



Pensions
Law Debenture *Essentials*

Working with the Secretary to the Trustees and the Pensions Manager

Law Debenture has been acting as a professional pension trustee for over 25 years. Our experience, today applied to a large number of pension schemes of all types and sizes, means that we are able to bring a unique perspective to the working relationship between Trustees, the Secretary to the Trustees and the Pensions Manager.

Trustees bear a huge responsibility for the good management of pension schemes. The Secretary to the Trustees is a pivotal role which is vital to the effective operation of a Trustee Board both during and between meetings. The role of the Pensions Manager is crucial to the effective operation of a pension scheme and is often the key interface between the Trustee Board and the Sponsoring Employer.

The purpose of this Law Debenture *Essentials*, the fifth in the series, is to provide a framework for trustees to review the performance of their Secretary and the Pensions Manager. We recommend that trustees do this regularly, for example informal reviews annually, formal reviews every three years, with the emphasis on identifying areas for development. Our guide can also be used as a source of questions to ask when making appointments.

Our suggestions deliberately set high standards, which we hope will encourage further professionalism of these vital roles. We do, however, recognise that the assessment of individuals will need to reflect their particular circumstances and the range of duties they have assumed. We also recognise that the development process for individuals and roles may well take time to achieve. However, we do believe that this process will be worthwhile for all involved.



Mark Ashworth
Pensions Director
mark.ashworth@lawdeb.com or 020 7696 5247

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Essentials
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How to use this guide

This document is divided into two sections covering the Secretary to the Trustees and the Pensions Manager. It is intended to help assess their performance and contribution. It can be used by either the Chair or the Trustees collectively, it can also be used as a form of self-assessment.

We recognise that in many cases the two functions may be carried out by the same person. In separating the roles it is our intention to help assess the Pensions Manager's performance and contribution in relation to duties performed for the Trustee body, as distinct from those owed to the employer.

Beneath each question there is a space for comment. Any comments considered relevant should be made, including identifying tasks which are the responsibility of another person (in which case the question should not be included in the assessment).

Trustees should be able to answer most questions, but we have provided an option to say that more information is required. Where there is lack of detailed knowledge, trustees should be given the appropriate information so they can form a complete view.

Beside most questions there are practical comments. The final column is for responses. We suggest a scoring scale of 1 to 4 where 1 = poor; 2 = satisfactory; 3 = good and 4 = very good. "M" should be selected where more information is required before being able to respond. The scale is intended to draw out how well you feel that the issue is being dealt with. For a few questions, a "yes" or "no" response is all that is required.

Trustees will find that best value will be derived from this document by considering and answering the questions and then discussing issues which have been identified, rather than from any detailed statistical analysis of the scores.

There is always room for improvement; trustees may find it helpful to focus on any areas of weakness or concern, as identified by scores of 1 or 2, and to discuss how these areas might be improved. In nearly all cases it will be helpful to show the results to the relevant party, to seek comments, and to discuss areas of potential improvement.

Law Debenture welcomes any comments from users of this document as to how it could be developed. These may be addressed to: bryan.king@lawdeb.com (tel: 020 7696 5905), or to your usual contact at Law Debenture.

Scoring System

1 = poor 2 = satisfactory 3 = good 4 = very good M = more information required

Copies of this document are available to download at www.lawdeb.com
Click on **Pension Trusteeship** and then on **Essentials**

Working with the Secretary to the Trustees

This section is intended to help assess the Secretary's performance and contribution. The role of the Pension Manager in relation to duties performed for the Trustee body, as distinct from those owed to the employer, are assessed in the next section.

Meetings

1 Are meetings planned well in advance?

Meeting dates for the next year should be set by (at least) the last meeting of the previous year. This applies to all meetings not only of the main Trustee Board but also where Trustee sub-committees are in place (e.g. investment/risk management/ill-health benefits/death benefits/communications/audit).

1 2 3 4 M

Comments:

2 Does the Secretary work constructively with the Chair on the structure of the agenda?

It is helpful for the Secretary to meet with the Chair and/or Pensions Manager in good time before a meeting to finalise the agenda and advisers to attend etc and shortly after a meeting to discuss actions and plans.

1 2 3 4 M

Comments:

3 What is the quality of meeting agendas?

Agendas should be well structured (grouping related issues); realistic; timed and consistent with the business plan.

1 2 3 4 M

Comments:

4 Are the agenda and supporting papers issued in good time?

Regulations state that the notice of the meeting should be sent to the Trustees no later than 10 working days before the meeting – unless the Trustees agree otherwise. Many Trustee Boards consider it good practice for the meeting papers to be circulated at least 7 days prior to the meeting.

1 2 3 4 M

In the case of a corporate trustee requirements are governed by company law and may be set out in the Articles of Association.

Comments:

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<p>5 Does the Secretary prepare a covering paper for each agenda item, setting out its purpose, a brief background, the options to be considered and action to be taken?</p>	<p>Where appropriate, supporting papers should include documents from professional advisers setting out advice on the topics covered.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>6 Does the Secretary prepare a briefing paper for the Chair in advance of the meeting?</p>	<p>The briefing can cover relevant background to agenda items, as well as timings and logistical and housekeeping matters (such as which advisers will be attending for which items of business).</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>7 Does the Secretary ensure that the appropriate people attend meetings at the right time and that they are given information regarding what is required of them?</p>	<p>Actuaries, lawyers, investment managers, for example, may need to attend only the relevant part of the meeting (either in person or by conference link). It may be necessary for the Secretary to have briefed advisers joining a meeting in respect of the time allowed, subjects to be covered etc.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>8 Does the Secretary ensure that the meeting is quorate and conducted in accordance with the requirements of the Trust Deed and Rules (and the Articles of Association of the trustee company, if relevant)?</p>		<p>Yes/No</p>
<p>Comments:</p>		
<p>9 Does the Secretary produce an action list of points following a meeting and monitor and manage progress of them and give progress reports to the Trustees?</p>		<p>1 2 3 4 M</p>
<p>Comments:</p>		

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<p>10 Are minutes produced promptly?</p>	<p>Minutes should normally be produced within 14 days of the meeting. It is common practice for these to be reviewed by the Chair, and perhaps key advisers, before being circulated to all Trustees, and other attendees as necessary, for comment/approval.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>11 Are the minutes of an adequate standard?</p>	<p>Minutes should record decisions. The extent to which reasons and matters considered are recorded should be agreed as a matter of general principle with the assistance of the scheme's legal advisers.</p> <p>Action points should be recorded with the person responsible named and the timescale noted.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>12 Does the Secretary raise and circulate issues that arise between meetings in an appropriate way?</p>	<p>This may be by a conference call or by way of circular written resolution (if permitted); where necessary, actions and decisions should be ratified at subsequent meetings.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>13 Is the Secretary responsive to questions raised by Trustees between meetings?</p>		<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>14 Does the Secretary record and minute all decisions taken by or on behalf of the Trustees, between formal meetings and arrange for them to be ratified at subsequent meetings?</p>	<p>It is important to ensure that any decisions taken between meetings are appropriately authorised.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>15 Where Trustee sub-committees are in place, does the Secretary ensure that minutes from these meetings are distributed appropriately?</p>	<p>It is considered good practice for minutes of sub-committees, as approved by the sub-committee, to be circulated to all Trustees and noted at subsequent Trustee meetings.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		

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Documentation

16 Has the Secretary ensured that a forward looking business plan is in place and that it is regularly reviewed and updated?

The plan should identify when issues will be considered, and who is responsible for taking actions/preparing papers etc.

1 2 3 4 M

Comments:

17 Has the Secretary ensured that original signed versions of the Scheme's key documents are in place and kept up to date and in fireproof storage?

The key documents include:

- Actuarial Valuation Reports
- Audited Accounts
- Advisers' and Service Providers' agreements
- Business plan (and scheme calendar, if separate)
- Charge documents (e.g. where there is a charge over assets guaranteed by the employer)
- Contracting out certificate
- Dispute Resolution Procedure
- HMRC Scheme Registration certificate
- Members' booklet and other communications (e.g. announcements and newsletters)
- Memorandum and Articles of Association (where there is a Trustee company)
- MNT nomination and selection procedure
- Recovery Plan
- Schedule of Contributions
- Statement of compliance with the Myners' principles
- Statement of Funding Principles
- Statement of Investment Principles
- Terms of reference of any sub-committees
- Trust Deed & Rules and Deeds of Amendment or Participation
- Trustee minutes (originals)
- Trustees' confidentiality agreements

1 2 3 4 M

Comments:

18 Does the Secretary prepare, keep up-to-date and make available/accessible to Trustees and advisers, as appropriate, a "bible" of the key scheme documents?

This can be either in paper or electronic format depending upon the preference of the Trustees.

1 2 3 4 M

Comments:

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19 Are the Trustees aware of the arrangements which are in place for filing historical scheme information?

Yes/No

Comments:

20 Is the Scheme's and the Trustees' historical information secure?

It is preferable to have a copy on either a computer or paper documentation 'off site'. If this cannot be done copies should be stored in, for example, a fireproof safe.

Yes/No

Comments:

Governance

21 Does the Secretary lead and guide on governance and best practice issues, and bring new ideas and developments to the attention of the Trustees?

The Secretary should have knowledge of the relevant parts of the Pensions Regulator's Codes of Practice, in particular the Code on Internal Controls.

1 2 3 4 M

Comments:

22 Does the Secretary ensure that all Regulatory returns/notifications are dealt with?

These duties might include:

- Overseeing the submission of the Annual Return to the Regulator
- Overseeing the submission of returns to HMRC
- Overseeing the production of the Scheme's annual report and accounts
- Act as liaison/co-coordinator in regard to any possible notifiable event
- Ensure timely payment of the levy to the PPF
- Annual notification under the Data Protection Act 1998
- Companies Act requirements and filings (where there is a corporate trustee company)

1 2 3 4 M

Comments:

23 Does the Secretary help to ensure that there is adequate training of Trustees?

The Secretary should ensure that the Code of Practice from the Pensions Regulator on Trustee Knowledge & Understanding is being complied with and that a training log is being kept.

1 2 3 4 M

Comments:

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<p>24 Does the Secretary ensure that a new Trustee obtains all the documentation and training needed?</p>	<p>It is helpful to have a general induction checklist for new Trustees and in particular to make them aware of the Pensions Regulator's Trustee Toolkit.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>25 Does the Secretary ensure that the Trustees are aware of their powers?</p>	<p>It is helpful to have a summary, written in plain English, and perhaps prepared by the Scheme's lawyer, of the key powers and discretions which the Trustees have, making clear where the employer must be consulted or the employer's agreement must be obtained. This is sometimes referred to as a "balance of powers" summary.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>26 Are any delegated powers appropriately and properly documented?</p>	<p>The Trust Deed and Rules, or Articles of Association in the case of a corporate trustee, may allow the Trustees to delegate certain powers such as day to day administration, investment and custody.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>27 Does the Secretary ensure that appropriate service level agreements are in place with the Scheme's advisers and service providers?</p>	<p>The agreements should form part of the documentary records of the Scheme.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>28 Does the Secretary assist in managing the Trustees' relationship with advisers, and with monitoring and assessing advisers?</p>	<p>The Secretary is often the main channel of communication between the Scheme and its advisers.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>29 Does the Secretary ensure that the Trustees receive adequate compliance reports or certificates from the administrator, investment manager and custodian?</p>	<p>It is worthwhile requiring these to be provided periodically when agreeing the appointment of an adviser or service provider.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		

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<p>30 Does the Secretary manage a Risk Register on behalf of the Trustees?</p>	<p>The Trustees should maintain a Risk Register for the Scheme in accordance with the Pensions Regulator’s Code of Practice on Internal Controls.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>31 Does the Secretary ensure that current Data Protection legislation is being complied with?</p>	<p>Trustees are required to take appropriate measures to ensure that information relating to individuals who can be identified from data is adequately protected.</p> <p>Under the Data Protection Act 1998, Trustees should be notified as data controllers. They should include appropriate provisions about data security in their agreements with administrators, advisers and other data processors.</p> <p>Further information is available on the Information Commissioners Office website: http://www.ico.gov.uk/</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>32 Does the Secretary maintain a log of any Trustees’ declared conflicts of interest?</p>	<p>Where there is a conflict, or risk of one arising, it should be noted and if necessary professional advice sought.</p> <p>Appropriate action should be taken if a conflict should arise.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>33 Does the Secretary help to ensure that conflicts of interest are recognised, declared and handled in accordance with policy and procedures?</p>	<p>The Secretary should ensure that the conflicts policy is up to date and takes account of the Pensions Regulator’s guidelines.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>34 Does the Secretary ensure that Trustees have signed a confidentiality agreement, where required?</p>	<p>The Secretary should ensure that new Trustees are aware of any confidentiality undertakings, and that they sign them as appropriate. The Secretary should then ensure they are stored securely.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>35 Does the Secretary draw up and monitor expenditure against an annual budget for the Scheme?</p>		<p>Yes/No</p>
<p>Comments:</p>		<p>SCORING SYSTEM 1 = poor 2 = satisfactory 3 = good 4 = very good M = more information required</p>

36 Is Trustee indemnity insurance in place and does the Secretary ensure it is renewed and kept up to date?

In some cases this insurance is not permitted under the terms of the Scheme's Trust Deed & Rules.

1 2 3 4 M

Comments:

37 Does the Secretary operate the Trustees' agreed process for nominating and selecting Member Nominated Trustees/Directors?

1 2 3 4 M

Comments:

Communication

38 Does the Secretary ensure that communications from members addressed to the Trustees are responded to appropriately and promptly?

The Secretary should ensure that any communications, including complaints, are handled sensitively and appropriately. In the event of a complaint, the Secretary should ensure that the Internal Disputes Resolution Procedure is adhered to.

1 2 3 4 M

Comments:

39 Does the Secretary ensure that timely and appropriate communication takes place with members, including regular newsletters, annual benefit statements and summary funding statements; as well as other communications, as required, on any special events such as changes to the Scheme or Employer circumstances?

Statutory money purchase illustrations must be issued in the case of defined contribution benefits even if no other benefit statements are issued.

Yes/No

Comments:

Other matters

40 Does the Secretary have a good general working knowledge of pensions issues?

The Secretary should, in particular, be familiar with all aspects of pensions legislation and regulation including the Pensions Regulator's Codes of Practice and other guidance, and should take an active interest in draft documentation and consultation. It is helpful for the Secretary to maintain a log of his or her own continuing professional development.

1 2 3 4 M

Comments:

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41 Does the Secretary perform consistently within agreed timescales and deadlines?		1 2 3 4 M
Comments:		
42 Is the Secretary an effective project manager to ensure others meet deadlines and agreed responsibilities?		1 2 3 4 M
Comments:		
43 Does the Secretary have a job description?	The Chair should have seen and had an input into the job description.	Yes/No
Comments:		
44 Is the Chair consulted as part of the employers' annual appraisal process for the Secretary?		Yes/No
Comments:		
45 Does the Secretary always act professionally and where necessary respect confidentiality?		1 2 3 4 M
Comments:		
46 Does the Secretary contribute positively and professionally to the smooth running of all aspects of the Scheme?		1 2 3 4 M
Comments:		

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Working with the Pensions Manager

This section is intended to help assess the Pension Manager's performance and contribution in relation to duties performed for the Trustee body, as distinct from those owed to the employer. The role of the Secretary to the Trustees is assessed in the previous section.

Governance and Scheme Management

1 Does the Pensions Manager help initiate and develop the Trustees' business plan?

This is particularly important in relation to activities for which the Pensions Manager may be primarily responsible (e.g. pensions administration and communication).

1 2 3 4 M

Comments:

2 Does the Pensions Manager progress actions from the business plan in a timely manner?

1 2 3 4 M

Comments:

3 Does the Pensions Manager assist with the Scheme's risk management arrangements?

The Pensions Manager can help identify risks and steps to mitigate them and may participate in a Risk Management sub-committee, where there is one.

1 2 3 4 M

Comments:

4 How effectively does the Pensions Manager carry out the responsibilities delegated to him by the Trustees for the administration of the pension scheme?

1 2 3 4 M

Comments:

5 How effectively does the Pensions Manager discharge any executive duties in relation to scheme investments?

The Pensions Manager may be involved in, for example, the process of selection and appointment of managers; progressing the documentation following the appointment; reporting and monitoring of managers; and overseeing the management of any transition of investments.

1 2 3 4 M

Comments:

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<p>6 Do the Trustees believe that the Pensions Manager liaises effectively with advisers?</p>	<p>The Pensions Manager can play a key role in ensuring that advisers are appropriately engaged, kept fully informed and perform cost-effectively.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>7 Does the Pensions Manager deal effectively, as and when necessary, with the Internal Dispute Resolution process?</p>	<p>The Pensions Manager may oversee the process, and in some cases may take the first stage decisions.</p>	<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>8 Where appropriate, does the Pensions Manager undertake supervision of the Secretary to the Trustees effectively?</p>		<p>1 2 3 4 M</p>
<p>Comments:</p>		

Communication

<p>9 How well does the Pensions Manager manage communication with members?</p>		<p>1 2 3 4 M</p>
<p>Comments:</p>		
<p>10 Does the Pensions Manager provide useful input to individual communications and standard communications with members as well as to any other special communication exercises which may arise?</p>		<p>1 2 3 4 M</p>
<p>Comments:</p>		

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11 Does the Pensions Manager provide assistance when the Trustees need to deal with the public and the press?

In particular the Chair may look to the Pensions Manager for support and guidance when issues involving the public and/or press arise.

1 2 3 4 M

Comments:

Finance

12 How well does the Pensions Manager manage finance function activities which support the pension scheme and the Trustees?

This might include budget preparation and reporting, and overseeing the production of the Scheme's annual report and accounts.

1 2 3 4 M

Comments:

General

13 Are the Pensions Manager's duties to the Trustees clearly identified?

This may well be in the Pensions Manager's job description. The Chair should have seen and if possible had input into the job description so far as it relates to the Trustees.

Yes/No

Comments:

14 Does the Pensions Manager facilitate communication (in both directions) between the Trustees and the employer?

Keeping the lines of communication open with the employer is perhaps one of the key tasks from the Trustee perspective. The Pensions Manager should take the initiative in assisting the Chair in this area.

1 2 3 4 M

Comments:

15 Is the potential for conflicts of interest to arise from the Pensions Manager's role recognised and reviewed regularly?

Both trustees and the employer should discuss and agree upon how conflicts will be managed.

1 2 3 4 M

Comments:

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16 Are any such conflicts dealt with appropriately?		1 2 3 4 M
Comments:		
17 Does the Pensions Manager always act professionally and where necessary respect confidentiality?	The Pensions Manager must demonstrate awareness of the need to manage and respect the duties which are owed to the Trustees and those owed to the employer.	1 2 3 4 M
Comments:		
18 Does the Pensions Manager provide guidance to the Trustees when a discretionary decision involves the employer?	Where the employer should be consulted or agree to a decision, the Pensions Manager should ensure that the employer is involved and fully informed of the relevant background.	1 2 3 4 M
Comments:		
19 Does the Pensions Manager perform consistently within agreed timescales and deadlines?		1 2 3 4 M
Comments:		
20 Is the Pensions Manager an effective project manager in ensuring that others meet deadlines and agreed responsibilities?		1 2 3 4 M
Comments:		
21 Are there appropriate consultations with the Chair on the role of the Pensions Manager for example at the time of an annual appraisal?		Yes/No
Comments:		

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22 Does the Pensions Manager contribute positively and professionally to the smooth running of all aspects of the Scheme?

1 2 3 4 M

Comments:

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www.lawdeb.com

The Law Debenture Pension Trust Corporation p.l.c. Fifth Floor, 100 Wood Street, London EC2V 7EX

Tel +44 (0)20 7606 5451 Fax +44 (0)20 7606 0643 Email mark.ashworth@lawdeb.com

