

## **TRUSTEES RIGHTS AND RESPONSIBILITIES**

If you are a member of a Curtis Banks SIPP or SSAS, you will also be a trustee of the scheme. This gives you rights which you would not otherwise have, but it also carries with it a responsibility to ensure that the scheme is run properly.

In practice you will rely on experts such as Curtis Banks PLC, its trustee company and any other advisers such as investment managers, to run the scheme properly. In addition, the trust deed for your scheme contains clauses giving protection to the trustees for their actions, so you should not be unduly alarmed about being a trustee. You need to bear in mind, though, that you share ultimate responsibility as one of the trustees and you need to be familiar with your role as a trustee and involve yourself in the running of your scheme, so that you know what is going on. The notes below will help you with this.

### **Trusts and Trustees**

Pension schemes usually operate under a trust. A trust is a relationship which arises where a person or persons (in this case the trustees of the scheme) hold property on trust (in this case in the scheme assets) for the benefit of another (the members of the scheme) for purposes permitted by law. When an individual becomes a member of our SIPP or SSAS, they also become a trustee along with our trustee company Colston Trustees Limited.

In addition to having a number of rights and powers, both the individual member trustee and our trustee company have a fiduciary responsibility to protect the interests of the scheme and to act impartially, prudently, responsibly and honestly, in the best interests of all scheme members.

### **Trustees' Rights**

Being a trustee gives you valuable powers in the running of your pension scheme, which are important in a self-invested pension scheme. Under general trust law, these are powers of maintenance, advancement and delegation. The trust deed sets out specific powers, for example:

- full powers to invest and to sell the assets of the trust;
- the right to insure assets of the trust;
- the right to delegate any or all of the trustee's duties or to allow sub-delegation;
- the power to appoint and to remove any actuary, solicitor, accountant, auditor or otherwise.
- the power to grant authority to execute, deeds, documents and to give receipt for moneys and other property;
- the right to institute, defend, compromise or settle any legal proceedings in relation to the trust.

The trustees exercise their powers unanimously, so you will need to work with your co-trustees and reach agreement with them, but you will have much more influence than if you were not a trustee.

### **Trustees' Responsibilities**

The role of the trustees in relation to the scheme can be broken down into a number of general and specific responsibilities (the following are not exclusive):

#### General

1. In fulfilling their role, trustees must be aware of their legal duties and responsibilities. Trustees are required to have knowledge and understanding of, amongst other things, the law relating to pensions and trusts, as well as the investment of scheme assets.
2. Trustees should have some knowledge and understanding of the legal framework in which the scheme exists and operates. For example, trustees should be aware of key legislation governing this type of pension product, such as the Pensions Acts of 1995 and 2004 and the Finance Act 2004. Trustees should also be aware of the role played by HMRC and should be able to access their guidelines on what is a permissible investment for a scheme.

3. As well as being aware of the current position, trustees should attempt to keep up-to-date with changes that would affect the operation of their scheme.
4. Trustees should be able to identify where it is necessary to obtain specific professional advice in relation to their scheme and any particular investment (for example from a solicitor, financial adviser or an actuary).

The website of The Pensions Regulator, [www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk), is a good source of further information on trustees' general responsibilities. The Pensions Regulator deals with work-based pension schemes for employees, where the rules and expectations are generally more onerous than under a SSAS or SIPP, but their website contains useful general guidance.

#### Specific

1. The law requires trustees to be familiar with the key scheme documentation relating to their scheme. This means that trustees will need to ensure they have a working knowledge and understanding of the trust deed and rules of their scheme, and the powers, duties and discretions exercisable by the trustees.
2. Importantly there may be areas where you have greater knowledge and expertise than your co-trustees and professional advisers. These may include particular investments you want to make with your scheme. Another area may be where you have information in your possession which others would not have, such as details about beneficiaries. It is important in these areas that you assume responsibility for your actions, and make Curtis Banks PLC and its trustee company aware of any issues which are relevant to the proper operation of the scheme.

These notes are a brief summary of trustees' rights and responsibilities. If you require more detailed guidance, you are recommended to seek personal legal advice.

**Curtis Banks PLC**

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