross Border Schemes" is available to download from its website.

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 is effective from 1st January 2011. The Act provides that same-sex partners may register their relationship as a "civil partnership" and a range of rights, obligations and protections follow on registration. For example, a pension scheme that provides a benefit for a spouse may be deemed equally to provide a benefit for a civil partner. A redress scheme will be available for certain cohabiting couples. This will allow a qualified cohabitant to apply to court for redress such as a share in the other person's pension. Such applications may be made when a relationship ends or on the death of a cohabitant.

Declaration of Completion of Trustee Training Booklet

I _____ (insert name) am a

- trustee; or
- director of a company which is a trustee of a one member executive pension scheme issued by Zurich Life Assurance plc.

I declare that I have read and understood this Trustee Training Booklet and that I am aware that I may obtain additional information on all my duties and responsibilities as a trustee of a pension scheme by visiting the Pensions Board website (www.pensionsboard.ie) and reading the Pensions Board Trustee Handbook (currently 3rd edition) which is entitled "So you are a Pension Scheme Trustee".

Signature

Date

Notes

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Zurich Life Assurance plc is regulated by the Central Bank of Ireland.

Intended for distribution within the Republic of Ireland.

The information contained herein is based on Zurich Life's understanding of current Revenue practice as at May 2011 and may change in the future.

