

Local Pension Board

6 December 2018

Pensions Regulator – Code of Practice for Public Service Pension Schemes – Gap Analysis



Report of John Hewitt, Corporate Director of Resources

Purpose of the Report

- 1 To provide the Board Members with an assessment of the Council's level of compliance with the Pensions Regulator's Code of Practice on the governance and administration of public service pension schemes ('the Code of Practice').

Recommendation

- 2 The Board is asked to note this report.

Background

- 3 The Pensions Regulator issued the Code of Practice in April 2015. 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. However, any alternative approach needs to meet the underlying legal requirements.

The Code of Practice

- 4 The Code of Practice covers the following four main areas:
 - (a) Governing your scheme
 - Knowledge and understanding required by pension board members
 - Conflicts of interest and representation
 - Publishing information about schemes
 - (b) Managing risks
 - The requirement for scheme managers to establish and operate adequate internal controls

- (c) Administration
- Scheme record-keeping
 - Maintaining contributions
 - Providing information to members
- (d) Resolving issues
- Internal dispute resolution
 - Reporting breaches of the law

5 A comparison between the Code of Practice and the Council's current practices (as Administering Authority to the Pension Fund) is set out in Appendix A. This demonstrates a good level of overall compliance with the Code of Practice, although there are some areas where the Council is only partially compliant. The following table sets out how and by when each deficiency is expected to be addressed.

Compliant?	Action required	By
Partially	A more structured, detailed training programme is required for local pension board members	31/12/2019
Partially	All relevant scheme documents should be easily accessible	30/09/2019
Partially	Determine when and how reports of breached should be made to the regulator	30/06/2019
Partially	Member data to be subject to quarterly data evaluation using Reporting Tools to improve data accuracy	ongoing
Partially	Web-based systems for better exchange of information with scheme employers is being piloted with 2 employers. This will be further developed and rolled out to more employers	Ongoing, to complete by 31/03/19
Partially	Further work ongoing to enable better monitoring of monthly contributions, facilitated by the new web-based portal	30/11/2019
Partially	Recently appointed staff will address delays in providing information to deferred leavers	30/06/2019
Partially	Tracing exercises to target 'gone aways' under age 50 and deferred members have been undertaken and now commenced for active members employed	31/12/2019

	by DCC. This will be extended to include all employers.	
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Appendix A – Compliance with the Pensions Regulator’s Code of Practice 14 - governance and administration of public service pension schemes

Code of Practice Requirement	Compliant?	Comments / Actions
Schemes should establish and maintain policies and arrangements for acquiring and retaining knowledge and understanding to support their pension board members. Schemes should designate a person to take responsibility for ensuring that a framework is developed and implemented	Partially	Training provided and self-assessment carried out.
It is the responsibility of individual pension board members to ensure that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the pension board	Yes	
Pension board members must be conversant with their scheme rules, which are primarily found in the scheme regulations, and documented administration policies currently in force for their pension scheme. Being ‘conversant’ means having a working knowledge of the scheme regulations and policies, so that pension board members can use them effectively when carrying out their duties They must also have knowledge and understanding of the law relating to pensions (and any other matters prescribed in legislation) to the degree appropriate for them to be able to carry out their role, responsibilities and duties.	Yes	Ongoing assessment and training is undertaken to ensure this requirement is fully met
Pension Board members must be conversant with the following where applicable: <ul style="list-style-type: none"> • any scheme-approved policies relating to: <ul style="list-style-type: none"> ➤ conflicts of interest and the register of interests ➤ record-keeping ➤ internal dispute resolution ➤ reporting breaches ➤ maintaining contributions to the scheme ➤ the appointment of pension board members • risk assessments/management and risk register policies for the scheme • scheme booklets, announcements and other key member and employer 	Partially	Ongoing assessment and training required to ensure this requirement is fully met. Regular reports presented at Pension Board meetings

Code of Practice Requirement	Compliant?	Comments / Actions
<p>communications, which describe scheme policies and procedures</p> <ul style="list-style-type: none"> • the roles, responsibilities and duties of the scheme manager, pension board and individual pension board members • terms of reference, structure and operational policies of the pension board and/or any sub-committee • statements of policy about the exercise of discretionary functions • statements of policy about communications with members and scheme employers • the pension administration strategy, or equivalent, and • any admission body (or equivalent) policies • documents which record policy about the administration of the scheme will include those relating to funding and investment matters <ul style="list-style-type: none"> ➤ statement of investment principles (investment strategy statement) ➤ funding strategy statement • any other documented policies relating to the administration of the scheme, such as policies relating to: <ul style="list-style-type: none"> ➤ the contribution rate or amount (or the range/variability where there is no one single rate or amount) payable by employers participating in the scheme ➤ statements of assurance (for example, assurance reports from administrators) ➤ third party contracts and service level agreements ➤ stewardship reports from outsourced service providers (for example, those performing outsourced activities such as scheme administration), including about compliance issues ➤ scheme annual reports and accounts ➤ accounting requirements relevant to the scheme ➤ audit reports, including from outsourced service providers, and ➤ other scheme-specific governance documents. • in respect of defined contribution Additional Voluntary Contributions (AVCs), Pension Board members should also be familiar with 		

Code of Practice Requirement	Compliant?	Comments / Actions
<ul style="list-style-type: none"> ➤ the requirements for the payment of member contributions to the providers ➤ the principles relating to the operation of those arrangements ➤ the choice of investments to be offered to members ➤ the provider's investment and fund performance report ➤ the payment schedule for such arrangements 		
<p>Schemes should prepare and keep an updated list of the documents with which they consider pension board members need to be conversant. This will enable them to effectively carry out their role. They should make sure that both the list and the documents are available in accessible formats</p>	Partially	Easier access to relevant documents required
<p>Clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards should be set out in scheme documentation.</p>	Yes	Local Pension Board Terms of Reference
<p>Schemes should provide pension board members with the relevant training and support that they require. Schemes should offer pre- appointment training or arrange for mentoring by existing pension board members</p>	Yes	Training provided
<p>Pension board members should undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. They should use a personalised training plan to document and address these promptly.</p>	Yes	
<p>Schemes should keep appropriate records of the learning activities of individual pension board members and the board as a whole. This will help pension board members to demonstrate steps they have taken to comply with legal requirements and how they have mitigated risks associated with knowledge gaps</p>	Yes	Training record maintained

Code of Practice Requirement	Compliant?	Comments / Actions
Some, if not all, of the ‘Seven principles of public life’ (formerly known as the ‘Nolan principles’) will already apply to people carrying out roles in public service pension schemes, for example through the Ministerial code, Civil Service code or other codes of conduct. These principles should be applied to all pension board members in the exercise of their functions as they require the highest standards of conduct. Schemes should incorporate the principles into any codes of conduct (and across their policies and processes) and other internal standards for pension boards.	Yes	The ‘seven principles of public life’ (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) are highlighted in the Local Pension Board Code of Conduct & Conflict Of Interest Policy
Schemes should set out clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards in scheme documentation	Yes	Local Pension Board Terms of Reference
Schemes should ensure that there is an agreed and documented conflicts policy and procedure, which includes identifying, monitoring and managing potential conflicts of interest. They should keep this under regular review	Yes	Covered in Local Pension Board Code of Conduct & Conflict Of Interest Policy
Schemes should ensure that pension board members are appointed under procedures that require them to disclose any interests, including other responsibilities, which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed	Yes	Covered in Local Pension Board Code of Conduct & Conflict Of Interest Policy
All terms of engagement, for example appointment letters, should include a clause requiring disclosure of all interests, including any other responsibilities, which have the potential to become conflicts of interest, as soon as they arise. All interests disclosed should be recorded	Yes	Covered in Local Pension Board Code of Conduct & Conflict Of Interest Policy
A register of interests should provide a simple and effective means of recording and monitoring dual interests and responsibilities. Schemes should also capture decisions about how to manage potential conflicts of interest in their risk registers or elsewhere. The register of interests and other relevant documents should be circulated to the pension board for ongoing review and published, for example on a scheme’s website	Yes	Register of interests maintained
Conflicts of interest should be included as an opening agenda item at board meetings and revisited during the meeting where necessary	Yes	Declarations of interest are included as an agenda item in all meetings

Code of Practice Requirement	Compliant?	Comments / Actions
<p>The scheme manager for a public service scheme must publish information about the pension board for the scheme(s) and keep that information up-to-date.</p> <p>The information must include:</p> <ul style="list-style-type: none"> • who the members of the pension board are • representation on the board of members of the scheme(s), and • the matters falling within the pension board's responsibility 	Yes	Published on website
<p>When publishing information about the identity of pension board members, the representation of scheme members and matters for which the board is responsible, schemes should also publish useful related information about the pension board such as:</p> <ul style="list-style-type: none"> • the employment and job title (where relevant) and any other relevant position held by each board member • the pension board appointment process • who each pension board member represents • the full terms of reference for the pension board, including details of how it will operate, and • specific roles and responsibilities of individual pension board members. 	Yes	Published on website
<p>Schemes should also consider publishing information about pension board business, for example board papers, agendas and minutes of meetings</p>	Yes	Published on website
<p>Scheme managers must establish and operate internal controls. These should address significant risks which are likely to have a material impact on the scheme. Scheme managers should employ a risk-based approach and ensure that sufficient time and attention is spent on identifying, evaluating and managing risks and developing and monitoring appropriate controls. They should seek advice, as necessary.</p>	Yes	Risk register maintained and reviewed. Internal audit plan agreed, reviewed and implemented.
<p>Schemes should carry out a risk assessment. They should begin by:</p> <ul style="list-style-type: none"> • setting the objectives of the scheme • determining the various functions and activities carried out in the running of the scheme, and • identifying the main risks associated with those objectives, functions and activities. 	Yes	

Code of Practice Requirement	Compliant?	Comments / Actions
Once schemes have identified risks, they should record them in a risk register and review them regularly		
The scheme manager for a funded scheme should establish and operate internal controls that regularly assess the effectiveness of investment-related decision making	Yes	The Pension Fund Committee is presented with quarterly reports on investment performance from the fund's custodian, investment adviser and each Fund Manager. The Committee challenges investment decisions.
Scheme managers for all pension schemes should establish and operate internal controls that regularly assess the effectiveness of data management and record-keeping	Yes	Data management and record-keeping effectiveness reviewed through internal audit plan
Internal or external audits and/or quality assurance processes should ensure that adequate internal controls are in place and being operated effectively	Yes	Through internal and external audit review
<p>Scheme managers must keep records of information relating to:</p> <ul style="list-style-type: none"> • member information • transactions, and • pension board meetings and decisions 	Yes	Member information and transaction information held on pension administration and financial management systems. Records of pension board meetings and decisions kept within Member Support team and online
Scheme managers must ensure that member data across all membership categories specified in the Record Keeping Regulations is complete and accurate. Member data should be subject to regular data evaluation.	Partially	Recent exercise undertaken with Actuary. Plan to use Reporting tools every quarter to monitor accuracy throughout the year.

Code of Practice Requirement	Compliant?	Comments / Actions
Scheme managers must keep specific member data, which will enable them to uniquely identify a scheme member and calculate benefits correctly. This is particularly important with the establishment of career average revalued earnings (CARE) schemes. Scheme managers must be able to provide members with accurate information regarding their pension benefits (accrued benefits to date and their future projected entitlements) in accordance with legislative requirements, as well as pay the right benefits to the right person (including all beneficiaries) at the right time	Yes	Data maintained on pension administration system
Schemes should require participating employers to provide them with timely and accurate data in order for the scheme manager to be able to fulfil their legal obligations. Schemes should seek to ensure that processes are established by employers which enable the transmission of complete and accurate data from the outset	Partially	Employer web portal has been developed and being piloted by 2 employers. Plan to roll out to all employers by 31/03/2019. Portal will be further developed to facilitate better exchange of information with scheme employers.
Schemes should ensure that appropriate procedures and timescales are in place for scheme employers to provide updated information when member data changes, for checking scheme data against employer data and for receiving information which may affect the profile of the scheme		
Schemes should be able to trace the flow of funds into and out of the scheme and reconcile these against expected contributions and scheme costs	Yes	Through financial management system
Scheme managers must keep records of transactions made to and from the scheme and any amount due to the scheme which has been written off	Yes	Through financial management system. Any writing-off of debts is dealt with through a formal write-off process
Scheme managers must keep records of pension board meetings including any decisions made. Schemes should also keep records of key discussions	Yes	
Schemes should retain records for as long as they are needed. It is likely that data will need to be held for long periods of time and schemes will need to retain some records for a member even after that individual has retired, ensuring that pension benefits can be properly administered over the lifetime of the member and their beneficiaries	Yes	

Code of Practice Requirement	Compliant?	Comments / Actions
Schemes should continually review their data and carry out a data review exercise at least annually. This should include an assessment of the accuracy and completeness of the member information data held. Where schemes identify poor quality or missing data, they should put a data improvement plan in place to address these issues	Partially	Data review exercise has been completed and submitted to TPR. Plans being put in place to increase quality of the data before the next submission.
Where applicable, schemes should be able to demonstrate that they keep records in accordance with relevant legal requirements	Yes	
Schemes should monitor pension contributions, resolve payment issues and report payment failures, as appropriate, so that the scheme is administered and managed in accordance with the scheme regulations and other legal requirements	Partially	Lump sum deficit contribution payments are monitored and tracked. Work is ongoing to monitor monthly employer contributions and an employer web facility is being developed to streamline the process
Public service pension schemes should develop a record for monitoring the payment of contributions to the scheme (a contributions monitoring record, which must reflect any requirements in scheme regulations where relevant). Schemes should prepare the contributions monitoring record in consultation with employers	Partially	Contributions monitored, however contribution monitoring record has not been developed in consultation with employers. The new web portal should facilitate this.
A contributions monitoring record should include the following information: <ul style="list-style-type: none"> • contribution rates • the date(s) on/ before which employer contributions are to be paid to the scheme • the date by when, or period within which, the employee contributions are to be paid to the scheme • the rate or amount of interest payable where the payment of contributions is late 		
Scheme managers must provide an annual benefit information statement to each active member of the scheme. The statement must include a description of the benefits earned by a member in respect of their pensionable service. Statements must be provided by 31 st August each year.	Yes	

Code of Practice Requirement	Compliant?	Comments / Actions
<p>Managers of a scheme must also provide a benefit statement following a request by an active, deferred or pension credit member of the scheme if the information has not been provided to that member in the previous 12 months before that request. These benefit statements must include information about the amount of benefits by reference to a particular date and how they are calculated</p> <p>The information must be given as soon as practicable but no more than two months after the date the request is made</p>	Yes	
<p>Under the Disclosure Regulations 2013, managers of a scheme must provide other information to members and others in certain circumstances. The detail of the information that must be provided to scheme members and others and any exemptions are set out in the Disclosure Regulations 2013</p>	Partially	<p>Details of deferred benefit entitlements provided outside of required timescales. Work plan has been devised to address this, including utilising recently appointed staff and better use of UPM to monitor incoming work.</p>
<p>Schemes should attempt to make contact with their scheme members and, where contact is not possible, schemes should carry out a tracing exercise to locate the member and ensure that their member data are up-to-date</p>	Partially	<p>Tracing exercises carried out for 'gone aways' aged over 50 and deferred members. Pension team in the process of updating files where appropriate. For active members within DCC– address reconciliation with payroll system is carried out. Plan to introduce this reconciliation for other employers in future.</p>
<p>Scheme managers must make and implement dispute resolution arrangements that comply with the requirements of the law and help resolve pensions disputes between the scheme manager and a person with an interest in the scheme</p>	Yes	<p>Internal Dispute Resolution Procedure (IDRP) set up</p>
<p>Dispute resolution arrangements may require people with an interest in the scheme to first refer matters in dispute to a 'specified person' in order for that person to consider and give their decision on those matters. The specified person's decision may then be confirmed or replaced by the decision taken by the scheme manager after reconsideration of the matters</p>	Yes	<p>The IDRP is a two-stage process. Stage one is referred to the Adjudicator, stage two is the Administering Authority</p>

Code of Practice Requirement	Compliant?	Comments / Actions
Scheme managers and specified persons (if used as part of a scheme's procedure) must take the decision required on the matters in dispute within a reasonable period of receiving the application. They must notify the applicant of the decision within a reasonable period of having taken it	Yes	Timescales are set out in the IDRPs
Scheme managers must provide information about the scheme's dispute resolution procedure as well as information about The Pensions Advisory Service (TPAS) and the Pensions Ombudsman to certain people at certain stages	Yes	This information is provided whenever benefit payment commences
Schemes should ensure that the effectiveness of the arrangements is assessed regularly and be satisfied that those following the process are complying with the requirements set, which includes effective decision making. This is particularly important where the arrangements require employers participating in the pension scheme to carry out duties as part of the process, for example where schemes have implemented the two-stage procedure and employers are acting as the specified person for the first stage	Yes	Effectiveness is monitored and controlled through adherence to timescales.
Identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice in public service pension schemes. Those people with a responsibility to report breaches, including scheme managers and pension board members, should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters.	Partially	A formal breaches policy has been established; procedures need to be developed in order to report breaches