

Master trusts

Identifying persons for the fit and proper assessment

April 2018

The Pensions
Regulator

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Introduction

This guidance should be read in conjunction with the [draft] Code of Practice no: 15, which sets out our expectations for identifying both mandatory¹ and discretionary² roles subject to the fit and proper assessment.

The law sets out the full list of persons who must be assessed for fitness and propriety³ and trustees will need to identify all persons within those roles as part of the application for authorisation. We must assess whether each person is a fit and proper person to act in their role in relation to the scheme, so if, for example, a person who established the scheme is no longer involved with it, they do not need to be identified or assessed.

Types of person

A 'person' can include:

- ▶ an individual, or
- ▶ a 'legal person' such as a corporate entity

Individuals: Details of any individual who is appointed to carry out any of the roles subject to the fit and proper assessment should be provided.

Corporate entities: Trustees should provide details of any corporate entity identified as being a person subject to the fit and proper assessment, as well as details of all relevant individuals or directors (including executive and non-executive directors) who perform a core function of that role on behalf of the company in relation to the master trust.

Corporate directors: Where a director of a company board is itself a corporate entity, the trustees should provide details of both the corporate entity and any relevant individual carrying out a core function of the role for the master trust.

Partnerships: Details of the partnership and all relevant partners should be provided where they perform a core function of the role for the master trust, along with other persons performing core functions on behalf of the partnership in respect of the relevant role.

1
Mandatory roles are those that must be assessed.

2
Discretionary roles are those where The Pensions Regulator (TPR) can choose whether to assess particular roles.

3
These mandatory roles are set out in section 7(2) of the Pension Schemes Act 2017.

This guidance focuses on helping trustees to identify those carrying out three of the roles we must assess – trustees, scheme strategist(s) and scheme funder(s). These roles are central to the efficient running of a master trust and each has ongoing duties to ensure the master trust continues to satisfy us that it meets the authorisation criteria. Together they have responsibility for ensuring that members' interests are protected and that the day-to-day running of the master trust is planned, resourced and adequately funded.

Additionally, there are two discretionary categories where we can choose whether to assess persons falling within them. The first is 'promoters and marketers'⁴ and the second is 'persons carrying out core functions'⁵ on behalf of the persons falling within the mandatory assessment categories.

The code sets out the criteria trustees should apply to identify the promoters and marketers that we want to assess for fitness and propriety. The criteria for identifying promoters and marketers turns on the level of influence or financial motive a promoter or marketer has and we have provided further guidance to help trustees identify those who should be included as part of the fit and proper assessment.

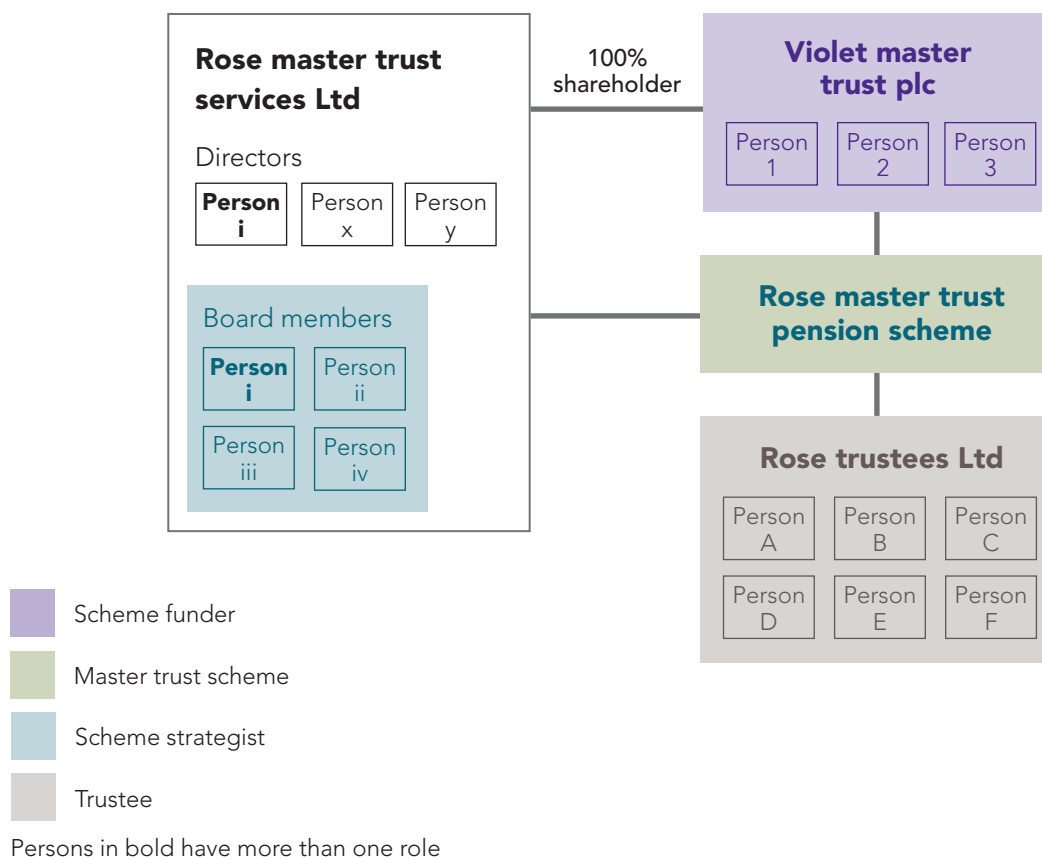
4
See section 7(3) of the Pension Schemes Act 2017.

5
See regulation 5 and paragraph 2 of Schedule 1 to the Occupational Pension Schemes (Master Trusts) Regulations 2018.

Identifying trustees, scheme strategist and scheme funder within the master trust structure

The particular nature of the roles of trustee, scheme strategist and scheme funder will differ according to the structure of each master trust. In some master trusts, these roles will be carried out separately by distinct persons, which may include legal entities. As an example, these role functions may be structured as shown in the diagram below.

Chart 1: Roles held by different persons



In this structure, the roles and accountabilities of the trustees, scheme strategist and scheme funder are carried out by separate persons.

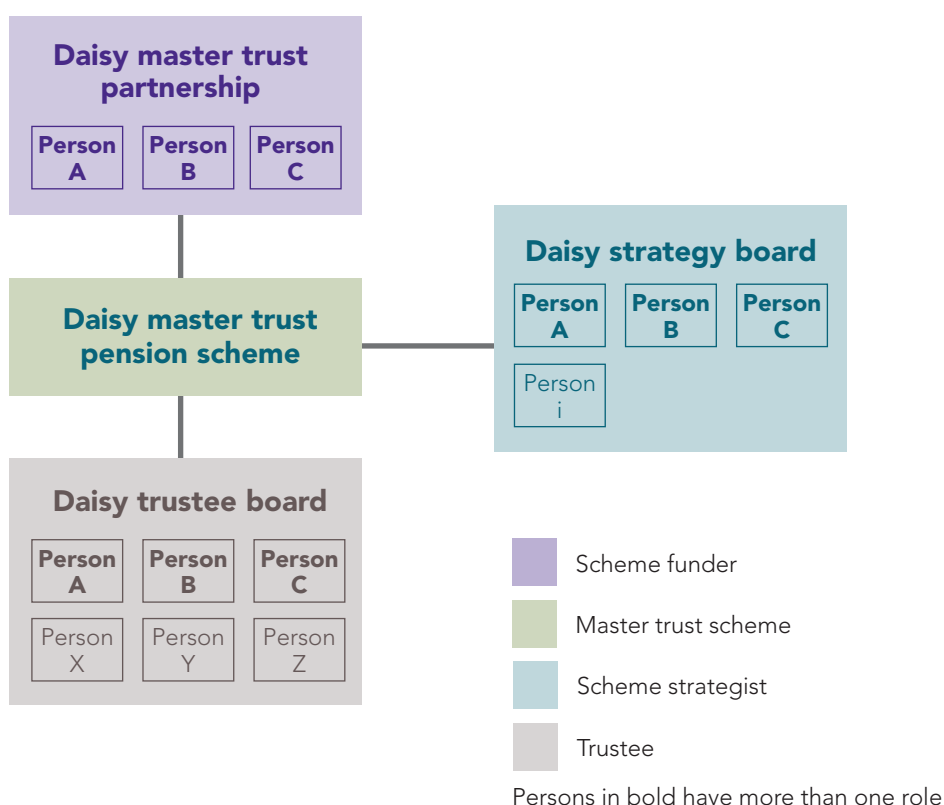
- ▶ Where an individual is carrying out the role, the individual must be identified.
- ▶ Where a legal person (such as a company) carries out the role, we will want to assess the directors or senior managers carrying out core functions on its behalf.

In the above example, the scheme strategist – Rose master trust services – is a company and the core functions of the scheme strategist (ie. those relating to the commercial, business or strategic decisions of the master trust) are carried out by a board on the company’s behalf. All persons carrying out the core aspects of roles to be assessed will need to be identified and in this example, this should include all board members.

The trustee – Rose Trustees Ltd – is a company (ie a corporate trustee) and all individual trustee directors should be identified, to the extent that they perform trustee functions in relation to the particular master trust. If any of the trustee directors of the corporate trustee is a legal person, then the directors or individuals of that entity that perform core trustee functions will also need to be assessed. Similarly, the scheme funder Violet Master Trust plc is a company and any directors or senior management accountable for and carrying out core scheme funder functions in relation to the scheme will need to be assessed.

In other master trusts, the same person may carry out more than one role and the structure of the master trust may look something like the chart below.

Chart 2: Roles held by the same persons



In this example the scheme funder consists of a partnership, whose partners sit on both the trustee and strategist boards. The remaining appointments on both boards are filled by separate individuals.

Even where a person carries out more than one role, the roles and accountabilities for each one remain distinct. For example, the accountabilities involved in the strategist role do not pass to the trustee. It is important for persons to be clear on what their different accountabilities are in respect of each of their roles and how to manage any conflicts between their different roles.

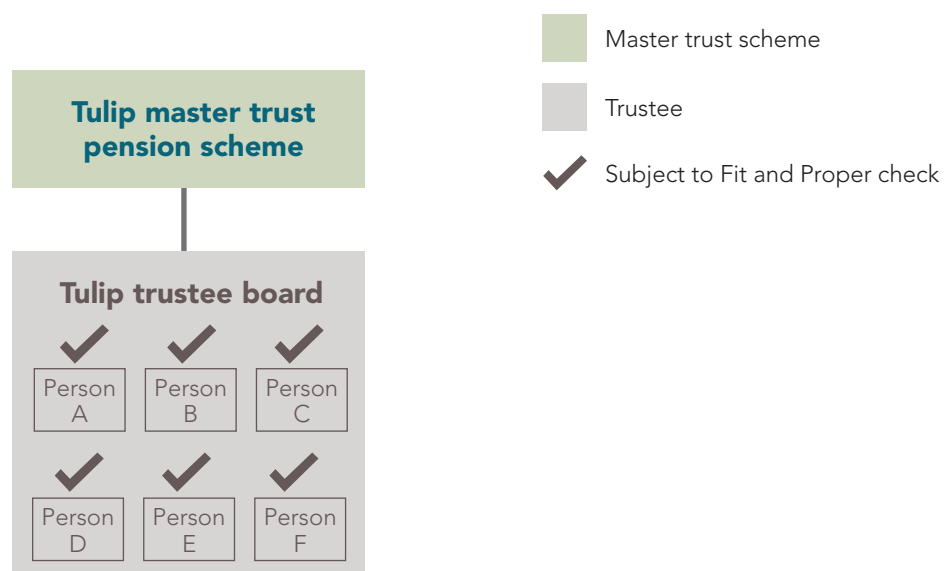
We will expect an authorisation application to identify persons subject to the fit and proper assessment who fulfil more than one of the roles. These persons should be nominated against each role carried out as the assessment may be slightly different for each role, for example the competence required for a trustee will differ from that of a scheme strategist.

Trustees

Trustee boards can be formed in a number of different ways; they may be comprised of individuals, include member nominated trustees, corporate trustees with trustee directors (who may themselves be individuals or legal persons) and may include the appointment of a professional trustee (either as an individual or corporate trustee), or a combination of these.

However the trustee board is structured, an application for authorisation needs to identify all persons who carry out trustee functions, whether they are appointed as individuals or acting on behalf of a corporate trustee or corporate trustee director, including the details of the corporate entity itself. At its simplest, a trustee board may be structured as Chart 3 below shows.

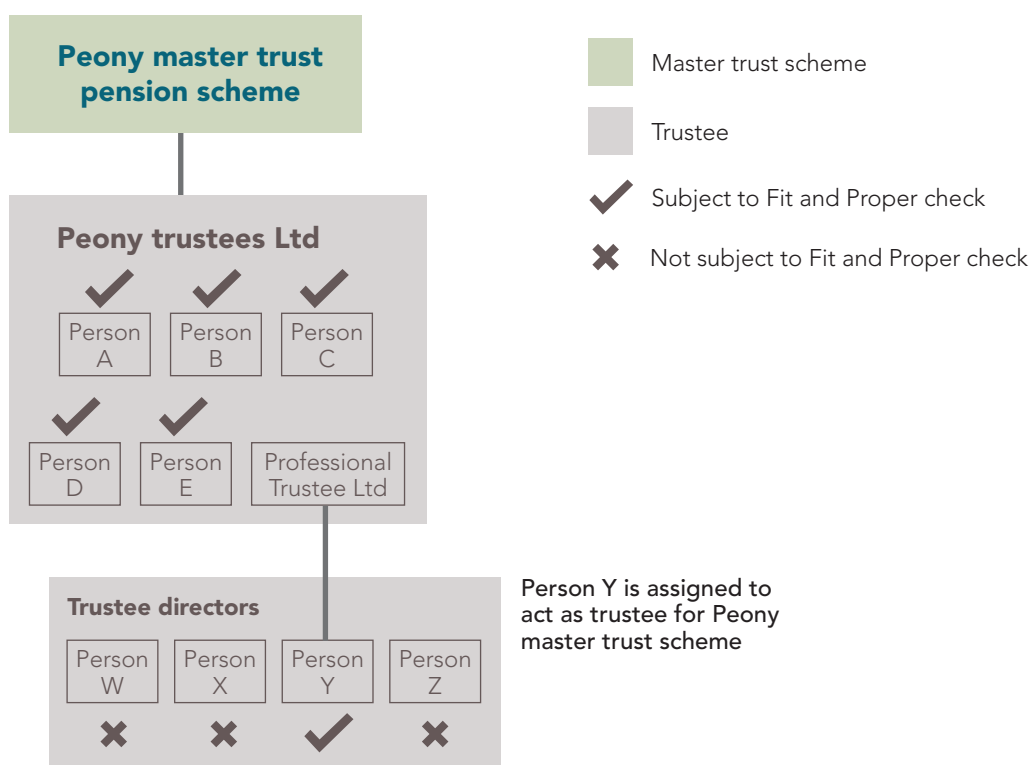
Chart 3: Trustee board – individuals



In this board all of the appointed trustees are individuals and should be identified for the fit and proper assessment.

A more complex trustee structure could look like Chart 4 below.

Chart 4: Trustee board – corporate



In this example, the master trust has a corporate trustee in place – Peony Trustees Ltd. The corporate trustee has a number of directors performing trustee functions (trustee directors) in respect of the master trust scheme, including Professional Trustee Ltd, which is itself a company (the corporate trustee director).

The corporate trustee director in turn has a number of directors, however only one of these – Person Y – is assigned to and performs trustee functions in respect of the master trust scheme on behalf of Professional Trustee Ltd. The other directors of the corporate trustee director do not perform any trustee functions in respect of the master trust scheme (ie they may be assigned to other schemes). In this case, Person Y is the only director of the corporate trustee director that will need to be identified for assessment (along with the individual trustee directors of Peony Trustees Ltd and Professional Trustee Ltd as the corporate trustee director of Peony Trustees Ltd).

Scheme strategist

The scheme strategist is responsible for making business decisions relating to the commercial activities of the master trust. The role is identified by what the person does and their accountabilities in relation to the master trust, rather than a specific job title. Examples of business decisions relating to the master trust's commercial activities include decisions around the nature of the operating model, benefits structure and strategy for delivering on the master trust's business objectives.

A scheme strategist is also required to produce and sign-off the master trust's business plan and continuity strategy, and revisions to these. We have provided some examples of the types of decisions and accountabilities of the scheme strategist below.

Do they make commercial/ business/ strategic decisions about how the master trust will be run?

Including:

- ▶ the target market for the master trust, or
- ▶ benefit design, or
- ▶ IT solutions, service contracts, resource and staffing levels

Not including:

- ▶ day-to-day decisions made in line with the master trust's existing strategy and internal business policy

Are they responsible and accountable for producing, maintaining and approving the business plan and continuity strategy?

Including:

- ▶ Person(s) who are responsible and accountable for deciding and approving the content and approach set out in the business plan and continuity strategy.

Not including:

- ▶ Someone who suggests or presents options for the business plan and continuity strategy that requires approval and decision by another appropriate person(s).

Identifying persons fulfilling the role of the scheme strategist:

- ▶ **Where the scheme strategist is a corporate entity:** All individual directors should be identified. Where there is a corporate director (ie a director who is themselves a corporate entity), then the corporate entity should be identified along with those persons carrying out the scheme strategist role on behalf of the corporate director in respect of the particular master trust.
- ▶ **Where the scheme strategist is an individual or a collection of individuals:** All individuals performing the role of the scheme strategist should be identified. Trustees of master trusts with more complex governance arrangements (for example where decisions are made through a hierarchy of governance arrangements), should consider who has ultimate responsibility and accountability for making the business decisions for the master trust, including those in respect of the business plan and continuity strategy.

For example, a personal assistant involved in the logistics of preparing these documents (typing, printing out, binding etc) would not need to be assessed. Middle management responsible for researching and working up options and recommendations (ie for a management board which makes the decisions/adopts or rejects recommendations) would similarly not need to be assessed. Those on the management board making the decisions would, however, need to be assessed.

Promoters and marketers

In determining which promoters or marketers need to be identified as part of the application for authorisation, trustees should consider whether a promoter or marketer has significant influence in relation to the operation of the master trust, as well as the extent of any financial motive offered.

Promotional and marketing activities will include things such as selling, pricing, promotion/raising visibility of the scheme within the market and arranging access to services.

We have provided the following criteria to apply when determining which promoters and marketers you need to identify for your master trust. The trustees should identify any promoter or marketer for the fit and proper assessment where one or more relevant factors have been identified.

Table 1: Criteria to consider when considering promoters and marketers

	Non-relevant	Relevant
Significant influence	<ul style="list-style-type: none"> ▶ Is unable to change, tailor or significantly influence alterations to the master trust design, benefits offered or pricing rates. ▶ Creates the artwork for promotional and marketing literature in line with the existing business strategy or decisions taken by the appropriate level. ▶ Distributes promotional material under instruction from trustees or persons acting on the trustees' behalf. ▶ Responds to queries about the existing services offered by the master trust. 	<ul style="list-style-type: none"> ▶ Provides regular advice and input on benefit design to trustee, scheme strategist or scheme funder. For example, following review of the business strategy. ▶ Makes recommendations or decisions to inform the business strategy on which target markets to pursue. ▶ Able to make decisions on the master trust design and benefits offered, eg by offering bespoke or tailored arrangements to new employers. ▶ Is able to set pricing rates.
Financial motives	<ul style="list-style-type: none"> ▶ Where commission or consultancy fees are paid in the case of an adviser who reviews the open market for their clients and who is not affiliated with a specific master trust. ▶ Where someone is paid to create or distribute the artwork for promotional and marketing literature. ▶ Where someone is paid to provide administrative support, for example, dealing with correspondence, queries or setting up new customer accounts on the master trust's system. 	<ul style="list-style-type: none"> ▶ Income is mainly derived through commission or consultancy fees for securing new business on behalf of that master trust. ▶ Is awarded a contract for carrying out promotional or marketing activity on behalf of the master trust.

Third party providers

Where promotional or marketing activity is carried out by a third party provider that fits one of the above criteria for assessment, we would expect the trustees to identify the relevant directors who are responsible for the design, planning and implementation of the promotional and marketing strategy for the master trust.

How to contact us

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Free online learning for trustees

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