



Local Pension Board

Date Thursday 15 September 2022
Time 2.00 pm
Venue Committee Room 2, County Hall, Durham

Business

Part A

Items which are open to the Public and Press.

1. Apologies for Absence
2. Declarations of Interest (if any)
3. The Minutes of the Meeting held on 16 June 2022
(Pages 21 - 24)
4. Observations from Pension Fund Committee held on 15
September 2022
5. Regulatory Update (Pages 25 - 74)
6. Pension Administration Report (Pages 75 - 92)
7. Pensions Dashboard (Pages 93 - 98)
8. Procedure for Reporting Breaches (Pages 99 - 142)
9. Pension Fund Voting Policy (Pages 143 - 154)
10. Satisfaction Survey
11. Date of Next Meeting
12. Any Other Business

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
7 September 2022

To: **The Members of the Local Pension Board**

Scheme Employer Representatives:

Councillors A Hopgood and D Stoker

Scheme Member Representatives:

N Hancock, L Oliver and W Pattison (Chair)

Contact: Martin Tindle

Tel: 03000 269 713

Pension Fund Committee



Abbreviations

List of commonly used abbreviations

AB	Alliance Bernstein, the Fund's Bonds manager
ACS	Authorised Contractual Scheme, the collective investment scheme used by BCPP for asset pooling
AUM	Assets Under Management
BCPP	Border to Coast Pensions Partnership, the Fund's asset pool
CBRE	Coldwell Banker Richard Ellis, the Fund's Real Estate manager
CEO	Chief Executive Officer
CIO	Chief Investment Officer
CIPFA	The Chartered Institute of Public Finance and Accountancy
CLG	Communities and Local Government (former name of MHCLG)
COO	Chief Operating Officer
COP	Conference of Parties, a UN conference on climate change
CPI	Consumer Price Index
CSR	Corporate Social Responsibility, a term under which companies report their social, environmental and ethical performance
DAA	Dynamic Asset Allocation
DGF	Diversified Growth Fund

EM	Emerging Markets
EMEA	Europe, Middle East & Africa
ESG	Environmental, Social, and Governance – factors in assessing an investment’s sustainability
FCA	Financial Conduct Authority
FRC	Financial Reporting Council
FSS	Funding Strategy Statement
FTA	FTSE Actuaries UK Gilts Index Series
FTSE	Financial Times Stock Exchange
GEM	Global Emerging Markets
GRESB	Global ESG Benchmark for Real Assets
HMT	Her Majesty’s Treasury
Infra	Infrastructure
IRR	Internal Rate of Return
ISS	Investment Strategy Statement
JC	Joint Committee
LGA	Local Government Association
LGPS	Local Government Pension Scheme
LAPFF	Local Authority Pension Fund Forum
LIBOR	London Inter Bank Offered Rate, a benchmark interest rate at which global banks lend to one another
LPB	Local Pension Board
MAC	Multi Asset Credit
MHCLG	Ministry of Housing, Communities and Local Government
MSCI	formerly Morgan Stanley Capital International, publisher of global indexes

NED	Non-Executive Director
NT	Northern Trust, the Fund's Custodian
OECD	Organisation for Economic Co-operation and Development
PF	Pension Fund
PFC	Pension Fund Committee
PLSA	Pensions and Lifetime Savings Association
PRI	The UN-supported Principles for RI
RI	Responsible Investment
RPI	Retail Price Index
S&P	Standard & Poor's, ratings agency and provider of equity indices
S151	An officer with responsibilities under s151 of the Local Government Act 1972
SAB	Scheme Advisory Board
SDG	the UN's Sustainable Development Goals
SILB	Sterling Index Linked Bonds
SONIA	Sterling Over Night Index Average, the overnight interest rate paid by banks
TCFD	Taskforce on Climate Related Financial Disclosures
TER	Total Expense Ratio
TPR	The Pensions Regulator

Author(s)

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Glossary of commonly used terms

A

Active Management

Appointing investment professionals to track the performance of the Fund's mandates, making buy, hold and sell decisions about the assets with a view to outperforming the market.

Active Member

A current employee who is contributing to the pension scheme.

Actuary

An independent professional who advises the Council in its capacity as Administering Authority on the financial position of the Fund.

Actuarial Valuation

The Fund's actuary carries out a valuation every three years and recommends an appropriate rate of contributions for each of the Fund's participating employers for the following three years. The valuation measures the Fund's assets and liabilities, with contribution rates set according to the Fund's deficit or surplus.

Additional Voluntary Contributions (AVCs)

An option available to active members to build up a pot of money which is then used to provide additional pension benefits. The money is invested separately with one of the Fund's external AVC providers.

Administering Authority

The LGPS is run by local Administering Authorities. An Administering Authority is responsible for maintaining and investing its own Fund for the LGPS.

Admission/Admitted Body

An organisation whose employees can become members of the Fund by virtue of an admission agreement made between the council in its capacity as Administering Authority and the organisation. It enables contractors who take on council services to offer staff transferred to the organisation continued membership of the LGPS.

Asset Allocation

The apportionment of the Fund's assets between different types of investment (or asset classes). The long-term strategic asset allocation of the Fund will reflect the Fund's investment objectives and is set out in the Investment Strategy Statement.

Authorised Contractual Scheme (ACS)

A collective investment scheme used by BCPP. An ACS is a form of investment fund that enables a number of investors to 'pool' their assets and invest in a professionally managed portfolio of investments, typically gilts, bonds, and quoted equities. Regulated by the Financial Conduct Authority, it is "tax transparent"; making it particularly useful for pooling pension assets.

B

Benchmark

A measure against which the investment policy or performance of an investment manager can be compared.

Border to Coast Pension Partnership (BCPP)

The Fund's chosen asset pool. BCPP has 11 Partner Funds who collectively have around £45bn of assets. The Partner Funds have appointed a Board of Directors, chaired by Chris Hitchen, which is responsible for ensuring that Border to Coast is run effectively and in line with the guiding principles set by the shareholders. The Chief Executive Officer, Rachel Elwell, is responsible for the day to day running of Border to Coast along with her team.

Border to Coast Joint Committee

As part of their oversight, BCPP Partner Funds formed a Joint Committee which consists of the Chairs of each of the Partner Fund Pension Committees together with other non-voting representatives.

C

CARE (Career Average Revalued Earnings)

From 1 April, 2014, the LGPS changed from a final salary scheme to a Career Average (CARE) scheme. The LGPS remains a defined benefit scheme but benefits built up from 2014 are now worked out using a member's pay each scheme year rather than the final salary at leaving.

Cash Equivalent Value (CEV)

This is the cash value of a member's pensions rights for the purposes of divorce or dissolution of a civil partnership.

Consumer Price Index (CPI)

A method of measuring the changes in the cost of living, similar to the Retail Price Index. Since April 2011 LGPS pensions are increased annually in line with movement in the Consumer Price Index during the 12 months to the previous September.

Commutation

A scheme member may give up part or all of the pension payable from retirement in exchange for an immediate lump sum.

Convertible Shares

Shares that include an option for holders to convert into a predetermined number of ordinary shares, usually after a set date.

Custodian

A financial institution that holds customers' securities for safekeeping to minimise the risk of theft or loss. Most custodians also offer account administration, transaction settlements, collection of dividends and interest payments, tax support and foreign exchange. Custody is currently provided to the Fund by Northern Trust.

D

Death Grant

A lump sum paid by the Fund to the dependents or nominated representatives of a member who dies.

Deferred Member/Pensioner

A scheme member who has left employment or otherwise ceased to be an active member of the scheme who retains an entitlement to a pension from the Fund.

Defined Benefit Scheme

A pension scheme like the LGPS where the benefits that will ultimately be paid to the employee are fixed in advance and not impacted by investment returns. It is the responsibility of the sponsoring organisation to ensure that sufficient assets are set aside to meet the future pension promise.

Denomination

The face value of a bank note, coin or postage stamp, as well as bonds and other fixed-income investments. Denomination can also be the base currency in a transaction or the currency a financial asset is quoted in.

Designating Body

Organisations that can designate employees for access to the LGPS. Employees of town and parish councils, voluntary schools, foundation schools, foundation special schools, among others, can be designated for membership of the scheme.

Discretion

The power given by the LGPS to enable a participating employer or Administering Authority to choose how they will apply the scheme in respect of several its provisions. For some of these discretions it is mandatory to pass resolutions to form a policy as to how the provision will apply. For the remaining discretionary provisions, a policy is advised.

Direct Property

Direct investment in property is buying all or part of a physical property. Property owners can receive rent directly from tenants and realise gains or losses from the sale of the property.

Diversified Growth Funds (DGF)

An alternative way of investing in shares, bonds, property and other asset classes; DGFs are funds that invest in a wide variety of asset classes in

order to deliver a real return over the medium to long-term. The Fund's DGF is managed by BlackRock.

E

Employer Contribution Rates

The percentage of an employee's salary participating employers pay as a contribution towards that employee's LGPS pension.

Employer Covenant

The covenant is an employer's legal obligation and financial ability to support their defined benefit (DB) obligation now and in the future.

Equities

Ordinary shares in UK and overseas companies traded on a stock exchange. Shareholders have an interest in the profits of the company and are entitled to vote at shareholders' meetings.

ESG

ESG is the consideration of environmental, social and governance factors alongside financial ones in the investment decision-making process. E, S, and G are the three key factors in assessing an investment's sustainability

F

Fiduciary Duty

Fiduciary duties exist to ensure that those who manage other people's money act in beneficiaries' interests rather than their own.

Financial Instruments

Tradable assets of any kind, which can be cash, evidence of an ownership interest in an entity or a contractual right to receive or deliver cash or another financial instrument.

Fixed Interest Securities

Investments, mainly in Government stocks, which guarantee a fixed rate of interest. The securities represent loans which are repayable at a future date that can be traded on a recognised stock exchange in the meantime.

Fund of Funds (FoF)

A fund that holds a portfolio of other investment funds.

G

Guaranteed Minimum Pension (GMP)

The LGPS guarantees to pay a pension that is at least as high as a member would have earned had they not been contracted out of the State Earning Related Pension Scheme (SERPS) at any time between 6 April 1978 and 5 April 1997. This is called the guaranteed minimum pension (GMP).

I

Index

A calculation of the average price of shares, bonds or other assets in a specified market to provide an indication of the average performance and general trends in the market.

Internal Rates of Return (IRR)

The internal rate of return (IRR) is a metric used to estimate the profitability of potential investments. Generally, the higher an IRR, the more desirable an investment is to undertake.

L

Local Government Pension Scheme (LGPS)

The LGPS is collectively the largest public sector pension scheme in the UK, which provides DB benefits to employees of local government employers and other organisations that have chosen to participate.

Local Pension Board (LBP)

Since April 2015, each Administering Authority is required to establish and operate a Local Pension Board. The Pension Board is responsible for assisting the Administering Authority in securing compliance with the LGPS regulations, overriding legislation and guidance from the Pensions Regulator. The Board is made up of equal representation from employer and scheme member representatives.

M

Myners Principles

A set of principles based on Paul Myners' 2001 report, Institutional Investment in the United Kingdom. The Myners' principles for defined benefit schemes cover:

Effective decision-making

Clear objectives

Risk liabilities

Performance assessment

Responsible ownership

Transparency and reporting.

O

Ordinary Shares

An ordinary share represents equity ownership in a company and entitles the owner to vote at the general meetings of that company and receive dividends on those shares if a dividend is payable.

P

Partner Funds

The Fund's chosen asset pool, BCPP, has 11 Partner Funds - Bedfordshire, Cumbria, Durham, East Riding, Lincolnshire, North Yorkshire, South Yorkshire, Surrey, Teesside, Tyne & Wear, Warwickshire.

Pension Liberation Fraud

Members with deferred benefits may be approached by companies offering to release funds early from these benefits. The Pensions Regulator has advised pension funds to make members aware of the potential warning signs of pension liberation fraud.

Pensions Online

The Fund's online portal where scheme members may view their pensions records, complete retirement calculations, and update personal details.

Pensions Regulator

The Pensions Regulator (TPR) is the UK regulator of workplace pension schemes. TPR make sure that employers put their staff into a pension

scheme and pay money into it. TPR also make sure that workplace pension schemes are run properly so that people can save safely for their later years.

Pooled Funds

Funds which manage the investments of more than one investor on a collective basis. Each investor is allocated units which are revalued at regular intervals. Income from these investments is normally returned to the pooled fund and increases the value of the units.

Pooling in the LGPS

Central government requires local authorities to pool their pension assets, to achieve four principles:

1. Cost savings through economies of scale
2. Improved governance
3. Improved approach to responsible investment
4. Improved ability to invest in infrastructure

Proxy Voting

Proxy voting allows shareholders to exercise their right to vote without needing to attend AGMs. This can involve shareholders with voting rights delegating their votes to others who vote on their behalf.

Q

Quantitative Easing

Quantitative easing (QE) is when a central bank creates new money electronically to buy financial assets like Government bonds with the aim of directly increasing private sector spending in the economy and returning inflation to target.

R

Related Party Transactions

This is an arrangement between two parties joined by a special relationship before a deal, like a business transaction between a major shareholder and a corporation.

Responsible Investment (RI)

Responsible investment involves incorporating environmental, social and governance (ESG) considerations into investment decision-making while practising active ownership. RI can help deliver sustainable, long-term returns for investors.

Retail Price Index

A method of measuring the changes in the cost of living. It reflects the movement of prices covering goods and services over time. Until April 2011, the amount by which LGPS pensions were increased annually was based on movement in the Retail Price Index during the 12 months to the previous September. From April 2011, the Government changed the amount by which pensions increase from Retail Price Index to Consumer Price Index (CPI).

Return

The total gain from holding an investment over a given period, including income and increase or decrease in market value.

Rule of 85

Under previous LGPS regulations, when a member elected to retire before age 65, the Rule of 85 test was used to find out whether the member retired on full or reduced pension benefits. If the sum of the member's age and the number of whole years of their scheme membership was 85 or more, benefits were paid in full. If the total was less than 85, the benefits were reduced. The Rule of 85 was abolished on 1 October, 2006 - however, members contributing to the LGPS prior to this date will have some or all of their pension benefits protected under this rule.

S

Scheduled Body

An organisation that has the right to become a member of the LGPS under the scheme regulations. Such an organisation does not need to be admitted as its right to membership is automatic.

Spot Rate

The price quoted for immediate settlement on a commodity, security or currency. It is based on the value of an asset at the moment of the quote, which in turn is based on how much buyers are willing to pay and how much sellers are willing to accept depending on factors such as current market value and expected future market value.

State Pension Age (SPA)

The earliest age at which State Pension can be paid, which different to the earliest age LGPS may be claimed. Under the current law, the State Pension age is due to increase to 68.

Stock Lending

This is loaning a stock, derivative or other security to an investor or firm. It requires the borrower to put up collateral (cash, security or a letter of credit). When stock is loaned, the title and the ownership is transferred to the borrower and title is returned at the end of the loan period.

T

TCFD

The Taskforce on Climate Related Financial Disclosures was set up to develop voluntary, consistent, climate related financial risk disclosures to guide companies in providing information to investors, lenders, insurers and other stakeholders. It is expected that MHCLG will consult on mandatory TCFD disclosures in the LGPS by the end of 2021.

The Pension Advisory Service (TPAS)

The Pensions Advisory Service (TPAS) gives information and guidance to members of the public on state, company and personal pensions. It helps any member of the public who has a problem with their occupational or private pension arrangement. TPAS is an executive non-departmental public body, sponsored by the Department for Work and Pensions.

Transfer Value

A transfer value is a cash sum representing the value of a member's pension rights.

Transferred Service

Any pension that members have transferred into the LGPS from a previous pension arrangement that now counts towards their LGPS membership.

U

UK Stewardship Code

A code first published by the FRC in 2010 to enhance the quality of engagement between asset managers and companies in the UK. Its principal aim is to make asset managers more active and engaged in corporate governance matters in the interests of their beneficiaries. The Code was revised in 2020.

Unrealised gains/losses

The increase or decrease in the market value of investments held by the fund since the date of their purchase.

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DURHAM COUNTY COUNCIL

At a Meeting of **Local Pension Board** held in the **Council Chamber, County Hall, Durham** on **Thursday 16 June 2022** at **2.00 pm**

Present:

Members of the Committee:

Councillors D Stoker

Scheme Member Representatives:

Mr L Oliver and Mrs W Pattison

1 Election of Chair

Nominations were sought for a Chair from the Scheme Member Representatives on the Board.

RESOLVED:

That Mrs W Pattison be elected as Chair.

Mrs W Pattison (in the Chair)

2 Apologies for Absence

Apologies for absence were received from N Hancock and Councillor A Hopgood.

3 Declarations of Interest

There were no Declarations of Interest.

4 The Minutes of the Meeting held on 14 March 2022

The Minutes of the meeting held on 14 March 2022 were agreed as a correct record and were signed by the Chair.

5 Observations from Pension Fund Committee held on 16 June 2022

The Head of Pensions (LGPS), Paul Cooper, informed the Board of the standard items considered by the meeting of the Pension Fund Committee (PFC) in June, including the value and performance of the fund. He noted that the Committee had received reports relating to accounting policies, regulation and a review of Committee terms of reference and training needs. He added the Committee had also received reports relating to investment strategy, though no investment decisions were taken. He explained that the non-Councillor representatives had their term extended for a further four years, retaining their knowledge and experience. He added there had been a report relating to cybersecurity and there had been discussions as regards: the implications of the conflict in Ukraine, including exposure to Russia and the value of those assets being effectively zero; inflation; exposure to China; and the long-term nature of the Pension Fund's investment strategy.

L Oliver asked as regards the size of the investments in Russia that were effectively worth zero, the Head of Pensions noted it depended upon when it was measured, however, it was in the single millions.

RESOLVED:

That the information given be noted.

6 Regulatory Update

The Board considered a report from the Corporate Director of Resources which provided details on developments in matters that were both Local Government Pension Scheme (LGPS) specific, as well as providing an update on non-LGPS specific matters of interest (for copy see file of Minutes).

The Head of Pensions noted Guaranteed Minimum Pension (GMP) was no longer managed by HMRC and therefore all Pension Funds were having to undertake a reconciliation exercise. He noted that had now been completed, with the next stage being rectification of the GMP, adding this was a complex process and the PFC and Local Pension Board (LPB) would be kept up to date as regards progress.

The Chair asked how the GMP was funded, the Head of Pensions noted from the Pension Fund, with pre-1988 and post-1988 elements. L Oliver asked if those elements were treated separately, the Head of Pensions confirmed that was the case.

The Head of Pensions noted other areas referred to included: the Levelling Up White Paper; Good Governance in the LGPS, with a session to follow for Members of the PFC and LPB following receipt of statutory guidance from the Ministry; McCloud; Public Sector Exit Payments Caps; Taskforce on Climate-related Financial Disclosures (TCFD); and boycotts, namely ensuring that Pension Fund decisions were not contrary to UK foreign policy, for example boycotting of Israel. He noted that there was also information relating to 'stronger nudge' and management of direct contributions. He explained that this referred to additional voluntary contributions (AVCs) and the advice given to scheme members.

The Chair asked as regards changes to the protection element, with the Head of Pensions noting that the national minimum pension age would increase to 57 by 2028. L Oliver asked if many people chose to retire at 55, the Head of Pensions noted that for the majority leaving at 55 would result in a hefty reduction in their pension. The Chair asked if the report could reflect changes, the Head of Pensions agreed to consider whether this may be reflected in the report or an appendix reflecting the main changes.

RESOLVED:

That the report be noted.

7 Pension Administration Report

The Board considered a report from the Corporate Director of Resources regarding the Fund's pension administration and service provision to members, as well as providing an update on Key Performance information (for copy see file of Minutes).

The Head of Pensions advised of the performance in the final quarter of 2021/22 with 175 retirement cases, 371 early leavers, 1,504 telephone calls to the Fund's Helpline and 15,995 members had registered for the Fund's Pensions Online portal. He noted that Appendix 2 to the report included information relating to a AVC provider and underperformance. He added that the 2022 Annual Benefit Statement would be shared with the Board.

RESOLVED:

That the report be noted.

8 Training

The Head of Pensions noted a verbal update at PFC in relation to training need analysis and suggested a similar process for the LPB and that a Training Needs Assessment document would be circulated to Board Members.

RESOLVED:

That the update be noted.

9 Satisfaction Survey

The Head of Pensions noted that the Board's previous suggestion of a Satisfaction Survey and confirmed that there was no standard document or suggested approach from the LGA, though he noted it was felt it was an area the LGA could take forward in future. He added there were two possible ways in the interim, to include a survey within the Annual Benefit Statement documentation that was circulated on 31 August to all members, or via an ongoing process, with documentation included at retirement asking for a return.

The Chair suggested there could be benefits in both approaches, with the Head of Pensions noting that he felt it could be preferable to start with inclusion in the Benefit Statement first, then look to returns and receiving feedback on the approach.

Councillor D Stoker asked as regards having the process online, with the Head of Pensions noting that Annual Benefit Statement was available online. L Oliver noted not all members would access information online, the Head of Pensions noting there were a small number of members still receiving paper statements.

RESOLVED:

That the satisfaction survey be included within Annual Benefit Statement documentation.

10 Date of Next Meeting

The next meeting would be held on 15 September 2022 at 2.00 p.m.

Local Pension Board

15 September 2022

Regulatory Update



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report briefs the Board on developments in matters that are both Local Government Pension Scheme (LGPS) specific, as well as providing an update on non-LGPS specific matters which are of interest.

Executive summary

- 2 There are a number of developments that will potentially impact the requirements placed upon the Fund, both specific to the LGPS and more generally. This report seeks to keep the Board updated with those developments

Recommendation(s)

- 3 The Local Pension Board is asked to note the report.

Background

- 4 This report provides an update to the Board on important pensions administration and governance matters that are currently relevant. The report is split into 2 main sections:
 - (a) LGPS specific matters, and;
 - (b) Non-LGPS specific matters that are of interest to the Board.

LGPS Specific Matters

DLUHC Consultation – LGPS: Fair Deal – Strengthening Pension Protection

- 5 In January 2019, The Department for Levelling Up Housing and Communities (DLUHC), formerly MHCLG, launched a consultation that would strengthen the pensions protections that apply when an employee of an LGPS employer is compulsorily transferred to the employment of a service provider. If the proposed amendments are introduced, the option for staff to be granted access to a Government Actuary's Department (GAD) certified broadly comparable scheme will be removed.
- 6 DLUHC are currently considering the responses received, with a consultation response expected in due course. Officers will continue to monitor the position.

DLUHC consultation – LGPS: Changes to the Local Valuation Cycle and the Management of Employer Risk

- 7 In May 2019 DLUHC consulted on a number of changes to the LGPS, encompassing the following areas:
 - amendments to the local fund valuations from the current 3-year (triennial) to a 4-year (quadrennial) cycle
 - a number of measures aimed at mitigating the risks of moving from a triennial to a quadrennial cycle
 - proposals for flexibility on exit payments
 - proposals for further policy changes to exit credits
 - proposals for changes to the employers required to offer local government pension scheme membership

- 8 On 27 February DLUHC published a partial response to the consultation, covering proposals on exit credits only. DLUHC confirmed their intention to amend the Regulations providing greater discretion to Administering Authorities over the amount of any exit credit. The Local Government Pension Scheme (Amendment) Regulations 2020 were subsequently laid before parliament, coming into force on 20 March 2020 with backdated effect to 18 May 2018. The Fund has published its policy in relation to Exit Credits, which will be reviewed in light of a recent High Court judgement that provided further direction to LGPS Funds.
- 9 DLUHC has also published a partial response in respect of employer contributions and flexibility on exit payments. The Fund has finalised its policy approach to Employer Flexibilities following consultation with participating employers.

Ongoing Consultation – Guaranteed Minimum Pensions (GMP)

- 10 In February 2017 the Treasury consulted on options for how the Guaranteed Minimum Pension (GMP) element of pensions paid to those members who will reach state pension age on or after 6th December 2018 should be indexed.
- 11 In January 2018 the Treasury published its response to this consultation, acknowledging that it is a complex area with more time required to identify a long-term solution. As a result, the existing interim solution was extended, covering those members of public service schemes reaching state pension age between 6th April 2016 and 5th December 2018 to those that reach state pension age on or before 5th April 2021.
- 12 On 23 March 2021 Her Majesty's Treasury (HMT) discounted conversion (of GMP into main scheme benefits) as their long-term policy solution and instead will make full GMP indexation the permanent solution for public service pension schemes. Currently members covered by the interim solution have their GMP pensions fully uprated by their scheme in line with CPI. The new policy will extend this to members whose State Pension Age (SPA) is on or after 6 April 2021.
- 13 The full impact of from a funding perspective will become more clear during the 2022 Valuation process. Additionally, the Fund has gone through a significant exercise to reconcile the GMP data it holds. Individual GMP values can often misalign with the values held by HMRC with discrepancies occurring both in terms of membership periods for which GMP accrued, and the GMP value itself. Following the conclusion of the reconciliation exercise, the Fund is finalising its

strategy for the rectification process. Both the Committee and Local Pension Board will be consulted on the Fund's rectification strategy.

Levelling Up White Paper – LGPS Local Investment Plans

- 14 In February 2022 the government published its Levelling Up whitepaper which includes references to LGPS funds having plans for up to 5% of assets to be allocated to projects which support local areas. The whitepaper indicates government intention to “work with Local Government Pension Funds to publish plans for increasing local investment, including setting an ambition of up to 5% of assets invested in projects which support local areas”.
- 15 The Fund does not presently have a specific strategic allocation to local investment but has recently finalised an impact investment in the North-East which will support SME finance in the region. Additionally, as part of their strategic plan BCPP will consider development of impact investing capabilities which will consider opportunities to support local investment decisions.
- 16 The LGPS Scheme Advisory Board have indicated that in the context of ‘local’ the whitepaper refers to UK rather than local to a particular LGPS fund. The SAB have also advised that their understanding is that there will be no mandatory requirement beyond the requirement to have a plan. Further details will emerge over the period up to an expected autumn consultation which is expected to also include statutory pooling guidance.

LGPS Scheme Advisory Board (SAB)

SAB Review – Academies

- 17 In 2017 SAB instigated a review of the participation of existing academies and commissioned Price Waterhouse Coopers to investigate issues of academy participation in the LGPS and prepare a report for the Board. The report made no recommendations but set out three broad types of approach or mechanisms to try and resolve these issues. These are:
 - non-regulatory measures within the LGPS
 - regulatory measures within the scheme, and
 - measures outside of the LGPS, including through primary legislation.
- 18 The SAB review had been split between a funding working group and an administration working group. Work on the administration working

group was put on hold due to competing work pressures and the project is no longer part of SAB's current projects.

- 19 Separately, the DfE guarantee for Academy participation in the LGPS has been increased to £20m. A copy of the Secretary of State's statement is included in Appendix 1.
- 20 Additionally, a government white paper has confirmed plans for every school to be in, or in the process of joining, an academy trust by 2030. This has potential impact on the make-up of scheme membership, and admissions to the Fund. Officers will continue to monitor the position and keep the Board informed.

SAB Review – Tier 3 Employers

- 21 In addition to the review of Academy participation, above, SAB also commissioned work in respect of 'Tier 3' employers participating in the LGPS. Broadly, Tier 3 employers are those employers which:
 - (i) have no tax raising powers,
 - (ii) are not backed by an employer with tax raising powers;
 - (iii) are not an academy.
- 22 Examples of Tier 3 employers include universities, further education colleges, housing associations and charities.
- 23 SAB had established a small working group to review concerns expressed by Tier 3 employers and the ways in which they may be resolved. The working group had been tasked with reporting back to the SAB with a set of recommendations for further consideration.
- 24 Whilst the third Tier Employer review is no longer part of SAB's current projects, an Office for National Statistics (ONS) review of the Further Education sector may change the classification of Colleges within the LGPS.
- 25 It is proposed that Colleges are reclassified as 'public sector', with the possibility of tighter restrictions on debt / borrowing. Additionally, the Department for Education (DfE) is considering putting in place a guarantee, similar to the one already provided for academies which would provide greater protection to LGPS Funds. Officers will continue to monitor the position, to ensure that the correct level of prudence is taken when assessing Colleges for the Fund's triennial valuation.

SAB Review – Good Governance in the LGPS

- 26 SAB is currently examining the effectiveness of current LGPS governance models with a focus on standards, consistency, representation, conflict management, clarity of roles and cost. SAB's work will likely result in new statutory guidance on Governance Compliance, with consideration in particular likely to be given to:
- (a) changes to the scheme's regulatory provisions on Governance Compliance Statements,
 - (b) revised statutory guidance on Governance Compliance Statements,
 - (c) independent assessment of Governance Compliance Statements, and;
 - (d) establishing a set of Key Performance Indicators (KPIs)
- 27 SAB have completed their report on Good Governance and submitted an Action Plan to DLUHC to take the recommendations of the project forward. It is expected that the next stage is for DLUHC to take the recommendations forward for implementation through legislation and / or Statutory Guidance. A more detailed update to both the Committee and Local Pension Board, and overview of the recommendations proposed to DLUHC will be provided in due course.

SAB Review – Responsible Investment Guidance

- 28 In November 2019, SAB drafted guidance for Responsible Investment in the LGPS, to clarify the parameters within which investment decisions can be made with regard to the integration of ESG factors. Following feedback, SAB has decided to take stock until more is known about the government's position on the proposed climate change provisions in the Pension Schemes Bill and the implications of the Supreme Court's judgement involving the Palestine Solidarity Campaign. Committee will be updated as the matter progresses.
- 29 Notwithstanding this decision, SAB have progressed with further work in respect of Responsible Investment (RI), including the production of an RI A-Z Guide. It is intended that the A-Z Guide will provide LGPS stakeholders a "one stop shop for information, links and case studies in this fast growing and complex arena". The guide will evolve over time, as new entries are added. The A-Z Guide can be found online at the following link <https://ri.lgpsboard.org/items>.

- 30 The Board has also established an RI Advisory Group (RIAG). The main role of the group will be to advise SAB on all matters relating to RI. It will also be responsible for assisting the Board in maintaining the online A-Z Guide. The Group will also assist SAB in developing recommendations to DLUHC on how the Taskforce on Climate-Related Financial Disclosures (TCFD) reporting should be applied to the LGPS.

Mandatory TCFD Reporting

- 31 The Committee have previously been informed that, using powers granted under the Pension Schemes Bill, the Department for Works and Pensions (DWP) consulted on draft regulations requiring occupational pension schemes to meet climate governance requirements, publish a Taskforce on Climate-related Financial Disclosures (TCFD) report and include a link to the report in their annual report and accounts.
- 32 Whilst the regulations will not apply to the LGPS it was always expected that DLUHC would bring forward similar proposals requiring TCFD disclosures in the LGPS.
- 33 The Fund's pooling partner, Border to Coast Pensions Partnership (BCPP) are supporters of the Task Force on Climate-related Financial Disclosures (TCFD) and have just published their second TCFD report aligned with the recommendations. This covers the approach to climate change across the four thematic areas of Governance, Strategy, Risk Management, and Metrics and Targets. The report demonstrates the improvements and developments made across the four key areas. The report can be found online at the following link <https://www.bordertocoast.org.uk/sustainability/>.
- 34 BCPP will support Partner Funds ahead of any mandatory reporting requirements through the Officers Operation Group RI workshops, delivering training, and by providing reporting. BCPP have held discussions to understand all Partner Funds' requirements on carbon reporting on assets, including those that are currently not held in the pool.
- 35 A BCPP procurement for carbon data, including forward-looking metrics (scenario analysis), will take into account the reporting requirements of Partner Funds for equity and fixed income portfolios. Obtaining carbon data for Private Markets is more challenging and BCPP are looking into solutions for these portfolios held in the pool. Additionally, Officers are working with the Fund actuary to consider how to reflect climate scenario analysis in 2022 valuation reporting.

- 36 On 1 September DLUHC launched its consultation regarding governance and reporting of climate change risks. The consultation seeks views on proposals to require LGPS administering authorities in England and Wales to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).
- 37 The consultation proposes that LGPS administering authorities would calculate the 'carbon footprint' of their assets and assess how the value of each fund's assets or liabilities would be affected by different temperature rise scenarios, including the ambition to limit the global average temperature rise to below 2 degrees set out in the Paris Agreement. The consultation (included in Appendix 2) closes on 24 November 2022. Officers will consider a response in consultation with the Chair and Vice Chair of the Committee.
- 38 An overview of TCFD was included in training for members of the Committee last year. A more detailed report, and further training will be provided to the Committee on the details of DLUHC's consultation, the availability of data through BCPP, and scenario analysis commissioned through the Fund actuary. The Board will be kept updated.

Cost Control Mechanism & Review

- 39 The Committee has been informed previously of the Cost Control Mechanism in the LGPS and other public sector schemes which sets both a cost 'ceiling' and 'floor' in respect of the ongoing affordability of public sector pensions. This creates a "cost corridor" designed to keep schemes within 2% of target costs.
- 40 Before the impact of McCloud, provisional cost management assessments indicated floor breaches in most public sector schemes, that may have resulted in an improvement to benefits or reduction in member contributions. At the request of HMT, GAD carried out a review of the Cost Control Mechanism across the public sector.
- 41 Members were informed previously that it had not previously been possible to assess the value of the public service pensions arrangements with any certainty due to the anticipated implications of the Court of Appeal judgements in McCloud and Sargeant.
- 42 The Fund's own position on McCloud has also been discussed previously, with the Actuary outlining in detail how the issue was to be reflected in the 2019 Valuation. The approach taken added an additional 0.9% to the employer contribution rate for all employers at the 2019 valuation.

- 43 In July 2021 however, it was confirmed that the impact of McCloud would be classed as “member costs” for the purpose of the 2016 cost control review, with the pause on the review lifted. This was confirmed by HMT Directions in October 2021. Subsequently, SAB found that the LGPS showed only a slight reduction in costs. Despite this slight reduction, SAB confirmed that they are no longer recommending any LGPS benefit structure changes. SAB has however reaffirmed its commitment to revisiting both Tier 3 ill health and contribution rates for the lowest paid members.
- 44 Whilst it appears that the 2016 Cost Review is coming to a conclusion, it should be noted that the Fire Brigade Union is considering a judicial review of the decision to include the McCloud remedy as a “member cost”. If successful, the 2016 review may be reopened.
- 45 When the Cost Cap Mechanism was first introduced in 2016 across the public sector it was anticipated that the mechanism would be triggered only by “extraordinary” event. As noted above however, the initial assessment of public sector schemes showed cost floor breaches leading to HMT’s request for a review of the mechanism.
- 46 Following a review by GAD, the government have taken forward three main principles to adjust the mechanism for the 2020 review, so that the new Cost Control Mechanism will:
- (a) Be based on the reformed scheme only, ie. in the LGPS the mechanism will assess post 2014 costs only
 - (b) Adjust the cost floor and ceiling from +/-2% to +/- 3%
 - (c) Introduce an economic check linked to GDP

McCloud

- 47 The Committee has been kept up to date with the impact and issues surrounding the McCloud judgement itself. To recap briefly, when the Government reformed public service pension schemes in 2014 and 2015 they introduced protections for older members. In December 2018, the Court of Appeal ruled that younger members of the Judges' and Firefighters' Pension schemes have been discriminated against because the protections do not apply to them. The Government has confirmed that there will be changes to all main public sector schemes, including the LGPS, to remove this age discrimination.
- 48 In July 2021, the Public Service Pensions and Judicial Offices Bill was laid before Parliament. This Bill seeks to amend the Public Service Pensions Act 2013 by making provision to rectify the unlawful

discrimination by the 2014 Scheme. Now made law, the Bill established the overarching framework for the retrospective changes required for the McCloud. Additionally, however, LGPS Amendment Regulations are required to make the necessary changes to the Scheme Regulations.

- 49 It is expected that later this year DLUHC will set out its decisions on its intended approach to McCloud for the LGPS and re-establish a SAB McCloud-implementation group. Draft Regulations are expected to follow later 2022 to come into force in October 2023. The Regulations will be supplemented by Statutory Guidance, following a period of consultation.
- 50 The estimated cost across the whole of the LGPS is £1.8bn. As noted above, the Fund made an estimated provision for the impact at local level at the last Valuation. In terms of scheme member impact, HMRC have recently announced a range of measures intended to protect members from annual and lifetime allowance impacts.
- 51 Whilst it is anticipated that the necessary LGPS Regulations will not come into force until 2023, Officers of the Fund are actively working with Participating Employers to ensure all of the necessary data is collected to be able to properly implement the anticipated remedy.
- 52 Additionally, Officers continue to work with the Fund's software suppliers to ensure solutions are as effective as possible. Note that, DLUHC are also working directly with the LGPS software suppliers to discuss the implementation of the McCloud remedy. The LGA's Communications Working Group is beginning work on member communications, and the Fund's software supplier have established a McCloud Project Board – the Durham Fund is represented on both groups.

Non- LGPS Specific Matters

Public Sector Exit Payments Caps

- 53 The Small Business, Enterprise and Employment Act 2015 introduced the concept of a 'public sector exit payments cap'. The legislation provides that exit payments to be paid to a person are not to exceed £95,000. The 2015 Act provided the overarching principles of how the exit cap was to operate, but the detail was to be prescribed in regulations that were expected to soon follow.
- 54 After a period of delay the Treasury launched a new consultation on this matter in April 2019. Included in the consultation were draft

regulations called 'The Restriction of Public Sector Exit Payment Regulations 2019' which provided detail on how the exit cap should operate from an employer's perspective.

- 55 Under the Regulations, the cap was to remain at £95,000 and include:
- redundancy payment(s);
 - any payment to offset an actuarial reduction to a pension arising by virtue of early retirement (known as 'strain on the fund' or 'early release' cost);
 - any payment made pursuant to an award of compensation under the ACAS arbitration scheme or a settlement or conciliation agreement;
 - any severance payment or ex gratia payment;
 - any payment in the form of shares or share options;
 - any payment on voluntary exit;
 - any payment in lieu of notice due under a contract of employment;
 - any payment made to extinguish any liability under a fixed term contract;
 - any other payment made, whether under a contract of employment or otherwise, in consequence of termination of employment or loss of office.
- 56 Most significantly for the LGPS, was the inclusion of the 'strain on the fund' costs being included towards the cap. These costs of allowing unreduced access to pension benefits for members over 55 can exceed £95,000 for scheme members with long periods of membership.
- 57 Separately to the Exit Payment Regulations, DLUHC consulted on further reforms to the LGPS Regulations that would accommodate the Exit Cap within the Scheme. As DLUHC's proposed changes were not implemented concurrently with the Exit Payment Regulations, there was legal uncertainty for both LGPS Administering Authorities and participating employers due to the conflicting legislation.
- 58 On 12 February however the Exit Cap was unexpectedly disapplied, after the Treasury issued the 'Exit Payment Cap Directions 2021'.

The Treasury will bring forward at pace revised proposals in respect of public sector exits. The Committee will be updated as further details emerge.

UK Stewardship Code 2020

- 59 The UK Stewardship Code aims to enhance the quality of engagement between investors and companies to help improve long-term risk-adjusted returns to shareholders. The Fund has previously signed up the Code, and BCPP also publish a UK Stewardship Code compliance statement.
- 60 Due to the significant changes in the Investment Market since the introduction of the first Code, The UK Stewardship Code 2020 is now being introduced. This new Code expands on the previous requirements and comprises a set of 12 Principles which require reporting and disclosure on an 'apply and explain' basis.
- 61 The LGPS (Management and Investment of Funds) 2016 Regulations state that the responsibility for stewardship, which includes shareholder voting, remains with the Partner Funds. Stewardship, day-to-day administration and implementation have been delegated to Border to Coast by the Partner Funds, on assets managed by Border to Coast, with appropriate monitoring and challenge to ensure this continues to be in line with Partner Fund requirements. To leverage scale and for operational purposes, Border to Coast has, in conjunction with Partner Funds, developed a Responsible Investment Policy and accompanying Corporate Governance & Voting Guidelines to ensure clarity of approach on behalf of Partner Funds.
- 62 Together with peers at BCPP Partner Funds, Officers are working to consider the new Code and how to ensure compliance. A more detailed report will be provided to the Pension Fund Committee in due course.

Increasing the UK Minimum Pension Age

- 63 The Committee have previously been informed of the intention to raise the Normal Minimum Pension Age (NMPA) in the UK and members will recall that a consultation entitled 'Increasing the normal minimum pension age: consultation on implementation' was launched on 11th February and ran until 22nd April 2021.
- 64 The consultation proposed that, due to increases in longevity and changing expectations of how long individuals will remain in work and in retirement, the minimum pension age would increase from 55 to 57 in 2028. When the policy was first announced, it was intended that the NMPA would be 10 years earlier than the State Pension Age. The

minimum age a scheme member can currently retire voluntarily in the LGPS is 55.

- 65 The Finance Act gained Royal Assent on 24 February, which will increase the minimum retirement age in the UK from 55 to 57 from April 2028. The Act provides for protected pension ages for members who meet entitlement conditions. The government will need to change the LGPS rules to align with the NMPA at some point on or before 6 April 2028. It will also need to consider whether LGPS members who qualify for protection will be allowed to receive payment before 57.
- 66 The LGA have advised that the change is not material, such that scheme members must be immediately informed of the change. Nonetheless, the Fund informed its active and deferred members of the proposed change within this year's Annual Benefit Statements.

TPR Code of Practice

- 67 The Pensions Regulator (TPR) has consulted on a single Code of Practice to cover all regulated schemes. Presently, the Regulator has a specific Code for Public Service Pensions. Whilst the new Code does not extend TPR's powers in the LGPS beyond its existing remit on governance and administration, there are some concerns over how the provisions of the Code fit with the LGPS. SAB have responded on behalf of the LGPS.
- 68 The Regulator plans to carry out a full review of the comments received through the consultation which it will consider carefully. TPR did not expect to lay the new code before Parliament before Spring 2022, so the Code will not become effective before Summer 2022. The Local Pension Board's existing Workplan addressing the existing 'Public Service Pension Code of Practice' has been rolled forward until the revised Code emerges.

Boycotts, Divestment and Sanctions

- 69 The government's legislative programme was laid out in May 2021. The programme included a Boycotts, Divestment and Sanctions (BDS) Bill the purpose of which was to be to stop public bodies from taking a different approach to UK Government sanctions and foreign relations covering purchasing, procurement, and investment decisions.
- 70 In advance of the BDS Bill an amendment to the Public Services Pensions Bill passed, which proposed conferring powers to the Secretary of State to make guidance in respect of BDS. The clause would enable the Secretary of State to issue guidance to LGPS

administering authorities that they may not make investment decisions that conflict with the UK's foreign and defence policy.

- 71 The Public Services Pensions Bill gained royal assent, but this does not place any immediate duty on Funds. For the position to change for the LGPS, a full 12 week consultation would be required. SAB Guidance on the matter was previously shared with the Board.

Pension Scams and new Restrictions on Transfers

- 72 From 30 November 2021 new regulations ('the Occupational and Personal Pension Schemes Conditions for Transfers Regulations 2021') place greater restrictions on transferring out of the Pension Fund. The new Regulations require the Fund to carry out greater due diligence to protect scheme members from falling foul of Pension Scams.
- 73 The Fund will be required to notify members seeking to transfer out, that the transfer can only proceed if there are no due diligence red flags, or, if the transfer is to a public service scheme, master trust or collective money purchase scheme. The Fund already provides warnings to its scheme members of the risks of pension scams through the Pensions Regulator's 'Scams warning' – a copy of which has previously been provided to the Local Pension Board.
- 74 The Fund has also worked with the Regulator to provide a bespoke warning through the Online Portal. In light of the new Regulations however, Officers have amended the Fund's transfer process to reflect the new requirements. Scheme Members were again warned against scams in 2022 Annual Benefit Statements.

Stronger Nudge

- 75 The government has introduced legislation to ensure that individuals are made aware of 'Pension Wise' guidance as part of the process for taking or transferring Defined Contribution (DC) pension savings. Whilst the LGPS is not a DC Scheme, the legislation is applicable to the Scheme's AVC provision.
- 76 The 'Stronger Nudge' requirement is introduced by the Occupational and Personal Pension Schemes (Disclosure of Information) (Requirements to Refer Members to Guidance etc) (Amendment) Regulations 2022 (SI 2022/30). These 'Nudge' Regulations require the Fund to refer scheme members who are seeking to take or transfer their AVCs to the Pension Wise service.
- 77 The requirement applies to all applications received on or after 1 June 2022 in respect of retirees taking payment of their AVCs, and

those aged over 50 seeking to transfer their AVCs to another DC Scheme. The Fund has amended its processes and paperwork to ensure compliance with the Nudge Regulations. The Fund will offer to book a Pension Wise appointment at a date and time suitable for the scheme member where required. It should be noted that scheme members retain the right to opt out of receiving Pension Wise guidance. Detail of the Fund's compliance has been provided to the Local Pension Board previously.

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Written questions, answers and statements

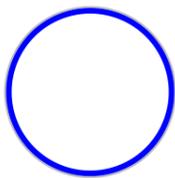
UK Parliament > Business > Written questions, answers and statements > Find written statements > HCWS261

Academy Trust and Local Government Pension Update

Statement made on 21 July 2022

Statement UIN HCWS261

Statement made by

	James Cleverly The Secretary of State for Education Conservative	Commons
	Braintree	

Statement

In 2013, we introduced a guarantee to Local Government Pensions Scheme (LGPS) administering authorities that in the event of the closure of an academy trust any outstanding LGPS liabilities will not revert to the fund.

Although there is no end date to the Guarantee, we committed to undertake assessments at regular intervals to determine whether the guarantee remains affordable and is being fully recognised by LGPS Administering Authorities in their risk assessments of academy schools and the subsequent setting of employer contribution rates.

I can today confirm that we will continue to provide a guarantee to LGPS administering authorities with a new increased annual ceiling of £20m, and a Parliamentary Minute, which sets out the detail of the Guarantee, has been laid in both Houses.

When we first introduced the Guarantee, we agreed annual limits for each financial year based on estimates. We have reviewed all payments the Department has made under the Guarantee policy since 2013 and have set a new annual limit of £20m per annum.

In the three most recent financial years the amounts requested and paid under the Guarantee policy were as follows: 2021/22: £3m, 2020/21: £4m, 2019/20: £11m. Since the Guarantee was introduced, the Department has never reached the set annual limit.

We expect administering authorities to recognise the direct Government backing provided by the Guarantee and continue to treat academies equitably with Local Authority maintained schools when setting employer contribution rates and deficit recovery periods.

The Guarantee provides academy trusts with direct Government backing for certain pension costs which will enable LGPS administering authorities, and I ask you to ensure that this is reflected in this year's scheme valuation, both in the setting of the employer contribution rates and the length of the deficit recovery period.

Statement from

Department for Education	
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Linked statements

This statement has also been made in the House of Lords

Department for Education >

Academy Trust and Local Government Pension Update



[Baroness Barran](#)

The Parliamentary Under Secretary of State for the School System

Conservative, Life peer

Statement made 21 July 2022

HLWS260

Lords

[Home](#) > [Local Government Pension Scheme \(England and Wales\): Governance and reporting of climate change risks](#)

[Department for Levelling Up, Housing & Communities](#)
(<https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities>)

Open consultation

Local Government Pension Scheme (England and Wales): Governance and reporting of climate change risks

Published 1 September 2022

Applies to England and Wales

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Scope of the consultation

Topic of this consultation:

This consultation seeks views on proposals to require Local Government Pension Scheme (LGPS) administering authorities in England and Wales to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).

Scope of this consultation:

DLUHC is consulting on proposals for new requirements on LGPS administering authorities.

Geographical scope:

This consultation applies to England and Wales.

Impact assessment:

The proposed interventions affect the investment of assets by local government pension scheme administering authorities. These authorities are all public sector organisations, so no impact assessment is required.

Body responsible for the consultation:

Department for Levelling Up, Housing and Communities (DLUHC)

Duration:

This consultation will last for 12 weeks from 1 September 2022 to 24 November 2022.

Enquiries:

For any enquiries about the consultation please contact: LGPensions@levellingup.gov.uk

How to respond:

Please respond by completing an [online survey \(https://consult.levellingup.gov.uk/local-government-finance/lgps-england-and-wales-climate-risk/\)](https://consult.levellingup.gov.uk/local-government-finance/lgps-england-and-wales-climate-risk/).

Alternatively, please email your response to the consultation to LGPensions@levellingup.gov.uk.

Alternatively, please send postal responses to:

LGF Pensions Team
Department for Levelling Up, Housing and Communities
2nd Floor
Fry Building
2 Marsham Street
London
SW1P 4DF

When you reply it would be very useful if you could make it clear which questions you are responding to. Additionally, please confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name
- your position (if applicable)
- the name of organisation (if applicable)
- an email address

1. Introduction and summary of proposals

1. Addressing climate change is one of the major challenges we face in the UK and globally. The UK government is a world leader in commitments to transition to a low carbon economy and in 2019 set the target of achieving net-zero greenhouse gas emissions by 2050.

2. Investment in more sustainable projects and activities is essential in order to reduce climate change and to mitigate its impacts. Investors will also need to understand and manage the financial risks and opportunities arising from climate change in order to protect and grow their assets and cashflow.

3. To enable investors to make high-quality decisions and to encourage better pricing and capital allocation in markets, high quality disclosures will be needed regarding how their assets will affect and be affected by climate change.

4. The international Taskforce on Climate-related Financial Disclosures (TCFD) published a set of recommendations in 2017 with the aims of improving assessment, management, and disclosure of climate-related financial risks. In November 2020, the government announced the UK's intention to make TCFD-aligned disclosures mandatory in the UK across the economy by 2025, with a significant portion of mandatory requirements in place by 2023. The joint [Government Regulators Taskforce's Interim Report, and accompanying roadmap](https://www.gov.uk/government/publications/uk-joint-regulator-and-government-tcf-d-taskforce-interim-report-and-roadmap) (<https://www.gov.uk/government/publications/uk-joint-regulator-and-government-tcf-d-taskforce-interim-report-and-roadmap>), published alongside the announcement, sets out an indicative pathway to achieving that ambition.

5. In July 2021, the government went further by announcing its new, economy-wide Sustainability Disclosure Requirements (SDR) regime. This regime will build on the UK's world-leading implementation of the TCFD recommendations and streamline UK sustainability reporting. SDR will be broader than financial risk, extending to environmental impact (including disclosures based on definitions contained in the UK Green Taxonomy), and over time, to factors beyond climate, including broader sustainability factors such as environmental and social considerations.

6. In October 2021, the government published details of the regime, along with an implementation pathway, in its publication [Greening Finance: A Roadmap to Sustainable Investing](https://www.gov.uk/government/publications/greening-finance-a-roadmap-to-sustainable-investing) (<https://www.gov.uk/government/publications/greening-finance-a-roadmap-to-sustainable-investing>). This announced the intention to set up an endorsement and adoption function in the UK for standards issued by the International Sustainability Standards Board (ISSB). Standards issued by the ISSB will not have any legal force in the UK until they have been endorsed and adopted to ensure that the Standards applied in the UK reflect UK circumstances. The government will consult on proposals for a framework to introduce reporting against IFRS Sustainability Disclosure Standards in the UK in due course. SDR for the LGPS is not covered in this consultation but we will work with the Scheme Advisory Board to develop proposals.

Role of the LGPS

7. The LGPS is one of the largest pension schemes in the UK with 6.2 million members and a significant UK and global investor with £342 billion of assets in 2022. It is locally managed and funded by 86 administering authorities (AAs). The primary purpose of LGPS investments is to meet the scheme's long-term pension liabilities by balancing risk and return appropriately. However, the LGPS's scale and market power give it an opportunity to drive change through the investment chain through asset managers to investee companies.

8. AAs are already required to consider factors that are financially material to the performance of their investments, including environmental, social, and corporate governance considerations. They also must have a policy stating how such considerations will be considered in [setting their investment strategy](https://www.legislation.gov.uk/ukxi/2016/946/contents) (<https://www.legislation.gov.uk/ukxi/2016/946/contents>). The aim of the proposals in this consultation document is to build on that position by ensuring that the financial risks and opportunities arising specifically from climate change are properly understood and effectively managed by AAs, and that they report transparently on their approach in line with broader UK policy.

9. The government's view is that the requirements for the LGPS should set as high a standard as for private schemes. We have therefore made the [requirements for private schemes](https://www.gov.uk/government/consultations/taking-action-on-climate-risk-improving-governance-and-reporting-by-occupational-pension-schemes-response-and-consultation-on-regulations/taking-action-on-climate-risk-improving-governance-and-reporting-by-occupational-pension-schemes) (<https://www.gov.uk/government/consultations/taking-action-on-climate-risk-improving-governance-and-reporting-by-occupational-pension-schemes-response-and-consultation-on-regulations/taking-action-on-climate-risk-improving-governance-and-reporting-by-occupational-pension-schemes>) the starting point for our proposals but have aimed to take account of the unique features of the LGPS including its local administration and democratic accountability through the AAs.

10. The [UK Energy Security Strategy](https://www.gov.uk/government/publications/british-energy-security-strategy) (<https://www.gov.uk/government/publications/british-energy-security-strategy>) was published in April 2022 and emphasises the importance of investment in energy by the private sector to improve energy security and support the transition to clean energy. The LGPS has an important role to play as a major investor with a commitment to stewardship and engagement. These proposals seek to support that approach to addressing high carbon emissions and discourage any pursuit of lower emissions through withdrawing investment from energy companies.

Summary of proposals

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11. The new requirements on which we are consulting are discussed throughout this document. For ease, we have summarised the key proposals below.

Area	Proposal
Overall	Each LGPS AA must complete the actions listed below and summarise their work in an annual Climate Risk Report.
Scope and Timing	The proposed regulations will apply to all LGPS AAs. The first reporting year will be the financial year 2023/24, and the regulations are expected to be in force by April 2023. The first reports will be required by December 2024.
Governance	AAs will be expected to establish and maintain, on an ongoing basis, oversight of climate related risks and opportunities. They must also maintain a process or processes by which they can satisfy themselves that officers and advisors are assessing and managing climate-related risks and opportunities.
Strategy	AAs will be expected to identify climate-related risks and opportunities on an ongoing basis and assess their impact on their funding and investment strategies.
Scenario Analysis	AAs will be required to carry out two sets of scenario analysis. This must involve an assessment of their investment and funding strategies. One scenario must be Paris-aligned (meaning it assumes a 1.5 to 2 degree temperature rise above pre-industrial levels) and one scenario will be at the choice of the AA. Scenario analysis must be conducted at least once in each valuation period.
Risk Management	AAs will be expected to establish and maintain a process to identify and manage climate-related risks and opportunities related to their assets. They will have to integrate this process into their overall risk management process.

Area	Proposal
Metrics	<p>AAs will be expected to report on metrics as defined in supporting guidance. The proposed metrics are set out below.</p> <p>Metric 1 will be an absolute emissions metric. Under this metric, AAs must, as far as able, report Scope 1, 2 and 3 greenhouse gas (GHG) emissions.</p> <p>Metric 2 will be an emissions intensity metric. We propose that all AAs should report the Carbon Footprint of their assets as far as they are able to. Selecting an alternative emissions intensity metric such as Weighted Average Carbon Intensity (WACI) will be permitted, but AAs will be asked to explain their reasoning for doing so in their Climate Risk Report.</p> <p>Metric 3 will be the Data Quality metric. Under the Data Quality metric, AAs will report the proportion the value of its assets for which its total reported emissions were Verified*, Reported**, Estimated or Unavailable.</p> <p>Metric 4 will be the Paris Alignment Metric. Under the Paris Alignment Metric, AAs will report the percentage of the value of their assets for which there is a public net zero commitment by 2050 or sooner.</p> <p>Metrics must be measured and disclosed annually.</p>
Targets	<p>AAs will be expected to set a target in relation to one metric, chosen by the AA. The target will not be binding. Progress against the target must be assessed once a year, and the target revised if appropriate. The chosen metric may be one of the four mandatory metrics listed above, or any other climate related metric recommended by the TCFD.</p>
Disclosure	<p>AAs will be expected to publish an annual Climate Risk Report. This may be a standalone report, or a section in the AA's annual report. The deadline for publishing the Climate Risk Report will be 1 December, as for the AA's Annual Report, with the first Climate Risk Report due in December 2024. We propose that scheme members must be informed that the Climate Risk Report is available in an appropriate way.</p>
Scheme Climate Report	<p>We propose that the Scheme Advisory Board (SAB) should prepare an annual Scheme Climate Report including a link to each individual AA's Climate Risk Report (or a note that none has been published) and aggregate figures for the four mandatory metrics. We also propose that a list of the targets which have been adopted by AAs. We are open to views as to whether any other information should be included in the Scheme Climate Report.</p>
Proper advice	<p>We propose to require that each AA take proper advice when making decisions relating to climate-related risks and opportunities and when receiving metrics and scenario analysis.</p>

*This refers to reported emissions calculated in line with the GHG Protocol and verified by a third-party.

**This refers to reported emissions calculated in line with the GHG Protocol without verification by a third-party.

12. The remainder of this chapter sets out the background to the proposals. In chapter 2, the proposed actions to be undertaken by LGPS AAs are discussed, and chapter 3 sets out the disclosure requirements. Chapter 4 discusses other issues, including our proposal for a Scheme Climate Report and the role of the LGPS asset pools. A summary of the consultation questions is at the end of the document.

Background

The TCFD recommendations

13. The TCFD is a global, private sector led group assembled in December 2015 at the instigation of the Financial Stability Board (FSB), an international body that monitors and makes recommendations about the global financial system. Following extensive public consultation, they published their recommended disclosures in June 2017.

14. The recommendations were designed to be adoptable by all organisations, including those inside and outside the financial industry, from asset managers to asset owners, including banks, insurers and pension schemes.

15. The TCFD designed the set of recommendations as a flexible framework for these organisations. The framework is meant to produce decision-useful, forward-looking information on the financial impacts of climate change. It is also meant to accommodate continued rapid evolution in climate-related modelling, management, and reporting.

16. The final report included 11 recommendations. These are split into Governance, Strategy, Risk Management, and Metrics and Targets.

Core elements of recommended climate-related financial disclosures



Governance: The organisation’s governance around climate-related risks and opportunities.

Strategy: The actual and potential impacts of climate-related risks and opportunities on the organisation’s businesses, strategy and financial planning.

Risk Management: The processes used by the organisation to identify, assess and manage climate-related risks.

Metrics and Targets: The metrics and targets used to assess and manage relevant climate-related risks and opportunities.

Benefits of the TCFD recommendations for the LGPS

17. A TCFD-aligned approach to climate risks will offer the opportunity for LGPS AAs to build on the relatively high-level requirements of the [Local Government Pensions Scheme \(Management and Investment of Funds\) Regulations 2016](https://www.legislation.gov.uk/ukxi/2016/946/contents) (<https://www.legislation.gov.uk/ukxi/2016/946/contents>). It permits them to demonstrate how the consideration of climate change risks and opportunities are integrated into the AA’s entire decision-making process.

18. Carrying out scenario analysis, reporting on appropriate metrics that include greenhouse gas emissions, and setting appropriate targets, would provide valuable inputs to inform an AA’s investment strategy. It would also allow AAs to monitor and review progress and to make amendments to the investment strategy where necessary. Disclosing this information would provide greater transparency to members and taxpayers about how their money is being managed.

19. The flexible structure of the TCFD recommendations also allows AAs to continuously improve climate risk governance and reporting in the light of rapidly increasing data quality and completeness and emerging best practice.

20. Many aspects of the tools and data used for climate-related analysis are still in development, but AAs can take substantive action now to address climate risk and to report on it as part of their duties to scheme members, employers and the public. There are already enough data, analysis and tools to effect real change when AAs use the data to manage risks and opportunities.

Comparison with regime for private pension schemes

21. The Department for Work and Pensions (DWP) has already introduced requirements on climate risk management and reporting for private pension schemes, in regulations which came into force on 1 October 2021. Implementation will be staged for private pension schemes. Private schemes with £5 billion or more in assets were immediately in scope, with those with £1 billion or more to follow in October 2022. Schemes with less than £1 billion in assets are not currently covered. The DWP has published [statutory guidance on the requirements \(https://www.gov.uk/government/publications/governance-and-reporting-of-climate-change-risk-guidance-for-trustees-of-occupational-schemes\)](https://www.gov.uk/government/publications/governance-and-reporting-of-climate-change-risk-guidance-for-trustees-of-occupational-schemes).

22. DWP's intention to implement the UK's new Sustainability Disclosure Requirements (SDR) regime for private pension scheme is outlined in [Greening Finance: A Roadmap to Sustainable Investing \(https://www.gov.uk/government/publications/greening-finance-a-roadmap-to-sustainable-investing\)](https://www.gov.uk/government/publications/greening-finance-a-roadmap-to-sustainable-investing). SDR requirements for the LGPS are not covered by this consultation.

23. The proposals set out in this consultation are broadly similar to the requirements for private pension schemes, and encompass the same four areas of governance, strategy, risk management and metrics and targets. However, a key difference is that our proposed requirements will apply to all LGPS AAs from 2023/24 regardless of fund size. Currently the assets held by LGPS funds range from around £0.5 billion to £25 billion with 65 funds holding less than £5 billion and 8 funds holding less than £1 billion.

24. We recognise that larger LGPS funds are likely to have more capacity to meet new requirements than smaller funds. However, our view is that it would not be right to stage implementation within a single pension scheme in which all funds face climate risks, are democratically accountable and subject to high external scrutiny. We also believe that the LGPS asset pools can play a key role in supporting implementation (see discussion in Chapter 4).

25. Another key difference is the proposed requirement to report data quality as a mandatory metric. This aims to help the LGPS use its scale and market power to drive improvements in the quality of emissions data, which will be a critical factor in raising the quality of climate risk management.

Other relevant regulated areas

26. Pension schemes sit at the top of an investment chain, whereby the assets are usually invested in products via a financial intermediary, who may then invest directly in products such as equities. Therefore, schemes rely on high quality data being provided up the chain to produce meaningful climate related disclosures. In preparing these proposals we have been mindful of regulation in other areas which may impact the ability of LGPS AAs to carry out the requirements.

27. The Department for Business, Energy and Industrial Strategy (BEIS) has consulted on TCFD-aligned regulations for certain publicly quoted companies, large private companies, and Limited Liability Partnerships (LLPs). The requirements came into effect in April 2022^[footnote 1].

28. The Financial Conduct Authority (FCA) have introduced a [new listing rule and guidance \(https://www.handbook.fca.org.uk/instrument/2022/FCA_2022_6.pdf\)](https://www.handbook.fca.org.uk/instrument/2022/FCA_2022_6.pdf) which requires commercial companies with a UK premium listing to include a compliance statement in their annual financial report. This statement must indicate whether the company has made disclosures consistent with the recommendations of the TCFD or provide an explanation if it has not done so.

29. In addition, the FCA has introduced TCFD related rules and guidance at the portfolio and entity level for asset managers, life insurers, and FCA-regulated pension providers. This is particularly relevant to the LGPS as some of the LGPS asset pools will be subject to these requirements in their capacity as asset managers.

30. The Pensions Regulator (TPR) also has a role in this area. It has published [guidance intended to help trustees of private sector occupational pension schemes \(https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/funding-and-investment-detailed-guidance/climate-related-governance-and-reporting\)](https://www.thepensionsregulator.gov.uk/en/document-library/scheme-management-detailed-guidance/funding-and-investment-detailed-guidance/climate-related-governance-and-reporting). While TPR has no remit regarding the investments of LGPS funds, their advice and guidance may be useful for LGPS AAs wishing to adopt best practice. In addition, TPR has a role in overseeing the governance of LGPS AAs, which would include the governance requirements outlined here.

31. Our proposals are intended to facilitate consistency across the investment chain and take account of these consultations and requirements by other regulators.

32. Finally, we view these proposals as the first step on the journey to implementing in full the new UK Sustainability Disclosures Regime, [announced by the then Chancellor in July 2021 \(https://www.gov.uk/government/news/chancellor-sets-out-how-uk-financial-services-can-create-prosperity-at-home-and-project-values-abroad-in-first-mansion-house-speech\)](https://www.gov.uk/government/news/chancellor-sets-out-how-uk-financial-services-can-create-prosperity-at-home-and-project-values-abroad-in-first-mansion-house-speech).

2. Proposed requirements

33. The TCFD recommendations cover requirements in four areas: governance, strategy, risk management, and metrics and targets. In this chapter, we discuss how these recommendations can be implemented in the LGPS, taking account of its existing structure and framework. We also set out our proposed requirements for AAs. Proposals on disclosure in relation to each area are discussed in Chapter 3.

34. The proposed requirements relate only to the assets and liabilities in respect of the pension scheme and not to other AA activity. For example, emissions caused by travel to meetings, or office provision, would not need to be disclosed as they are not directly attributable to the assets of the LGPS.

Governance

35. The TCFD recommendations on governance aim to place development of a robust climate governance framework at the centre of an organisation's operations. The framework itself is designed to be adoptable by all organisations and easily translatable into sector-

specific arrangements.

36. For LGPS AAs, however, we believe that the governance requirements in particular may require some adjustment in order to reflect the nature of their existing governance.

37. The role of the AA's scheme manager is broadly similar to that of the board, as described in the TCFD recommendations. The scheme manager of an LGPS AA usually takes the form of a pensions committee, and is assisted by the local pensions board. The scheme manager is accountable for funding strategy, investment strategy, asset allocation, and overall risk management. It will therefore be responsible for the assessment and management of climate risks and opportunities in relation to the investments. The LGPS asset pool in which the AA is a partner, in turn, is responsible for implementation of the investment strategy except in respect of non-pooled assets which remain with the fund.

38. Decisions on investment matters may therefore be taken by the scheme manager, informed by advice from external advisers and officers, or delegated to an officer or to the pool. All have important roles in effectively assessing and managing climate change risk and opportunities, and all will be central to the AA's efforts to fully embed climate risks into their governance processes.

39. The scheme manager will need to appoint properly qualified advisers, fully consider their advice, and take appropriate action in order to address these risks. The committee's officers and advisers and the pool, where appropriate, will need to provide advice which is accessible for non-specialists and adequately addresses climate risks to the fund, bringing in additional expertise where needed. We propose to provide statutory guidance to assist AAs. The role of the LGPS asset pools and knowledge and skills requirements are discussed further in Chapter 4.

40. However, we are not proposing to place any legal duties on individuals, whether officers or advisers, or on the pool. Our proposal is to place new duties on AAs to:

- establish and maintain, on an ongoing basis, oversight of climate related risks and opportunities
- establish and maintain processes by which they can, on an ongoing basis, satisfy themselves that those who undertake climate-related governance activities, advisors, and those who assist the AA (including officers and advisors) with respect to climate related governance are doing so effectively.

Question 1: Do you agree with our proposed requirements in relation to governance?

Strategy

41. The TCFD's recommendations on strategy are intended to promote continuous assessment of the implications of climate change for an organisation's strategy.

42. For AAs, climate risks will be relevant to both their investment and funding strategies. AAs will need to consider what physical and transition risks and opportunities may affect both strategies and over what time periods. These may include a wide range of factors,

including carbon pricing, adoption of new technology or lower carbon alternatives, and extreme weather events.

43. AAs will also need to assess the impacts of the identified risks and opportunities over the same time periods on their strategies. They also need to consider what actions to take in response. The assessment will need to take account of the materiality of the risks, and the liquidity and time horizon of the assets, as well as the cashflow and liabilities of the fund. It will be for the AA to determine the appropriate time periods and to take a view on materiality of risks taking account of these factors.

44. We propose to provide statutory guidance to assist AAs to identify risks and opportunities, and to assess the impacts, including consideration of factors to be taken into account.

45. Our proposal is to place new duties on AAs to:

- identify, on an ongoing basis, climate-related risks and opportunities that will impact the investment and funding strategy of the AA, over the short, medium and long term.
- assess, on an ongoing basis, the impact of the identified risks and opportunities on the AA's investment and funding strategy.

Question 2: Do you agree with our proposed requirements in relation to strategy?

Scenario analysis

46. The TCFD recommends that organisations undertake scenario analysis in order to improve the quality of strategies. It recommends that organisations consider credible, distinctive, and relevant scenarios for the future path of climate change and that they test the assessment of impacts and the proposed actions against these scenarios.

47. Scenario analysis is particularly relevant to AAs seeking to assess the medium- and long-term impacts of climate change on their assets, liabilities and strategies. These longer-term potential impacts, as well as sudden events such as climate tipping points, may not be captured by traditional risk management, particularly where there are high levels of uncertainty. Scenario analysis can also help to create and maintain strategies which take full account of climate risks and opportunities.

48. We recognise that at present the use of climate scenarios is still new and that current assumptions and methodologies vary. Data quality and availability may also be a problem particularly for some asset classes. Nevertheless, we expect the development of expertise, methodologies, and data to accelerate rapidly in the next few years and hope to see greater consensus in the future.

49. We therefore propose that regulations would require AAs to conduct scenario analysis as far as they are able to. This analysis may be qualitative or quantitative, but we would expect AAs to carry out quantitative analysis where possible and to expand the assets covered by quantitative analysis as quickly as possible.

50. We also propose to provide statutory guidance on scenario analysis to assist AAs, including guidance on dealing with missing or poor-quality data and other barriers. We would expect AAs to aim to do the best scenario analysis that they can, and to aim to

improve their scenario analysis over time.

51. The TCFD also recommends that organisations consider a range of climate scenarios, including a scenario based on global temperatures increasing by 2°C or lower over pre-industrial levels. The 2° or lower scenario is important because this level of temperature rise is believed to limit catastrophic physical risks such as flooding and droughts, but there may still be significant short term transition risks due to changes to policy, technology and markets. Scenarios based on higher temperature rises may see more impacts from physical risks both in the short and long term, with lower transition risks.

52. We therefore believe that AAs must consider two or more climate-related scenarios, at least one of which must be a scenario of 2°C or lower temperature rise. AAs will need to assess their assets and liabilities, and their investment and funding strategies against these scenarios.

53. Investment and funding decisions are made triennially in accordance with the valuation cycle. As scenario analysis should feed into these decisions, we recommend that it is incorporated into the valuation cycle and carried out at least every three years. In the interim years, AAs should consider whether a new scenario analysis should be carried out to reflect any changes in the fund. In a normal year, where there have been only minor changes in the scheme, we would not expect AAs to repeat scenario analysis given it is a substantial piece of work.

54. We propose to place a new duty on AAs to:

- assess their assets, liabilities, investment strategy and funding strategy against climate risks and opportunities in at least two climate scenarios. This assessment must include at least one scenario based on a global temperature rise of 2°C or lower on pre-industrial levels. This assessment must occur at least once every valuation cycle. In interim years, AAs must consider whether any changes in the fund have been substantial enough to require scenario analysis to be repeated.

Question 3: Do you agree with our suggested requirements in relation to scenario analysis?

Risk management

55. The TCFD's recommendations aim to ensure that risk management in relation to climate risks is rigorous, comprehensive, and fully integrated into wider risk management.

56. In line with the TCFD recommendations, we propose that regulations require that AAs identify and assess their fund's exposure to climate-related risks and take action to manage the risks identified. This will include consideration of both physical and transition risks and the materiality of those risks, as well as proximity and likelihood.

57. This means having effective processes for identifying climate-related risks and opportunities, and assessing their likely impact on assets, liabilities, investment and funding strategies. We propose that guidance will support AAs in ensuring they have the most appropriate processes in place and that they consider the full range of relevant factors and types of risk and opportunity.

58. AAs will already have risk management processes in place to manage investment risks. We therefore propose to require AAs to integrate these climate-related processes in their existing risk management processes. AAs may also wish to identify, assess and take action on climate-related opportunities, and integrate the consideration of these opportunities in their risk management. We propose to provide statutory guidance to assist AAs.

59. Our proposed requirements are for AAs to:

- Establish and maintain processes for the purpose of enabling them to identify and assess climate-related risks.
- Establish and maintain processes for the purpose of enabling them to effectively manage climate-related risks.
- Ensure, on an ongoing basis, climate-related risk management processes are integrated into their overall risk management.

Question 4: Do you agree with our proposed requirements in relation to risk management?

Metrics

60. The TCFD recommends that organisations select and disclose metrics to assess and monitor climate risks and opportunities over time. This section discusses the various metrics under consideration.

61. We propose to require AAs to measure and disclose four metrics: Total Carbon Emissions, Carbon Footprint, Data Quality and a Paris Alignment Metric. Total Carbon Emissions and Carbon Footprint both use emissions which can be divided into Scope 1, 2 and 3. The metrics relate to assets held by the AA in respect of paying benefits, not to other activity carried out by the AA such as travel.

Scope 1, Scope 2 and Scope 3 emissions

62. Scope 1 emissions are all direct emissions from the activities of an organisation or activities under its control. These emissions include fuel combustion on site such as gas boilers.

63. Scope 2 emissions are indirect emissions from electricity purchased and used by the organisation. Emissions are created during the production of the energy which is eventually used by the organisation.

64. Scope 3 emissions are all other indirect emissions from activities of the organisation, occurring from sources that they do not directly control. These are sometimes the greatest share of a carbon footprint, covering emissions associated with business travel, procurement, production of inputs, use of outputs, waste, and water.

65. Scope 1 and Scope 2 emissions are much more widely available and reliable statistics, which are highly desirable features in understanding an asset's carbon exposure. Scope 3 emissions are less widely reported, and when they are reported, they are often calculated on an approximate basis.

66. For many assets, Scope 3 will be by far the largest single category of emissions, and therefore excluding Scope 3 would significantly underreport total emissions. Excluding Scope 3 emissions will also favour some industries such as online retailers which have low Scope 1 and 2 but high Scope 3 emissions.

67. Therefore, in including Scope 3 emissions in reporting there is a trade-off. Reporting a figure which includes Scope 3 emissions is subject to more inaccuracy than Scopes 1 and 2. However, we propose to require reporting on all three types of emission as this gives the fullest picture of carbon exposure.

Absolute emissions metric: Total carbon emissions

68. Absolute emissions metrics measure the overall carbon emissions attributable to the fund's invested assets. A figure for total carbon emissions enables the AA to set a baseline for climate action and to understand the scale of the climate impact of its investments. Without a clear baseline, AAs cannot assess the impact of different scenarios.

69. We propose to require AAs to obtain, as far as they are able to Scope 1, Scope 2 and Scope 3 GHG emissions for the fund's assets – that is, the pension scheme's financed emissions. These are the emissions referred to as category 15 (investment emissions) in the [Greenhouse Gas \(GHG\) Protocol Technical guidance \(https://ghgprotocol.org/scope-3-technical-calculation-guidance\)](https://ghgprotocol.org/scope-3-technical-calculation-guidance). This measure is referred to as Total Carbon Emissions.

70. We propose that Scope 1, Scope 2 and Scope 3 emissions should be recorded separately and that the sum of the three should also be reported. Therefore, four figures should be reported to comply with the Total Carbon Emissions Metric.

71. There are different methodologies for attributing carbon emissions to investments. We propose to clarify the appropriate methodology in supporting guidance.

72. We propose that Total Carbon Emissions is calculated and reported annually via the Climate Risk Report (see Chapter 3).

73. The Total Carbon Emissions should be reported at the level of the whole of the fund. That is, it should be the total of the carbon emissions of all of the investments it holds. If the AA wishes, they may wish to consider the Total Carbon Emissions for each of its investments separately as well, as doing so may give the AA a clearer picture of where its carbon exposures lie. However, investment level reporting is not required in the annual Climate Risk Report.

Emissions intensity metric: Carbon footprint

74. Absolute emissions are a useful baseline to assess the fund's overall carbon exposure. However, they are hard to compare across assets and across funds, because larger investments naturally will have larger emissions.

75. We therefore propose that an Emissions Intensity Metric is calculated in addition. This should be calculated by dividing the Total Carbon Emissions by the total assets held by the fund for which data was available or estimated. This calculation we refer to as Carbon Footprint.

76. Carbon Footprint is easier to interpret as it does not depend on the size of the investment. A disadvantage of this metric however is that an increase in market ^{Page 59} capitalisation or revenue, all else being equal, will result in a decrease in the AA's emissions

per £ million invested.

77. As explained above, using Scope 1 and 2 emissions only produces a more reliable but less complete picture of carbon exposure. We propose that Carbon Footprint is reported for Scope 1, Scope 2 and Scope 3 emissions, in each case calculated as Scope X Emissions divided by Assets for which Scope X emissions were available or estimated.

78. We propose that Carbon Footprint is calculated and reported annually via the Climate Risk Report (see Chapter 3).

79. We propose that only the top-level figure at the whole fund level is required to be produced and reported by AAs.

80. We propose that funds should report Carbon Footprint, however if they cannot do so they should report another similar metric such as Weighted Average Carbon Intensity. In these cases, the administering authority should explain why they have done this.

Data quality and the data quality metric

81. The lack of available data is a commonly reported pitfall when schemes seek to calculate the TCFD's emissions metrics. Few, if any, AAs will be able to obtain full underlying data to allow the calculation of metrics across their whole fund at present.

82. Where gaps in data do exist, it should be regarded as preferable to use modelling or estimation to fill them, rather than to leave them unaddressed or reporting as null. Beginning with estimated or proxy data can help identify carbon-intensive areas within investments. This also serves as a benchmark for asset-specific data points as and when they become available. AAs may choose to calculate metrics and set targets only for assets for which reliable data can be found. AAs may also request that service providers analyse their funds using market average techniques and assumption-based modelling.

83. We regard the inevitable gaps in data as being an important part of the challenge AAs face. We believe that the level of certainty in the data should be understood by those making decisions and should also be visible externally.

84. We also believe that the LGPS can play its part in increasing data availability and quality through increasing transparency on data quality and by adopting metrics consistent across the LGPS and private pension schemes. We therefore propose that regulations require that AAs obtain data on data quality as far as they are able and calculate a data quality metric. We also propose that guidance should set out how AAs should assess and disclose the quality and availability of data.

85. We propose that AAs should state the percentage of the value of their assets for which emissions have been Verified, Reported, Estimated or are Unavailable.

86. "Verified" and "Reported" are defined as data produced using the methodology for reporting and verifying carbon emissions given in the GHG protocol. Data can be verified by an independent third party, not necessarily an audit firm. "Estimated" includes data which has been estimated, for example using industry averages or modelling based on assumptions.

87. Where an asset has associated emissions data but the data quality as defined above cannot be confirmed, then it should be classed as estimated. "Unavailable" means that emissions data was unavailable, not that confirmation of the data quality was unavailable.

88. The data quality metric should be reported for Scope 1, Scope 2 and Scope 3 emissions separately.

89. The data quality metric on its own does not replace proper scrutiny of data. Examples of this include data which is “reported” but may not have been reported recently and it may not be completely clear whether emissions relate to a whole company or a subsection of it. “Unknown” data may be known to the company but not submitted to investors. AAs are encouraged to ask questions of their fund managers to be effective stewards of their data. Third party firms may be used to investigate and summarise issues such as these into an overall narrative to be included in the Climate Risk Report.

90. We propose that only the top-level figure for each Scope of emissions is required to be produced and reported by AAs in the Climate Risk Report.

Paris alignment metric

91. The TCFD’s guidance recommends that financial institutions should describe the extent to which their activities are aligned with a well-below 2°C scenario (i.e. with the goals of the Paris agreement), which is consistent with net zero carbon emissions by 2050. 92. We propose to introduce a requirement that the LGPS AAs should report a Paris Alignment Metric in line with the TCFD’s recommendation.

93. Paris Alignment Metrics look at the future trajectory of emissions, whereas Total Carbon Emissions and Carbon Footprint only measure emissions which have already taken place. Forward-looking metrics such as Paris Alignment are more useful for active decision making than historic ones. They will be key to investors robustly assessing and reporting their portfolios’ alignment with their own climate goals and may help address exposure to transition risk. They are also useful for plotting trends over time.

94. There are multiple ways to report Paris Alignment Metrics, which are explored in the Portfolio Alignment Team’s [Measuring portfolio alignment: Technical Considerations](https://www.tcfhub.org/wp-content/uploads/2021/10/PAT_Measuring_Portfolio_Alignment_Technical_Considerations.pdf) (https://www.tcfhub.org/wp-content/uploads/2021/10/PAT_Measuring_Portfolio_Alignment_Technical_Considerations.pdf), which was commissioned by the TCFD. This states that financial institutions should use whichever portfolio alignment tool best suits their institutional context and capabilities, and describes three main types of portfolio alignment metrics, as follows:

- binary target measurements: This tool measures the alignment of a portfolio with a given climate outcome based on the percentage of investments in that portfolio that either have declared net zero/Paris-alignment targets or are already net zero/Paris-aligned.
- benchmark divergence models: These tools assess portfolio alignment by comparing the forecast emissions performance of investments or counterparties in the portfolio against benchmarks.
- implied temperature rise (ITR) models: these tools translate an assessment of alignment with a benchmark into a measure of the consequences of that alignment in the form of a temperature score.

95. These metrics are ambitious and if calculated reliably can create an extremely useful picture of a fund’s climate risks. ITR in particular links a portfolio to a specific climate outcome in a way which is scientific, incentivises action and is comprehensible to the lay audience.

96. The main problem with Paris Alignment Metrics is data, as in most cases only limited or approximate data is available. At best this means only a partial view is possible, and at worst it can create a false picture of the true exposure of a fund by over- or underestimating the metric.

97. However we believe that an imperfect metric will still be useful. Calculating ITR will be useful for funds to understand their carbon trajectories. Moreover, the more funds choose to calculate the ITR the faster the data will improve.

98. The LGPS has a responsibility to its members, employers and the public, and the Government considers it important that publicly accessible data is accurate and as useful as possible. In addition, it is useful for funds to report consistently with each other and for the results to be possible to aggregate into an overall scheme view for the LGPS.

99. We regard the Binary Target Measure to be the most appropriate for the LGPS at this point having taken these factors into account. It is simple to understand while still providing useful insights, and less subject to the data issues which exist for the other metrics. As data improves, the Government may change its approach to reflect this, and we encourage the LGPS and the sector to take a lead in promoting the most useful metrics.

100. Therefore, we propose that all AAs should report the percentage of their total assets with declared net zero or Paris-aligned targets. This is the Binary Target Measurement described above.

101. We also encourage AAs to calculate other Paris Alignment Metrics which they consider to be useful in managing their climate risks. We note that it is not only the commitment to net zero but also the pathway towards net zero which dictates Paris-alignment. For instance, a company may have made a net zero commitment, but still be making insufficient emissions reductions in the short term. For this reason, AAs should consider whether collecting and reporting an additional Paris Alignment Metric would be useful.

102. We propose that only the top-level figure at the whole fund level is required to be produced and reported by AAs.

Other metrics

103. We have proposed requirements for four metrics. However, we do not intend to limit the range of additional and more ambitious metrics AAs may select. The Government encourages AAs to calculate other metrics which are endorsed by the TCFD, such as Climate Value at Risk (VAR)^[footnote 2].

Guidance and regulation

104. We propose that the requirement to publish metrics is set out in regulations, but that the metrics themselves are defined in statutory guidance. This has the advantage that as metrics become more available and accurate over time, changes may be made to update the metrics without amending regulations.

Summary of metrics proposals

105. We propose to require AAs to calculate and report the following metrics:

- Metric 1 (absolute emissions metric) - Total Carbon Emissions, which includes the Scope 1, 2 and 3 emissions reported separately, as well as the sum of the three.

- Metric 2 (emissions intensity metric) - Carbon Footprint. This is Carbon Emissions divided by the total assets of the fund to which the data relates. It should be calculated separately for Scope 1, Scope 2 and Scope 3 emissions.
- Metric 3 (data quality metric) – the percentage of assets for which Scope 1, 2 and 3 emissions are verified, reported, estimated or unavailable, in line with the GHG Protocol.
- Metric 4 (Paris Alignment Metric) – the percentage of the fund’s assets for which a public Paris aligned commitment has been made, i.e. net zero by 2050.

106. We also propose to recommend in statutory guidance that AAs consider whether they wish to calculate any other climate related metrics recommended by the TCFD in order to inform assessment of climate risks.

Question 5: Do you agree with our proposed requirements in relation to metrics?

Targets

107. The TCFD recommends that organisations set targets based on the metrics they select, including a target date, baseline and performance indicators, in order to focus efforts on managing climate risk.

108. The metrics proposed support AAs to assess the current climate risks and opportunities to their assets. Targets will assist AAs to take the next step to set their strategy for managing climate risks and opportunities to the fund and to measure their progress, as well as increasing accountability.

109. We therefore propose that regulations require at least one target to be set either for one of the mandatory metrics listed above or another TCFD-endorsed metric. This additional metric may be one of the more ambitious climate-related metrics, such as Climate VAR or Implied Temperature Rise, but must be limited to metrics endorsed by the TCFD or any of the mandatory metrics.

110. We also propose that AAs should be required to measure and report performance against their targets annually, as far as they are able, as for the requirement on obtaining data. This recognises that measuring and disclosing performance is dependent on data provided by others in the investment chain, in the same way as the requirement to obtain data for metrics. In order to ensure that targets are used and kept up to date, AAs will also be required to consider annually whether to continue with the target or replace it. We propose to provide statutory guidance to assist AAs.

111. Our proposed requirements for AAs are:

- AAs must set a target for their fund in relation to one of the metrics which they have selected. The target may be in relation to one of the mandatory metrics (absolute emissions, emissions intensity, data quality or Paris alignment), or any other climate-related metric endorsed by the TCFD which the AA chooses.
- AAs must annually measure, as far as they are able, the performance of their fund against the target they have set and taking into account that performance, determine whether the target should be retained or replaced.

112. There is no expectation that AAs should set targets which require them to divest or invest in a given way, and the targets are not legally binding.

Question 6: Do you agree with our proposed requirements in relation to targets?

As far as able

113. We propose that AAs must carry out scenario analysis, obtain data, calculate, and use metrics and measure performance against AA-set targets 'as far as they are able'. This means that AAs are expected to take all reasonable and proportionate steps given costs and time constraints. However, we recognise that there will inevitably be some gaps in the work produced, and while we would expect AAs to do as much as they can we recognise that some elements are outside of their control. Therefore, where authorities are not able to comply with these proposals, they must include in their report both the areas and reasons where they are not able to comply in full.

114. The requirement for AAs to comply as far as they are able will enable them to produce metrics for only part of the portfolio or using estimation or incomplete data sets. This will still be decision-useful information for AAs. The urgency of climate change means that the AAs cannot wait until they have perfect data before they start putting it to use.

Ongoing and annual duties

115. We distinguish between ongoing and discrete duties. For duties which are regular discrete events such as reporting, we have proposed specific time intervals for AAs to follow. Ongoing duties on the other hand are those which do not take place as a distinct event but a continuous requirement. For example, AAs should always be managing the risks of the fund, and so we would think of risk management as an ongoing requirement. In practice, we recognise that these requirements will be considered at regular intervals as well, but the requirement itself would be ongoing.

116. All duties are ongoing, except requirements to conduct scenario analysis, calculate metrics, and set and review performance against targets.

117. Scenario analysis must be carried out in the reporting year 2023/24 and at least every three years thereafter. In the intervening years, AAs should review whether circumstances have changed enough to refresh their analysis. This decision should take account of availability of data, or a significant change in investment or funding strategy. AAs should explain in their Climate Risk Report whether they have carried out a new analysis, and if not give a short explanation as to why.

118. Underlying data for metrics and targets must be obtained, the metrics calculated, and performance against targets measured, at least annually.

3. Reporting on climate risks

119. High quality reporting on climate risks is central to the TCFD's recommendations. The aim is to enable stakeholders to understand as fully as possible their climate exposures and the AA's approach to addressing those risks, in the short, medium and long term.

Transparency will also enable users of the reports to measure and monitor current performance against targets and the planned trajectory and to assess the implications for future performance.

120. To achieve these aims in the LGPS, reporting will need to be clear, comprehensive and consistent, as well as timely, verifiable and comparable across the sector, in line with the TCFD's principles for effective disclosure^[footnote 3]. This chapter sets out our proposals ensuring that reporting both at AA and at scheme level meets these standards, and delivers proper accountability to members, locally and across the scheme.

Annual climate risk report

121. We propose that each AA publishes a Climate Risk Report every year, at the same time as the AA's annual report is published – i.e. 1 December for the reporting year which ended the previous 31 March. Once published, the Climate Risk Report must be easily and freely accessible online and members must be informed of where to find it. In addition, links to each AA's Climate Risk Report will be included in the Scheme Climate Report and may be shown on the Scheme Advisory Board's (SAB) website. The Climate Risk Report may be a constituent part of the AA's Annual Report, or a standalone report.

122. This means that the first report for the year 2023/24 must be available by 1 December 2024.

123. The Climate Risk Report should be accessible to two distinct types of user: specialist and non-specialist. The Climate Risk Report will contain detailed and useful data, and we hope that the metrics, targets and scenario analysis in particular will be important resources for specialist audiences. This role of the Climate Risk Report may require it to be technical in content, and dense with information.

124. In addition, various non-specialist stakeholders including scheme members, members of the public and other parties will also need to be considered. The Climate Risk Report should include enough information to be understood by the lay reader.

125. The AA will have to decide on how best to approach these dual requirements. One approach is to split the Climate Risk Report into two sections: a body and a short executive summary. The executive summary would be written to explain the AA's approach and high-level findings to the lay reader. This allows the body of the Climate Risk Report to be technical as is useful to specialist audiences. We regard this as a very effective way to address this balance, although other approaches would also be valid.

126. We would like to stress that the narrative provided in the Climate Risk Report will be as valuable as the data for most audiences. Metrics by themselves are difficult to interpret for the lay reader.

127. For example, differences in an AA's investment allocation, such as its strategic allocations between the main asset types will affect its carbon emissions. Moreover, a high carbon exposure or poor alignment with the Paris climate goals may be managed by effective stewardship and engagement from the AA. AAs should ensure that messages such as these are presented in a way to help the lay reader interpret the report and understand the fund's strategy towards managing the risks from climate change.

128. It is important that the report must be easily accessible to scheme members on the AA's website and via an internet search. We propose that AAs must at least inform members of the Climate Risk Report and how to find it when they issue their annual benefit

statements. This does not necessarily mean including wording in the annual benefit statement itself.

129. Climate Risk Reports should be produced in line with the [Local government transparency code 2015](https://www.gov.uk/government/publications/local-government-transparency-code-2015/local-government-transparency-code-2015) (<https://www.gov.uk/government/publications/local-government-transparency-code-2015/local-government-transparency-code-2015>).

130. We propose that the Climate Risk Report must include the following information:

Area	Disclosure Requirement
Governance	<p>Describe the AA's oversight of climate-related risks and opportunities</p> <p>Describe the role of any person other than the scheme manager who undertakes relevant governance activities and the process by which the committee satisfy themselves that this is being done</p> <p>Describe the role of any person who (other than a legal advisor) advises the scheme manager on relevant governance activities and the process by which the committee satisfies itself that adequate steps are being taken</p>
Strategy	<p>Describe the climate-related risks and opportunities which the scheme manager has identified</p> <p>Describe the scheme manager's definition of short term, medium term and long term</p>
Scenario Analysis	<p>Describe the most recent scenarios the scheme manager has analysed</p> <p>Describe the impact of the climate-related risks and opportunities on the AA's investment and funding strategies</p> <p>Describe the potential impacts on the AA's assets and liabilities which the AA has identified in the most recent scenarios and the reason for any data which is missing from the analysis</p> <p>Describe the resilience of the AA's investment and funding strategies in the most recent scenarios the AAs have analysed</p>
Risk Management	<p>Describe the processes which the AA has established for identifying and assessing climate-related risks to their fund</p> <p>Describe the processes which the AA has established for managing climate-related risks to the AA</p> <p>Describe how these processes are integrated into the AA's overall risk management</p>
Metrics	<p>Report the metrics which the AA has calculated (or an explanation as to why these were not possible to calculate)</p>

Area	Disclosure Requirement
Targets	Report the target which the AAs have set and the performance of the AA against that target.

Question 7: Do you agree with our approach to reporting?

Scheme climate risk report

131. In addition to the Climate Risk Reports published by each AA, we are proposing an annual Scheme Climate Risk Report to provide an overview of the LGPS and climate risks, produced by the Scheme Advisory Board (SAB). Such an overview would be useful for scheme members and other stakeholders. It would also enable the LGPS to demonstrate progress and impact, and showcase good practice.

132. We therefore propose as a minimum that the Scheme Climate Risk Report would include links to each AA's Climate Risk Report and the four aggregated metrics for the whole LGPS.

133. In relation to metrics, we propose that Total Carbon Emissions and Carbon Footprint should be calculated and reported at an aggregate level. This would involve a simple sum of Total Carbon Emissions for Aggregate Total Carbon Emissions. In order to calculate Aggregate Carbon Footprint, this would be calculated as Aggregate Total Carbon Emissions divided by the overall size of the LGPS investment portfolio for which total emissions are at least estimated. This would be done separately for Scope 1, Scope 2 and Scope 3 emissions.

134. When reporting the data quality metric, each AA must report the proportion of its assets for which overall emissions data is: Verified, Reported, Estimated or Unavailable. One reason that we have proposed this metric is that it can be aggregated across AAs. As risk management is a key objective of TCFD reporting, we believe that visibility of data quality, which is essential to the understanding of risk, will be a useful way to measure progress. Therefore, we propose to show overall data quality in the Scheme Climate Report, whereby the LGPS's entire assets will be divided into verified, reported, estimated and unknown.

135. We propose that the SAB reports on an aggregate Paris Alignment Metric based on AA level reports. This would show the proportion of the value of the whole LGPS's assets for which there is a net zero commitment in line with the Paris goals.

136. In the above paragraphs we have outlined our minimum proposals for the Scheme Climate Risk Report. In addition, we are inviting views about whether emissions, data quality and Paris-alignment metrics for each AA should be shown in the Scheme Climate Risk Report.

137. Emissions and data quality metrics will already be available in the Climate Risk Reports published by each AA and it will be possible to make comparisons between AAs. AAs may be concerned about being compared unfairly, and may fear that this may lead to pressure to reduce emissions through divestment. There is no expectation from Government that AAs should reduce emissions via divestment.

138. We recognise that transparency is an important feature of the LGPS's approach to managing climate risks. It is important for all those to whom the Scheme is accountable have easy access to climate-related information.

139. We do not propose to include any aggregate data on the scenario analysis requirement. This is because scenario analysis may be very difficult to aggregate in a meaningful way.

Question 8: Do you agree with our proposals on the Scheme Climate Risk Report?

4. Other issues

140. This chapter deals with a number of other issues relevant to the implementation of the TCFD recommendations in the LGPS.

The role of the LGPS asset pools

141. Since 2015, 8 LGPS pools have been set up with the aim of securing the benefits of scale including more professional management, reduced investment costs, increased net returns, improved resilience, and access to a wider range of assets, including infrastructure. Many of the pools have developed significant capabilities in relation to climate risks and responsible investment more broadly.

142. As of March 2021 around 80% of the Scheme's assets are either pooled, in a transition plan to be pooled, or have some oversight by their pool, although the proportion varies widely across AAs and across pools. For pooled assets, we expect that the pools will be able to provide data, calculate metrics and carry out scenario analysis on these assets where that data is available. There are differing views on the extent to which pools will be able to deliver these services for assets that are not held by the pool, especially where there are already contracts with data providers in place. Some pools will already be able to provide advice on data, metrics and scenario analysis and other relevant issues or will wish to develop or jointly commission such advice.

143. In this landscape there is potential for a multiplicity of different analyses and reports to be required on the same LGPS assets. Pool operators are required to report on climate risks in relation to pooled assets by the Financial Conduct Authority. If AAs' strategies significantly differ it will be resource intensive for their pool to produce analysis for them.

144. We expect to see this issue reduce in importance over time as more assets transition into the pools. AAs which have transferred close to 100% of their assets excluding cash to their pools would be able to use the analyses conducted by their pool for their own purposes. AAs could also minimise this issue by aligning their strategies and targets within their pool and ensuring as shareholders that the pool's strategy also aligns with that of the partner AAs. This would enable AAs to commission their pool to conduct analyses for both pooled and non-pooled assets on a consistent basis with the pool's own reporting. Both completing transition and aligning strategies would also have significant wider benefits for costs and performance through delivering greater scale.

Question 9: Do you have any comments on the role of the LGPS asset pools in delivering the requirements?

Guidance and reporting template for administering authorities

145. DLUHC intends to provide high level statutory guidance to accompany changes to regulations. This will include guidance relating to the governance activities required of AAs and the Climate Risk Report. We have also asked the SAB to produce more detailed operational guidance.

146. The SAB will also be asked to produce a standard template which AAs will be required to follow in producing their Climate Risk Report. This will help AAs to comply with the requirements, and help to ensure that the Scheme Climate Risk Report is as comprehensive and consistent as possible.

Question 10: Do you agree with our proposed approach to guidance?

Knowledge, skills and advice

147. It is important that individuals making decisions in response to climate-risk management processes have the adequate skills and information to make choices. While we will not be imposing any legal requirement on an individual's knowledge and skills, we wish to promote best practice in our approach. It is important to note that scheme managers are not expected to be technical experts in climate science or climate finance. However, a base knowledge regarding climate risks will be necessary in order to, for example, interpret the results of scenario analysis.

148. Firstly, we propose to require that AAs must take proper advice regarding assessing and managing climate risks. This should help the scheme manager, who may not be a technical expert to take proper account of climate risks in setting their investment strategy and asset allocation.

149. AAs will need to satisfy themselves that the advice is high quality and provided by appropriately qualified people. We welcome views as to how this may be practically ensured. We welcome responses on whether and how pools could jointly procure expert advice for their partner funds.

Question 11: Do you agree with our proposed approach to knowledge, skills and advice?

Consideration of impact on protected groups

150. Section 149 of the Equality Act 2010 requires Government to have due regard to the potential impact of new decisions, policies or policy changes on particular groups with protected characteristics and to avoid disproportionate negative impacts (the public sector equality duty).

151. We have made an initial assessment under the duty and do not believe there would be impacts on protected groups from the proposals in this consultation, as they do not affect member contributions or benefits. We have considered whether the reporting requirements could give rise to negative impacts on certain groups with protected characteristics and

believe they would not. However, administering authorities and the Scheme Advisory Board are also subject to the public sector equality duty and we would expect them to take steps to ensure compliance with the duty, including that their reports under these proposals are available in accessible formats.

Question 12: Do you have any comments on the impact of our proposals on protected groups and on how any negative impacts may be mitigated?

Summary of consultation questions

This section contains a summary of the questions contained above, for ease.

Question 1: Do you agree with our proposed requirements in relation to governance?

Question 2: Do you agree with our proposed requirements in relation to strategy?

Question 3: Do you agree with our suggested requirements in relation to scenario analysis?

Question 4: Do you agree with our proposed requirements in relation to risk management?

Question 5: Do you agree with our proposed requirements in relation to metrics?

Question 6: Do you agree with our proposed requirements in relation to targets?

Question 7: Do you agree with our approach to reporting?

Question 8: Do you agree with our proposals on the Scheme Climate Risk Report?

Question 9: Do you have any comments on the role of the LGPS asset pools in delivering the requirements?

Question 10: Do you agree with our proposed approach to guidance?

Question 11: Do you agree with our proposed approach to knowledge, skills and advice?

Question 12: Do you have any comments on the impact of our proposals on protected groups and on how any negative impacts may be mitigated?

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 and UK data protection legislation). In certain circumstances this may therefore include personal data when required by law.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the information access regimes and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Levelling Up, Housing and Communities will at all times process your personal data in accordance with UK data protection legislation and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included below.

Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure \(https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities/about/complaints-procedure\)](https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities/about/complaints-procedure).

Personal data

The following is to explain your rights and give you the information you are entitled to under UK data protection legislation.

Note that this section only refers to personal data (your name, contact details and any other information that relates to you or another identified or identifiable individual personally) not the content otherwise of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Department for Levelling Up, Housing and Communities (DLUHC) is the data controller. The Data Protection Officer can be contacted at dataprotection@levellingup.gov.uk or by writing to the following address:

Data Protection Officer
Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

We will collect your IP address if you complete a consultation online. We may use this to ensure that each person only completes a survey once. We will not use this data for any other purpose.

Sensitive types of personal data

Please do not share special category personal data or criminal offence data if we have not asked for this unless absolutely necessary for the purposes of your consultation response. By 'special category personal data', we mean information about a living individual's:

- race
- ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- genetics
- biometrics
- health (including disability-related information)
- sex life; or
- sexual orientation.

By 'criminal offence data', we mean information relating to a living individual's criminal convictions or offences or related security measures.

3. Our legal basis for processing your personal data

The collection of your personal data is lawful under article 6(1)(e) of the UK General Data Protection Regulation as it is necessary for the performance by DLUHC of a task in the public interest/in the exercise of official authority vested in the data controller. Section 8(d) of the Data Protection Act 2018 states that this will include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department i.e. in this case a consultation.

Where necessary for the purposes of this consultation, our lawful basis for the processing of any special category personal data or 'criminal offence' data (terms explained under 'Sensitive Types of Data') which you submit in response to this consultation is as follows. The relevant lawful basis for the processing of special category personal data is Article 9(2)(g) UK GDPR ('substantial public interest'), and Schedule 1 paragraph 6 of the Data Protection Act 2018 ('statutory etc and government purposes'). The relevant lawful basis in relation to personal data relating to criminal convictions and offences data is likewise provided by Schedule 1 paragraph 6 of the Data Protection Act 2018.

4. With whom we will be sharing your personal data

We will not be sharing your data with any organisation outside of the Department for Levelling Up, Communities and Housing.

5. For how long we will keep your personal data, or criteria used to determine the retention period

Your personal data will be held for two years from the closure of the consultation.

6. Your rights, e.g. access, rectification, restriction, objection

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have your data corrected if it is incorrect or incomplete
- d. to object to our use of your personal data in certain circumstances
- e. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/> (<https://ico.org.uk/>), or telephone 0303 123 1113.

Please contact us at the following address if you wish to exercise the rights listed above, except the right to lodge a complaint with the ICO: dataprotection@levellingup.gov.uk or

Knowledge and Information Access Team
Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making

9. Your personal data will be stored in a secure government IT system

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1. [The Companies \(Strategic Report\) \(Climate-related Financial Disclosure\) Regulations 2022](https://www.legislation.gov.uk/ukxi/2022/31/contents/made) (<https://www.legislation.gov.uk/ukxi/2022/31/contents/made>); [The Limited Liability Partnerships \(Accounts and Audit\) \(Application of Companies Act 2006\) Regulations 2008](https://www.legislation.gov.uk/ukxi/2008/1911/contents) (<https://www.legislation.gov.uk/ukxi/2008/1911/contents>).

2. Value at Risk measures a funds exposure to a worst-case scenario.
3. TCFD's principles for effective disclosure: 1. Disclosure should represent relevant information; 2. Disclosure should be specific and complete; 3. Disclosure should be clear, balanced and understandable; 4. Disclosure should be consistent over time; 5. Disclosure should be comparable among companies within a sector industry or portfolio; 6. Disclosure should be reliable, verifiable and objective; and 7. Disclosure should be provided on a timely basis.

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Local Pension Board

15 September 2022

Pension Administration Report



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report briefs the Board on the Fund's pension administration and service provision to members, as well as providing an update on key performance information.

Executive summary

- 2 Pension administration services have been provided to members uninterrupted since lockdown and working from home guidance. Communication with members has continued through the provision of the Fund's Telephone and Online Services. During the period following lockdown, the Fund paid benefits to 1,774 retirees.
- 3 In the final quarter of 2022/23, 218 retirement cases were processed with 98.62% of those retirees receiving a statement within 10 days of the team receiving the necessary information. This report seeks to provide the Board an overview of pension administration performance.

Recommendation(s)

- 4 The Board is asked to note the report.

Background

- 5 This report provides an update to the Board on pensions administration performance, its key communications with members, and any issues impacting the service provided to scheme members.

Key Performance Indicators (KPIs)

- 6 Included in Appendix 1 are a number of Performance Indicators, with the aim of making the Board aware of administration performance in key areas. Reporting is included for the first quarter of 2022/23, ie. up to 30 June 2022. The data covers services to members in respect of retirement, deferment (leaving scheme before pension payable), Helpline support, and Online services.
- 7 Additionally, as the Fund develops enhancements to its KPI reporting to the Local Pension Board, data is now included for both Transfers and Estimates. These KPIs reflect how quickly a scheme member receives details of their cash-equivalent transfer value and projection of estimated retirement benefits respectively.
- 8 In the first quarter, the administration team processed 218 retirement cases. Measured in line with the Disclosure requirement of providing scheme members a statement containing retirement information within one months of retirement, the Fund met this target in 86.24% of the 218 cases. The majority of failures were as a result of late information from Fund employers. In respect of performance within the administration team's control, the Fund provided a statement containing retirement benefit information within 10 days of receiving all required information in 98.62% of cases in the quarter.
- 9 In respect of deferment cases, in line with Disclosure requirements the Fund provided 356 early leavers information as to their rights and options available. Of the 356 deferment cases, 99.16% of these cases were within one month of the Fund being notified of an early leaver.
- 10 The Fund received 39 requests for transfer-out information during quarter one. Of these requests, 100% of scheme members were provided information as to the transfer rights and options available to them within one month. Furthermore, the administration team provided a quotation of the cash-equivalent transfer value to which a member is entitled in respect of 100% requests within three months.
- 11 In respect of Estimates, the Fund received 2,785 requests for a statement of estimate pension entitlement in the quarter. It should be noted that the vast majority of these requests are transacted through

the Fund's online Portal. Of 2,785 requests in the quarter, 100% were provided within two months of the initial request.

- 12 During the first quarter, the pension administration team received 1,558 telephone calls to the Fund's Helpline. Of these calls, the team answered 99.40% of scheme members' calls first time. In respect of Online services for members, 16,955 members have registered for the Fund's Pensions Online portal, where 22,688 online calculations have been completed, 12,431 changes have been transacted and 2,193 secure messages have been sent.
- 13 Recognising the key role played by the Fund's participating employers in delivering services to members, the Fund recently commissioned training tailored for those employers. The three training sessions provided an overview of Fundamental Employer Responsibilities, Ill Health Retirements, and Pensionable Pay respectively. 90 places were booked by employers across the three sessions. Feedback from the sessions has been positive.

Services to members during Lockdown

- 14 From the beginning of the covid-19 crisis and UK lockdown, the pension administration team worked from home. During that time, the Fund's Telephone Helpline, Pensions Online Portal and email inbox were available to members uninterrupted. Since commencing working from home, the team processed 1,774 retirements (lump sums paid, new pensioner payroll records created), benefits were paid to 1,282 bereaved families, and 392 transfers were paid in or out.
- 15 From mid-September 2021 the Team returned to the office on a hybrid basis but in line with work from home guidance, the Team returned to home-based working in mid-December 2021. The Fund's teams have again returned to the office on a hybrid basis and continue to deliver services on a business-as-usual basis.

Prudential

- 16 Members of the LGPS are able to increase their benefits through an Additional Voluntary Contribution (AVC) facility. As such, each Administering Authority is required to have arrangements with an AVC provider (often an insurance company or building society). Durham County Council Pension Fund offers its members two providers: Prudential and Standard Life.
- 17 It was reported to the Board previously, that one of those providers, Prudential, has recently introduced a new ICT system across its business. The implementation has resulted in delays for members who have invested through Prudential. In particular, claims for cash at

retirement, and the processing of contributions had been delayed. Board Members were previously provided with a copy of communications received from Prudential.

- 18 The Fund is cautiously optimistic of improvement in the service received. Whilst issues remain with scheme members reporting extensive waiting times to their calls to Prudential., performance overall has improved with scheme members' contributions being allocated more quickly and remaining up to date. Disinvestment timescales have also improved and are currently within the 30-day SLA. Although the Fund received delayed accounting information for 20-21, the accounting information for 21-22 has been received on time.
- 19 Both the Pensions Regulator (nationally) and External Auditor (locally) have been made aware of the issues. Prudential have recently written to the Local Government Association (LGA) with an update on the national position – a copy of which was previously shared with the Local Pension Board. Officers continue to monitor the situation and will continue to feedback to the Board.

Scheme Member Annual Communications

- 20 All Annual Benefit Statements for both Active and Deferred members of the Scheme were made available ahead of the statutory deadline of 31 August 2022. Unless a member has opted out of the service, the Statements were be made available through the Fund's Pensions Online portal. A paper copy was provided to the small number of members who have opt-ed out.
- 21 At the request of the Local Pension Board, a customer satisfaction survey was included in the Annual Benefit Statements sent to both active and deferred members. The outcome of the survey will be shared with Board members in due course. A copy of the Annual Benefit Statement is included in Appendix 2.
- 22 In April the Fund wrote to all of its c21,000 pensioners to notify those members of the annual increase. The letters were made available through the Fund's Pensions Online portal, and like Annual Benefit Statements, paper copies were posted to those who have opt-ed out of the online service. In addition to the rate of increase, important information for LGPS pensioners and topical relevant information was included. A copy of the Pensions Increase letter was previously shared with the Board.

Author(s)

Paul Cooper

Tel: 03000 269798

Appendix 1: Performance Indicators

Performance to 30 June 2022

Category	Performance Indicator	Cases in Quarter	Performance in Quarter	Total Cases in 2021-2022	Performance in 2022-2023	Performance in 2021-2022
Retirements – Disclosure	Within two months of retirement provide a statement containing retirement benefit information.	218	86.24%	218	86.24%	86.65%
Retirements – in Fund's control	Within 10 days of receiving all required information provide a statement containing retirement benefit information.	218	98.62%	218	98.62%	98.99%
Deferments - Disclosure	Within one month of being notified of a leaver, provide that member information as	356	99.16%	356	99.16%	86.70%

	to the rights and options available.					
Transfers Out – Disclosure	Within one month of a request, provide that member information as to the transfer rights and options available.	39	100%	39	100%	-
Transfers Out – Quotation	Within three months of a request, provide a quotation of the cash equivalent transfer value to which a member is entitled.	39	100%	39	100%	-
Estimates	Within two months of a request, provide a statement of estimated pension entitlement online or in writing.	2,785	100%	2,785	100%	-
Telephone Helpline	Calls from Scheme Members answered first time	1,558	99.40%	1,558	99.40%	98.47%

Category	Performance Indicator	Total Registrations to date	Total Online Calculations Completed by Scheme Members	Total Changes Transacted Online by Scheme Members	Secure messages sent by Scheme Members Online
Online Portal	Total Registrations, and Activity through Pensions Online portal (https://pensionsonline.durham.gov.uk/)	16,955	22,688	12,431	2,193

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Contact: Pensions
Telephone: 03000 264322
Email: pensions@durham.gov.uk
Your Ref:
Our Ref: [REDACTED]



[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

Local Government Pension Scheme (LGPS) Annual Statement of Benefits at 31 March 2022

I am pleased to provide your Annual Benefit Statement for 2022. Included is the value of your benefits as at 31 March 2022 and a projection of the value of your benefits at your Normal Pension Age.

As you may be aware, from 1 April 2014 the LGPS changed from a Final Salary Scheme (FS) to a Career Average Revalued Earnings Scheme (CARE). Each calculation method has different definitions of pensionable pay, different membership rules and different rates for building up your benefits. If you have membership on or before 31 March 2014, your statement shows the breakdown of benefits in both schemes.

Please note the figures shown in the statement are **not guaranteed** and should not be used to make any final decision on drawing your benefits. When you decide to leave the scheme your employer will provide us with a detailed breakdown of your pay which we will use to calculate your final benefits.

If you have any questions regarding the benefits shown, please contact the pensions team via our online portal www.durham.gov.uk/pensionsonline or telephone 03000 264 322.

Yours Sincerely

P. Cooper

Paul Cooper

Head of Pensions

Please ensure the following details are correct as at 31 March 2022 as any inaccuracies may affect your calculations. Please contact us regarding any inaccuracies.

PERSONAL DETAILS

Name: [REDACTED]

Date of Birth: [REDACTED]

NI Number: [REDACTED]

Partnership status: [REDACTED]

Date joined scheme: [REDACTED]

Career Average Revalued Earnings (CARE)

Main section pay £ [REDACTED]

50/50 section pay £ [REDACTED]

This is the actual pay you received and paid pension contributions on from 1 April 2021 to 31 March 2022.

Please check and contact your **employer** if you think that the figures shown are not accurate. It is particularly important to check the figures if you receive enhancements or any variable element of pay.

Final Salary (if service prior to 1st April 2014 exists)

Pensionable Pay as at 31 March 2022 £ [REDACTED]

Membership as at 31 March 2014 [REDACTED] years [REDACTED] days

The Pensionable pay used in the final salary scheme is your full-time equivalent salary.

Please check and contact your **employer** if you think that the figures shown are not accurate. It is particularly important to check the figures if you receive enhancements or any variable element of pay.

Your actual benefits will be based on your final salary figures which will be provided and checked at the time you leave the scheme.

Please do not use the figures on this statement as definitive information to base any financial decisions on, the figures are not guaranteed and should only be used as an indication of benefits

Value of benefits as at 31 March 2022

Section of Scheme: Main Section

CARE Pension Build up (post 1 April 2014 service)

Opening Balance	£	████████
1.7% Cost of living adjustment	£	██████
Main Section 01/04/21-31/03/22	£	████████
50/50 Section 01/04/21-31/03/22	£	██████
Additional Pension Purchased	£	██████
Transfers in	£	██████
'Scheme Pays' Deduction	£	██████
CARE Divorce Debit	£	██████
Closing Balance	£	████████

Since 2014 each year 1/49th of your main section pay (1/98th of 50/50 section pay if applicable) is added to your pension account. At the end of each year, your pension account is adjusted in line with the cost of living.

Final Salary Benefits (pre 1 April 2014 service)

Annual Pension	£	████████
Lump Sum	£	████████

Pre 2014 benefits are calculated using membership and final fulltime equivalent salary.

Annual Pension = $1/80 \times \text{membership at 31 March 2008} \times \text{final pay} + 1/60 \times \text{membership from 1 April 2008} \times \text{final pay}$

Lump sum = $3/80 \times \text{membership to 31 March 2008} \times \text{final pay}$

Total Value of your benefits at 31 March 2022

Annual Pension £ ██████████

Lump Sum £ ██████████

Survivor's Pension £ ██████████

Upon retirement you have the option of reducing your annual pension in exchange for a one off lump sum. Based on the above the maximum conversion would give you.

Reduced Annual Pension £ ██████████

Maximum Lump Sum £ ██████████

These figures represent the value of your benefits in the scheme at 31 March 2022 and do not include any early retirement reductions which could be applied if you leave the scheme before your normal retirement age.

The figures are net of completed deductions incurred from Scheme Pays tax charges and Court Order (Divorce) debits. Benefits can be taken anytime between 55 and 75, an actuarial adjustment will be applied if taken before or after Normal Pension Age. Reductions may be waived under current rules at age 55 or over if you leave on redundancy or business efficiency grounds, or at any age if you are assessed as being eligible to retire on the grounds of permanent ill health.

Please note the above figures do not include any Additional Voluntary Contributions (AVCs) which you may have been paying.

Projected benefits if you continue to contribute until your Normal Pension Age (NPA)

Your NPA is the age when you can draw your benefits without reduction, under current rules the date of your NPA is [REDACTED].

Under the CARE scheme NPA is linked to State Pension Age (SPA) (with a minimum age of 65), this means your NPA may change if the Government changes SPA.

You can check your SPA at www.gov.uk/state-pension-age

The NPA for Final Salary benefits differs, for most people this will be age 65.

If your NPA in the CARE scheme differs from that in the Final Salary scheme an actuarial increase for the period between dates is included in the projections. This is based on current factors and may differ to those in place when benefits are drawn.

The projections are based on your earnings at 31 March 2022 and do not assume any inflation or cost of living adjustments. The predictions assume you remain in the Main Section of the scheme until NPA. The figures are net of completed deductions incurred from Scheme Pays tax charges and Court Order (Divorce) debits. **CARE Benefits at Normal Pension Age**

Annual Pension £ [REDACTED]

Final Salary Benefits at Normal Pension Age

Annual Pension £ [REDACTED]

Lump Sum £ [REDACTED]

Total Value of your benefits at Normal Pension Age

Annual Pension £ [REDACTED]

Lump Sum £ [REDACTED]

Survivor's Pension £ [REDACTED]

You may opt to reduce your annual pension to provide for a larger tax free lump sum.

For every £1 of annual pension given up you will receive £12 tax free lump sum.

Under current regulations if you exchanged the maximum amount your benefits could be:

Reduced Annual Pension £ [REDACTED]

Maximum Lump Sum £ [REDACTED]

Please note that the maximum tax free lump sum that can be taken by any scheme member is £268,275, amounts over this will incur a tax charge.

Benefits payable in the event of Death in Service:

Lump Sum Death Grant: £ [REDACTED]
Survivor's Pension £ [REDACTED]

If you die in service, a Death Grant of three times your assumed pensionable pay may be payable.

This will generally be paid to either the person (or people) nominated on your 'Expression of Wish' form, or, to your next of kin if you have not completed a form.

You can view and update your nomination details at any time via the member portal at www.durham.gov.uk/pensionsonline

If you have not registered for the portal, and wish to make or amend a nomination, forms are available at www.durham.gov.uk/lgps (under LGPS forms).

The LGPS automatically provides a pension for your husband, wife, registered civil partner, co-habiting partner (subject to conditions) and for eligible children* on your death.

*eligible children are children who at the date of your death are:

- under 18 and wholly or mainly dependent on you, or,
- aged over 18 and under 23, dependent on you, and in full-time education or training or undertaking vocational training, or,
- in some cases a dependent child of any age with a disability may be classed as an eligible child.

The survivor benefits shown in this statement are calculated on the basis of the current partnership status held, no survivor pension (other than for eligible children) is payable if a member is single or does not have an eligible cohabiting partner.

The calculation for survivor benefits is:

- Pre-2014 element = $1/160^{\text{th}}$ x membership at 31 March 2014** x final pay
- CARE element = $1/160^{\text{th}}$ of the pensionable pay you received in each year plus, an enhancement equal to $1/160^{\text{th}}$ of your assumed pensionable pay for each year of membership you would have built up from your date of death to your Normal Pension Age.

**Please note that the survivor benefit payable to a surviving pre-leaving spouse or civil partner is based on all membership, the survivor benefit payable to:

- an eligible cohabiting partner will not include any membership before 6 April 1988
- a widow of a male member who married after leaving the scheme, a survivor of a same sex marriage if the marriage occurred after leaving, or a civil partner of a post leaving civil partnership will not include any pre-6 April 1978 membership
- a widower of a female member who married after leaving will not include any pre-6 April 1988 membership

Increasing Your Pension Benefits

If you wish to increase your LGPS benefits you can do so in the following ways:

Additional Pension Contributions (APCs) – APCs allow you to buy extra pension (up to a maximum of £7,352) which will be added to your annual pension each year. The cost of buying extra pension varies with age and the length of time the contributions are paid over. For more information, please visit www.lgpsmember.org/more/apc/index.php

Additional Voluntary Contributions (AVCs) – You can pay AVCs to one of the fund's two AVC providers (Standard Life or Prudential). With AVCs you can choose how much to pay and when to start and stop payments. This will build up a pot of money that can be used upon your retirement. For information about the ways you can use your AVC plan see the national LGPS website - www.lgpsmember.org/more/AVCOptions.php

If you would like more information about AVCs from Standard Life you can visit their website www.standardlifepensions.com/lgps Alternatively you can call **0345 2798831** (9am to 5pm weekdays calls are charged at local rates and may be recorded for training purposes.).

If you would like more information about AVCs from Prudential please call Pension Connection on **0800 7310466** or email durhamavc@prudential.co.uk with your daytime phone number for a call back to discuss your options. Pension Connection are open 9am to 6pm weekdays, calls are charged at local rates and may be recorded for training purposes. You can also visit the Prudential website <https://www.mandg.com/pru/workplace-pensions/employees/public-sector-avc-schemes/local-gov>

Reducing Your Pension Contributions

The LGPS offers you the flexibility to pay half your normal contribution rate and build up half your normal pension whilst retaining full life and ill-health cover. This is called the 50/50 section of the LGPS. It is designed to help members stay in the scheme, building up valuable pensions benefits during times of financial hardship.

The 50/50 section is designed to be a short-term option, your employer is required re-enrol you back into the main section of the scheme approximately every three years on a re-enrolment date set by them. You are also able to revert back to the main section of the LGPS at any time by informing your employer in writing. You can obtain an election form to do this from either your employer or online at <https://www.durham.gov.uk/article/2540/Local-Government-Pension-Scheme-forms>.

If you are in the 50/50 section and your pay is reduced to zero because of sickness, your employer will move you back into the main section of the scheme from the next pay period (if your pay is still zero). This will also apply if your pay reduces to zero during a period of ordinary maternity and adoption leave (usually the first 26 weeks) or paternity leave.

Pensions Online

The Durham County Council Pension Fund's online member portal is now active and available for registration and use. The pensions team hope that you will enjoy the benefits that the portal offers, including:

- View your salary and service details
- Update your personal and nomination information
- Get a quick 'snapshot' of your potential future benefits
- Run retirement quotes
- View and download your Annual Benefit Statements

If you have not yet registered, you can do so by visiting www.durham.gov.uk/pensionsonline

Satisfaction Survey

We are always working to improve our service to you and would like to know what's working well and what we can do better. Please help us by completing our Customer Satisfaction Survey at the following link <https://online1.snapsurveys.com/DCCPension>

Normal Minimum Pension Age Increase from 2028

The Finance Act 2022 makes provision to increase the Normal Minimum Pension Age (NMPA) from age 55 to age 57 from 6 April 2028. The Act provides for protected pension ages for members who meet entitlement conditions. The government will need to change the LGPS rules to align with the NMPA at some point on or before 6 April 2028. It will also need to consider whether LGPS members who qualify for protection will be allowed to receive payment before 57. We will provide more information when the intended changes to the LGPS are known.

McCloud judgement

When the LGPS changed from a final salary to a career average pension scheme in 2014, protections for older scheme members were introduced. Similar protections were provided in other public sector pension schemes. The Court of Appeal ruled that younger members of the Judges' and Firefighters' Pension schemes have been discriminated against because the protections do not apply to them. The Government has confirmed that there will be changes to all of the main public sector schemes, including the LGPS, to remove this age discrimination. This ruling is often called the 'McCloud judgment'.

Regulations are required to remove the discrimination from the LGPS and are not expected before 2023. This means it has not been possible to reflect the impact of the judgment in your annual benefit statement this year. If you qualify for protection, it will apply automatically - **you do not need to make a claim**. For more information, see the [frequently asked questions on the national LGPS website at https://www.lgpsmember.org/help-and-support/frequently-asked-questions/?faq-type=mccloud-court-case](https://www.lgpsmember.org/help-and-support/frequently-asked-questions/?faq-type=mccloud-court-case).

LGPS videos - Pensions made simple

The Local Government Authority (LGA) have developed a series of short, easy to understand videos explaining various elements of the LGPS. Links to the videos can be found within the Pensions Online portal www.lgpsmember.org/more/videos

Beware of Pensions Fraud

If you are considering leaving the Scheme to transfer your LGPS benefits you need to guard against Pension Liberation Fraud (also known as pension scams).

Anyone can be the victim of a pension scam, no matter how financially aware they think they are. It's important that everyone can spot the warning signs. Scammers try to persuade pension savers to transfer their entire pension savings, or to release funds from it, by making promises they have no intention of keeping. The pension money is often invested in unusual, high-risk investments.

Many scammers can also persuade savers to transfer their money into single member occupational schemes, or other occupational pension schemes. Scammers will sometimes promise savers early access to their pension pot through loans or 'loopholes'. Savers could lose all their money and face a high tax bill from HM Revenue and Customs (HMRC) if they withdraw their pension savings before the age of 55.

All pension savers should speak to an independent adviser authorised by the Financial Conduct Authority (FCA) before making a transfer. In the LGPS you may be required to do so.

Please read the Pensions Regulator's booklet to find out more, available online at the following link: <https://www.thepensionsregulator.gov.uk/en/pension-scams>

General Data Protection Regulation

The Durham County Council Pension Fund is a Data Controller under the General Data Protection Regulation (GDPR). This means we store, hold and manage your personal data in line with statutory requirements to enable us to provide you with pension administration services. To enable us to carry out our statutory duty, we are required to share your information with certain bodies. However, we will only do so in limited circumstances. For more information about how we hold your data, who we share it with and what rights you have to request information from the Fund, a copy of our corporate privacy statement is available at www.durham.gov.uk/dataprivacy

County Durham – Help with your money

At a time of rising costs for many households, you can find financial help and support information online at www.durham.gov.uk/helpwithyourmoney

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[Contributions, dashboards, data and transfers](#) >

Pensions dashboards: initial guidance

1. Overview
2. [When your scheme needs to connect with dashboards](#)
3. [Connecting to pensions dashboards](#)
4. [Matching people with their pensions](#)
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7. [Preparing to connect: checklist](#)
8. [Stay in touch with developments](#)

Overview

[Watch our dashboards webinar on YouTube](#)

Get dashboards ready with this recorded webinar hosted by The Pensions Regulator and the Pensions Dashboard Programme

Published: 22 June 2022

Last updated: 20 July 2022

 [See all updates](#)

As a pension trustee or scheme manager, you will need to connect with and supply pensions information to savers through dashboards.

There will be significant work involved in successfully connecting to pensions dashboards. Regardless of your connection deadline, we strongly advise you to start preparing as soon as possible.

This initial guidance is based on [draft regulations consulted on by the Department for Work and Pensions](#) and the subsequent consultation response published in July 2022. We will publish updated guidance later in the year, which will reflect the final regulations and the standards being developed by the Money and Pensions Service (MaPS). Our guidance will also evolve in light of industry's experience with dashboards.

Dashboards duties will apply to the trustees or scheme managers of registrable occupational pension schemes with 100 or more active and / or deferred members and non-registrable public service pension schemes, unless the scheme's main administration is outside Great Britain. It is anticipated that equivalent regulations will be made for Northern Ireland in due course.

The Financial Conduct Authority (FCA) will make corresponding rules for FCA-regulated pension providers in respect of personal and stakeholder pension schemes.

It is expected that pension schemes, starting with master trusts, will be required to connect to dashboards from August 2023.

Pensions dashboards

Pensions dashboards are digital services — apps, websites or other tools — which savers will be able to use to see their pension information in one place. This includes information on their State Pension. Pensions dashboards will not show pensions that are already being paid.

A saver will use dashboards to search the records of all pension schemes to confirm whether or not they are a member. They will be able to see information themselves or can authorise a qualified third party ('delegate') to see it. For simplicity in this guidance we use 'member' to refer to all dashboards users.

Dashboards aim to help members plan for retirement by:

- finding their various pensions and reconnecting them with any lost pension pots
- understanding the value of their pensions in terms of an estimated retirement income

MaPS will develop and host its own pensions dashboard on the MoneyHelper website. Other organisations will also be able to develop and host their own dashboards, subject to approval and regulation by the FCA.

For pensions dashboards to work, MaPS is building a system which will connect pensions dashboards to pension schemes. You can [find out more about the dashboards system on the MaPS website](#).

Your role and legal duties

Under current proposals, you will be required to:

- register your scheme with MaPS and [connect to dashboards by a specific deadline](#)
- receive personal information on members, and search and [match members to their pensions](#) ('find requests')
- [provide members with information about their pension](#) through the dashboard of their choosing upon request ('view requests')
- co-operate with MaPS when preparing to connect, maintain records and report certain information to us and MaPS

You will need to do all of the above in compliance with standards published by MaPS and having regard to guidance issued by MaPS and / or TPR.

Many of the processes and practicalities of dashboards are still in development and we will update our guidance over time. [Find out more about how to stay up to date with developments](#).

Working with advisers and providers

You will need to work with several organisations to get connected to dashboards. Typically, it will involve your administrator, software providers, actuary and legal advisers. It could also include employers (to improve the availability and quality of personal data) and external data suppliers (for example additional voluntary contribution (AVC) providers if you do not hold full details of the AVC entitlement with the main scheme information).

Talk to them as soon as you can about their dashboards plans and how they can support you. Early engagement will help them plan their workload and improve their ability to support you.

You may need to procure new services or update your supplier contracts. This will take time and may hold up your preparations if you do not address this early.

The dashboards duties apply to trustees and scheme managers. While you can use third parties to help you meet your duties, you will ultimately remain accountable for ensuring that your scheme is connected to dashboards on time and that you are (and remain) compliant with the requirements. You will need to be available to make any decisions required for your suppliers to progress their work and you should put in place robust ways to monitor this progress. Where they are supporting other clients with similar connection deadlines, make sure they have enough capacity to deliver.

For more information, see our guidance on [the selection, appointment, management and replacement of any suppliers](#).

[Next](#) >

When your scheme needs to connect with dashboards

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Local Pension Board

15 September 2022

Procedure for Reporting Breaches



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report provides the Committee with a copy of the Fund's Procedure for Reporting Breaches in relation to the Durham County Council Pension Fund and provides an overview of its operation.

Executive summary

- 2 Individuals with a role in the LGPS have a duty to report breaches of law when they reasonably believe that a relevant legal duty is not being complied with and that failure is likely to be of material significance to the Pensions Regulator.
- 3 As such, the Pension Fund has developed a procedure for dealing with breaches, including a record to log both material and non-material breaches. Periodic reporting to the Local Pension Board will be provided to ensure oversight of the Fund's breach management.

Recommendation(s)

- 4 The Local Pension Board is asked to note the report, including the attached Reporting Breaches Procedure, and provide any comments on the approach outlined;
- 5 Agree to receive periodic reporting on Pension Fund breaches.

Background

- 6 There is a requirement for those with a role in administering or overseeing the Local Government Pension Scheme (LGPS) – including Committee members, Local Pension Board members and Officers – to report breaches of the law to the Pensions Regulator when they have reasonable cause to believe a breach of ‘material significance’ has occurred.
- 7 The Fund has set out a procedure (enclosed in Appendix 1) which explains how and when breaches, or suspected breaches, should be reported and recorded. The procedure takes into account the guidance on the subject provided by the Pensions Regulator. Pensions Regulator guidance is included in Appendix 2.

Procedure for Reporting Breaches

- 8 All individuals with a role in the LGPS have a duty to report breaches of law when they have reasonable cause to believe that:
 - (a) A legal duty relevant to the administration of the scheme has not been, or is not being, complied with; and
 - (b) The failure to comply is likely to be of material significance to the Pensions Regulator.
- 9 Breaches can potentially take place in relation to a wide variety of tasks associated with the administering a pension scheme such as record keeping, internal controls and benefit calculation, as well as making decisions relating to investments.
- 10 In line with guidance issued by the Pensions Regulator, the Fund has developed a policy and procedure for ensuring those responsible for reporting can identify, assess and report (or record, if not reported) a breach of law relating to the Pension Fund.
- 11 The procedure includes examples of potential breaches and a flowchart showing the process to following in determining whether to report or merely record a suspected breach. The procedure also includes an example breaches record. The Local Pension Board will be provided with periodic reporting of breaches – material breaches will also be reported to the Pension Fund Committee.
- 12 A review of the Fund’s effectiveness of the Fund’s management of breaches will be carried out by the Council’s Internal Audit.

Author(s)

Paul Cooper

Tel: 03000 269798

Durham County Council Pension Fund

Reporting Breaches Procedure

1. Introduction

1.1 This document sets out the procedure to be followed by certain persons involved with the Durham County Council Pension Fund ('the Pension Fund'), the Local Government Pension Scheme managed and administered by Durham County Council ('the Council') in relation to reporting breaches of the law to the Pensions Regulator.

1.2 Breaches can occur in relation to a range of tasks associated with the administrative function of a pension scheme such as keeping records, internal controls, calculating benefits and making investment or investment-related decisions.

1.3 This procedure applies to:

- The scheme manager (the Council in its capacity as administering authority to the Pension Fund)
- all members of the Council's Local Pension Board;
- all members of the Council's Pension Fund Committee
- all Council officers involved in the administration or management of the Pension Fund;
- any professional advisers including auditors, actuaries, legal advisers and fund managers;
- officers of employers participating Pension Fund who are responsible for pension matters; and
- any person otherwise involved in advising the Council in relation to the Pension Fund.

2. Requirements

2.1 This section clarifies the full extent of the legal requirements and to whom they apply.

2.2 Pensions Act 2004

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement on the following persons:

- a trustee or manager of an occupational or personal pension scheme;
- a person who is otherwise involved in the administration of such a scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme;
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme

to report a matter to The Pensions Regulator as soon as reasonably practicable where that person has reason to believe that:

- a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- b) the failure to comply is likely to be of material significance to The Pensions Regulator.

The Act states that a person can be subject to a civil penalty if he or she fails to comply with this requirement without a reasonable excuse. The duty to report breaches under the Act overrides any other duties the individuals listed above may have. However, the duty to report does not override 'legal privilege'. This means that, generally, communications between a professional legal adviser and their client, or a person representing their client, in connection with legal advice being given to the client, do not have to be disclosed.

2.3 The Pension Regulator's Code of Practice

Practical guidance in relation to this legal requirement is included in The Pension Regulator's Code of Practice including in the following areas:

- implementing adequate procedures.
- judging whether a breach must be reported.
- submitting a report to The Pensions Regulator.
- whistleblowing protection and confidentiality.

3 Reporting Breaches Procedure

The following procedure details how individuals responsible for reporting and whistleblowing can identify, assess and report (or record if not reported) a breach of law relating to the Pension Fund. It aims to ensure individuals responsible are able to meet their legal obligations, avoid placing any reliance on others to report. The procedure will also assist in providing an early warning of possible malpractice and reduce risk.

3.1 Clarification of the law

Individuals may need to refer to regulations and guidance when considering whether or not to report a possible breach. Some of the key provisions are shown below:

- Section 70(1) and 70(2) of the Pensions Act 2004:
- <http://www.legislation.gov.uk/ukpga/2004/35/section/70>
- Employment Rights Act 1996:
www.legislation.gov.uk/ukpga/1996/18/contents
- Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (Disclosure Regulations):
www.legislation.gov.uk/uksi/2013/2734/contents/made
- Public Service Pension Schemes Act 2013:

www.legislation.gov.uk/ukpga/2013/25/contents

- Local Government Pension Scheme Regulations (various):
<http://www.lgpsregs.org/timelineregs/Default.html> (pre 2014 schemes)
<http://www.lgpsregs.org/index.php/regs-legislation> (2014 scheme)
- The Data Protection Act 2018, the UK's implementation of the General Data Protection Regulation (GDPR): <https://www.gov.uk/data-protection>
- The Pensions Regulator's Code of Practice:
<http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx>

In particular, individuals should refer to the section on 'Reporting breaches of the law', and for information about reporting late payments of employee or employer contributions, the section of the code on 'Maintaining contributions'.

Further guidance and assistance can be provided by the Council's Head of Pensions provided that requesting this assistance will not result in alerting those responsible for any serious offence (where the breach is in relation to such an offence).

3.2 Clarification when a breach is suspected

Individuals need to have reasonable cause to believe that a breach has occurred, not just a suspicion. Where a breach is suspected the individual should carry out further checks to confirm the breach has occurred. Where the individual does not know the facts or events, it will usually be appropriate to check with the Council's Corporate Director of Resources or Head of Pensions, a member of the Pension Fund Committee or Local Pension Board or others who are able to explain what has happened. However there are some instances where it would not be appropriate to make further checks, for example, if the individual has become aware of theft, suspected fraud or another serious offence and they are also aware that by making further checks there is a risk of either alerting those involved or hampering the actions of the police or a regulatory authority. In these cases The Pensions Regulator should be contacted without delay.

If the suspected breach relates to potential fraud within an organisation, individuals should also be aware of any procedures relating to fraud that they should follow within their organisation and consider whether the breach should also be reported under those procedures. If the suspected breach relates to a possible data breach within an organisation, individuals should consider whether they also need to follow the data breach policy within their organisation.

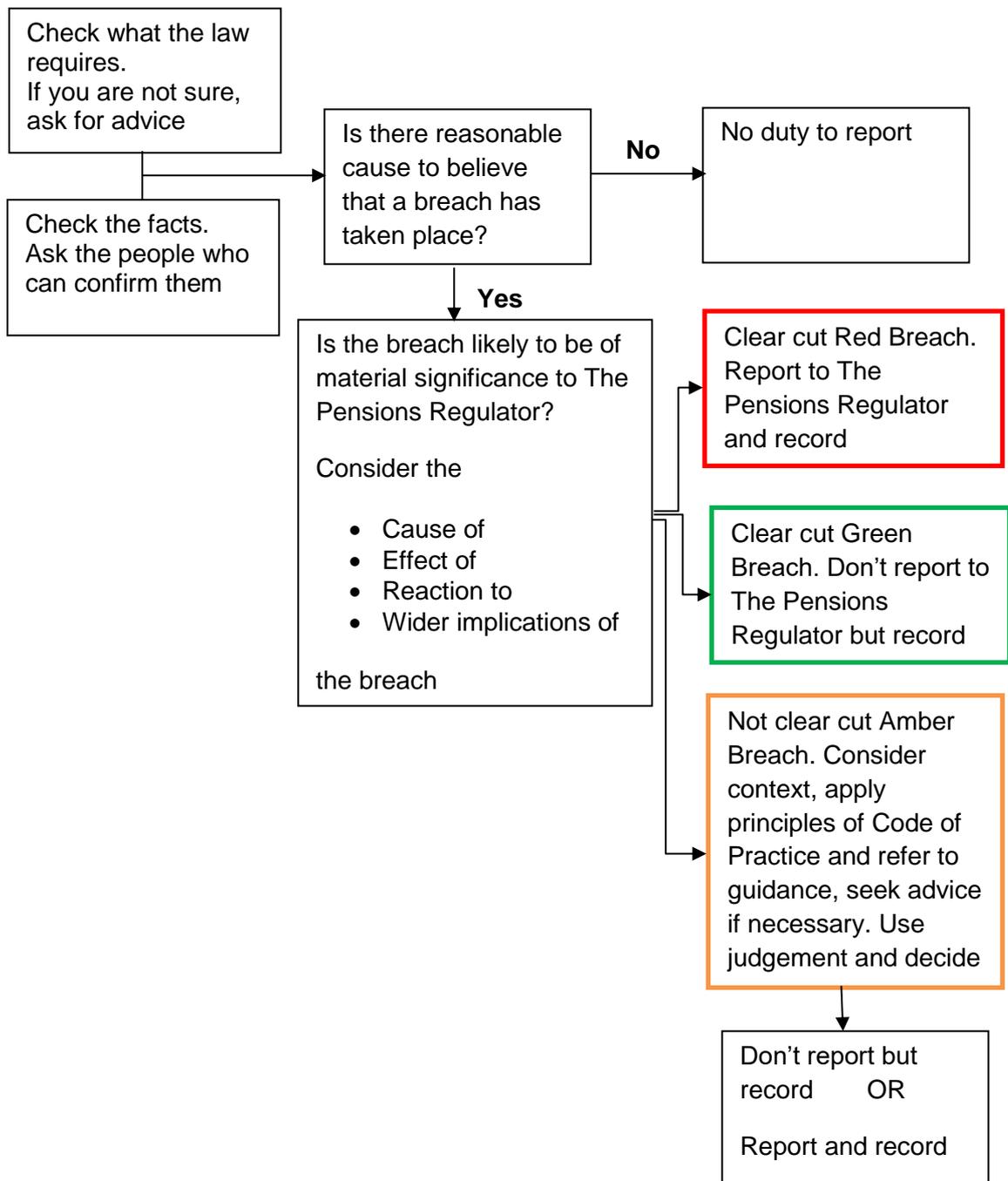
3.3 Determining whether the breach is likely to be of material significance

To decide whether a breach is likely to be of material significance an individual should consider the following, both separately and collectively:

- cause of the breach (what made it happen);
- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach.

Further details on the above four considerations are provided in Appendix A to this procedure. Individuals should use the traffic light framework described in Appendix B to help assess the material significance of each breach and to formally support and document their decision.

3.4 A decision tree is provided below to show the process for deciding whether or not a breach has taken place and whether it is materially significant and therefore requires to be reported.



3.5 Referral to a level of seniority for a decision to be made on whether to report

The Council's Head of Pensions is designated to ensure this procedure is appropriately followed as they have appropriate experience to help investigate whether there is reasonable cause to believe a breach has occurred, to check the law and facts of the case, to maintain records of all breaches and to assist in any reporting to The Pensions Regulator, where appropriate. If breaches relate to late or incorrect payment of contributions or pension benefits, the matter should be highlighted to the Head of Pensions at the earliest opportunity to ensure the matter is resolved as a matter of urgency. Individuals must bear in mind, however, that the involvement of the Head of Pensions is to help clarify the potential reporter's thought process and to ensure this procedure is followed. The reporter remains responsible for the final decision as to whether a matter should be reported to The Pensions Regulator.

The matter should not be referred to any officer if doing so will alert any person responsible for a possible serious offence to the investigation (as highlighted in section 2). If that is the case, the individual should report the matter to The Pensions Regulator setting out the reasons for reporting, including any uncertainty – a telephone call to the Regulator before the submission may be appropriate, particularly in more serious breaches.

3.6 Dealing with complex cases

The Council's Corporate Director of Resources or Monitoring Officer may be able to provide guidance on particularly complex cases. Information may also be available from national resources such as the Scheme Advisory Board or the LGPC Secretariat (part of the LG Group - <http://www.lgpsregs.org/>). If timescales allow, legal advice or other professional advice can be sought and the case can potentially be discussed at Resources Management Team (RMT), Local Pension Board or Pension Fund Committee meeting.

3.7. Timescales for reporting

The Pensions Act and Pension Regulator's Code of Practice require that if an individual decides to report a breach, the report must be made in writing as soon as reasonably practicable. Individuals should not rely on waiting for others to report, nor is it necessary for a reporter to gather all the evidence which The Pensions Regulator may require before taking action. A delay in reporting may exacerbate or increase the risk of the breach. The time taken to reach the judgements on "reasonable cause to believe" and on "material significance" should be consistent with the speed implied by 'as soon as reasonably practicable'. In particular, the time taken should reflect the seriousness of the suspected breach.

3.8 Early identification of very serious breaches

In cases of immediate risk to the scheme, for instance, where there is any indication of dishonesty, The Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty, the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert The Pensions Regulator to the breach.

3.9 Recording all breaches even if they are not reported

The record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). The Council will maintain a record of all breaches identified by individuals and reporters should therefore provide copies of reports to the Head of Pensions. Records of unreported breaches should also be provided as soon as reasonably practicable and certainly no later than within 20 working days of the decision made not to report. These will be recorded alongside all reported breaches. The record of all breaches (reported or otherwise) will be reported periodically to the Local Pension Board.

3.10 Reporting a breach

Reports must be submitted in writing via The Pensions Regulator's online system at www.tpr.gov.uk/exchange, or by post (The Information Team, The Pensions Regulator, Napier House, Trafalgar Place, Brighton, BN1 4DW) or email wb@tpr.gov.uk and should be marked urgent if appropriate. If necessary, a written report can be preceded by a telephone call. Reporters should ensure they receive an acknowledgement for any report they send to The Pensions Regulator. The Pensions Regulator will acknowledge receipt of all reports within five working days and may contact reporters to request further information. Reporters will not usually be informed of any actions taken by The Pensions Regulator due to restrictions on the disclosure of information.

As a minimum, individuals reporting should provide:

- full scheme name (Durham County Council Pension Fund);
- description of breach(es);
- any relevant dates;
- name, position and contact details;
- role in connection to the scheme; and
- employer name or name of scheme manager (the scheme manager is Durham County Council)

If possible, reporters should also indicate:

- the reason why the breach is thought to be of material significance to The Pensions Regulator;
- scheme address (Durham County Council Pension Fund, County Hall, Durham, DH1 5UE)
- scheme manager contact details (postal address as above, telephone 03000 269798, email: pensions@durham.gov.uk)
- pension scheme registry number (10079166)
and
- whether the breach has been reported before.

The reporter should provide further information or reports of further breaches if this may help The Pensions Regulator in the exercise of its functions. The Pensions Regulator may make contact to request further information.

3.11 Confidentiality

If requested, The Pensions Regulator will do its best to protect a reporter's identity and will not disclose information except where it is lawfully required to do so. If an individual's employer decides not to report and the individual employed by them disagrees with this and decides to report a breach themselves, they may have protection under the Employment Rights Act 1996 if they make an individual report in good faith.

3.12 Reporting to the Pension Fund Committee and Local Pension Board

A periodic report will be presented to the Local Pension Board setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates;
- in relation to each breach, details of what action was taken and the result of any action (where not confidential);
- any future actions for the prevention of the breach in question being repeated; and
- highlighting new breaches which have arisen in the last year/since the previous meeting.

This information will also be provided upon request by any other individual or organisation (excluding sensitive/confidential cases or ongoing cases where discussion may influence the proceedings). An example of the information to be included in the periodic reporting is provided in Appendix C to this procedure.

Any breaches reported to the Pensions Regulator ('Red' breaches) will also be reported to the Pension Fund Committee, should they occur.

3.13 Review

This Reporting Breaches Procedure will be kept under review and updated as considered appropriate. It may be changed as a result of legal or regulatory

changes, evolving best practice and ongoing review of the effectiveness of the procedure.

Appendix A

1. Determining whether a breach is likely to be of material significance

1.1 To decide whether a breach is likely to be of material significance individuals should consider the following elements, both separately and collectively:

- cause of the breach (what made it happen);
- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach.

2. The cause of the breach

2.1 Examples of causes which are likely to be of concern to The Pensions Regulator are provided below:

- acting, or failing to act, in deliberate contravention of the law;
- dishonesty;
- incomplete or inaccurate advice;
- poor administration, i.e. failure to implement adequate administration procedures;
- poor governance; or
- slow or inappropriate decision-making practices.

2.2 When deciding whether a cause is likely to be of material significance individuals should also consider:

- whether the breach has been caused by an isolated incident such as a power outage, fire, flood or a genuine one-off mistake.
- whether there have been any other breaches (reported to The Pensions Regulator or not) which when taken together may become materially significant.

3. The effect of the breach

3.1 Examples of the possible effects (with possible causes) of breaches which are considered likely to be of material significance to The Pensions Regulator in the context of the LGPS are given below:

- Pension Fund Committee or Local Pension Board members not having enough knowledge and understanding, resulting in pension boards not fulfilling their roles, the scheme not being properly governed and administered and/or scheme managers breaching other legal requirements.
- Conflicts of interest of Pension Fund Committee or Local Pension Board members, resulting in them being prejudiced in the way in which they

carry out their role and/or the ineffective governance and administration of the scheme and/or scheme managers breaching legal requirements.

- Poor internal controls, leading to schemes not being run in accordance with their scheme regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the scheme at the right time.
- Inaccurate or incomplete information about benefits and scheme information provided to members, resulting in members not being able to effectively plan or make decisions about their retirement.
- Poor member records held, resulting in member benefits being calculated incorrectly and/or not being paid to the right person at the right time.
- Misappropriation of assets, resulting in scheme assets not being safeguarded.
- Other breaches which result in the scheme being poorly governed, managed or administered.

4. The reaction to the breach

4.1 A breach is likely to be of concern and material significance to The Pensions Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion; or
- fail to notify affected scheme members where it would have been appropriate to do so.

5. The wider implications of the breach

5.1 Reporters should also consider the wider implications when deciding whether a breach must be reported. The breach is likely to be of material significance to The Pensions Regulator where the fact that a breach has occurred makes it more likely that further breaches will occur within the Fund or, if due to maladministration by a third party, further breaches will occur in other pension schemes.

6. Examples of breaches

Example 1

An employer is late in paying over employee and employer contributions, and so late that the employer is in breach of the statutory period for making such payments. The employer is contacted by officers from the administering authority, and immediately makes the payment that is overdue, as well as improving its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding future payments.

The breach is therefore not material to The Pensions Regulator and need not be reported but it will be recorded.

Example 2

An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. The employer is also late in paying Additional Voluntary Contributions (AVCs) to the AVC provider (Prudential or Standard Life). The employer is contacted by officers from the administering authority, and it eventually pays the moneys that are overdue, including AVCs. This has happened before, with there being no evidence that the employer is putting its house in order. In this instance there has been a breach that is relevant to The Pensions Regulator, in part because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in the investing of their AVCs.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 3

An employer is late in submitting its statutory year end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders the employer still does not supply its year end return. Because the administering authority does not have the year-end data it is unable to supply, by 31 August, annual benefit statements to the employer's members. In this instance there has been a breach which is relevant to The Pensions Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 4

A member of the Pension Fund Committee owns a property. A report is made to the Pension Fund Committee about a possible investment by the Fund, in the same area in which the member's property is situated. The member supports the investment but does not declare an interest and is later found to have materially benefitted when the Fund's investment proceeds. In this case a material breach has arisen, not because of the conflict of interest, but rather because the conflict was not reported.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 5

A pension overpayment is discovered and thus the administering authority has failed to pay the right amounts to the right person at the right time. A

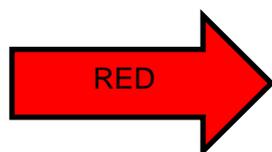
breach has therefore occurred. The overpayment is however for a modest amount and the pensioner could not have known that (s)he was being overpaid. The overpayment is therefore waived. In this case there is no need to report the breach as it is not material.

The breach is therefore not material to The Pensions Regulator and need not be reported but it will be recorded.

Appendix B

Traffic light framework for deciding whether or not to report

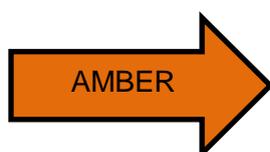
It is recommended that those responsible for reporting use the traffic light framework when deciding whether to report to The Pensions Regulator. This is illustrated below:



Where the cause, effect, reaction and wider implications of a breach, when considered together, are likely to be of material significance.

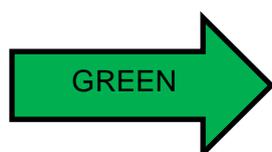
These must be reported to The Pensions Regulator.

Example: Several members' benefits have been calculated incorrectly. The errors have not been recognised and no action has been taken to identify and tackle the cause or to correct the errors.



Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance. They might consist of several failures of administration that, although not significant in themselves, have a cumulative significance because steps have not been taken to put things right. You will need to exercise your own judgement to determine whether the breach is likely to be of material significance and should be reported.

Example: Several members' benefits have been calculated incorrectly. The errors have been corrected, with no financial detriment to the members. However the breach was caused by a system error which may have wider implications for other public service schemes using the same system.



Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance. These should be recorded but do not need to be reported.

Example: A member's benefits have been calculated incorrectly. This was an isolated incident, which has been promptly identified and corrected, with no financial detriment to the member. Procedures have been put in place to mitigate against this happening again.

All breaches should be recorded even if the decision is not to report.

When using the traffic light framework individuals should consider the content of the red, amber and green sections for each of the cause, effect, reaction and wider implications of the breach, before you consider the four together. Some useful examples of this framework is provided by The Pensions Regulator at the following link:

<https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/ps-reporting-breaches-examples-traffic-light-framework.ashx>

Reporting breaches of the law

REGULATORY
Code of
practice

01

REGULATORY
Code of
practice

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Introduction

1. This code of practice is issued by the Pensions Regulator, the body that regulates work-based pension arrangements (occupational pension schemes, stakeholder pension schemes and certain aspects of personal pension schemes which have direct payment arrangements, whereby the employer pays contributions on behalf of the employee).
2. The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund (PPF), and to promote the good administration of work-based pension schemes.
3. The Pensions Regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives. The Pensions Regulator will target its resources on those areas where members' benefits are at greatest risk.
4. Codes of practice provide practical guidelines on the requirements of pensions legislation and set out the standards of conduct and practice expected of those who must meet these requirements. The intention is that the standards set out in the code are consistent with how a well-run pension scheme would choose to meet its legal requirements.

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- The status of codes of practice**
5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant codes of practice into account.
- Other regulatory requirements**
6. Pensions legislation also imposes duties to report to the regulator in some specific circumstances, for example changes in registrable information, a failure to pay contributions due¹ and certain failures in relation to the funding of defined benefit schemes.²
7. Additionally, there are requirements placed on trustees and employers to notify the Pensions Regulator about certain events that may affect the pension scheme and the sponsoring employer.³

In this code of practice, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland; an annex lists the corresponding references.

¹ See s228(2) of the Pensions Act 2004.

² See Part 3 of the Pensions Act 2004.

³ See for example s69 and s120 of the Pensions Act 2004. This code of practice does not cover these more specific requirements; if they arise, reference should be made to the relevant legislative provisions and any associated codes of practice.

At a glance

The requirement to report breaches

- Breaches of the law which affect pension schemes should be considered for reporting to the Pensions Regulator.
- The decision whether to report requires two key judgements:
 - (i) is there reasonable cause to believe there has been a breach of the law;
 - (ii) if so, is the breach likely to be of material significance to the Pensions Regulator?
- Not every breach needs to be reported.

Who does the requirement to report apply to?

- There is a wide range of reporters:
 - trustees and their advisers and service providers (including those carrying out tasks such as administration or fund management);
 - managers of schemes not set up under trust; and
 - employers sponsoring or participating in work-based pension schemes.

Which pension schemes does the requirement to report apply to?

- The requirement applies to occupational and personal pension schemes (including stakeholder schemes).

Reporting arrangements

- All reporters should have effective arrangements in place to meet their duty to report breaches of the law.
- Reliance cannot be placed on waiting for others to report.
- Breaches should be reported as soon as reasonably practicable.
- Failure to report when required to do so is a civil offence.

The Code of Practice 'Whistleblowing' – the requirement to report breaches of the law

1. The requirement to report is a vital part of the regulatory framework. Whistleblowing reports will be a key source of information used by the Pensions Regulator in fulfilling its regulatory responsibilities for work-based pensions. (The relevant legislation is at Appendix A.)
2. To enable the Pensions Regulator to fulfil its responsibilities and achieve its objectives, the categories of those required to report breaches of the law was expanded from April 2005.⁴
3. The duty applies to those involved in running occupational and personal pension schemes, including stakeholder schemes, and covers breaches in certain circumstances of any legislation or rule of law concerning the administration of pension schemes. There is no requirement to report every breach.
4. In this code the term 'reporter' is used to describe any person who may have a duty to report.
5. There are other requirements placed on firms and organisations to report to other bodies; these are outside the scope of this code.⁵ Where the duty to report to another body arises, and a reporter also concludes that there is a separate duty to report to the Pensions Regulator, it would assist if the report to the Pensions Regulator referred to the other report.
6. The Pensions Regulator's expectation is that all those who may have this duty to report will have an understanding of the requirements of the law and this code of practice and, in particular, of how 'reasonable cause to believe', 'material significance' and 'as soon as reasonably practicable' should be interpreted.
7. This code and supporting guidance material issued by the Pensions Regulator will inform these judgements. Whilst it cannot cover every circumstance, it provides principles and benchmarks against which reporters can consider breaches they come across.
8. If you are concerned about whether or not to report a breach you should refer to the legislation, this code of practice, any other code of practice that may apply and any relevant supporting guidance. If you require further assistance, you can contact the Pensions Regulator for help and advice.⁶

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⁴ In particular it extends, compared with the Pensions Act 1995, the categories of those required to report.
⁵ For example, in relation to money laundering under chapter 29 of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 (SI 2003/3075), certain persons are required to make suspicious activity reports to the National Criminal Intelligence Service.
⁶ Contact details will be available on the Pensions Regulator's website: www.thepensionsregulator.gov.uk.

‘Whistleblowing’ – the requirement to report breaches of the law

Who has a duty to report?

- A legal duty falls on:**
- Trustees of trust-based schemes**
9. The duty to report applies to each individually appointed trustee. If the trustee is a corporate body, and the individuals concerned are trustee directors, the requirement to report falls on the trustee company.
- Managers of schemes not established under trust**
10. The requirement is placed on managers of personal pension schemes, including stakeholder schemes. Only breaches in relation to stakeholder schemes, or other personal pension schemes where a direct payment arrangement exists, will be of material significance to the Pensions Regulator.
- Persons otherwise involved in the administration of a scheme**
11. This category covers all those who provide services for the trustees or managers that relate to the administration and management of occupational and personal pension schemes, including stakeholder schemes. It includes:
- insurance companies and third party administrators who carry out administrative tasks relating to a scheme;
 - a participating employer who provides staff to carry out administration tasks in-house (this includes performing payroll and similar functions as well as carrying out or helping with direct administration of the pension scheme); and
 - independent financial advisers and consultants who provide services to trustees relating to administration such as record-keeping or acting as an intermediary receiving and forwarding scheme documents and other materials.
- Any employer participating in an occupational pension scheme
12. The duty to report applies to employers participating in an occupational pension scheme. In the case of a multi-employer scheme, this includes any participating employer who becomes aware of a breach regardless of whether the breach relates to, or affects, members who are its employees or those of other employers.

- Professional advisers**
13. The duty to report applies to specific groups of professionals appointed by the trustees to provide them with advice or services in relation to their occupational pension scheme. This category comprises scheme actuaries, scheme auditors, legal advisers, fund managers and custodians of scheme assets.⁷
14. Often a firm, rather than an individual, is appointed to provide the relevant services; in these circumstances the duty to report applies to the firm. The firm must put in place suitable systems and train its staff to ensure that the firm meets this duty.
15. Where an individual is appointed to provide the service, as is the case with the scheme actuary, the duty to report applies to the individual.
- Persons otherwise involved in advising a trustee (or manager of a scheme not established under trust) in relation to the scheme**
16. The duty to report applies to other firms (or individuals where the appointments are personal) providing advice to the trustees or managers of occupational and personal pension schemes, including stakeholder schemes. Included within this category are:
- independent financial advisers, pensions consultants and investment consultants;
 - actuaries and auditors providing advice to the managers of personal pension schemes;
 - actuaries and auditors engaged to provide advice to the trustees of occupational pension schemes other than would cause them to be classed as professional advisers;
 - reporting accountants appointed to stakeholder schemes; and
 - anyone acting as custodian of the assets of a personal pension scheme.
- Reporters with more than one role**
17. In most cases it will be clear into which category a reporter falls. However, sometimes a reporter may have more than one role in relation to the scheme. Where this is the case, the Pensions Regulator expects reporters to apply their wider knowledge of the scheme in judging whether a matter is likely to be of material significance to the regulator. Where appropriate, they are expected to report irrespective of the function they were performing when the breach was identified.

continued over...

⁷ Professional advisers are defined in section 47(4) of the Pensions Act 1995.

‘Whistleblowing’ – the requirement to report breaches of the law

Who has a duty to report?

-
- Systems and training**
18. The Pensions Regulator expects firms to ensure that their staff are adequately trained to a level commensurate with their roles. In particular, the staff of a firm appointed to provide advice or a service to trustees or managers, and which carries a reporting duty, should be trained to recognise potentially reportable situations. Firms should put adequate systems in place to ensure that staff are aware of their responsibilities and that they are familiar with reporting procedures.
- Whistleblowing protection and confidentiality**
19. The Pensions Act 2004 makes clear that the duty to report overrides any other duties a reporter may have such as confidentiality, and that any such duty is not breached by making a report. The Pensions Regulator understands the potential impact of a report on the relationship between a reporter and their client or, in the case of an employee, their employer.
20. The duty to report does not, however, override ‘legal privilege’.⁸ What this means is that communications (oral and written) between a professional legal adviser and their client, or a person representing that client, whilst obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
21. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the Pensions Regulator. Consequently, where individuals employed by firms having a duty to report disagree with a decision not to report to the Pensions Regulator, they may have protection under the ERA if they make an individual report in good faith. The Pensions Regulator expects such individual reports to be rare and confined to the most serious cases.
22. The Pensions Regulator will, if requested, seek to protect the identity of reporters. However, this cannot be guaranteed. Even if the Pensions Regulator does not explicitly reveal the name of the reporter, their identity may become apparent in the course of an investigation.
23. In all cases, the Pensions Regulator expects reporters to act conscientiously and honestly, and to take account of expert or professional advice where appropriate.

⁸ See s311 of the Pensions Act 2004.

The duty to report

24. The requirement to report breaches of the law arises when a duty which is:
- imposed by or by virtue of an enactment or rule of law; and
 - relevant to the administration of a scheme
- has not been or is not being complied with.
25. Not every breach has to be reported. The judgements required in order to reach a decision to report are outlined below.
- ‘Imposed by or by virtue of an enactment or rule of law’**
26. ‘Enactment’ covers Acts of Parliament and regulations or statutory instruments. For example, the Pensions Act 2004 is an enactment as are regulations made under that Act. Breaches of criminal law, such as an offence of dishonesty under the Theft Act, would also come within the term enactment.
27. ‘Rule of law’ covers law laid down by decisions of the courts. It would, for example, include trust law and common law.
28. When considering breaches of trust law, reporters should bear in mind the basic principle that trustees are holding property on behalf of others. Trustees should act in good faith and within the terms of their trust deed and rules for the benefit of all of the beneficiaries of the scheme. If they fail to do so, they are in breach of trust law. A very basic rule of thumb in considering whether an action or failure to act is, or may be, a breach of trust is this: if the trustees have acted in a way which would appear unfair or wrong to a reasonable and objective person, then a breach of trust may have taken place.
- ‘Relevant to the administration of the scheme’**
29. In view of its statutory objectives, the Pensions Regulator interprets ‘administration’ widely in the context of the need to report breaches. It is much wider than just those tasks normally associated with the administrative function such as keeping records, dealing with membership movements, calculating benefits and preparing accounts, though all these are included within it. The Pensions Regulator interprets administration to include such matters as the consideration of funding in defined benefit schemes, investment policy and investment management, as well as the custody of invested assets; indeed anything which could potentially affect members’ benefits or the ability of members and others to access information to which they are entitled.

The decision to report

30. There are two key judgements required:
- First, does the reporter have reasonable cause to believe there has been a breach of the law?
 - If so, then, secondly, does the reporter believe the breach is likely to be of material significance to the Pensions Regulator?
- ‘Reasonable cause to believe’**
31. Having a reasonable cause to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
32. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with the trustees or manager, or with others who are in a position to confirm what has happened. However, it would not be appropriate to check with the trustees or the manager or others in cases of theft, or if the reporter is concerned that a fraud or other serious offence might have been committed and discussion with those persons might alert those implicated or impede the actions of the police or a regulatory authority.
33. If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.
34. In establishing that there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Pensions Regulator would require before taking legal action.

- ‘Likely to be of material significance to the Pensions Regulator’**
35. The legal requirement is that breaches likely to be of material significance to the Pensions Regulator in carrying out any of its functions⁹ must be reported. What makes the breach of material significance depends on:
- (i) The cause of the breach.
 - (ii) The effect of the breach.
 - (iii) The reaction to the breach.
 - (iv) The wider implications of the breach.
- When reaching a decision whether to report, the reporter should consider these points together. Each of these aspects is considered in more detail below.
- (i) The cause of the breach**
36. Where the breach was caused by:
- dishonesty;
 - poor governance, inadequate controls resulting in deficient administration, or slow or inappropriate decision-making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law
- the breach is likely to be of material significance to the Pensions Regulator.
37. In forming a view on whether the breach is of material significance, reporters should consider other reported and unreported breaches of which they are aware. Reporters should use historical information with care, however, particularly if changes have been made to address previously identified problems.
38. On the other hand, the Pensions Regulator will not regard as materially significant a breach arising from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had.

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⁹ To further assist reporters in reaching a judgement on material significance, examples of breaches are set out in separate guidance. The guidance is illustrative and does not form part of this code of practice.

The decision to report continued

39. **(ii) The effect of the breach**
The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund, and to promote the good administration of work-based pension schemes.
40. In the light of these objectives, the Pensions Regulator considers the following to be particularly important elements which are likely to be of material significance to the regulator.
- In relation to protecting members' benefits:
- substantially the right money is paid into the scheme at the right time;
 - assets are appropriately safeguarded;
 - payments out of the scheme are legitimate and timely;
 - defined benefit schemes are complying with the legal requirements on scheme funding;
 - trustees of occupational pension schemes are properly considering their investment policy, and investing in accordance with it;
 - contributions in respect of money purchase members are correctly allocated and invested.
- In relation to reducing the risk of compensation being payable from the PPF:
- the Pensions Regulator is informed of notifiable events;¹⁰
 - trustees comply with PPF requirements during an assessment period. This is the period starting with an insolvency event and during which the scheme's eligibility for entry into the PPF is assessed and certain restrictions apply. Reports should continue to be made to the Pensions Regulator during the assessment period.
- In relation to promoting good administration:
- schemes are administered properly and appropriate records maintained;
 - members receive accurate, clear and impartial information without delay.

¹⁰ See section 69 of the Pensions Act 2004.

- (iii) The reaction to the breach**
41. The Pensions Regulator does not normally regard a breach as materially significant where the trustees or managers (or their advisers and service providers) take prompt and effective action to investigate and correct the breach and its causes, and, where appropriate, to notify any members whose benefits have been affected.
42. However, where, after a breach is identified, the trustees and their advisers or service providers involved:
- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
 - are not pursuing corrective action to a proper conclusion; or
 - fail to notify members whose benefits have been affected by the breach where it would have been appropriate to do so;
- this is of concern to the Pensions Regulator, and the breach is likely to be of material significance.
43. For example, even where only a few members are not receiving benefits due to them, the breach is likely to be materially significant unless prompt and robust action is being taken to remedy the situation.
- (iv) The wider implications of the breach**
44. The wider implications of a breach should be taken into account when assessing which breaches are likely to be materially significant to the exercise of the Pensions Regulator's functions. For example, a breach is likely to be of material significance where:
- the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future because the trustees (or the manager) lack the appropriate knowledge and understanding to fulfil their responsibilities; or
 - other schemes may be affected, for example schemes administered by the same organisation where a system failure is to blame.
45. In forming a judgement on whether a particular breach may have wider implications, the reporter should take into account such general risk factors as the level of funding (in a defined benefit scheme) or how well run the scheme appears to be. Some breaches which arise in respect of a poorly funded, poorly administered scheme will be more significant to the Pensions Regulator than the same breaches would be in a well funded, well administered scheme. Such an approach is consistent with the risk-focused approach to regulation adopted by the Pensions Regulator.

The decision to report continued

- ‘As soon as reasonably practicable’**
46. If a judgement has been reached that there is reasonable cause to believe that a breach has occurred, and that it is of material significance to the Pensions Regulator, it must be reported as soon as reasonably practicable. It is important that procedures are in place to allow reporters to make a judgement within an appropriate timescale as to whether a breach must be reported.
47. What is reasonably practicable depends on the circumstances. In any event the time taken to reach the judgements on reasonable cause to believe and on material significance should be consistent with the speed implied by ‘as soon as reasonably practicable’. In particular, the time taken should reflect the seriousness of the suspected breach. In cases of immediate risk to scheme assets, the payment of members’ benefits, or where there is any indication of dishonesty, the Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies but only to make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently these necessary checks should be made. In cases of potential dishonesty, the reporter should avoid, where possible, checks which might alert those implicated. In serious cases reporters should consider contacting the Pensions Regulator by the quickest means possible to alert the regulator to the breach.
- Identification of breaches**
48. There is no requirement or expectation that reporters should search for breaches.
49. Reporters should nevertheless be alert to breaches relevant to the service or services which they are providing in relation to the scheme. For example, administrators and insurers are expected to be in a position to identify breaches relating to member disclosure, transfer value quotations and payments, payment of benefits and receipt of contributions.
50. There are some breaches that all reporters should be alert to, in particular any dishonest behaviour.

Reporting arrangements

51. All reporters should have effective arrangements in place to identify breaches that occur in areas relating to their functions. These arrangements should enable them to evaluate and if appropriate report any breaches they become aware of in the course of their work.
52. If possible breaches are identified that do not relate to their functions, reporters should still follow the usual steps and consider reporting. If in doubt about whether a breach has in fact occurred, reporters should seek input from others having the necessary expertise.
53. All reporters should establish a procedure for evaluating matters to determine whether a breach has occurred and, if it has, whether it is likely to be of material significance to the Pensions Regulator. The nature of the arrangements is a matter for the reporter and should be conducive both to staff raising concerns and to the objective consideration of those concerns.

A satisfactory procedure is likely to include the following features:

- obtaining clarification of the law where it is not clear to the reporter;
- clarifying the facts around the suspected breach where these are not known;
- consideration of the material significance of the breach taking into account its cause, effect, the reaction to it, and its wider implications, including where appropriate dialogue with the trustees or managers;
- a clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the Pensions Regulator;
- an established procedure for dealing with difficult cases such as a 'Regulator Committee' of experienced persons within the reporter's firm;
- a timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable;
- a system to record breaches even if they are not reported to the Pensions Regulator (the principal reason for this is that the record of past breaches may be relevant in deciding whether to report future breaches); and
- a process for identifying promptly any breaches that are so serious they must always be reported.

Reporting arrangements continued

Collective reporting

54. The Pensions Regulator accepts that often trustees, together with one or more of their advisers or other groups, will wish to make a collective report.
55. If that is the approach taken, the procedure put in place must allow for the evaluation of each breach as described in this code of practice and for a report to be made as soon as reasonably practicable.
56. Where the trustee is not a corporate body, the duty to report falls on the individual trustees rather than on the board of trustees. If a consensus cannot be reached, or if there is insufficient time to agree a collective approach, the Pensions Regulator will expect the individuals to report.

Duplicate reporting

57. The requirement to report applies to all those subject to the reporting duty who become aware of a breach that is likely to be of material significance to the Pensions Regulator; it is not automatically discharged by another party reporting the breach.
58. This gives rise to the possibility of duplicate reporting by those involved in a scheme. Duplicate reports carry a cost, which will ultimately be borne by the scheme members or the employer. Moreover, duplicate reports do not benefit the Pensions Regulator. Once aware of a particular breach, the Pensions Regulator does not regard that breach as being of material significance for the purpose of making further reports under the requirement to report breaches of the law. An exception is where another reporter has additional or different information about that breach or the circumstances relating to it.
59. The reporter coming across the breach should make the report to the Pensions Regulator. The regulator will send an acknowledgement to the reporter. The report (if not previously sent) and the acknowledgement should be sent by the reporter to the trustees or manager. The trustees or manager will be able to copy the original report and its acknowledgement to those other reporters who they consider may also be likely to come across the breach.
60. This arrangement is not intended to replace dialogue between trustees or managers and their advisers or service providers. When notified of a breach, trustees or managers may want to discuss matters with these groups. They will want to determine the best way to get things put right and may also want to discuss whether or not a report is needed. Indeed, trustees or managers should require their advisers to alert them when things appear to be going wrong and should ensure they are kept informed about matters affecting their scheme.

61. An exception to the arrangement above, and to the need for dialogue between trustees or managers and advisers or service providers, will apply in cases where there is a suspicion of dishonesty or other serious wrongdoing by the trustees or managers.

Making a report

62. Reports must be submitted in writing. Reporters should wherever practicable use the standard format available on the website at www.thepensionsregulator.gov.uk.

63. The report should be dated and should include as a minimum:

- name of the scheme;
- description of the breach or breaches;
- any relevant dates;
- name of the employer (in the case of an occupational scheme) or scheme manager (in the case of a personal pension scheme, including stakeholder schemes);
- name, position and contact details of the reporter; and
- role of the reporter in relation to the scheme.

The information that we would expect to see in addition is:

- reason the breach is thought to be of material significance to the Pensions Regulator;
- address of the scheme;
- type of scheme – whether occupational (defined benefit, defined contribution or hybrid) or personal;
- name and contact details of the trustees or scheme manager (if different to the scheme address);
- pension schemes registry number; and
- address of employer.

Reports can be sent by post or electronically, including by email or by fax.¹¹

continued over...

¹¹ Contact details are available on the Pensions Regulator’s website: www.thepensionsregulator.gov.uk.

Reporting arrangements continued

64. Urgent reports should be marked as such, and attention should be drawn to matters considered particularly serious by the reporter. A written report can be preceded by a telephone call if appropriate.
65. A reporter should ensure they receive an acknowledgement in respect of any report they send to the Pensions Regulator. Only when an acknowledgement of receipt is received by the reporter can they be confident that the Pensions Regulator has received their report.
- Follow up**
66. The regulator will acknowledge all reports within five working days of receipt.
67. The Pensions Regulator will not generally keep a reporter informed of the steps it takes in response to a report of a breach. There are restrictions on the information it can disclose. Further information or reports of further breaches should, however, be provided by the reporter, if this may assist the Pensions Regulator in exercising its functions. The regulator may in any case make contact to request further information.

Failure to report

68. Failure to comply with the obligation imposed by the requirement to report breaches of the law without ‘reasonable excuse’ is a civil offence. To decide whether the reporter has a reasonable excuse for not reporting as required, or for reporting a breach later than the regulator would have expected, the regulator will look at:
- the legislation, case law, this code of practice and any guidance issued by the Pensions Regulator;
 - the role of the reporter in relation to the scheme;
 - the training provided to the individual or staff, and the level of knowledge it would be reasonable to expect that individual or those staff to have;
 - the procedures put in place to identify and evaluate breaches and whether these procedures had been followed;
 - the seriousness of the breach and therefore how important it was to report this to the Pensions Regulator without delay;
 - any reasons for the delay in reporting;
 - any other relevant considerations relating to the case in question.
69. If the Pensions Regulator is considering imposing a civil penalty, or exercising one of its functions, directly affected parties will receive a warning notice identifying the alleged breach and specifying the relevant function. Further details can be found in the regulator’s guidance on determination procedures.
70. The Pensions Regulator may, in addition, where it considers it appropriate to do so, make a complaint to the reporter’s professional or other governing body.

The Pensions Regulator's response to a report of a breach in the law

71. When the Pensions Regulator receives a report of a breach it has discretion over whether to take action and, if so, what action to take. The decision will depend on the breach and its circumstances and other information about the scheme notified to, or known by, the regulator.
72. The Pensions Regulator has a range of measures it can take, including:
- assisting or instructing trustees and others to achieve compliance;
 - providing education or guidance;
 - appointing trustees to help run the scheme;
 - removing trustees from office;
 - freezing the scheme;
 - imposing special measures where the scheme funding requirements of the Pensions Act 2004 are not complied with;
 - ordering that the scheme's funding position be restored to the level before a breach or other detrimental event occurred; and
 - imposing fines where appropriate.

Appendix A

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Duty to report breaches of the law

- (1) Subsection (2) imposes a reporting requirement on the following persons –
 - (a) a trustee or manager of an occupational or personal pension scheme;
 - (b) a person who is otherwise involved in the administration of such a scheme;
 - (c) the employer in relation to an occupational pension scheme;
 - (d) a professional adviser in relation to such a scheme;
 - (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- (2) Where the person has reasonable cause to believe that –
 - (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with, and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this section.

This is subject to section 311 (protected items).

- (4) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this section.

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- 65 Duty to report breaches of the law
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 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) Subject to Article 283 (protected items), no duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this Article.
- (4) Article 10 of the 1995 Order (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this Article.

Annex

GB Legislation	NI Legislation
Section 70 of the Pensions Act 2004	Article 65 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 228(2) of the Pensions Act 2004	Article 207(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Part 3 of the Pensions Act 2004	Part IV of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 69 and section 120 of the Pensions Act 2004	Article 64 and Article 104 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Pensions Act 1995	Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
Section 47(4) of the Pensions Act 1995	Article 47(4) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
The Employment Rights Act 1996	The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))
Section 311	Article 283 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

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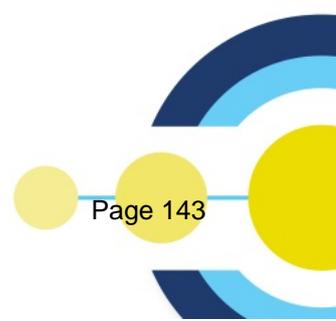
Corporate Governance & Voting Guidelines

Border to Coast Pensions Partnership



PENSIONS PARTNERSHIP

November 2021



1. Introduction

Border to Coast Pensions Partnership believes that companies operating to higher standards of corporate governance along with environmental and social best practice have greater potential to protect and enhance investment returns. As an active owner Border to Coast will engage with companies on environmental, social and governance (ESG) issues and exercise its voting rights at company meetings. When used together, voting and engagement can give greater results.

An investment in a company not only brings rights but also responsibilities. The shareholders' role includes appointing the directors and auditors and to be assured that appropriate governance structures are in place. Good governance is about ensuring that a company's policies and practices are robust and effective. It defines the extent to which a company operates responsibly in relation to its customers, shareholders, employees, and the wider community. Corporate governance goes hand-in-hand with responsible investment and stewardship. Border to Coast considers the UK Corporate Governance Code and other best practice global guidelines in formulating and delivering its policy and guidelines.

2. Voting procedure

These broad guidelines should be read in conjunction with the Responsible Investment Policy. They provide the framework within which the voting guidelines are administered and assessed on a case-by-case basis. A degree of flexibility will be required when interpreting the guidelines to reflect specific company and meeting circumstances. Voting decisions are reviewed with the portfolio managers. Where there are areas of contention the decision on voting will ultimately be made by the Chief Executive Officer. A specialist proxy voting advisor is employed to ensure that votes are executed in accordance with the policy.

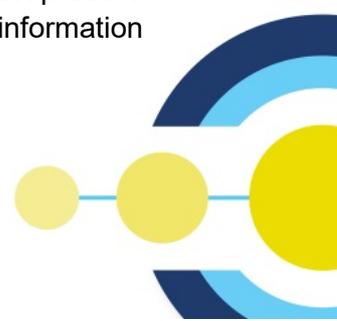
Where a decision has been made not to support a resolution at a company meeting, Border to Coast will, where able, engage with the company prior to the vote being cast. In some instances, attendance at AGMs may be required.

Border to Coast discloses its voting activity on its website and to Partner Funds on a quarterly basis.

We will support incumbent management wherever possible but recognise that the neglect of corporate governance and corporate responsibility issues could lead to reduced shareholder returns.

We will vote **For**, **Abstain** or **Oppose** on the following basis:

- We will support management that acts in the long-term interests of all shareholders, where a resolution is aligned with these guidelines and considered to be in line with best practice.
- We will abstain when a resolution fails the best practice test but is not considered to be serious enough to vote against.
- We will vote against a resolution where corporate behaviour falls short of best practice or these guidelines, or where the directors have failed to provide sufficient information to support the proposal.



3. Voting Guidelines

Company Boards

The composition and effectiveness of the board is crucial to determining corporate performance, as it oversees the running of a company by its managers and is accountable to shareholders. Company behaviour has implications for shareholders and other stakeholders. The structure and composition of the board may vary between different countries; however, we believe that the following main governance criteria are valid across the globe.

Composition and independence

The board should have a balance of executive and non-executive directors so that no individual or small group of individuals can control the board's decision making. They should possess a suitable range of skills, experience and knowledge to ensure the company can meet its objectives. Boards do not need to be of a standard size: different companies need different board structures, and no simple model can be adopted by all companies.

The board of large cap companies, excluding the Chair, should consist of a majority of independent non-executive directors although local market practices shall be taken into account. Controlled companies should have a majority of independent non-executive directors, or at least one-third independent directors on the board. As non-executive directors have a fiduciary duty to represent and act in the best interests of shareholders and to be objective and impartial when considering company matters, the board must be able to demonstrate their independence. Non-executive directors who have been on the board for a significant length of time, from nine to twelve years (depending on market practice) have been associated with the company for long enough to be presumed to have a close relationship with the business or fellow directors. We aspire for a maximum tenure of nine years but will review resolutions on a case-by-case basis where the local corporate governance code recommends a maximum tenure between nine and twelve years.

The nomination process of a company should therefore ensure that potential risks are restricted by having the right skills mix, competencies and independence at both the supervisory and executive board level. It is essential for boards to achieve an appropriate balance between tenure and experience, whilst not compromising the overall independence of the board. The re-nomination of board members with longer tenures should be balanced out by the nomination of members able to bring fresh perspectives. It is recognised that excessive length of tenure can be an issue in some markets, for example the US where it is common to have a retirement age limit in place rather than length of tenure. In such cases it is of even greater importance to have a process to robustly assess the independence of long tenured directors. Where it is believed an individual can make a valuable and independent contribution, tenure greater than nine years will be assessed on a case-by-case basis.

The company should, therefore, have a policy on tenure which is referenced in its annual report and accounts. There should also be sufficient disclosure of biographical details so that shareholders can make informed decisions. There are a number of factors which could affect independence, which includes but is not restricted to:

- Representing a significant shareholder.
- Serving on the board for over nine years.
- Having had a material business relationship with the company in the last three years.

- Having been a former employee within the last five years.
- Family relationships with directors, senior employees or advisors.
- Cross directorships with other board members.
- Having received or receiving additional remuneration from the company in addition to a director's fee, participating in the company's share option or performance-related pay schemes, or being a member of the company's pension scheme.

Leadership

The role of the Chair is distinct from that of other board members and should be seen as such. The Chair should be independent upon appointment and should not have previously been the CEO. The Chair should also take the lead in communicating with shareholders and the media. However, the Chair should not be responsible for the day-to-day management of the business: that responsibility rests with the Chief Executive. The role of Chair and CEO should not be combined as different skills and experience are required. There should be a distinct separation of duties to ensure that no one director has unfettered decision making power.

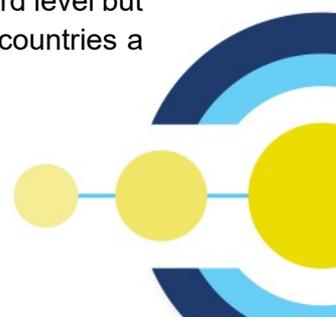
However, Border to Coast recognises that in many markets it is still common to find these positions combined. Any company intending to combine these roles must justify its position and satisfy shareholders in advance as to how the dangers inherent in such a combination are to be avoided; best practice advocates a separation of the roles. A senior independent non-executive director should be appointed, in-line with local corporate governance best practice, if roles are combined to provide shareholders and directors with a meaningful channel of communication, to provide a sounding board for the chair and to serve as an intermediary for the other directors and shareholders. Led by the senior independent director, the non-executive directors should meet without the chair present at least annually to appraise the chair's performance.

Non-executive Directors

The role of non-executive directors is to challenge and scrutinise the performance of management in relation to company strategy and performance. To do this effectively they need to be independent; free from connections and situations which could impact their judgement. They must commit sufficient time to their role to be able to carry out their responsibilities. A senior independent non-executive director should be appointed to act as liaison between the other non-executives, the Chair and other directors where necessary.

Diversity

Board members should be recruited from as broad a range of backgrounds and experiences as possible. A diversity of directors will improve the representation and accountability of boards, bringing new dimensions to board discussions and decision making. Companies should broaden the search to recruit non-executives to include open advertising and the process for board appointments should be transparent and formalised in a board nomination policy. Companies should have a diversity and inclusion policy which references gender, ethnicity, age, skills and experience and how this is considered in the formulation of the board. The policy should give insight into how diversity is being addressed not only at board level but throughout the company, it should reflect the demographic/ethnic makeup of the countries a company is active in and be disclosed in the Annual Report.



We support the government-backed Davies report, Hampton Alexander and Parker reviews, which set goals for UK companies regarding the representation of women and ethnic minorities on boards, executive teams and senior management. Therefore, in developed markets without relevant legal requirements, we expect boards to be composed of at least 33% female directors. Where relevant, this threshold will be rounded down to account for board size. Recognising varying market practices, we generally expect emerging market and Japanese companies to have at least one female on the board. We will vote against the chair of the nomination committee where this is not the case and there is no positive momentum or progress. On ethnic diversity, we will vote against the chair of the nomination committee at FTSE 100 companies where the Board does not have at least one person from an ethnic minority background, unless there are mitigating circumstances or plans to address this have been disclosed.

Succession planning

We expect the board to disclose its policy on succession planning, the factors considered and where decision-making responsibilities lie. A succession policy should form part of the terms of reference for a formal nomination committee, comprised solely of independent directors and headed by the Chair or Senior Independent Non-executive Director except when it is appointing the Chair's successor. External advisors may also be employed.

Directors' availability and attendance

It is important that directors have sufficient time to devote to the company's affairs; therefore, full time executives should not hold more than one non-executive position in a FTSE 100 company, or similar size company in other regions; nor the chairmanship of such a company. In the remaining instances, directors working as full-time executives should serve on a maximum of two publicly listed company boards.

With regard to non-executive directors, there can be no hard and fast rule on the number of positions that are acceptable: much depends upon the nature of the post and the capabilities of the individual. Shareholders need to be assured that no individual director has taken on too many positions. Full disclosure should be made in the annual report of directors' other commitments and attendance records at formal board and committee meetings. A director should attend a minimum of 75% of applicable board and committee meetings to ensure commitment to responsibilities at board level.

Re-election

For a board to be successful it needs to ensure that it is suitably diverse with a range of skills, experience and knowledge. There is a requirement for non-executive directors to be independent to appropriately challenge management. To achieve this, boards need to be regularly refreshed to deal with issues such as stagnant skill sets, lack of diversity and excessive tenure; therefore, all directors should be subject to re-election annually, or in-line with local best practice. As representatives of shareholders, directors should preferably be elected using a majority voting standard. In cases where an uncontested election uses the

plurality¹ voting standard without a resignation policy, we will hold the relevant Governance Committee accountable by voting against the Chair of this committee.

Board evaluation

A requisite of good governance is that boards have effective processes in place to evaluate their performance and appraise directors at least once a year. The annual evaluation should consider its composition, diversity and how effectively members work together to achieve objectives. As part of the evaluation, boards should consider whether directors possess the necessary expertise to address and challenge management on key strategic topics. These strategic issues and important areas of expertise should be clearly outlined in reporting on the evaluation. The board should disclose the process for evaluation and, as far as reasonably possible, any material issues of relevance arising from the conclusions and any action taken as a consequence. Individual director evaluation should demonstrate the effective contribution of each director. An internal evaluation should take place annually with an external evaluation required at least every three years.

Stakeholder engagement

Companies should take into account the interests of and feedback from stakeholders which includes the workforce. Considering the differences in best practice across markets, companies should have an appropriate system in place to engage with employees.

Engagement and dialogue with shareholders on a regular basis are key for companies; being a way to discuss governance, strategy, and other significant issues. Companies should engage with shareholders ahead of the AGM in order that high votes against resolutions can be avoided where possible.

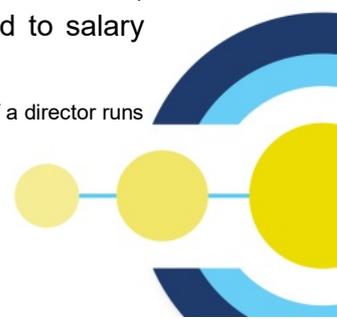
Where a company with a single share class structure has received 20% votes against a proposal at a previous AGM, a comprehensive shareholder and stakeholder consultation should be initiated. A case-by-case approach will be taken for companies with a dual class structure where a significant vote against has been received. Engagement efforts and findings, as well as company responses, should be clearly reported on and lead to tangible improvement. Where companies fail to do so, the relevant board committees or members will be held to account.

Directors' remuneration

Shareholders at UK companies have two votes in relation to pay; the annual advisory vote on remuneration implementation which is non-binding, and the triennial vote on forward-looking pay policy which is binding. If a company does not receive a majority of shareholder support for the pay policy, it is required to table a resolution with a revised policy at the next annual meeting.

It must be noted that remuneration structures are varied, with not one model being suitable for all companies; however, there are concerns over excessive remuneration and the overall quantum of pay. Research shows that high executive pay does not systematically lead to better company performance. Excessive rewards for poor performance are not in the best interests of a company or its shareholders. Remuneration levels should be sufficient to attract, motivate and retain quality management but should not be excessive compared to salary

¹ A plurality vote means that the winning candidate only needs to get more votes than a competing candidate. If a director runs unopposed, he or she only needs one vote to be elected.



levels within the organisation and with peer group companies. There is a clear conflict of interest when directors set their own remuneration in terms of their duty to the company, accountability to shareholders and their own self-interest. It is therefore essential that the remuneration committee is comprised solely of non-executive directors and complies with the market independence requirement.

Remuneration has serious implications for corporate performance in terms of providing the right incentives to senior management, in setting performance targets, and its effect on the morale and motivation of employees. Corporate reputation is also at risk. Remuneration policy should be sensitive to pay and employee conditions elsewhere in the company, especially when determining annual salary increases.

Where companies are potentially subject to high levels of environmental and societal risk as part of its business, the remuneration committee should also consider linking relevant metrics and targets to remuneration to focus management on these issues. The selection of these metrics should be based on a materiality assessment that also guides the company's overall sustainability strategy. If environmental or social topics are incorporated in variable pay plans, the targets should set stretch goals for improved ESG performance, address achievements under management's control, and avoid rewarding management for basic expected behaviour. Where relevant, minimum ESG standards should instead be incorporated as underpins or gateways for incentive pay. If the remuneration committee determines that the inclusion of environmental or social metrics would not be appropriate, a clear rationale for this decision should be provided in the remuneration report.

The compensation provided to non-executive directors should reflect the role and responsibility. It should be structured in a manner that does not compromise independence, enhancing objectivity and alignment with shareholders' interests. Non-executive directors should, therefore, not be granted performance-based pay. Although we would not expect participation in Long-term Incentive Plans (LTIPs), we are conscious that in some exceptional instances non-executives may be awarded stock, however the proportion of pay granted in stock should be minimal to avoid conflicts of interest.

To ensure accountability there should be a full and transparent disclosure of directors' remuneration with the policy published in the annual report and accounts. The valuation of benefits received during the year, including share options, other conditional awards and pension benefits, should be provided. Companies should also be transparent about the ratio of their CEO's pay compared to the median, lower and upper quartiles of their employees.

• **Annual bonus**

Bonuses should reflect individual and corporate performance targets which are sufficiently challenging, ambitious and linked to delivering the strategy of the business and performance over the longer-term. Bonuses should be set at an appropriate level of base salary and should be capped. Provisions should be in place to reduce or forfeit the annual bonus where the company has experienced a significant negative event. For large cap issuers, we expect the annual bonus to include deferral of a portion of short-term payments into long-term equity scheme or equivalent. We will also encourage other companies to take this approach.

• Long-term incentives

Remuneration policies have over time become more and more complex making them difficult for shareholders to adequately assess. Border to Coast therefore encourages companies to simplify remuneration policies.

Performance-related remuneration schemes should be created in such a way to reward performance that has made a significant contribution to shareholder value. Poorly structured schemes can result in senior management receiving unmerited rewards for substandard performance. This is unacceptable and could adversely affect the motivation of other employees.

Incentives are linked to performance over the longer-term in order to create shareholder value. If restricted stock units are awarded under the plan, the vesting period should be at least three years to ensure that the interests of both management and shareholders are aligned in the long-term. Executives' incentive plans should include both financial and non-financial metrics and targets that are sufficiently ambitious and challenging. Remuneration should be specifically linked to stated business objectives and performance indicators should be fully disclosed in the annual report.

The performance basis of all such incentive schemes under which benefits are potentially payable should be clearly set out each year, together with the actual performance achieved against the same targets. We expect clawback or malus provisions to be in place for all components of variable compensation. We encourage Executive Directors to build a significant shareholding in the company to ensure alignment with the objectives of shareholders. These shares should be held for at least two years post exit.

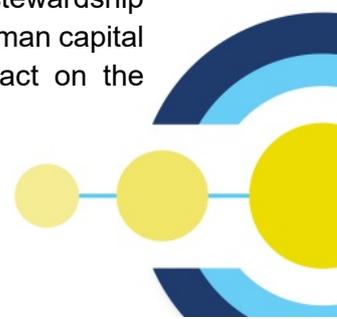
The introduction of incentive schemes to all employees within a firm is encouraged and supported as this helps all employees understand the concept of shareholder value.

Directors' contracts

Directors' service contracts are also a fundamental part of corporate governance considerations. Therefore, all executive directors are expected to have contracts that are based upon no more than twelve months' salary. Retirement benefit policies of directors should be aligned with those of the majority of the workforce, and no element of variable pay should be pensionable. The main terms of the directors' contracts including notice periods on both sides, and any loans or third-party contractual arrangements such as the provision of housing or removal expenses, should be declared within the annual report. Termination benefits should be aligned with market best practice.

Corporate reporting

Companies are expected to report regularly to shareholders in an integrated manner that allows them to understand the company's strategic objectives. Companies should be as transparent as possible in disclosures within the Report and Accounts. As well as reporting financial performance, business strategy and the key risks facing the business, companies should provide additional information on ESG issues that also reflect the directors' stewardship of the company. These could include, for example, information on a company's human capital management policies, its charitable and community initiatives and on its impact on the environment in which it operates.



Every annual report should include an environmental section, which identifies key quantitative data relating to energy and water consumption, emissions and waste etc., explains any contentious issues and outlines reporting and evaluation criteria. It is important that the risk areas reported upon should not be limited to financial risks.

We will encourage companies to report and disclose in line with the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) recommendations, and the Workforce Disclosure Initiative in relation to human capital reporting.

Audit

The audit process must be objective, rigorous and independent if it is to provide assurance to users of accounts and maintain the confidence of the capital markets. To ensure that the audit committee can fulfil its fiduciary role, it should be established as an appropriate committee composition with at least three members who are all independent non-executive directors and have at least one director with a relevant audit or financial background. Any material links between the audit firm and the client need to be highlighted, with the audit committee report being the most appropriate place for such disclosures. Audited financial statements should be published in a timely manner ahead of votes being cast at annual general meetings.

FTSE 350 companies should tender the external audit contract at least every ten years. Reappointment of the same firm with rotation of the audit partner, will not be considered as sufficient. If an auditor has been in place for more than ten fiscal years, their appointment will not be supported. For the wider market, the external audit contract should be put out to tender at least every ten years. Where an auditor has resigned, an explanation should be given. If the accounts have been qualified or there has been non-compliance with legal or regulatory requirements, this should be drawn to shareholders' attention in the main body of the annual report. If the appropriate disclosures are not made, the re-appointment of the audit firm will not be supported.

Non-Audit Fees

There is concern over the potential conflict of interest between audit and non-audit work when conducted by the same firm for a client. Companies must therefore make a full disclosure where such a conflict arises. There can be legitimate reasons for employing the same firm to do both types of work, but these need to be identified. As a rule, the re-appointment of auditors will not be supported where non-audit fees are considerably in excess of audit fees in the year under review, and on a three-year aggregate basis, unless sufficient explanation is given in the accounts.

Political donations

There are concerns over the reputational risks and democratic implications of companies becoming involved in funding political processes, both at home and abroad. Companies should disclose all political donations, demonstrate where they intend to spend the money and that it is the interest of the company and shareholders. Where these conditions are not met, or there is insufficient disclosure that the money is not being used for political party donations, political donations will be opposed. Any proposals concerning political donations will be opposed.

Lobbying

A company should be transparent and publicly disclose direct lobbying, and any indirect lobbying through its membership of trade associations. We will assess shareholder proposals regarding lobbying on a case-by-case basis; however, we will generally support resolutions requesting greater disclosure of trade association and industry body memberships, any payments and contributions made, and requiring alignment of company and trade association values. This includes expectations of companies to be transparent regarding lobbying activities in relation to climate change and to assess whether a company's climate change policy is aligned with the industry association(s) it belongs to.

Shareholder rights

As a shareowner, Border to Coast is entitled to certain shareholder rights in the companies in which it invests (Companies Act 2006). Boards are expected to protect such ownership rights.

- **Dividends**

Shareholders should have the chance to approve a company's dividend policy and this is considered best practice. The resolution should be separate from the resolution to receive the report and accounts. Failure to seek approval would elicit opposition to other resolutions as appropriate unless there is a clearly disclosed capital management and allocation strategy in public reporting.

- **Voting rights**

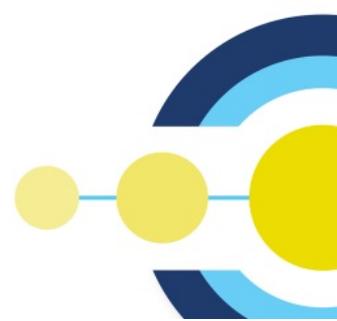
Voting at company meetings is the main way in which shareholders can influence a company's governance arrangements and its behaviour. Shareholders should have voting rights in equal proportion to their economic interest in a company (one share, one vote). Dual share structures which have differential voting rights are disadvantageous to many shareholders and should be abolished. We will not support measures or proposals which will dilute or restrict our rights.

- **Authority to issue shares**

Companies have the right to issue new shares in order to raise capital but are required by law to seek shareholders' authority. Such issuances should be limited to what is necessary to sustain the company and not be in excess of relevant market norms.

- **Disapplication of Pre-emption Rights**

Border to Coast supports the pre-emption rights principle and considers it acceptable that directors have authority to allot shares on this basis. Resolutions seeking the authority to issue shares with and without pre-emption rights should be separate and should specify the amounts involved, the time periods covered and whether there is any intention to utilise the authority.



Share Repurchases

Border to Coast does not necessarily oppose a company re-purchasing its own shares but it recognises the effect such buy backs might have on incentive schemes where earnings per share measures are a condition of the scheme. The impact of such measures should be reported on. It is important that the directors provide a full justification to demonstrate that a share repurchase is the best use of company resources, including setting out the criteria for calculating the buyback price to ensure that it benefits long-term shareholders.

Memorandum and Articles of Association

Proposals to change a company's memorandum and articles of association should be supported if they are in the interests of Border to Coast, presented as separate resolutions for each change, and the reasons for each change provided.

If proposals to adopt new articles or amend existing articles might result in shareholders' interests being adversely affected, we will oppose the changes.

Mergers and acquisitions

Border to Coast will normally support management if the terms of the deal will create rather than destroy shareholder value and makes sense strategically. Each individual case will be considered on its merits. Seldom will compliance with corporate governance best practice be the sole determinant when evaluating the merits of merger and acquisition activity, but full information must be provided to shareholders on governance issues when they are asked to approve such transactions. Recommendations regarding takeovers should be approved by the full board.

Articles of Association and adopting the report and accounts

It is unlikely that Border to Coast will oppose a vote to adopt the report and accounts simply because it objects to them per se; however, there may be occasions when we might vote against them to lodge dissatisfaction with other points raised within this policy statement. Although it is a blunt tool to use, it can be an effective one especially if the appropriate Chair or senior director is not standing for election.

Virtual Shareholder General Meetings

Many companies are considering using electronic means to reach a greater number of their shareholders. An example of this is via a virtual annual general meeting of shareholders where a meeting takes place exclusively using online technology, without a corresponding in-person meeting. There are some advantages to virtual only meetings as they can increase shareholder accessibility and participation; however, they can also remove the one opportunity shareholders have to meet face to face with the Board to ensure they are held to account. We would expect an electronic meeting to be held in tandem with a physical meeting. If extraordinary circumstances rule out a physical meeting, we expect the company to clearly outline how shareholders' rights to participate by asking questions and voting during the meeting are protected. Any amendment to a company's Articles to allow virtual only meetings without these safeguards will not be supported.

Shareholder Proposals

We will assess shareholder proposals on a case-by-case basis. Consideration will be given as to whether the proposal reflects Border to Coast's Responsible Investment policy, is balanced and worded appropriately, and supports the long-term economic interests of shareholders.

Shareholder proposals are an important tool to improve transparency. Therefore, we will, when considered appropriate, support resolutions requesting additional reporting or reasonable action that is in shareholders' best interests on material business risk, ESG topics, climate risk and lobbying.

Climate change

We expect companies with high emissions or in high emitting sectors to have a climate change policy in place, which at minimum includes greenhouse gas emission reduction targets and disclosure of Scope 1 and 2 emissions. We use the Transition Pathway Initiative (TPI)² toolkit and the Climate Action 100+ Net Zero Benchmark (CA100+ NZB) to assess our listed equities investments. Both tools enable us to assess how companies are managing climate change, the related business risk and the progress being made. Where a company in a high emitting sector receives a score of zero or one by the TPI, or fails to meet the expectations above, we will vote against the Chair of the board if we consider the company is not making progress. Where a company covered by CA100+ NZB fails the first four indicators of the Benchmark which includes a net-zero by 2050 (or sooner) ambition, and short, medium and long-term emission reduction targets, we will also vote against the Chair of the board.

Investment trusts

Border to Coast acknowledges that issues faced by the boards of investment companies are often different to those of other listed companies. The same corporate governance guidelines do not necessarily apply to them; for example, investment companies can operate with smaller boards. However, the conventions applying to audit, board composition and director independence do apply.

The election of any representative of an incumbent investment manager onto the board of a trust managed or advised by that manager will not be supported. Independence of the board from the investment manager is key, therefore management contracts should not exceed one year and should be reviewed every year. In broad terms, the same requirements for independence, diversity and competence apply to boards of investment trusts as they do to any other quoted companies.

We may oppose the adoption of the report and accounts of an investment trust where there is no commitment that the trust exercises its own votes, and there is no explanation of the voting policy.

² The Transition Pathway Initiative ('TPI') is a global initiative led by asset owners and supported by asset managers. Aimed at investors, it is a free-to-use tool that assesses how prepared companies are for the low carbon transition.

